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

Form 10-K

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

For the fiscal year ended December 31, 2020

☐ **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 27703
(Address of principal executive offices)

(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, $0.01 par value	**BCRX**	**Nasdaq Global Select Market**

Securities registered pursuant to Section 12(g) of the Act: None.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically 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 ☒ No ☐

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	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

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

The registrant estimates that the aggregate market value of the Common Stock on June 30, 2020 (based upon the closing price shown on the Nasdaq Global Select Market on June 30, 2020) held by non-affiliates was $832,869,919.

The number of shares of Common Stock, par value $0.01, of the registrant outstanding as of January 31, 2021 was 177,182,751 shares.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement to be filed in connection with the solicitation of proxies for its 2021 annual meeting of stockholders are incorporated by reference into Items 10, 11, 12, 13, and 14 under Part III hereof.

TABLE OF CONTENTS

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

Cautionary Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K (this "report") includes forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, 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 "Business," "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), BCX9930, BCX9250, peramivir, galidesivir, and early stage discovery programs;
- the timing and success of our commercialization of ORLADEYO in the U.S. and elsewhere;
- 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;
- the potential funding from our contracts with the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services ("BARDA/HHS") and the National Institute of Allergy and Infectious Diseases within the HHS ("NIAID/HHS") for the development of galidesivir;
- 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 Torii for ORLADEYO in Japan, Shionogi and Green Cross for peramivir in their territories, and Mundipharma for mundesine;
- our and our subsidiary guarantors' ability to satisfy obligations under our Credit Agreement and to comply with the covenants as set forth in the agreements governing our debt obligations;
- the ability of our subsidiary, JPR Royalty Sub LLC, to satisfy its obligations in respect of the PhaRMA Notes (as defined in "Business Collaborations and In-License Relationships Shionogi Royalty Monetization and Non-Recourse Notes Payable" in Part I, Item 1 of this report);
- 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 expenses, revenues, capital requirements, annual cash utilization, and our needs for additional financing;
- the timing or likelihood of regulatory filings or regulatory agreements, deferrals, and approvals;
- 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 I, 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 I, 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 Securities and Exchange Commission, before deciding to invest 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 I, 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 when needed, we may need to adjust our operations.
- Our success depends upon our ability to advance our product candidates through the various stages of development, especially through the clinical trial

process, to receive and maintain regulatory approval for the commercial sale of our product candidates, and to successfully commercialize any approved products. 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, or take other actions that could materially impact the cost, timing, and success of our planned development 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 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, 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 were not previously identified, 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 expect to continue expanding our development and regulatory capabilities and 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, obtain collaborators, and raise capital.

- If we fail to adequately protect or enforce our intellectual property rights or secure rights to patents of others, 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.

- 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.

- We face risks related to our government-funded programs. If the BARDA/HHS or the NIAID/HHS were to eliminate, reduce, or delay funding from our contracts, this would have a significant negative impact on the programs associated with such funding and could have a significant impact on our revenues and cash flows.

- 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 seek additional remedies.

- Our Credit Agreement contains conditions and restrictions that limit our flexibility in drawing on the additional funds thereunder and in operating our business. We may be required to make a prepayment or repay our outstanding indebtedness under the Credit 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, regulatory, political, operational, financial, and economic risks. For example, our actual or perceived failure to comply with European governmental 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 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 interest 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, 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.

- We are subject to legal proceedings, which could result in 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 and commercialization of our products and the related expansion of our business will be delayed or stopped.

PART I

ITEM 1. ***BUSINESS***

Our Business

We are a commercial-stage biotechnology company that discovers 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. Structure-guided drug design is a drug discovery approach by which we design synthetic compounds from detailed structural knowledge of the active sites of enzyme targets associated with particular diseases. We use X-ray crystallography, computer modeling of molecular structures and advanced chemistry techniques to focus on the three-dimensional molecular structure and active site characteristics of the enzymes that control cellular biology. Enzymes are proteins that act as catalysts for many vital biological reactions. Our goal generally is to design a compound that will fit in the active site of an enzyme and thereby prevent its catalytic activity. Molecules from our discovery efforts which are commercially available or that are in active development are summarized in the table below:

Drug/Drug Candidate	Drug Class	Therapeutic Area(s)	Phase	Rights*
ORLADEYO™ (berotralstat)	Oral Serine Protease Inhibitor Targeting Kallikrein (once-daily treatment)	Hereditary Angioedema ("HAE")	Approved (U.S. & Japan); MAA accepted for review and CHMP positive opinion received (European Union)	BioCryst (worldwide, except Japan); Torii Pharmaceutical Co., Ltd. (Japan)
BCX9930	Oral Factor D Inhibitor	Complement-mediated diseases	Phase 1	BioCryst (worldwide)
BCX9250	Oral Activin Receptor-like Kinase-2 Inhibitor	Fibrodysplasia ossificans progressiva ("FOP")	Phase 1	BioCryst (worldwide)
RAPIVAB® (peramivir injection)	Intravenous Neuraminidase Inhibitor	Acute uncomplicated Influenza	Approved (U.S., Australia & Canada)	BioCryst (worldwide, except Japan, Taiwan, Korea and Israel)
RAPIACTA® (peramivir injection)	Intravenous Neuraminidase Inhibitor	Uncomplicated seasonal Influenza	Approved (Japan & Taiwan)	Shionogi & Co., Ltd. (Japan & Taiwan)
PERAMIFLU® (peramivir injection)	Intravenous Neuraminidase Inhibitor	Uncomplicated seasonal Influenza	Approved (Korea)	Green Cross Corporation (Korea)
Galidesivir (BCX4430)	RNA dependent-RNA Polymerase Inhibitor	Broad spectrum antiviral for 20 RNA viruses, including Marburg, Yellow Fever, and Ebola	Phase 1	BioCryst (worldwide)
Mundesine® (forodesine)	Oral Purine Nucleoside Phosphorylase Inhibitor	Oncology – PTCL	Approved (Japan)	Mundipharma International Corporation Limited (worldwide)

** See "Business-Collaborations and In-License Relationships" for a description of our relationships with the third parties identified in this column.*

Business Strategy

Our business strategy is to create stockholder value both by focusing our discovery and development efforts on oral drugs for rare diseases for which a significant unmet medical need exists and by efficiently commercializing 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.

We select disease targets and product candidates in which a small molecule would offer a significant benefit over existing products or would be the first to market. We strive to advance our product candidate portfolio from discovery to commercial markets efficiently by utilizing a small group of talented and highly-skilled employees working in conjunction with strategic outsource partners. BioCryst is unique in its approach to treat orphan diseases with orally-administered, small molecules, identified by utilizing crystallography and structure-guided drug design. The principal elements of our strategy are:

- *Focusing on High Value-Added Structure-Guided Drug Design Technologies.* We utilize structure-guided drug design in order to most efficiently develop new therapeutic candidates. Structure-guided drug design is a process by which we design a product candidate through detailed analysis of the enzyme target, which the product candidate must inhibit in order to stop the progression of the disease or disorder. We believe that structure-guided drug design is a powerful tool for the efficient development of small-molecule product candidates that have the potential to be safe and effective. Our structure-guided drug design technologies typically allow us to design and synthesize multiple product candidates that inhibit the same enzyme target, with the goal of establishing broad intellectual property protection and formulating compounds with competitive advantages.

- *Selecting Inhibitors that are Promising Product Candidates.* We start by selecting disease targets with well-understood biology and characteristics that fit with our ability to utilize structure-guided drug design capabilities to build potent and specific enzyme inhibitors. Next, we narrow our selection of these product candidates based on product characteristics, such as initial indications of safety and biologic activity on the target.

- *Developing our Product Candidates Efficiently.* An important element of our business strategy is to efficiently progress our product candidates through the

development process. In order to accomplish this, we typically strive for disease targets with a defined clinical and regulatory pathway for approval or diseases where high unmet needs allow for frequent interactions with regulators. In addition, as we determine such relationships to be appropriate or desirable, we control certain fixed costs and overhead by outsourcing with strategic partners and contractors or entering into license agreements with third parties, including the U.S. Government. For example, our galidesivir research program is currently being developed under U.S. Government contracts. By contracting with the U.S. Government and outsourcing certain aspects of our operations, we are able to control overhead costs and focus financial resources directly where they provide the most benefit and reduce our business risk.

- *Commercializing our Product Candidates Globally.* A core part of our strategy is to commercialize our rare disease products globally. We have established commercial teams in the United States and Europe for the commercialization of ORLADEYO, and we are continuing to build the structure and expertise to commercialize our products in markets where we believe we can do this efficiently and effectively. We have also established relationships with licensing and distribution partners in certain markets, including Japan, and will continue to seek such relationships where we determine this to be an effective approach.

Products and Product Candidates

ORLADEYO (Berotralstat/BCX7353)

Hereditary Angioedema ("HAE") is a rare, severely debilitating and potentially fatal genetic condition with a prevalence of between 1 in 33,000 to 1 in 67,000 people. HAE symptoms include recurrent episodes of edema in various locations, including the hands, feet, face, genitalia and airway. Airway swelling is particularly dangerous and can lead to death by asphyxiation. In addition, patients often have bouts of severe abdominal pain, nausea and vomiting caused by swelling in the intestinal wall. By inhibiting plasma kallikrein, ORLADEYO, our HAE drug, suppresses bradykinin production. Bradykinin is the mediator of acute swelling attacks in HAE patients.

ORLADEYO is an oral, once-daily therapy discovered and developed by BioCryst for the prevention of HAE attacks. ORLADEYO, in the 110 mg and 150 mg capsule dosage forms, was approved by the U.S. Food and Drug Administration ("FDA") in December 2020 for prophylaxis to prevent attacks of HAE in adults and pediatric patients 12 years and older. On December 16, 2020, we announced that ORLADEYO is now available for shipment to patients with a prescription in the U.S. and that our exclusive specialty pharmacy provider for ORLADEYO in the U.S. began shipping to patients. Through EMPOWER Patient Services, administered by our specialty pharmacy provider, we aim to streamline access to therapy by providing each HAE patient and their healthcare provider with a single point of contact for access to ORLADEYO. A dedicated care coordinator will support access for each patient with comprehensive financial support tools and reimbursement support.

ORLADEYO, in the 150 mg capsule dosage form, also received marketing and manufacturing approval from the Ministry of Health, Labor and Welfare ("MHLW") in Japan in January 2021 for prophylactic treatment of HAE in adults and pediatric patients 12 years and older. ORLADEYO is the first and only prophylactic HAE medication approved in Japan and will be commercialized in Japan by our partner, Torii Pharmaceutical Co., Ltd. ("Torii"). See "Collaborations and In-License Relationships" below for a description of this relationship. Torii will launch ORLADEYO in Japan following the successful completion of our pricing negotiations with the Japanese National Health Insurance System. OrphanPacific, Inc. is our representative partner in Japan and holds the marketing authorization for ORLADEYO in Japan.

On March 30, 2020, we announced that the European Medicines Agency ("EMA") had validated our marketing authorization application ("MAA") submission for approval of ORLADEYO for the prevention of HAE attacks. With this validation, the EMA began its formal review of the MAA under the centralized procedure for all member states of the European Union (the "EU"), Norway, Iceland, and Liechtenstein. On February 25, 2021, we announced that the Committee for Medicinal Products for Human Use ("CHMP") of the EMA has adopted a positive opinion recommending the approval of ORLADEYO for routine prevention of recurrent attacks of HAE in adult and adolescent patients aged 12 years and older. The European Commission ("EC") will review the CHMP recommendation, and a final approval decision from the EC on the MAA for ORLADEYO is expected in the second quarter of 2021.

The United Kingdom's ("U.K.") Medicines and Healthcare products Regulatory Agency ("MHRA") has granted a Promising Innovative Medicine designation to ORLADEYO. On October 30, 2020, we announced that the MHRA has granted ORLADEYO a positive scientific opinion through the Early Access to Medicines Scheme ("EAMS"). Under the EAMS, HAE patients in the U.K. aged 12 years and older can gain access to ORLADEYO for the routine prevention of recurrent attacks of HAE before the drug is granted marketing authorization by the EC. We plan to file for a U.K. marketing authorization with the MHRA following our receipt of a positive opinion from the CHMP. This is expected to result in a U.K. marketing authorization shortly after a final decision by the EC.

On December 7, 2020, we entered into a Purchase and Sale Agreement (the "Royalty Purchase Agreement") with RPI 2019 Intermediate Finance Trust ("RPI"), pursuant to which we sold to RPI the right to receive certain royalty payments from the Company for a purchase price of $125 million in cash. Under the Royalty Purchase Agreement, RPI is entitled to receive tiered, sales-based royalties on net product sales of ORLADEYO in the U.S., certain key European markets, and other markets where we sell ORLADEYO directly or through distributors (collectively, the "Key Territories"). In addition, RPI is 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. No payment will be due to RPI for any achievement milestone which may be payable under the existing out-license for ORLADEYO. See "Note 3-Royalty Monetizations-ORLADEYO Royalty Monetization" in the Notes to Consolidated Financial Statements in Part II, Item 8 of this report for additional information about our obligations under the Royalty Purchase Agreement.

We completed the build-out of our U.S. commercial infrastructure in 2020 to support the launch of ORLADEYO in the U.S. and are currently building our commercial infrastructure to support European launches. Based on proprietary analyses of HAE prevalence and market research studies with HAE patients, physicians, and payors in the U.S. and Europe, we anticipate the commercial market for ORLADEYO has the potential to reach a global peak of more than $500 million in annual sales. 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 commercialization efforts, methods, and strategies for our products or technologies will succeed, and our future revenue generation is uncertain" in Part I, Item 1A of this report for further discussion of these risks.

Complement-Mediated Diseases

The complement system is part of the body's natural immune system and is responsible for helping the body eliminate microbes (including viral and bacterial infections) and damaged cells. It is comprised of proteins that are primarily produced in the liver and circulate in the blood. Once activated, the complement system stimulates inflammation, phagocytosis and cell lysis. Excessive or uncontrolled activation of the complement system can cause severe, and potentially fatal, immune and inflammatory disorders. The complement system comprises biological cascades of amplifying enzyme cleavages involving more than 30 proteins and protein fragments, and may be activated through three pathways: the classical pathway (initiated by antibody-antigen complexes), the lectin pathway (initiated by lectin binding) and the alternative pathway (initiated by microbial surfaces). The alternative pathway also provides a critical amplification loop for all three pathways, regardless of the initiating mechanism. Factor D is an essential enzyme in the alternative pathway, thus making Factor D an attractive target to address complement-mediated diseases. Several rare diseases are known to be mediated by dysregulation of the complement system.

Discovered by BioCryst, BCX9930 is a novel, oral, potent, and selective small molecule inhibitor of Factor D currently in early clinical development for the treatment of complement-mediated diseases. Based on the safety and proof-of-concept ("PoC") data generated to date in paroxysmal nocturnal hemoglobinuria ("PNH") patients, we are working closely with regulators and key opinion leaders in hematology and nephrology to map the advanced development strategy across a broad set of indications. Our goal is to develop oral BCX9930 as a monotherapy for complement-mediated diseases.

On February 25, 2021, we announced that we have completed enrollment of our ongoing dose ranging trial in treatment-naïve (no prior treatment with C5 inhibitors) PNH patients and PNH patients with an inadequate response to C5 inhibitors. The objectives of the trial are to evaluate the safety and tolerability and characterize the pharmacokinetic ("PK") and pharmacodynamic ("PD") profiles of BCX9930 after single ascending doses ("SAD") and multiple ascending doses ("MAD") in healthy subjects (parts 1 and 2). In part 3 of the trial, there is an additional objective to demonstrate PoC in treatment-naïve PNH patients and PNH patients who are inadequate responders to C5 therapy (eculizumab or ravulizumab) by evaluating key biomarkers of effectiveness and assessing the dose range in PNH patients taking BCX9930. Based on the safety, tolerability, PK and PD dose-response results from parts 1 and 2 of the phase 1 trial, we completed additional MAD dosing cohorts in healthy subjects and advanced to part 3 of the trial. We plan to present data from the 16 enrolled PNH patients (10 treatment naïve and 6 inadequate C5 responders) at our upcoming R&D day on March 22, 2021.

On September 30, 2020, we announced new data from treatment-naïve PNH patients receiving doses through 400 mg twice-daily of oral BCX9930 as monotherapy in the ongoing part 3 PoC dose-ranging trial. Oral BCX9930 was shown to drive rapid and dose-dependent reductions in key biomarkers, including lactate dehydrogenase ("LDH"), and increasing hemoglobin levels in all PNH patients in the trial. Increases in hemoglobin levels were maintained without transfusions. BCX9930 was safe and well tolerated at all doses in the trial. No drug-related serious adverse events had been reported. One subject was discontinued due to an unrelated serious adverse event.

On August 31, 2020, we announced that the FDA has granted orphan drug designation for BCX9930 for the treatment of PNH. Orphan drug designation qualifies BCX9930 for various development incentives, including tax credits for certain clinical costs, a waiver of the new drug application fee, and a designated period of market exclusivity following approval. On August 3, 2020, we announced that the FDA granted fast track designation for BCX9930 in PNH. According to the FDA, the purpose of the fast track designation is to get important new drugs to patients earlier by facilitating the development, and expediting the review, of drugs to treat serious conditions and meet an unmet medical need.

Under the Royalty Purchase Agreement, RPI will be entitled to receive 1.0% of global net sales, if any, of BCX9930. See "Note 3-Royalty Monetizations-ORLADEYO Royalty Monetization" in the Notes to Consolidated Financial Statements in Part II, Item 8 of this report for additional information about our obligations under the Royalty Purchase Agreement.

Fibrodysplasia Ossificans Progressiva ("FOP")

FOP is an ultra-rare disease that affects approximately 1 in 2 million people worldwide. It is a severely disabling condition characterized by the irregular formation of bone outside the normal skeleton, also known as heterotopic ossification ("HO"). HO can occur in muscles, tendons and soft tissue. FOP patients progressively become bound by this irregular ossification, with restricted movement and fused joints, resulting in deformities and premature mortality. In patients with FOP, minor trauma can result in rapid development of painful inflammatory masses. These progress over several weeks resulting in the replacement of the affected soft tissue by permanent bone masses. There is no cure for this condition, and there are no approved treatments for FOP.

In 2018, we announced the advancement of a program exploring activin receptor-like kinase-2 ("ALK2") inhibitors for treatment of FOP. ALK2 enzyme is a part of the normal signaling pathway for bone formation and responds to binding its specific ligands (bone morphogenic proteins, or BMPs), by stimulating normal bone growth and renewal in healthy children and adults. Specific activating mutations of the ALK2 gene are seen in all cases of FOP. An activating mutation in ALK2 is necessary for the disease to occur, making the ALK2 kinase an ideal drug target for treatment of FOP with an ALK2 kinase inhibitor

The goal of our ALK2 inhibitor program is to discover and develop orally administered kinase inhibitor drug candidates that are able to slow or prevent HO. Our lead compound, BCX9250, reduced HO in an experimental model of ALK2-driven HO in laboratory rats, with up to 89 percent reduction in volume of HO compared to controls.

On December 21, 2020, we announced that in a phase 1 clinical trial, BCX9250 was safe and well tolerated at all doses studied, with linear and dose-proportional exposure supporting once-daily dosing. The randomized, double-blind, placebo-controlled dose-ranging trial evaluated safety, tolerability, and PK of SAD and MAD of BCX9250 in healthy subjects. The SAD study was designed to randomize four cohorts of eight subjects each to receive oral BCX9250 (n=6) or placebo (n=2) at dose levels of 5 mg, 10 mg, 15 mg, and 25 mg. Subjects in the 15 mg cohort also received a second single dose to evaluate food effect on absorption of BCX9250. The MAD study was designed to randomize 4 cohorts of 12 subjects each to receive oral BCX9250 (n=10) or placebo (n=2) at dose levels of 5 mg, 10 mg, 15 mg, and 20 mg once-daily for 7 days. Drug exposure increased with dose in an approximately linear and dose-proportional manner. Drug levels after a high fat meal were similar to those after dosing on an empty stomach. Drug exposure at 20 mg once-daily in the MAD was similar to that achieved with doses that suppressed HO in a nonclinical model of activity of orally dosed BCX9250. In both the SAD and the MAD studies, oral BCX9250 was safe and well tolerated, with no serious adverse events, no study discontinuations due to adverse events, no grade 3 or 4 adverse events, and no clinically significant changes in vital signs, electrocardiograms, or safety laboratory parameters. No safety signals were seen.

Peramivir Injection (RAPIVAB, ALPIVAB, RAPICACTA, PERAMIFLU)

RAPIVAB (peramivir injection) was developed under a $234.8 million contract from the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services ("BARDA/HHS"). In January 2010, our partner, Shionogi & Co., Ltd. ("Shionogi"), received the first approval for peramivir injection and launched it in Japan under the commercial name RAPIACTA. It is approved in Japan for the treatment of adults, children, and infants with uncomplicated seasonal influenza and those patients at high-risk for complications associated with influenza. In August 2010, our partner, Green Cross Corporation ("Green Cross"), received marketing and manufacturing approval from the Korean Food & Drug Administration under the commercial name PERAMIFLU to treat patients with influenza A & B viruses, including pandemic H1N1 and avian influenza. See "Collaborations and In-License Relationships" below for a discussion of these licensing arrangements.

Peramivir was also approved in the United States in 2014, Taiwan in 2016, Canada in 2017, and the EU and Australia in 2018. A Supplemental New Drug Application ("sNDA") was approved in the United States in February 2021, extending RAPIVAB's availability for the treatment of acute uncomplicated influenza to pediatric patients six months and older. Prior to this approval, peramivir had been indicated in the United States for pediatric patients two years and older. In the United States, peramivir is indicated for the treatment of acute uncomplicated influenza in patients who have been symptomatic for no more than two days. In May 2018, peramivir, with the brand name of ALPIVAB, received approval from the EMA, although we withdrew the ALPIVAB registration in November 2020. ALPIVAB was not commercially available in the EU at the time of the withdrawal.

In September 2018, the U.S. Department of Health and Human Services ("HHS") awarded us a $34.7 million contract for the procurement of 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. We delivered 20,000 doses of RAPIVAB under this contract in 2019 for a total price of approximately $13.9 million. On September 3, 2020, we announced that HHS exercised its option to purchase an additional 10,000 doses of RAPIVAB under this contract for $6.9 million. As a result, we expect to deliver at least one shipment of 10,000 doses within the contract in 2021.

Galidesivir (BCX4430)

Galidesivir is a broad-spectrum antiviral ("BSAV") that has been shown to be active against more than 20 RNA viruses in nine different families, including filoviruses, togaviruses, bunyaviruses, arenaviruses, paramyxoviruses, coronaviruses and flaviviruses. In animal studies, galidesivir has demonstrated survival benefits against a variety of serious pathogens, including Marburg, Yellow Fever, Ebola, and Zika viruses and from exposures to aerosolized Marburg virus, an experimental condition designed to mimic an exposure scenario that could result during a bioterrorist attack. Our galidesivir research program is currently being developed under contracts with the National Institute of Allergy and Infectious Diseases within the HHS ("NIAID/HHS") and BARDA/HHS.

The objective of our BSAV program is to develop galidesivir as a broad-spectrum therapeutic for viruses that pose a threat to national health and security. The primary focus of the program is treatment of hemorrhagic fever viruses. NIAID/HHS funding has supported galidesivir's development as a treatment for Marburg virus, Yellow Fever and Ebola virus. Since September 2013, NIAID/HHS has supported the development of galidesivir as a therapeutic for Ebola and Marburg viruses. As of the date hereof, all options under our initial contract with NIAID/HHS have been awarded. The total amount under the initial contract, as amended, is $45.9 million, inclusive of the $2.9 million added to the contract in August 2020 to support the development of galidesivir. Since March 2015, BARDA/HHS has supported the development of galidesivir as a potential treatment for filoviruses. The total BARDA/HHS contract value to advance the program through toxicology studies and manufacturing work to support a new drug application is $39.1 million if all contract options are exercised. As of the date hereof, a total of $20.6 million has been awarded under exercised options within this contract.

In April 2020, we agreed with NIAID/HHS to add a group of COVID-19 patients to an ongoing clinical trial in Yellow Fever. On April 9, 2020, we announced that we had opened a randomized, double-blind, placebo-controlled clinical trial in Brazil to assess the safety, clinical impact, and antiviral effects of galidesivir in patients with COVID-19.

On August 31, 2020, we announced that NIAID/HHS awarded us a new $43.9 million contract for the manufacture and evaluation of the safety, efficacy, and tolerability of galidesivir and that it also added $2.9 million to its existing contract with us to support the development of galidesivir. NIAID/HHS made an initial award of $6.3 million under the new contract.

On December 22, 2020, we announced that data from part 1 of the clinical trial in Brazil showed that galidesivir was safe and generally well tolerated in patients infected with SARS-Cov-2, the virus that causes COVID-19. The trial was not designed or sized to demonstrate clinical efficacy, and no clinical efficacy benefit with galidesivir treatment compared to placebo treatment was observed in the trial. Based on our ongoing discussions with NIAID/HHS, we expect NIAID/HHS to continue its support for the development of galidesivir with a focus on biodefense threats, such as Marburg virus disease, and to discontinue the pursuit of a COVID-19 indication for galidesivir.

Mundesine (forodesine)

Mundesine is a Purine Nucleoside Phosphorylase ("PNP") inhibitor developed by Mundipharma International Corporation Limited ("Mundipharma") as a treatment for cancer under a world-wide license agreement. PNP is a purine salvage pathway enzyme. High doses of PNP inhibitors could be useful in the treatment of hematological malignancies. Mundipharma has received orphan drug status for Mundesine, and following its successful completion of a phase 2 pivotal study in recurrent/refractory peripheral T-cell lymphoma ("PTCL") patients in Japan, Mundesine was approved in April 2017 by the MHLW in Japan. We are currently entitled to receive royalties on Mundesine.

Collaborations and In-License Relationships

Torii Pharmaceutical Co., Ltd. ("Torii")

On November 5, 2019, we 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, we received an upfront, non-refundable payment of $22.0 million and are eligible to receive an additional milestone payment of $15.0 million upon receipt from Japan's National Health Insurance system of a reimbursement price approval for ORLADEYO in excess of the threshold specified in the Torii Agreement.

In addition, under the Torii Agreement, we are 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 us in the applicable calendar quarter. Torii's royalty payment obligations commence 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 our patents covering ORLADEYO, and (iii) the expiration of regulatory exclusivity for ORLADEYO in Japan. We will be responsible for supplying Torii with its required amounts of ORLADEYO. The activities of the parties pursuant to the Torii Agreement will be overseen by a joint steering committee, to be composed of an equal number of representatives from each party to coordinate the development and commercialization of ORLADEYO in Japan.

Under the Torii Agreement, we granted Torii a right of first negotiation ("ROFN") to commercialize ORLADEYO in Japan for the acute treatment of HAE attacks if we develop ORLADEYO for such indication and to commercialize any additional kallikrein inhibitor that we may develop in the future for use in HAE in Japan. Under both ROFNs, if the parties do not agree to terms with respect to a definitive amendment to the Torii Agreement or new agreement, as applicable, the terms of the amendment or agreement would be set by a third-party arbitrator.

Seqirus UK Limited

In June 2015, we entered into a license agreement (the "SUL Agreement") with CSL Limited ("CSL"), a company organized under the laws of Australia, granting Seqirus UK Limited ("SUL"), a limited company organized under the laws of the United Kingdom and a subsidiary of CSL, and its affiliates worldwide rights to develop, manufacture, and commercialize peramivir for the treatment of influenza, except for the rights to conduct such activities in Israel, Japan, Korea and Taiwan. On March 4, 2020, the International Court of Arbitration of the International Chamber of Commerce ("ICC Tribunal") delivered a Partial Arbitration Award (the "Partial Arbitration Award") in an arbitration matter between us and SUL with respect to the SUL Agreement. In the Partial Arbitration Award, the ICC Tribunal found that, during the term, SUL materially breached and abandoned its core duties to us under the Diligent Efforts (as defined in the SUL Agreement) requirements of the SUL Agreement as applicable in the U.S. The ICC Tribunal granted a declaratory judgment in favor of us terminating the SUL Agreement and restoring all rights to

peramivir to us. We agreed with SUL on a transition process for the product, with a full transition of commercialization of the product in the U.S. and Australia returned to us as of August 1, 2020 and November 1, 2020, respectively. The ICC Tribunal also awarded us attorneys' fees and expenses incurred in securing the declaratory judgment as well as the costs incurred by us in the arbitration. Finally, the ICC Tribunal found that SUL breached the SUL Agreement by failing to pay a milestone payment due to us within 30 days of the approval of peramivir for adult use in the EU and awarded us $5.0 million (plus interest) for this claim. The ICC Tribunal retained jurisdiction for further proceedings relating to the award of attorneys' fees and for any dispute relating to the return to us of all rights to peramivir in the Territory.

Shionogi & Co., Ltd. ("Shionogi")

In February 2007, we entered into a License, Development and Commercialization Agreement (as amended, supplemented or otherwise modified, the "Shionogi Agreement"), an exclusive license agreement with Shionogi to develop and commercialize peramivir in Japan for the treatment of seasonal and potentially life-threatening human influenza. In October 2008, we and Shionogi amended the Shionogi Agreement to expand the territory covered by the agreement to include Taiwan. Under the terms of the Shionogi Agreement, Shionogi obtained rights to injectable formulations of peramivir in Japan in exchange for a $14.0 million upfront payment. The license provided for development milestone payments (up to $21.0 million), which have all been paid, and for commercial milestone payments (up to $95.0 million) in addition to double-digit (between 10% and 20%) royalty payments on product sales of peramivir.

In December 2017, we, on behalf of JPR Royalty Sub LLC, a wholly-owned subsidiary of BioCryst ("Royalty Sub"), instituted arbitration proceedings against Shionogi in order to resolve a dispute with Shionogi under the Shionogi Agreement regarding the achievement of sales milestones and escalating royalties. The arbitration proceedings concluded with the decision that no sales milestones had been achieved and that royalties would remain the same. The costs associated with the arbitration proceedings are recoverable from the assets of Royalty Sub in accordance with the terms of the indenture and servicing agreement relating to the PhaRMA Notes (as defined below under "Shionogi Royalty Monetization and Non-Recourse Notes Payable").

Generally, all payments under the Shionogi Agreement are non-refundable and non-creditable, but they are subject to audit. Shionogi is responsible for all development, regulatory, and marketing costs in Japan. The term of the Shionogi Agreement is from February 28, 2007 until terminated. Either party may terminate the Shionogi Agreement in the event of an uncured breach. Shionogi has the right of termination without cause. In the event of termination, all license and rights granted to Shionogi shall terminate and shall revert back to us. We developed peramivir under a license from the University of Alabama Birmingham ("UAB") and have paid sublicense payments to UAB on the upfront payments and will owe sublicense payments on any future event payments and/or royalties received by us from Shionogi.

Shionogi Royalty Monetization and Non-Recourse Notes Payable.

On March 9, 2011, we completed a $30.0 million financing transaction to monetize certain future royalty and milestone payments under the Shionogi Agreement. Pursuant to the transaction, Royalty Sub issued $30.0 million in aggregate principal amount of its PhaRMA Senior Secured 14.0% Notes due 2020 (the "PhaRMA Notes") in a private placement to institutional investors. The PhaRMA Notes were issued under an indenture, dated as of March 9, 2011 (the "Indenture"), by and between Royalty Sub and U.S. Bank National Association, as Trustee. We received net proceeds of $22.7 million from this transaction.

As part of the transaction, we entered into a purchase and sale agreement, dated as of March 9, 2011, with Royalty Sub, whereby we transferred to Royalty Sub, among other things, (i) our rights to receive commercial royalty and milestone payments from Shionogi under the Shionogi Agreement and (ii) the right to receive payments under a Japanese yen/US dollar foreign currency hedge arrangement (as further described below under "Foreign Currency Hedge," the "Currency Hedge Agreement") put into place by us in connection with the transaction. Royalty payments are paid by Shionogi in Japanese yen, and milestone payments are paid in U.S. dollars. Our collaboration with Shionogi was not impacted by this transaction.

Principal and interest on the PhaRMA Notes are payable from, and are secured by, (i) the rights to royalty and milestone payments under the Shionogi Agreement, which were transferred by us to Royalty Sub, and (ii) payments, if any, made to Royalty Sub under the Currency Hedge Agreement. The PhaRMA Notes bear interest at 14.0% per annum, payable annually in arrears on September 1st of each year (the "Payment Date"). We remain entitled to receive any royalties and milestone payments related to sales of peramivir by Shionogi following repayment by Royalty Sub of the PhaRMA Notes.

Royalty Sub's obligations to pay principal and interest on the PhaRMA Notes are obligations solely of Royalty Sub and are without recourse to any other person, including the Company, except to the extent of our pledge of our equity interests in Royalty Sub in support of the PhaRMA Notes. We may, but are not obligated to, make capital contributions to a capital account that may be used to redeem, or on up to one occasion pay any interest shortfall on, the PhaRMA Notes.

In September 2014, Royalty Sub was unable to pay the full amount of interest payable in September 2013 by the next succeeding payment date for the PhaRMA Notes, which was September 1, 2014. This inability constituted an event of default under the terms of the Indenture. Accordingly, we have classified the PhaRMA Notes and related accrued interest as current liabilities on our balance sheet since that time. The PhaRMA Notes matured on December 1, 2020, at which time the outstanding principal amount of the PhaRMA Notes of $30.0 million, together with all accrued and unpaid interest of $20.6 million, was due in full. As of December 31, 2020, the PhaRMA Notes remained in default, and we will continue to record the liability and accrued interest owed until it is determined that we are no longer the financial obligor.

The failure by Royalty Sub to repay in full the outstanding principal amount of the PhaRMA Notes, together with any accrued and unpaid interest, at the December 1, 2020 final maturity date, constituted an additional event of default under the PhaRMA Notes. As a result of the continuing events of default under the PhaRMA Notes, the holders of the PhaRMA Notes may foreclose on the collateral securing the PhaRMA Notes and our equity interests in Royalty Sub, and they may exercise other remedies available to them under the Indenture in respect of the PhaRMA Notes. In such event, we may not realize the benefit of future royalty payments that might otherwise accrue to us following repayment of the PhaRMA Notes and we might otherwise be adversely affected. 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 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, there can be no assurance 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.

The Indenture does not contain any financial covenants. The Indenture includes customary representations and warranties of Royalty Sub, affirmative and negative covenants of Royalty Sub, events of default and related remedies, and provisions regarding the duties of the Trustee, indemnification of the Trustee, and other matters typical for indentures used in structured financings of this type.

Foreign Currency Hedge

In connection with the issuance by Royalty Sub of the PhaRMA Notes, we entered into the Currency Hedge Agreement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. Under the Currency Hedge Agreement, we had the right to purchase dollars and sell yen at a rate of 100 yen per dollar. The final tranche of the options under the Currency Hedge Agreement expired in November 2020.

The Currency Hedge Agreement did not qualify for hedge accounting treatment; therefore, mark-to-market adjustments are recognized in our Consolidated Statements of Comprehensive Loss. Cumulative mark-to-market adjustments resulted in losses of $0.6 million, $0.4 million, and $1.0 million for the twelve months ended December 30, 2020, 2019, and 2018, respectively. In addition, realized currency exchange gains of $0.7 million, $0.9 million, and $1.0 million were recognized in 2020, 2019, and 2018, respectively, related to the exercise of the U.S. dollar/Japanese yen currency option under the Currency Hedge Agreement.

Green Cross Corporation ("Green Cross")

In June 2006, we 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. Under the agreement, we received a one-time license fee of $250,000. The license provides that we will 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 us a premium over its cost to supply peramivir for development and any future marketing of peramivir products in Korea. Both parties have the right to terminate the agreement in the event of an uncured material breach. In the event of termination, all rights, data, materials, products, and other information would be transferred to us.

In August 2010, we announced that Green Cross had received marketing and manufacturing approval from the Korean Food & Drug Administration for i.v. peramivir, under the commercial name PERAMIFLU. PERAMIFLU is intended to treat patients with influenza A & B viruses, including pandemic H1N1 and avian influenza. Green Cross received the indication of single dose administration of 300 mg i.v. peramivir.

Mundipharma

We are party to an exclusive, royalty bearing right and license agreement with Mundipharma for the development and commercialization of Mundesine for use in oncology. The agreement, as amended and restated, provides for the possibility of future event payments totaling $15.0 million for achieving specified regulatory events for certain indications and provides that we will receive tiered royalties ranging from mid-to high-single digit percentages of net product sales in each country where Mundesine is sold by Mundipharma. We licensed forodesine and other PNP inhibitors from AECOM/IRL (as defined below) and will owe sublicense payments to AECOM/IRL on all milestone payments and royalties received by us from Mundipharma.

Albert Einstein College of Medicine of Yeshiva University and Industrial Research, Ltd. ("AECOM" and "IRL," respectively)

In June 2000, we licensed a series of potent inhibitors of PNP from AECOM and IRL (together, the "Licensors"). The lead product candidate from this collaboration is forodesine. We have obtained worldwide exclusive rights to develop and ultimately distribute it, or any other, product candidates that might arise from research on these inhibitors. We have the option to expand our license agreement with the Licensors to include other inventions in the field made by the investigators or employees of the Licensors. Under this agreement, as amended and restated, we have agreed to use commercially reasonable efforts to develop these drugs and to pay certain milestone payments for each licensed product (which range in the aggregate from $1.4 million to almost $4.0 million per indication) for future development, single digit royalties on net sales of any resulting product made by us, and to share a portion of future payments received from other third-party partners, if any. In addition, we have agreed to pay annual license fees, which can range from $150,000 to $500,000, that are creditable against actual royalties and other payments due to the Licensors. The Licensors have also granted us an exclusive worldwide license of galidesivir for any antiviral use.

The University of Alabama at Birmingham ("UAB")

We currently have agreements with UAB for influenza neuraminidase and complement inhibitors. Under the terms of these agreements, UAB performed specific research for us in return for research payments and license fees. UAB has granted us certain rights to any discoveries in these areas resulting from research developed by UAB or jointly developed with us. We have agreed to pay single digit royalties on sales of any resulting product and to share in future payments received from other third-party partners. We have completed the research under the UAB agreements. These two agreements have initial 25-year terms, are automatically renewable for five-year terms throughout the life of the last patent, and are terminable by us upon three months' notice and by UAB under certain circumstances. Upon termination, both parties shall cease using the other parties' proprietary and confidential information and materials, the parties shall jointly own joint inventions, and UAB shall resume full ownership of all UAB licensed products. There is currently no activity between us and UAB on these agreements, but when we license this technology, such as in the case of the Shionogi and Green Cross agreements, or commercialize products related to these programs, we will owe sublicense fees or royalties on amounts received.

Government Contracts

RAPIVAB (Peramivir Injection)

In September 2018, HHS awarded us a $34.7 million contract for the procurement of up to 50,000 doses of RAPIVAB over a five-year period, including an initial base order of 10,000 doses. In each of September 2019 and 2020, HHS exercised its options to purchase an additional 10,000 doses of RAPIVAB. We delivered a total of 20,000 doses of RAPIVAB and recorded approximately $13.9 million of product sales in 2019. We expect to deliver at least one shipment of 10,000 doses within the contract in 2021, totaling approximately $6.9 million in product sales. The RAPIVAB purchases by HHS will supply the Strategic National Stockpile, the nation's largest supply of life-saving pharmaceuticals and medical supplies for use in a public health emergency.

Galidesivir

In March 2015, BARDA/HHS awarded us a contract for the continued development of galidesivir as a potential treatment for diseases caused by RNA pathogens, including filoviruses. This BARDA/HHS contract has a potential value of $39.1 million if all contract options are exercised. As of the date of this report, a total of $20.6 million has been awarded under exercised options within this contract.

In September 2013, NIAID/HHS contracted with us for the development of galidesivir as a treatment for Marburg, and subsequently, Yellow Fever and Ebola virus disease. All options under this contract have been awarded, and the total value of the contract, as amended, is $45.9 million, inclusive of the $2.9 million added to the contract in August 2020 to support the development of galidesivir. In August 2020, NIAID/HHS awarded us a new $43.9 million contract for the manufacture and evaluation of the safety, efficacy, and tolerability of galidesivir. NIAID/HHS made an initial award of $6.3 million under this new contract. See "Products and Product Candidates -- Galidesivir" above. Based on our ongoing discussions with NIAID/HHS, we expect NIAID to continue its support for the development of galidesivir with a focus on biodefense threats, such as Marburg virus disease, and to discontinue the pursuit of a COVID-19 indication for galidesivir.

The contracts with BARDA/HHS and NIAID/HHS are cost-plus-fixed-fee contracts. That is, we are entitled to receive reimbursement for all costs incurred in accordance with the contracts provisions that are related to the development of peramivir and galidesivir plus a fixed fee, or profit. BARDA/HHS and NIAID/HHS

will make periodic assessments of progress and the continuation of the contract is based on our performance, the timeliness and quality of deliverables, and other factors. The government has rights under certain contract clauses to terminate these contracts. These contracts are also terminable by the government at any time for breach or without cause.

Patents and Proprietary Information

Our success will depend in part on our ability to obtain and enforce patent protection for our products, methods, processes, and other proprietary technologies, preserve our trade secrets, and operate without infringing on the proprietary rights of other parties, both in the United States and in other countries. We own or have rights to certain proprietary information, proprietary technology, issued and allowed patents and patent applications which relate to compounds we are developing. We actively seek, when appropriate, protection for our products, proprietary technology, and proprietary information by means of U.S. and foreign patents, trademarks, and contractual arrangements. In addition, we rely upon trade secrets and contractual arrangements to protect certain of our proprietary information, proprietary technology, and products and product candidates.

The patent positions of companies like ours are generally uncertain and involve complex legal and factual questions. Our ability to maintain and solidify our proprietary position for our technology will depend on our success in obtaining effective patent claims and enforcing those claims once granted. We do not know whether any of our patent applications or those patent applications that we license will result in the issuance of any patents. Our issued patents and those that may issue in the future, or those licensed to us, may be challenged, invalidated, rendered unenforceable or circumvented, which could limit our ability to stop competitors from marketing related products or the length of term of patent protection that we may have for our products. In addition, the rights granted under any issued patents may not provide us with competitive advantages against competitors with similar compounds or technology. Furthermore, our competitors may independently develop similar technologies or duplicate any technology developed by us in a manner that does not infringe our patents or other intellectual property. Because of the extensive time required for development, testing and regulatory review of a potential product, it is possible that, before any of our product candidates or those developed by our partners can be commercialized, any related patent may expire or remain in force for only a short period following commercialization, thereby reducing any advantage of the patent.

As of December 31, 2020, we have been issued approximately 21 U.S. patents that expire between 2021 and 2039 and that relate to our kallikrein inhibitor compounds, neuraminidase inhibitor compounds, BSAV compounds and PNP inhibitor compounds. We have licensed a number of compounds protected by certain composition of matter patents from AECOM and IRL, totaling three additional U.S. patents that expire between 2023 and 2029. Additionally, we have approximately 24 Patent Cooperation Treaty or U.S. patent applications pending related to kallikrein inhibitor compounds, neuraminidase inhibitor compounds, BSAV compounds, PNP inhibitor compounds, FOP program compounds, and complement-mediated disease program compounds. Our pending applications may not result in issued patents, our patents may not cover the products of interest or may not be enforceable in all, or any jurisdictions and our patents may not provide us with sufficient protection against competitive products or otherwise be commercially viable. After expiration of composition of matter patents for our products and product candidates, we may rely on data exclusivity, or in some cases, method of use patents. The enforceability of these patents varies from jurisdiction to jurisdiction and may not be allowed or enforceable in some territories where we may seek approval. We may not have the funds to continue patent prosecution or to defend all of our existing patents in our current patent estate and may selectively abandon patents or patent families worldwide or in certain territories.

Our success is also dependent upon the skills, knowledge and experience of our scientific and technical personnel, none of which is patentable. To help protect our rights, we require all employees, consultants, advisors and partners to enter into confidentiality agreements, which prohibit the disclosure of confidential information to anyone outside of BioCryst and, where possible, 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.

Competition

The pharmaceutical and biotechnology industries are intensely competitive. Many companies, including biotechnology, chemical and pharmaceutical companies, are actively engaged in activities similar to ours, including research, development, and commercialization of drugs for the treatment of rare medical conditions. Many of these companies have substantially greater financial and other resources, larger research and development staffs, and more extensive commercial and manufacturing organizations than we do. In addition, many have considerable experience in preclinical testing, clinical trials, and other regulatory approval procedures. In addition, there are also academic institutions, governmental agencies and other research organizations who conduct research in areas in which we are working. We expect to encounter significant competition for any of the pharmaceutical products we plan to develop. Companies that successfully complete clinical trials, obtain required regulatory approvals, and commence commercial marketing and sales of their products may achieve a significant competitive advantage.

HAE

HAE is an autosomal dominant disease characterized by painful, unpredictable, recurrent attacks of inflammation affecting the hands, feet, face, abdomen, urogenital tract, and the larynx. The inflammation can be disfiguring, debilitating, or in the case of laryngeal attacks, life-threatening. Prevalence for HAE is uncertain but is estimated to be approximately 1 case per 33,000 to 67,000 persons without known differences among ethnic groups and is caused by deficient (Type I) or dysfunctional (Type II) levels of C1-Inhibitor ("C1-INH"), a naturally occurring molecule that is known to inhibit kallikrein, bradykinin, and other serine proteases in the blood. If left untreated, HAE can result in a mortality rate as high as 40% primarily due to upper airway obstruction. There are several licensed therapies for HAE, including the following:

- C1-INH replacement therapy is available as an acute therapy (Berinert®) and as a prophylactic therapy (Haegarda® and Cinryze®). These therapies are dosed subcutaneously and intravenously. Recombinant C1-INH (Ruconest®) is also available as an acute therapy.

- Kallikrein Inhibitors - Kalbitor® (ecallantide) is a specific recombinant plasma kallikrein inhibitor that is dosed subcutaneously by healthcare providers to treat acute HAE attacks. Takhzyro™ (lanadelumab-flyo) is a monoclonal antibody approved for prophylaxis of HAE attacks and can be self-administered as a subcutaneous injection.

- Bradykinin receptor antagonist - Firazyr® (icatibant) is the treatment of acute attacks and is administered by subcutaneous administration. To date, there have been seven generic forms of icatibant approved by the FDA.

- Other medications - Prophylactic administration of synthetic attenuated androgens (generically available as danazol or stanozolol) has been utilized to reduce the frequency or severity of attacks. However, long-term use of danazol or stanozolol may result in liver damage, virilization and arterial hypertension. Six-month liver function tests, annual lipid profiles, and biennial hepatic ultrasound are recommended for patients on chronic androgen therapy.

We are aware of a number of HAE therapies in clinical development that, if approved, may compete with ORLADEYO. These include:

Company	Asset	Mechanism of Action	Route of Administration	Trial Phase	Role in Therapy
KalVista	KVD-900	Kallikrein inhibitor	Oral	II	Acute treatment

	KVD-824	Kallikrein inhibitor	Oral	I	Prophylaxis
Pharvaris	PHA121 (PHVS416/PHVS719)	B2 bradykinin antagonist	Oral	II	Acute and Prophylaxis
Attune	ATN-249	Kallikrein inhibitor	Oral	I	Prophylaxis
CSL	CSL312	Anti-factor XII mAb	IV/Subcutaneous	III	Prophylaxis
Ionis	IONIS-PKK-LRx	Antisense inhibitor of prekallikrein	Subcutaneous	II	Prophylaxis

Complement-Mediated Diseases

Several rare diseases are known to be mediated by defects of the complement system, including PNH, atypical hemolytic uremic syndrome ("aHUS"), complement 3 glomerulopathy ("C3G"), and myasthenia gravis. Alexion Pharmaceuticals, Inc.'s Soliris® (eculizumab) is a C5 inhibitor approved for PNH, aHUS, myasthenia gravis, and neuromyelitis optica spectrum disorder. Soliris had global sales of over $3.9 billion in 2019. Alexion also recently received FDA approval for Ultomiris™ (ravulizumab), a longer-acting C5 inhibitor, as a treatment for PNH in late 2018 and aHUS in late 2019. Global sales for Ultomiris were $339 million in 2019. In addition, Alexion acquired Achillion, a developer of oral Factor D inhibitors, in early 2020. In December 2020, Alexion agreed to be acquired by AstraZeneca, with the deal expected to close in the third quarter of 2021.

In addition to BCX9930, we are aware of a number of complement pathway-based products in development, which include:

Company	Asset	Mechanism of Action	Route of Administration	Trial Phase
Apellis	Pegcetacoplan (APL-2)	C3 Inhibitor	Subcutaneous	NDA
Akari	Nomacopan	C5 Inhibitor	Subcutaneous	III
Roche	Crovalimab (RG6107)	C5 Inhibitor	IV / Subcutaneous	III
Regeneron	Pozelimab	C5 Inhibitor	IV / Subcutaneous	III
Omeros	Narsoplimab	MASP-2	IV / Subcutaneous	BLA
	OMS906	MASP-3	Subcutaneous	I
Alexion	Danicopan (ALXN2040)	Factor D Inhibitor	Oral	III
	Vermicopan (ALXN2050)	Factor D Inhibitor	Oral	II
Novartis	Iptacopan (LNP023)	Factor B Inhibitor	Oral	III
	Tesidolumab	C5 Inhibitor	IV	II
ChemoCentryx	Avacopan	C5aR Inhibitor	Oral	NDA
Ra / UCB	Zilucoplan	C5 Inhibitor	Subcutaneous	II
Alnylam	Cemdisiran	C5 Inhibitor	Subcutaneous	II

Amgen (Phase 3), Samsung, and Isu Abxis are also in clinical trials developing biosimilars of eculizumab.

FOP

FOP is a rare, severely disabling condition characterized by HO. HO can occur in muscles, tendons, and soft tissue. FOP patients progressively become bound by this irregular ossification, with restricted movement and fused joints, resulting in deformities and premature mortality. There are currently no approved treatments for FOP.

In addition to BCX9250, we are aware of a number of FOP therapies in clinical development, which include:

Company	Asset	Mechanism of Action	Route of Administration	Trial Phase
Ipsen	Palovarotene	Retinoic Acid Receptor (RAR) Gamma Agonist	Oral	III
	BLU-782	ALK-2 Inhibitor	Oral	I
Regeneron	Garetosmab	Anti-activin A	IV	II
Incyte	INCB00928	ALK-2 Inhibitor	Oral	I
Keros	KER-047	ALK-2 Inhibitor	Oral	I

Antivirals

The pharmaceutical market for products that prevent or treat influenza is very competitive. Key competitive factors for RAPIVAB (peramivir injection) include, among others, efficacy, ease of use, safety, price and cost-effectiveness, storage and handling requirements, and reimbursement. A number of products are currently available in the U.S. and/or other counties, including Japan, for the prevention or treatment of influenza, including seasonal flu vaccines, F. Hoffmann-La Roche Ltd.'s ("Roche") TAMIFLU® (oseltamivir), generic oseltamivir, GlaxoSmithKline plc's ("GSK") RELENZA®, Genentech and Shiongi's XOFLUZA™ and Daiichi Sankyo Co., Ltd.'s INAVIR®. In addition, FUJIFILM Corporation's favipiravir, a polymerase inhibitor, is approved in Japan.

Various government entities throughout the world are offering incentives, grants, and contracts to encourage additional investment into preventative and therapeutic agents against influenza, which may have the effect of further increasing the number of our competitors and/or providing advantages to certain competitors.

Galidesivir is a product candidate in our BSAV research program and is currently being developed under contracts with NIAID/HHS and BARDA/HHS. The objective of our BSAV program is to develop galidesivir as a broad-spectrum therapeutic for viruses that pose a threat to national health and security. The U.S. Government is investing in a number of programs intended to address gaps in its medical countermeasure plan. Currently, there are five investigational therapeutics under a compassionate use/expanded access framework that can be available in an outbreak setting to treat Ebola virus disease.

In order to compete successfully in these and other therapeutic areas, we must develop proprietary positions in patented drugs for therapeutic markets that have not been satisfactorily addressed by conventional research strategies and, in the process, expand our expertise in structure-based drug design. Our product candidates, even if successfully tested and developed, may not be adopted by physicians over other products and may not offer economically feasible alternatives to other therapies.

Research and Development

We initiated our research and development activities in 1986. We have assembled a scientific research staff with expertise in a broad base of advanced research technologies, including protein biochemistry, X-ray crystallography, chemistry, and pharmacology. Our research facilities, located in Birmingham, Alabama, include protein biochemistry and organic synthesis laboratories, testing facilities, X-ray crystallography, computer and graphics equipment and facilities to make product candidates on a small scale for early-stage clinical trials.

Compliance

We conduct our business in an ethical, fair, honest, and lawful manner. We act responsibly, respectfully, and with integrity in our relationships with patients, health care professionals, collaborators, governments, regulatory entities, stockholders, suppliers, and vendors.

In order to ensure compliance with applicable laws and regulations, our Chief Financial Officer, Chief Legal Officer, and Senior Vice President of Human Resources oversee compliance training, education, auditing, and monitoring; enforce disciplinary guidelines for any infractions of our corporate polices; implement new policies and procedures; respond to any detected issues; and undertake corrective action procedures. Our controls address compliance with laws and regulations that govern public pharmaceutical companies, including, but not limited to, the following: federal and state law, such as the Sarbanes-Oxley Act of 2002 and the U.S. Foreign Corrupt Practices Act of 1977; Nasdaq listing requirements; the regulations of the Financial Industry Regulatory Authority, the SEC, the FDA, and HHS; and applicable laws and regulations administered by foreign regulatory authorities, including those of the EU, the U.K., and Japan. Our standard operating procedures are designed to provide a framework for corporate governance in accordance with ethical standards and best legal practices.

Government Regulation

The FDA regulates the pharmaceutical and biotechnology industries in the U.S., and our product candidates are subject to extensive and rigorous domestic government regulations prior to commercialization. The FDA regulates, among other things, the development, testing, manufacture, safety, efficacy, record-keeping, labeling, storage, approval, advertising, promotion, sale and distribution of pharmaceutical products. In foreign countries, our products are also subject to extensive regulation by foreign governments. These government regulations are a significant factor in the production and marketing of any pharmaceutical products that we develop. Failure to comply with applicable FDA and other regulatory requirements at any stage during the regulatory process may subject us to sanctions, including:

- delays;
- warning letters;
- fines;
- product recalls or seizures;
- injunctions;
- penalties;
- refusal of the FDA to review pending market approval applications or supplements to approval applications;
- total or partial suspension of production;
- civil penalties;
- withdrawals of previously approved marketing applications; and
- criminal prosecutions.

The regulatory review and approval process is lengthy, expensive, and uncertain. Before obtaining regulatory approvals for the commercial sale of any products, we or our partners must demonstrate that our product candidates are safe and effective for use in humans. The approval process takes many years, substantial expenses may be incurred, and significant time may be devoted to clinical development.

The policies of the FDA and foreign regulatory authorities may change, and additional government regulations may be enacted which could prevent or delay regulatory approval of our product candidates or approval of new indications for our existing products. We cannot predict the likelihood, nature, or extent of adverse governmental regulation that might arise from future legislative or administrative action, either in the United States or abroad.

FDA Regulation

Before testing potential product candidates in humans, we carry out laboratory and animal studies to determine safety and biological activity. After completing preclinical trials, we must file an investigation new drug application ("IND"), including a proposal to begin clinical trials, with the FDA. Thirty days after filing an IND, a phase 1 human clinical trial can start, unless the FDA places a hold on the trial.

Clinical trials to support a new drug application ("NDA") are typically conducted in three sequential phases, but the phases may overlap.

Phase 1 — During phase 1, which involves the initial introduction of the drug into healthy volunteers, the drug is tested to assess metabolism, PK, and pharmacological actions and safety, including side effects associated with increasing doses.

Phase 2 — Phase 2 usually involves trials in a limited patient population to: (1) assess the efficacy of the drug in specific, targeted indications; (2) assess dosage tolerance and optimal dosage; and (3) identify possible adverse effects and safety risks.

Phase 3 (pivotal) — If a compound is found to be potentially effective and to have an acceptable safety profile in phase 2 evaluations, phase 3 clinical trials, also called pivotal studies, major studies, or advanced clinical trials, are undertaken to further demonstrate clinical efficacy and to further test for safety within an expanded patient population at geographically dispersed clinical trial sites. In general, the FDA requires that at least two adequate and well-controlled phase 3 clinical trials be conducted.

Initiation and completion of the clinical trial phases are dependent on several factors, including things that are beyond our control. For example, the clinical trials cannot begin at a particular site until that site receives approval from its Institutional Review Board ("IRB"), which reviews the protocol and related documents. This process can take several weeks to several months. In addition, clinical trials are dependent on patient enrollment, but the rate at which patients enroll in the study depends on:

- willingness of investigators to participate in a study;
- ability of clinical sites to obtain approval from their IRB;
- the availability of the required number of eligible subjects to be enrolled in a given trial;
- the availability of existing or other experimental drugs for the disease we intend to treat;
- the willingness of patients to participate; and
- the patients meeting the eligibility criteria.

Delays in planned patient enrollment may result in increased expense and longer development timelines.

After successful completion of the required clinical testing, generally an NDA is submitted. Upon receipt of the NDA, the FDA will review the application for completeness. Within 60 days, the FDA will determine if the application is sufficiently complete to warrant full review and will consider the application "filed" at that time. Also upon receipt of the application, the FDA will assign a review priority to the application. Priority review applications are usually reviewed within 6 months; standard review applications are usually reviewed within 10 months. The FDA may refer NDAs for new molecular entities to an appropriate advisory committee for review and evaluation in regard to providing a recommendation as to whether the application should be approved. The FDA is not bound to follow the recommendation of an advisory committee.

Following the review of the application, which may include requests for additional information from the sponsor and results from inspections of manufacturing and clinical sites, the FDA will issue an "action letter" on the application. The action letter will either be an "approval letter," in which case the product may be lawfully marketed in the United States, or a "complete response letter." A complete response letter will state that the FDA cannot approve the NDA in its present form and, usually, will describe all of the specific deficiencies that the FDA has identified in the application. The complete response letter, when possible, will include the FDA's recommended actions to place the application in a condition for approval. Deficiencies can be minor (e.g., labeling changes) or major (e.g., requiring additional clinical trials). A complete response letter may also be issued before the FDA conducts the required facility inspection and/or reviews labeling, leaving the possibility that additional deficiencies in the original NDA could be subsequently cited. An applicant receiving a complete response letter is permitted to resubmit the NDA addressing the identified deficiencies (in which case a new two- or six-month review cycle will begin), or withdraw the NDA. The FDA may consider a failure to take action within one year of a complete response letter to be a request to withdraw, unless the applicant has requested an extension of time in which to resubmit the NDA. If the FDA approves an NDA, the marketing of the product will be limited to the particular disease states and conditions of use that are described in the product label.

We and all of our contract manufacturers are also required to comply with the applicable FDA current Good Manufacturing Practice, or cGMP, regulations during clinical development and to ensure that the product can be consistently manufactured to meet the specifications submitted in an NDA. The cGMP regulations include requirements relating to product quality, as well as the corresponding maintenance of records and documentation. Manufacturing facilities must be approved by the FDA before they can be used to manufacture our products. Based on an inspection, the FDA determines whether manufacturing facilities are in compliance with applicable regulations. Manufacturing facilities in non-United States countries that are utilized to manufacture drugs for distribution into the United States are also subject to inspection by the FDA. Additionally, failure to comply with local regulatory requirements could affect production and availability of product in relevant markets.

Foreign Regulation

In addition to regulations in the United States, we are subject to a variety of foreign regulatory requirements governing human clinical trials and marketing approval for drugs. The foreign regulatory approval process includes all of the risks associated with FDA approval set forth above, as well as additional country-specific regulations. Whether or not we obtain FDA approval for a product, we must obtain approval of a product by the comparable regulatory authorities of foreign countries before we can commence clinical trials or marketing of the product in those countries. The approval process varies from country to country, and the time may be longer or shorter than that required for FDA approval. The requirements governing the conduct of clinical trials, product licensing, pricing, and reimbursement vary greatly from country to country.

For example, under EU regulatory systems, we may submit marketing authorizations either under a centralized or decentralized procedure. The centralized procedure provides for the grant of a single marketing authorization that is valid for all EU member states. The decentralized procedure provides for mutual recognition of national approval decisions, and the holder of a national marketing authorization may submit an application to the remaining member states. The U.K.'s exit from the EU, 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.

Under the Japanese regulatory system administered by the Japanese Pharmaceuticals and Medical Devices Agency ("PMDA"), pre-marketing approval and clinical studies are required for all pharmaceutical products. To obtain manufacturing/marketing approval, we must submit an application for approval to the MHLW with results of nonclinical and clinical studies to show the quality, efficacy, and safety of a new drug. A data compliance review, good Clinical Practices, or GCP, on-site inspection, cGMP audit, and detailed data review are undertaken by the PMDA. The application is then discussed by the committees of the Pharmaceutical Affairs and Food Sanitation Council ("PAFSC"). Based on the results of these reviews, the final decision on approval is made by MHLW. In Japan, the National Health Insurance system maintains a Drug Price List specifying which pharmaceutical products are eligible for reimbursement, and the MHLW sets the prices of the products on this list. Following the January 2021 approval of ORLADEYO in Japan, negotiations regarding the reimbursement price with MHLW have begun. The price will be determined within 60 to 90 days following approval unless the applicant disagrees, which may result in extended pricing negotiations. The government generally introduces price cut rounds every other year and also mandates price decreases for specific products. New products judged innovative or useful, that are indicated for pediatric use, or that target orphan or small population diseases, however, may be eligible for a pricing premium. The Japanese government has also promoted the use of generics, where available.

Human Capital Resources

As of January 31, 2021, we had approximately 246 employees, of whom approximately 119 employees were engaged in the research and development function of our operations. Our research and development staff, approximately 48 of whom hold Ph.D. or M.D. degrees, have diversified experience in biochemistry, pharmacology, X-ray crystallography, synthetic organic chemistry, computational chemistry, medicinal chemistry, clinical development and regulatory affairs.

We believe that our ability to successfully execute on our strategic initiatives is highly dependent upon our ability to recruit, retain, and reward our employees. We engage in targeted recruitment strategies to fill highly skilled positions. Our employees enjoy competitive salaries and benefits, as well as equity participation. Our compensation philosophy is designed to provide an appealing, competitive, and rewarding compensation program that encourages high personal and company performance, strong cultural and ethical behavior, and incentives aligned with stockholder interests.

We are committed to providing a workplace that protects the health and wellbeing of our employees. All employees are required to abide by our Code of Conduct and Compliance Plan and health and safety parameters and to contribute to a positive, inclusive, and friendly company culture. Where we believe such arrangements can be effective, we have implemented flexible working arrangements, including work from home arrangements, for our employees, in part, to encourage employee health and wellness during the global COVID-19 pandemic. We consider our relations with our employees to be satisfactory.

Corporate Information

We are a Delaware corporation originally founded in 1986. Our corporate headquarters is located at 4505 Emperor Blvd., Suite 200, Durham, North Carolina 27703, and our corporate telephone number is (919) 859-1302. For more information about us, please visit our website at www.biocryst.com. The information on our website is not incorporated into this Form 10-K.

Financial Information

For information related to our revenues, profits, net loss and total assets, in addition to other financial information, please refer to the Consolidated Financial Statements and Notes to Consolidated Financial Statements contained in Part II, Item 8 of this report. Financial information about revenues derived from foreign countries is included in Note 1 to Consolidated Financial Statements contained in this report.

Available Information

Our website address is www.biocryst.com. We make available, free of charge, at our website our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. We also make available at our website copies of our audit committee charter, compensation committee charter, corporate governance and nominating committee charter and our code of business conduct, which applies to all our employees as well as the members of our Board of Directors. Any amendment to, or waiver from, our code of business conduct will be posted on our website.

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 deciding to buy 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 recent COVID-19 pandemic on us or on third parties with whom we conduct business, including without limitation our development partners, manufacturers, clinical research organizations ("CROs"), and others, as well as on the regulatory and government agencies with whom we work.

The COVID-19 pandemic has spread to multiple countries around the world, is affecting the United States and global economies, and may cause significant 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, quarantines, shelter-in-place, similar 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 (such as Torii), manufacturers, CROs, and others; (2) the conduct of our current and future clinical trials and commercial interactions; and (3) the operations of the FDA, EMA, PMDA and other health and governmental authorities, which could result in delays of reviews and approvals.

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, if interruptions related to COVID-19 were to impair our or Torii's ability to perform under the Torii Agreement to complete our regulatory interactions in Japan, including with respect to the pending approval of a reimbursement price for ORLADEYO for the treatment of HAE, then the timing and success of our development and commercialization of ORLADEYO in Japan could be severely impacted.

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 future 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 delays or challenges 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 startup of the inadequate C5 responder cohorts in our complement oral Factor D inhibitor program and, as a result, delayed the reporting of related data. 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 the FDA, EMA, PMDA or other regulatory authorities to timely review and process our regulatory submissions, which could have a material adverse effect on our business and clinical development plans and timelines.

We have implemented work-from-home policies for our employees, which may negatively impact productivity, disrupt our business and delay our clinical programs and timelines, the magnitude of which will depend, in part, on the length and severity of the restrictions and other limitations on our ability to conduct our business in the ordinary course. These and similar, and perhaps more severe, disruptions in our operations could negatively impact our business, operating results and financial condition.

The spread of COVID-19, which has caused a broad impact globally, may 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 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 resulting from the spread of COVID-19 could materially affect our business and the value of our common stock.

The global pandemic of COVID-19 continues to evolve rapidly. The ultimate impact of the COVID-19 pandemic or a similar health epidemic is highly 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, on the healthcare system, or on 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 product candidates, receive regulatory approval, 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 new commercially viable products, certain obligations we have to third parties, including, without limitation, our obligation to pay RPI royalties on certain ORLADEYO and BCX9930 revenues under the Royalty Purchase Agreement, 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 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 2021 expenses will exceed our 2021 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 be largely determined by the success of operations in regard to the commercialization of our products 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 through equity financings, and commercializing our approved products. We also may consider other plans to fund operations including: (1) securing or increasing U.S. Government funding of our programs, including obtaining additional and delivering on procurement contracts; (2) out-licensing rights to certain of our products or product candidates, pursuant to which we would receive cash milestone payments and/or royalties; (3) raising additional capital through equity or debt financings or from other sources, including royalty or other monetization transactions; (4) obtaining additional product candidate regulatory approvals, which would generate revenue, milestones and cash flow; (5) reducing spending on research and development programs, including by discontinuing and suspending development; and/or (6) restructuring operations to change our overhead structure.

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, 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 advance our product candidates through the various stages of development, especially through the clinical trial process, and to receive regulatory approval for the commercial sale of our product candidates.

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, 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, and 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. Failure to achieve any of these endpoints in any of our programs, including BCX9930, BCX9250, galidesivir, 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. 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 risk-benefit perspective. Product candidates that initially show promise in clinical or preclinical testing could later be found to cause undesirable or unexpected side effects that could result in delays in the development of our product candidates, significant unexpected costs, or the termination of programs. The development plans for our product candidates, including our clinical trials, 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 may decide to discontinue development of product candidates that 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 pre-clinical studies and clinical trials or side effects in humans could result in the FDA or foreign regulatory authorities (including, e.g., the EMA, the MHLW or the 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 may suspend or terminate clinical trials at any time if we or they believe the trial participants face unacceptable health risks.

Our ability to successfully complete the clinical development process 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 protocol 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 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 pre-clinical 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 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 or 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, may not receive regulatory approval for the product candidates, in which case we would be unable to generate any revenues from product sales or licensing arrangements, or 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, 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 in connection with our clinical trials, 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 are 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, 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 obtain regulatory approval for our product candidates, including BCX9930, BCX9250, and galidesivir; our ability to maintain regulatory approval for, successfully commercialize, and achieve market acceptance of our products, including ORLADEYO; our ability to raise additional capital; the amount of funding we receive from partnerships with third parties for the development and commercialization of our products and product candidates (including our collaborations with Torii, BARDA/HHS, and NIAID/HHS); the commercial success of our products achieved by our partners; the amount or profitability of any orders for peramivir or galidesivir by any government agency or other party; 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 development programs, and commercialize our current products and product candidates, we will be required to raise additional capital. In addition to seeking strategic partnerships, transactions and government funding, we may access the equity or debt markets, incur additional borrowings, or seek other sources of funding to meet liquidity needs at any time. Additional funding, whether through additional sales of securities, additional borrowings, royalty or other monetization transactions, collaborative arrangements with partners, including corporate partners such as Torii and governmental agencies such as BARDA/HHS or NIAID/HHS, or from other sources, may not be available when needed 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 our Credit Agreement (as defined under "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Overview -- Recent Corporate Highlights -- Financing Transactions" in Part II, Item 7 of this report). In addition, collaborative arrangements may require us to transfer certain material rights to such 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.

Our ability to raise additional capital 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, and carcinogenicity, drug-drug interaction, toxicity, or other required studies) for BCX9250 for the treatment of FOP, BCX9930 for diseases of the complement system, our broad-spectrum antiviral program, including galidesivir, 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, may restrict our future flexibility to raise capital when such needs arise. Furthermore, we have exposure to many different industries, financing partners and counterparties, including commercial banks, investment banks and partners (which include investors, licensing partners, and the U.S. Government) 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. Any such instability may impact these parties' ability to fulfill contractual obligations to us or they 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 could 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 governmental approval for our product candidates or maintain governmental approval 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 approval 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 advance our products through the various stages of development, especially through the clinical trial process, and to receive regulatory approval for the commercial sale of our products," we or our partners may experience any number of unfavorable outcomes during or as a result of pre-clinical 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. If we receive approval to market our potential products, whether in the United States or internationally, we will continue to be subject to extensive regulatory requirements. These requirements are wide ranging and govern, among other things:

- adverse drug experience reporting regulations;
- product promotion;
- product manufacturing, including good manufacturing practice requirements; and
- product changes or modifications.

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. For instance, although BCX9930 for PNH has received Fast Track and Orphan Drug designations from the FDA, and ORLADEYO has a Promising Innovative Medicine designation from the MHRA, as well as orphan drug status from the EMA, we may not experience a faster development, review or approval process compared to the conventional process in the relevant jurisdictions. We may not be able to obtain or maintain these designations for ORLADEYO, BCX9930 or other 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 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 were not previously identified, or fails to achieve market acceptance within the medical community.

If, after obtaining regulatory approval of a product, we or others discover that it is less effective than previously believed or causes undesirable side effects that were not previously identified, 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 even 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 is to increase the asset value of our 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 include preclinical development, clinical development, regulatory approval, marketing, sales, and distribution of our products and product candidates.

Currently, we have established collaborative relationships with Torii for the commercialization of ORLADEYO in Japan, with each of Shionogi and Green Cross for the development and commercialization of peramivir, and with Mundipharma for the development and commercialization of Mundesine (forodesine). The process of establishing and implementing collaborative relationships is difficult, time-consuming and involves significant uncertainty, including:

- our partners may seek to renegotiate or terminate their relationships with us 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;
- our partners may choose to pursue alternative technologies, including those of our competitors;
- we may have disputes with a partner that could lead to litigation or arbitration, such as the recent arbitration proceeding between us and SUL, 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 towards 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 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, 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. We do not have a history of working with Torii and cannot predict the success of this collaboration. Our ability to realize the expected benefits of this collaboration, including with respect to the receipt or amounts of potential milestone or royalty payments, is subject to a number of risks, including that applicable regulatory agencies may not provide reimbursement approvals on a timely basis or at all, 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 for a potential milestone payment upon receipt of a reimbursement price approval from Japan's National Health Insurance system in excess of the threshold specified in the Torii Agreement, which we may not receive on a timely basis or at all. The Torii Agreement also provides that we will be 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 remain responsible for regulatory activities with respect to ORLADEYO in Japan for one year after the first commercial sale. We expect 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, fail to receive reimbursement authorization in excess of the specified threshold, which could negatively impact the commercial success and the partnership, impact the economic benefit expected or require additional development of ORLADEYO.

Torii may terminate the Torii Agreement under certain limited circumstances, including upon one year's written notice after the sixth anniversary of the first commercial sale of ORLADEYO in Japan. If the Torii Agreement is terminated in connection with these provisions, we will no longer be entitled to receive any milestone or royalty payments thereunder, which could have a material adverse impact on our business and results of operations.

Torii will have 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 of, 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 would be entitled to receive under the Torii Agreement.

Under the Torii Agreement, we will be 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 obtain reimbursement price approval for ORLADEYO in Japan and to perform our obligations under the Torii Agreement, which could materially 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 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 commercialization efforts, methods and strategies will succeed. Although we have expanded and added experienced professionals to our internal commercial team, as a company we do not have a great deal of experience in commercializing our product candidates or technologies. In addition, 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 successfully complete clinical trials, or satisfy post-marketing commitments, sufficient to obtain and keep 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 and our products and product candidates;
- 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 ability to successfully commercialize our products is affected by the competitive landscape, which cannot be fully known at this time;
- revenue from product sales would depend 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 would 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.

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 ORLADEYO and BCX9930 revenues under the Royalty Purchase Agreement may reduce the profitability of such products.

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

We expect to continue experiencing significant growth in the number of our employees and the scope of our operations, particularly in the areas of drug development, regulatory affairs, sales, marketing, and distribution. To manage our anticipated future growth, we must continue to implement and improve our managerial, operational and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. For example, we expanded our internal commercial team in 2020 in preparation for the commercial launch of ORLADEYO. Due to our limited financial resources and the limited experience of our management team in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional 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 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 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, which may be the only vendor we have engaged for a particular product or service, 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, BCX9930, BCX9250, galidesivir, 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, acts of terrorism or war, equipment malfunctions, or raw material shortages. 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 inventories and sales, serious adverse events, and/or product complaints, our business, including our commercial launch 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 is not effectively managed, the continuance of our commercial launch 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 product candidates at a cost or in quantities necessary to make them commercially viable. Our raw materials, drug substances, 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 product candidate material for further preclinical testing and clinical trials. To date, our third-party manufacturers have met our manufacturing requirements, but they may not continue to do so. Furthermore,

changes in the manufacturing process or procedure, 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 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.

Commercialization 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 our partners and may result in little to no milestones or royalties to us;
- effectiveness of marketing and commercialization efforts for our products by our partners;
- market satisfaction with existing alternative therapies;
- perceived efficacy relative to other available therapies;
- disease prevalence;
- cost of treatment;
- pricing and availability of 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 or 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, in December 2020. In addition, we are performing research on or developing products for the treatment of several other rare diseases, including diseases of the complement system and FOP, as well as developing broad spectrum antivirals for use as medical countermeasures. 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. There are licensed therapies for HAE (including Berinert®, Haegarda®, Cinryze®, Kalbitor®, Takhzyro®, Firazyr® (icatibant), generic icatibant, and Ruconest®), therapies for certain complement-mediated diseases such as PNH, aHUS, myasthenia gravis, and neuromyelitis optica spectrum disorder (Soliris® and Ultomiris™), products for the prevention or treatment of influenza (seasonal flu vaccines, Tamiflu® (oseltamivir), generic oseltamivir, Relenza®, and Inavir®, favipiravir, and Xofluza™), and a number of additional products in clinical development in these therapeutic areas and for the treatment of FOP. In addition, various government entities throughout the world may offer incentives, grants and contracts to encourage additional investment into preventative and therapeutic agents against viruses such as influenza, coronavirus, Ebola, and others, 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 this report 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 or our partners' activities related to approved products or, following their regulatory approval, any of our product candidates under development, such as BCX9930, BCX9250, and galidesivir, are subject to regulatory and law enforcement authorities in the United States (including the FDA, the Federal Trade Commission, the Department of Justice, 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, 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 health care "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 or our partners' operations, sales and marketing practices, price reporting, and relationships with physicians and other customers and third-party payors. Anti-kickback laws generally prohibit a manufacturer from soliciting, offering, receiving, or paying any remuneration to generate business, including the purchase or prescription of a particular drug. Although the specific provisions of these laws vary, their scope is generally broad and there may be no regulations, guidance or court decisions that clarify how the laws apply to particular industry practices. False claims laws prohibit anyone from knowingly and willingly presenting, or causing to be presented for payment to third party payors (including Medicare and Medicaid) claims for reimbursement or services that are false or fraudulent, claims for items or services not provided as claimed, or claims for medically unnecessary items or services. The sunshine provisions apply to manufacturers with products reimbursed under certain government programs and require those manufacturers to disclose annually to the federal government certain payments made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, as well as, ownership and investment interests held by physicians (as defined above) and their immediate family members. State laws may also require disclosure of pharmaceutical pricing information and marketing expenditures. Although we seek to comply with these statutes, it is possible that our practices, or those of our partners, might be challenged under health care 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.

We have a number of outstanding post-approval commitments to the FDA and EMA that we retain, 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. For example, as a condition of the approval of RAPIVAB, we were required to complete pediatric patient trials and to submit the final results of these clinical trials to the FDA and EMA. We may be subject to penalties if we fail to comply with post-approval legal and regulatory requirements, 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 its 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. In particular, the claims in all promotional materials and activities must be consistent with the FDA approvals for approved products and must be appropriately substantiated and fairly balanced with information on the safety risks and limitations of the products. We are also required to engage in appropriate truthful, non-misleading, and non-promotional scientific exchange concerning our products, and 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, other divisions of the U.S. Department of Health and Human Services, the U.S. Department of Justice and individual U.S. Attorney offices within the Department of Justice, 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 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 and consultants 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 and consultants, including intentional failures to comply with FDA regulations or similar regulations of comparable foreign regulatory authorities, provide accurate information to the FDA or comparable foreign 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 foreign 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, 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, obtain collaborators and raise capital.

The Patient Protection and Affordable Care Act, or PPACA, made extensive changes to the delivery of health care in the U.S. The PPACA included numerous provisions that affect pharmaceutical companies, some of which became effective immediately and others of which have taken effect over the past several years. For example, the PPACA expanded health care coverage to the uninsured through private health insurance reforms and an expansion of Medicaid. The PPACA also imposed substantial costs on pharmaceutical manufacturers, such as an increase in liability for rebates paid to Medicaid, new drug discounts that must be offered to certain enrollees in the Medicare prescription drug benefit, an annual fee imposed on all manufacturers of brand prescription drugs in the U.S., and an expansion of an existing program requiring pharmaceutical discounts to certain types of hospitals and federally subsidized clinics. The PPACA also contains cost containment measures that could reduce reimbursement levels for health care items and services generally, including pharmaceuticals. It also required reporting and public disclosure of payments and other transfers of value provided by pharmaceutical companies to physicians and teaching hospitals.

The continuing efforts of the government, insurance companies, managed care organizations and other payors of health care services to contain or reduce costs of health care 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 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 U.S. and other markets is critical to the commercial success of our approved products. Recently in the U.S. there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries and proposed bills designed to, among other things, reform government program reimbursement methodologies. Individual states in the United States have been increasingly active in passing legislation and implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. Regional health care 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 our 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 are 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 are also subject to the General Data Protection Regulation in the EU. See "Risks Relating to Our Business—Risks Relating to International Operations—Our actual or perceived failure to comply with European governmental regulations and other legal obligations related to privacy, data protection and information security could harm our business" in this section for additional discussion of international 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 or secure rights to patents of others, the value of those rights would diminish.

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 and 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 the 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 such 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 product candidates and any such events would significantly impair the value of such 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 will face even greater risks upon any commercialization by us of our 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; if BARDA/HHS or NIAID/HHS were to eliminate, reduce or delay funding from our contracts, this would have a significant negative impact on the programs associated with such funding and could have a significant negative impact on our revenues and cash flows.

We have completed work under a contract with BARDA/HHS for the development of RAPIVAB and have entered into 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 or, if we are found to be in violation, could result in contract termination. If the U.S. Government terminates any of its contracts with us for its convenience, or if we default by failing to perform in accordance with the contract schedule and terms, significant negative impact on our cash flows and operations could result.

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.

The U.S. Government may terminate its contracts with us either for its convenience or if we default by failing to perform in accordance with the contract schedule and terms. Termination for convenience provisions generally enable us to recover only our costs incurred or committed, and settlement expenses and profit on the work completed prior to termination. Termination does not permit these recoveries under default provisions. In the event of termination or upon 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. Further, if the U.S. Government terminates its contracts with us for its convenience, or if we default by failing to perform in accordance with the contract schedule and terms, significant negative impact on our cash flows and operations could result.

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. 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 active BARDA/HHS and NIAID/HHS galidesivir contracts may occur at the election of the U.S. Government and have been concluded through fiscal 2015; 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 and could impact our cash flows under the contracts prospectively. 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 termination of our contracts, 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.

In September 2018, we entered into a contract with the U.S. Government for the procurement of up to 50,000 doses of RAPIVAB (peramivir injection) over a five-year period. In addition, we are working with NIAID/HHS to further develop galidesivir. There can be no assurance that we or our manufacturers will be able to fully meet the demand for such antivirals with respect to these or 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. There can be no assurance that galidesivir will be approved for use in any 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 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 or seek other available remedies. As a result, our development of the respective product candidate or commercialization of the product would cease.

Royalties and milestone payments from Shionogi under the Shionogi Agreement are required to be used by Royalty Sub to satisfy its obligations under its PhaRMA Notes, and generally will not be available to us for other purposes unless and until Royalty Sub has repaid in full its obligations under the PhaRMA Notes.

In March 2011, our wholly-owned subsidiary, Royalty Sub, issued $30.0 million in aggregate principal amount of PhaRMA Notes. The PhaRMA Notes are secured principally by (i) certain royalty and milestone payments under 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 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. As a result of the continuing event of default, 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 that might otherwise accrue to us following repayment of the PhaRMA Notes, we may incur legal costs and we might otherwise be adversely affected.

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 in full the outstanding principal amount of the PhaRMA Notes, together with any accrued and unpaid interest, at the December 1, 2020 final maturity date constituted an additional event of default under the PhaRMA Notes. 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. 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 the continuing events of default under the PhaRMA Notes or the failure by Royalty Sub to repay the PhaRMA Notes at maturity.

Because continuing events of default exist under the PhaRMA Notes, the holders of the PhaRMA Notes may be able to pursue acceleration of the PhaRMA Notes and 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 that might otherwise accrue to us following repayment of the PhaRMA Notes and we could otherwise be adversely affected.

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 that might otherwise accrue to us following repayment of the PhaRMA Notes, we may incur legal costs and we might otherwise be adversely affected. In addition, the PhaRMA Notes have a final legal maturity date of December 1, 2020, at which time the outstanding principal amount of the PhaRMA Notes, together with accrued and unpaid interest, was due in full. The failure by Royalty Sub to repay in full the outstanding principal amount of the PhaRMA Notes, together with any accrued and unpaid interest, at the December 1, 2020 final maturity date constituted an additional event of default under the PhaRMA Notes. 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. 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 the continuing events of default under the PhaRMA Notes or the failure by Royalty Sub to repay the PhaRMA Notes at maturity.

We have incurred significant indebtedness, which could adversely affect our business. Additionally, our Credit Agreement contains conditions and restrictions that limit our flexibility in drawing on the additional funds thereunder and 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.

As of December 31, 2020, we had an outstanding principal balance under our Credit Agreement of $125.0 million. We may also draw up to another $75.0 million in aggregate principal amount under the Term B Loan and the Term C Loan (each as defined in the Credit Agreement) under the Credit Agreement if, among other conditions, the Company reaches defined revenue milestones and, with respect to a draw on the Term C Loan, the Term B Loan

has been funded prior to or contemporaneously with the Term C Loan. 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 our Credit Agreement are at variable rates;
- 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, our Credit 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, grant certain types of liens on our assets; make certain investments; incur or assume certain debt, including accessing additional tranches of debt under the Credit Agreement; engage in certain mergers, acquisitions, and similar transactions; dispose of assets; license certain property; distribute dividends; make certain restricted payments; change the nature of our business; engage in transactions with affiliates and insiders; prepay other indebtedness; or engage in sale and leaseback transactions.

The Credit Agreement also contains certain financial covenants, including a minimum liquidity covenant that requires us to maintain at all times, as applicable, at least $15.0 million of unrestricted cash and cash equivalents if only the Term A Loan (as defined in the Credit Agreement) has been drawn; at least $20.0 million of unrestricted cash and cash equivalents if the Term B Loan has been drawn but the Term C Loan has not been drawn; and at least $15.0 million (or, in certain circumstances, $20.0 million) of unrestricted cash and cash equivalents if the Term C Loan has been drawn, subject to certain exceptions. In addition, if we draw upon the Term C Loan, we will be required to achieve certain minimum targets for consolidated net revenues from ORLADEYO sales in the U.S.

The covenants contained in the Credit 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 Credit Agreement.

A breach of any of these covenants could result in an event of default under the Credit Agreement. An event of default will also occur if, among other things, we fail to pay amounts due under the Credit Agreement, we fail to repay certain other indebtedness having an aggregate principal amount in excess of one percent of our borrowings under the Credit Agreement, 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 Credit Agreement occurs, we experience a change of control, certain negative regulatory events occur, including without limitation the loss of a required permit or a recall of a product, or we fail to make required payments under our Royalty Purchase Agreement with RPI. In the case of a continuing event of default under the Credit Agreement, the lenders under the Credit 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 Credit 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 Credit 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, regulatory, political, operational, financial, and economic risks.

Our business strategy includes international expansion, including the commercialization of products outside of the United States. 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 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;
- natural disasters and political and economic instability, including wars, terrorism, political unrest, results of certain elections and votes, actual or threatened public health emergencies and outbreak of disease (including for example, the recent coronavirus outbreak), 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, or FCPA, 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 future international expansion of operations and, consequently, our business and results of operations.

Additionally, in some countries, such as Japan and the countries of the EU, 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.

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

EU member states, Switzerland and other countries have adopted data protection laws and regulations, which impose significant compliance obligations. For example, the General Data Protection Regulation ("GDPR") imposes strict requirements on controllers and processors of personal data, including special protections for "special category data," which includes health, biometric and genetic information of data subjects located in the EU. Further, GDPR provides a broad right for EU

member states to create supplemental national laws, for example relating to the processing of health, genetic and biometric data, which could further limit our ability to use and share such data or could cause our costs to increase and harm our business and financial condition. GDPR grants individuals the opportunity to object to the processing of their personal information, allows them to request deletion of personal information in certain circumstances, and provides the individual with an express right to seek legal remedies in the event the individual believes his or her rights have been violated. Further, the GDPR imposes strict rules on the transfer of personal data out of the EU to the United States or other regions that have not been deemed to offer "adequate" privacy protections.

Failure to comply with the requirements of the GDPR and the related national data protection laws of the EU member states, which may deviate slightly 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 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 new 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, will require 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 EU, 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 are subject to the supervision of local data protection authorities in those jurisdictions where we undertake clinical trials. 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.

We are also subject to evolving European privacy laws on electronic marketing and cookies. The EU 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 European 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 EU 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 EU, 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 EU, 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 EU take effect in practice. Changes in United Kingdom 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 EU 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 EU 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 EU. 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 EU 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 samples could result in significant delays in our 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 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 facility. 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 facility incurs damage, or if our vendor data systems fail, suffer damage or are destroyed.

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. 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.

Several of our stockholders own greater than 5% of our outstanding common stock. Our top ten stockholders own close to 50% of BioCryst 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 December 31, 2020, the 52-week range of the market price of our stock was from $1.58 to $8.99 per share. The following factors, in addition to other risk factors described in this section, may have 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;
- developments and announcements regarding new and virulent strains of influenza;
- we 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;
- 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 or capital commitments;
- 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.

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 January 31, 2021, there were 177,182,751 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 January 31, 2021, there were 24,780,638 stock options outstanding and 4,587,872 shares available for issuance under our Amended and Restated Stock Incentive Plan, 4,307,668 stock options outstanding and 92,332 shares available for issuance under our Amended and Restated Inducement Equity Incentive Plan and 2,679,554 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. 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. In addition, on June 1, 2020, we issued pre-funded warrants to purchase 3,511,111 shares of our common stock at a price of $4.49 per warrant, including pre-funded warrants acquired by certain of the Baker Entities to purchase 3,252,375 shares of our common stock. Each warrant has an exercise price of $0.01 per share. If the Baker Entities, by exercising their underwriting 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 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 of 1933, as amended, or the Securities Exchange Act of 1934, as amended, 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, 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, including natural disasters, epidemic or pandemic disease outbreaks (such as the ongoing COVID-19 pandemic), trade wars, political unrest or other events could disrupt our business or operations or those of our development partners (such as Torii), 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 have 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 "Risk Factors —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 recent 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."

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

From time to time, we may be involved in disputes, called upon to initiate legal proceedings or to defend ourselves in such legal proceedings relating to our business. 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. If our stock price is volatile, we may become involved in securities class action lawsuits in the future. Any current or future dispute resolution or legal proceeding, regardless of the merits of any such proceeding, could 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 and 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. This risk has been heightened in the current environment as a result of the ongoing COVID-19 pandemic. 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 will harm our business because we rely upon these personnel for many critical functions of our business.

ITEM 1B. *UNRESOLVED STAFF COMMENTS*

None.

ITEM 2. *PROPERTIES*

We lease property in both Durham, North Carolina and Birmingham, Alabama. Our headquarters, including our clinical and regulatory operations, are based in Durham, while our principal research facility is located in Birmingham. We currently lease approximately 33,000 square feet in Durham through June 30, 2021 and approximately 34,000 square feet in Birmingham through October 31, 2026. We also lease smaller office spaces in Ireland, Germany, and France. We believe that our facilities are adequate for our current and planned future operations.

ITEM 3. ***LEGAL PROCEEDINGS***

None.

ITEM 4. ***MINE SAFETY DISCLOSURES***

Not applicable.

PART II

ITEM 5. ***MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES***

Market Information

Our common stock trades on the Nasdaq Global Select Market under the symbol BCRX.

Holders

As of January 31, 2021, there were approximately 167 holders of record of our common stock.

Dividends

We have never paid cash dividends and do not anticipate paying cash dividends in the foreseeable future.

Stock Performance Graph

This performance graph is not "soliciting material," is not deemed filed with the SEC and is not to be incorporated by reference in any filing by us under the Securities Act or the Exchange Act, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing. The stock price performance shown on the graph is not necessarily indicative of future price performance.

PERFORMANCE GRAPH FOR BIOCRYST

Indexed Comparison Since 2015

	Beginning Investment at 12/31/15	Investment at 12/31/16	Investment at 12/31/17	Investment at 12/31/18	Investment at 12/31/19	Investment at 12/31/20
BioCryst Pharmaceuticals, Inc.	$ 100.00	$ 61.34	$ 47.58	$ 78.20	$ 33.43	$ 72.19
Nasdaq Stock Market (U.S.)	100.00	113.01	137.17	129.71	170.14	206.32
Nasdaq Pharmaceutical Stocks	100.00	98.91	117.83	127.20	145.65	160.97

The above graph measures the change in a $100 investment in our common stock based on its closing price of $10.32 on December 31, 2015 and its year-end closing price thereafter. Our relative performance is then compared with the CRSP Total Return Indexes for the Nasdaq Stock Market (U.S.) and Nasdaq Pharmaceutical Stocks.

Recent Sales of Unregistered Securities

None.

Issuer Purchases of Equity Securities

There were no repurchases of our common stock or shares surrendered to satisfy tax obligations during the fourth quarter of 2020.

ITEM 6. ***SELECTED FINANCIAL DATA***

The selected Statement of Operations Data and Balance Sheet data with respect to the years ended December 31, 2020, 2019, 2018, 2017, and 2016 set forth below are derived from our consolidated financial statements. The selected financial data set forth below should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in Part II, Item 7 of this report and our consolidated financial statements and the notes thereto appended to this report.

	Years Ended December 31,				
	2020	2019	2018	2017	2016
	(In thousands, except per share amounts)				
Statement of Operations Data:					
Total revenues	$ 17,812	$ 48,835	$ 20,653	$ 25,186	$ 26,353
Cost of product sold	1,550	3,726	-	1,142	2,297
Research and development expenses	122,964	107,068	84,888	66,962	61,008
Selling, general and administrative expenses	67,929	37,121	29,514	13,933	11,253
Royalty expense	126	375	471	560	402
Loss from operations	(174,757)	(99,455)	(94,220)	(57,411)	(48,607)

Net loss	(182,814)	(108,897)	(101,252)	(65,782)	(55,144)
Basic and diluted net loss per share	$ (1.09)	$ (0.94)	$ (0.98)	$ (0.78)	$ (0.75)
Weighted average shares outstanding	167,267	115,600	103,185	84,451	73,699

	As of December 31,				
	2020	2019	2018	2017	2016
			(In thousands)		
Balance Sheet Data:					
Cash, cash equivalents, restricted cash and investments	$ 302,587	$ 137,777	$ 128,387	$ 158,978	$ 65,122
Receivables	8,646	22,146	4,293	6,117	8,768
Inventory	7,039	-	1,649	-	500
Total assets	334,715	175,282	146,841	178,259	89,847
Long-term deferred revenue	-	-	-	-	8,184
Non-recourse notes payable	30,000	29,561	29,121	28,682	28,243
Royalty financing obligation	124,717	-	-	-	-
Senior credit facility	-	50,309	29,952	23,214	22,777
Secured term loan	119,735	-	-	-	-
Accumulated deficit	(1,023,442)	(840,628)	(731,969)	(631,843)	(566,061)
Total stockholders' (deficit) equity	(19,262)	38,252	49,235	83,767	1,578

ITEM 7. *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 audited 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 I, Item 1A of this report).

Overview

We are a commercial-stage biotechnology company that discovers 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 U.S. 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.

Our revenues are difficult to predict and depend on several factors, including those discussed in the "Risk Factors" section in Part I, 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, the resources dedicated to our products by us and our collaborative partners, and ongoing discussions with government agencies regarding contract awards for development and procurement, 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 (and whether these expenses are reimbursable under government contracts), drug manufacturing, and clinical research activities, the ongoing requirements of our development programs, 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 I, 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 all of 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 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 Policies" at the end of this "Management's Discussion and Analysis of Financial Condition and Results of Operations" 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 Corporate Highlights

COVID-19

The outbreak of COVID-19 has severely impacted global economic activity and caused significant volatility in financial markets. To date, our financial condition, results of operations, and liquidity have not been materially impacted by the direct effects of the COVID-19 pandemic. However, as discussed under "Risk Factors-Risks Related to Our Business-Risks Related to COVID-19" in Part I, Item 1A of this report, the acceleration of COVID-19 slowed startup of the inadequate responder cohorts in our complement oral Factor D inhibitor program. The COVID-19 pandemic is constantly evolving, and its full impact to our business is uncertain. We are continuing to monitor developments with respect to the COVID-19 pandemic and to make adjustments as needed to assist in protecting the safety of our employees and communities while continuing our business activities. Our remote working arrangements are ongoing where possible, and we continue to restrict business-related travel.

To date, implementation of these measures has not required material expenditures or significantly impacted our ability to operate our business or our internal control over financial reporting and disclosure controls and procedures. We are continuing to monitor the potential impacts of COVID-19 on our operations and those of our partners, suppliers, customers, and regulators.

ORLADEYO (berotralstat)

ORLADEYO is an oral, once-daily therapy discovered and developed by BioCryst for the prevention of HAE attacks. ORLADEYO, in both 110 mg and 150 mg capsule dosage forms, was approved by the FDA in December 2020 for prophylaxis to prevent attacks of HAE in adults and pediatric patients 12 years and older. On December 16, 2020, we announced that ORLADEYO is now available for shipment to patients with a prescription in the U.S. and that our exclusive specialty pharmacy provider for ORLADEYO in the U.S. began shipping to patients. We completed the build-out of our U.S. commercial infrastructure in 2020 to support the launch of ORLADEYO in the U.S. and are currently building our commercial infrastructure to support European launches.

ORLADEYO, in the 150 mg capsule dosage form, also received marketing and manufacturing approval from the MHLW in Japan in January 2021 for prophylactic treatment of HAE in adults and pediatric patients 12 years and older. Torii, our collaborative partner, will launch ORLADEYO in Japan following the successful completion of our pricing negotiations with the Japanese National Health Insurance System.

On March 30, 2020, we announced that the EMA had validated our MAA submission for approval of ORLADEYO for the prevention of HAE attacks. With this validation, the EMA began its formal review of the MAA under the centralized procedure for all member states of the EU, Norway, Iceland, and Liechtenstein. On February 25, 2021, we announced that the CHMP has adopted a positive opinion recommending the approval of ORLADEYO for routine prevention of recurrent attacks of HAE in adult and adolescent patients aged 12 years and older. The EC will review the CHMP recommendation, and a final approval decision from the EC on the MAA for ORLADEYO is expected in the second quarter of 2021.

On October 30, 2020, we announced that the MHRA has granted ORLADEYO a positive scientific opinion through the EAMS. Under the EAMS, HAE patients in the U.K. aged 12 years and older can gain access to ORLADEYO for the routine prevention of recurrent attacks of HAE before the drug is granted marketing authorization. We plan to file for a U.K. marketing authorization with the MHRA following our receipt of a positive opinion from the CHMP. This is expected to result in a U.K. marketing authorization shortly after a final decision by the EC.

We completed the build-out of our U.S. commercial infrastructure in 2020 to support the launch of ORLADEYO in the U.S. and are currently building our commercial infrastructure to support European launches. Based on proprietary analyses of HAE prevalence and market research studies with HAE patients, physicians, and payors in the U.S. and Europe, we anticipate the commercial market for ORLADEYO has the potential to reach a global peak of more than $500 million in annual sales. 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 commercialization efforts, methods, and strategies for our products or technologies will succeed, and our future revenue generation is uncertain” in Part I, Item 1A of this report for further discussion of these risks.

Complement-Mediated Diseases

Discovered by BioCryst, BCX9930 is a novel, oral, potent, and selective small molecule inhibitor of Factor D currently in early clinical development for the treatment of complement-mediated diseases. Based on the safety and PoC data generated to date in PNH patients, we are working closely with key opinion leaders in hematology and nephrology to map the development strategy across a broad set of indications. Our goal is to develop BCX9930 as a monotherapy for complement-mediated diseases.

On February 25, 2021, we announced that we have completed enrollment of our ongoing dose ranging trial in treatment-naïve (no prior treatment with C5 inhibitors) PNH patients and PNH patients with an inadequate response to C5 inhibitors. We plan to present data from the 16 enrolled PNH patients (10 treatment naïve and 6 inadequate C5 responders) at our upcoming R&D day on March 22, 2021.

On September 30, 2020, we announced new data from treatment-naïve PNH patients receiving doses through 400 mg twice-daily of oral BCX9930 as monotherapy in the ongoing part 3 PoC dose-ranging trial. Oral BCX9930 was shown to drive rapid and dose-dependent reductions in key biomarkers, including LDH, and increasing hemoglobin levels in all PNH patients in the trial. Increases in hemoglobin levels were maintained without transfusions. BCX9930 was safe and well tolerated at all doses in the trial. No drug-related serious adverse events had been reported. One subject was discontinued due to an unrelated serious adverse event.

On August 31, 2020, we announced that the FDA granted orphan drug designation for BCX9930 for the treatment of PNH. Orphan drug designation qualifies BCX9930 for various development incentives, including tax credits for certain clinical costs, a waiver of the new drug application fee, and a designated period of market exclusivity following approval. On August 3, 2020, we announced that the FDA granted fast track designation for BCX9930 in PNH.

FOP

The goal of our ALK2 inhibitor is to discover and develop orally administered kinase inhibitor drug candidates that are able to slow or prevent HO. On December 21, 2020, we announced that in a phase 1 clinical trial, BCX9250, our lead compound, was safe and well tolerated at all doses studied, with linear and dose-proportional exposure supporting once-daily dosing. The randomized, double-blind, placebo-controlled dose-ranging trial evaluated safety, tolerability, and PK of SAD and MAD of BCX9250 in healthy subjects. The SAD study was designed to randomize four cohorts of eight subjects each to receive oral BCX9250 (n=6) or placebo (n=2) at dose levels of 5 mg, 10 mg, 15 mg, and 25 mg. Subjects in the 15 mg cohort also received a second single dose to evaluate food effect on absorption of BCX9250. The MAD study was designed to randomize 4 cohorts of 12 subjects each to receive oral BCX9250 (n=10) or placebo (n=2) at dose levels of 5 mg, 10 mg, 15 mg, and 20 mg once-daily for 7 days. Drug exposure increased with dose in an approximately linear and dose-proportional manner. Drug levels after a high fat meal were similar to those after dosing on an empty stomach. Drug exposure at 20 mg once-daily in the MAD was similar to that achieved with doses that suppressed HO in a nonclinical model of activity of orally dosed BCX9250. In both the SAD and the MAD studies, oral BCX9250 was safe and well tolerated, with no serious adverse events, no study discontinuations due to adverse events, no grade 3 or 4 adverse events, and no clinically significant changes in vital signs, electrocardiograms, or safety laboratory parameters. No safety signals were seen.

Peramivir Injection (RAPIVAB, ALPIVAB, RAPICACTA, PERAMIFLU)

On March 4, 2020, the ICC Tribunal delivered a Partial Arbitration Award in the arbitration matter between the Company and SUL with respect to the SUL Agreement. In the Partial Arbitration Award, the ICC Tribunal found that, during the term, SUL materially breached and abandoned its core duties to us under the Diligent Efforts (as defined in the SUL Agreement) requirements of the SUL Agreement as applicable in the U.S. The ICC Tribunal granted a declaratory judgment in favor of us terminating the SUL Agreement and restoring all rights to peramivir to us. We agreed with SUL on a transition process for the product, with a full transition of commercialization of the product in the U.S. and Australia returned to us as of August 1, 2020 and November 1, 2020, respectively. The ICC Tribunal also awarded us attorneys’ fees and expenses incurred in securing the declaratory judgment as well as the costs incurred by us in the arbitration. Finally, the ICC Tribunal found that

SUL breached the SUL Agreement by failing to pay a milestone payment due to us within 30 days of the approval of peramivir for adult use in the EU and awarded us $5.0 million (plus interest) for this claim. The ICC Tribunal retained jurisdiction for further proceedings relating to the award of attorneys' fees and for any dispute relating to the return to us of all rights to peramivir in the Territory.

On September 3, 2020, we announced that HHS has exercised its option to purchase an additional 10,000 doses of our antiviral influenza therapy, RAPIVAB (peramivir injection), for $6.9 million. As a result, we expect to deliver at least one shipment of 10,000 doses in 2021. The order is part of a $34.7 million contract awarded to us in 2018 for the procurement of up to 50,000 doses of RAPIVAB over a five-year period for the Strategic National Stockpile.

Galidesivir (formerly BCX4430)

In April 2020, we agreed with NIAID/HHS to add a group of COVID-19 patients to an ongoing clinical trial in Yellow Fever. On April 9, 2020, we announced that we had opened a randomized, double-blind, placebo-controlled clinical trial in Brazil to assess the safety, clinical impact, and antiviral effects of galidesivir in patients with COVID-19. NIAID/HHS awarded us a new $43.9 million contract for the manufacture and evaluation of the safety, efficacy, and tolerability of galidesivir in August 2020, and it also added $2.9 million to its existing contract with us to support the development of galidesivir. NIAID/HHS made an initial award of $6.3 million under the new contract.

On December 22, 2020, we announced that data from part 1 of the clinical trial in Brazil showed that galidesivir was safe and generally well tolerated in patients infected with SARS-Cov-2, the virus that causes COVID-19. The trial was not designed or sized to demonstrate clinical efficacy, and no clinical efficacy benefit with galidesivir treatment compared to placebo treatment was observed in the trial. Based on our ongoing discussions with NIAID/HHS, we expect NIAID/HHS to continue its support for the development of galidesivir with a focus on biodefense threats, such as Marburg virus disease, and to discontinue the pursuit of a COVID-19 indication for galidesivir.

Financing Transactions

Royalty Monetization. On December 7, 2020, we entered into the Royalty Purchase Agreement with RPI, pursuant to which we sold to RPI the right to receive certain royalty payments from the Company for a purchase price of $125 million in cash (the "Royalty Sale"). Under the Royalty Purchase Agreement, RPI is entitled to receive tiered, sales-based royalties on net product sales of ORLADEYO in the Key Territories. In addition, RPI is 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. No payment will be due to RPI for any achievement milestone which may be payable under the existing out-license for ORLADEYO. Under the Royalty Purchase Agreement, RPI will also be entitled to receive 1.0% of global net sales, if any, of BCX9930. See "Note 3-Royalty Monetizations-ORLADEYO Royalty Monetization" in the Notes to Consolidated Financial Statements in Part II, Item 8 of this report for additional information about our obligations under the Royalty Purchase Agreement.

Credit Agreement. On December 7, 2020, we entered into a $200.0 million Credit Agreement with Athyrium Opportunities III Co-Invest 1 LP ("Athyrium" and such agreement, the "Credit Agreement"), as lender and as administrative agent for the lenders. BioCryst Ireland Limited, BioCryst US Sales Co., LLC, and BioCryst UK Limited, each of which is a wholly-owned subsidiary of ours, are guarantors to the Credit Agreement. The Credit Agreement provides for an initial term loan in the principal amount of $125.0 million (the "Term A Loan"), which was received by us on December 7, 2020 and is classified as "Secured term loan" on our balance sheet as of December 31, 2020. We used a portion of the proceeds from the Term A Loan to repay the approximate $43.3 million of outstanding indebtedness, including accrued interest, under our secured credit facility with MidCap Financial Trust ("MidCap"), which terminated in December 2020 upon such repayment. We intend to use the remaining proceeds to support the launch of ORLADEYO in the United States and Europe and to advance the development of BCX9930 into clinical trials in multiple complement-mediated diseases, and for other general corporate purposes.

The Credit Agreement also provides for two additional term loans, at our option, in the respective principal amounts of $25.0 million (the "Term B Loan") and $50.0 million (the "Term C Loan"). The Term B Loan and the Term C Loan may be drawn upon if, among other conditions, we reach defined revenue milestones and, with respect to a draw on the Term C Loan, the Term B Loan has been funded prior to or contemporaneously with the Term C Loan. The maturity date of the Credit Agreement is December 7, 2025. See "Note 4-Credit Agreement" in the Notes to Consolidated Financial Statements in Part II, Item 8 of this report for additional information about our obligations under the Credit Agreement.

Results of Operations

The discussion below presents a summary of our results of operations for fiscal years 2020 and 2019. See Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations-Results of Operations" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2019, filed with the Securities and Exchange Commission on March 13, 2020, for a summary of our results of operations for the fiscal year ended December 31, 2018.

Year Ended December 31, 2020 Compared to 2019

Total revenues in 2020 were $17.8 million, compared to $48.8 million in 2019. The decrease in revenue was primarily due to the recognition of $20.1 million of revenue related to a one-time $22.0 million upfront milestone payment we received in 2019 upon execution of the Torii Agreement, with the remaining amount of $1.9 million recognized in 2020. Additionally, we recognized $13.9 million of RAPIVAB product sales under our HHS contract in 2019. We did not have any RAPIVAB product sales under our HHS contract in 2020.

Revenues in 2020 included $3.3 million of product revenue, the majority of which was from peramivir inventory sales to our commercial partners, $3.2 million of royalty revenue from Shionogi, Green Cross and SUL associated with sales of peramivir in Japan, Taiwan, Korea and the United States, $1.9 million of deferred revenue amortization related to the Torii Agreement and $9.2 million of reimbursement of collaborative expenses from NIAID/HHS and BARDA/HHS related to the development of galidesivir. Revenues in 2019 included $6.1 million of royalty revenue from SUL, Shionogi and Green Cross associated with sales of peramivir in the United States, Japan and Korea, $4.9 million of reimbursement of collaborative expenses from NIAID/HHS and BARDA/HHS under U.S. Government development contracts, $3.7 million of peramivir product revenue from inventory sales to our commercial partners, $13.9 million of RAPIVAB product revenue from inventory sales to BARDA/HHS under our Government procurement contract and $20.1 million related to the Torii Agreement upfront milestone payment.

Research and development expenses ("R&D expenses") increased to $123.0 million in 2020 from $107.1 million in 2019. The increase in 2020 R&D expenses, as compared to 2019, was primarily due to increased spending on our complement-mediated diseases and galidesivir programs, as well as an increase in other research, preclinical and development activities, partially offset by a reduction in spend on the ORLADEYO program, which launched commercially in the U.S. during December 2020.

The following table summarizes our R&D expenses for the periods indicated (amounts are in thousands):

	2020	2019	2018
R&D expenses by program:			
BCX7353	$ 44,329	$ 57,059	$ 53,993
BCX9930	35,265	26,640	10,189
FOP	2,583	6,167	8,871
Galidesivir	9,705	4,680	2,428
Peramivir	1,613	2,143	1,936
Other 2nd generation HAE compounds	–	6	357
Other research, preclinical and development costs	29,469	10,373	7,114
Total R&D expenses	$ 122,964	$ 107,068	$ 84,888

R&D expenses include all direct and indirect expenses and are allocated to specific programs at the point of development of a lead product candidate. Direct expenses are charged directly to the program to which they relate, and indirect expenses are allocated based upon internal direct labor hours dedicated to each respective program. Direct expenses consist of compensation for R&D personnel and costs of outside parties to conduct laboratory studies, develop manufacturing processes, manufacture the product candidates, conduct and manage clinical trials, as well as other costs related to our clinical and preclinical studies. Indirect R&D expenses consist of lab supplies and services, facility expenses, depreciation of development equipment and other overhead of our research and development efforts. R&D expenses vary according to the number of programs in clinical development and the stage of development of our clinical programs. Later stage clinical programs tend to cost more than earlier stage programs due to the longer length of time of the clinical trials and the higher number of patients enrolled in these clinical trials.

Selling, general and administrative ("SG&A") expenses increased to $67.9 million in 2020 compared to $37.1 million in 2019. The increase of $30.8 million was primarily due to increased spending on commercial activities, including building a sales organization, as well as increases in medical affairs activities to support the U.S. commercial launch of ORLADEYO in 2020.

Interest and other income was $9.4 million in 2020, compared to $1.9 million in 2019. The increase was primarily due to recognition of other income related to our arbitration proceedings.

Interest expense is related to the non-recourse PhaRMA Notes issued in March 2011, borrowings under our secured credit facility with MidCap, the Royalty Sale, and the $125.0 million Term A Loan under our new Credit Agreement with Athyrium. The Royalty Purchase Agreement requires us to recognize a liability (the "Royalty Financing Obligation") for the future sale of royalties under the agreement. This liability is amortized using the effective interest rate method, resulting in the recognition of non-cash interest expense over the estimated term of the Royalty Purchase Agreement. Interest expense increased to $14.5 million in 2020, compared to $11.9 million in 2019, primarily due to the amortization of interest associated with the royalty financing obligation, which resulted in $2.1 million of non-cash interest expense, and interest expense of $0.9 million associated with the Term A Loan borrowing under the Credit Agreement. In December 2020, we repaid the outstanding indebtedness under our secured credit facility with MidCap.

Loss on debt extinguishment is comprised of the write-off of unamortized deferred financing costs and original issue discount of $1.2 million and a prepayment fee of $0.8 million associated with the repayment of the outstanding indebtedness under our secured credit facility with MidCap.

We realized a currency exchange gain of $0.7 million in 2020, compared to a $0.9 million currency exchange gain in 2019 related to the exercise of a U.S. dollar/Japanese yen currency option under the Currency Hedge Agreement. A mark-to-market loss of $0.6 million was recognized in 2020, compared to a mark-to-market loss of $0.4 million recognized in 2019, related to the Currency Hedge Agreement, resulting from changes in the U.S. dollar/Japanese yen exchange rate during the year. The final tranche of the options under the Currency Hedge Agreement expired in November 2020. Additionally, we realized currency exchange losses in 2020 of $1.0 million as a result of expanded international operating activities.

Liquidity and Capital Resources

Our operations have principally been funded through public offerings and private placements of equity securities; cash from collaborative and other research and development agreements, including U.S. Government contracts for RAPIVAB and galidesivir; to a lesser extent, the PhaRMA Notes financing and our secured credit facility with MidCap, which terminated in December 2020 when we repaid the outstanding indebtedness under the facility with a portion of the net proceeds from the Term A Loan under the Credit Agreement; and more recently, the Credit Agreement and the Royalty Sale. To date, we have been awarded a BARDA/HHS RAPIVAB development contract totaling $234.8 million, which expired on June 30, 2014, a NIAID/HHS galidesivir development contract totaling $45.9 million, which is ongoing, a second NIAID/HHS galidesivir development contract totaling $43.9 million, which is ongoing, and a BARDA/HHS galidesivir development contract totaling $39.1 million, which is also ongoing. The total amount of NIAID/HHS and BARDA/HHS galidesivir funding obligated under awarded options is $52.2 million and $20.6 million, respectively. 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 June 1, 2020, we issued 22,044,447 shares of common stock to the public at a purchase price of $4.50 per share and pre-funded warrants to purchase 3,511,111 shares of common stock at a purchase of $4.49 per pre-funded warrant, for total net proceeds to us of $108.1 million after deducting underwriting discounts and commissions and other offering expenses payable by us. The pre-funded warrants are exercisable in accordance with the terms in the warrant agreement and have an exercise price of $0.01 per share, which is subject to adjustment in the event of certain stock dividends and distributions, stock splits, stock combinations, reclassifications, or similar events affecting our common stock and also upon any distributions of assets to our stockholders.

On December 7, 2020, we entered into the Royalty Purchase Agreement with RPI, pursuant to which we sold to RPI the right to receive certain royalty payments from us on account of ORLADEYO and BCX9930 for a purchase price of $125.0 million in cash. We also entered into the Credit Agreement with Athyrium on December 7, 2020, pursuant to which we received a $125.0 million Term A Loan. We used a portion of the net proceeds from the Term A Loan to repay the approximate $43.3 million of outstanding indebtedness, including accrued interest, under our secured credit facility with MidCap. We intend to use the remaining proceeds to support the launch of ORLADEYO in the U.S. and Europe and to advance the development of BCX9930 into clinical trials in multiple complement-mediated diseases, and for other general corporate purposes. The Credit Agreement also provides for two additional term loans, at our option, in the respective principal amounts of $25.0 million for the Term B Loan and $50.0 million for the Term C Loan. The Term B Loan and the Term C Loan may be drawn upon if, among other conditions, we reach defined revenue milestones and, with respect to a draw on the Term C Loan, the Term B Loan has been funded prior to or contemporaneously with the Term C Loan. The maturity date of the Credit Agreement is December 7, 2025. See "Note 3-Royalty Monetizations-ORLADEYO Royalty Monetization" and "Note 4-Credit Agreement" in the Notes to Consolidated Financial Statements in Part II, Item 8 of this report for additional information about the Royalty Sale and the Credit Agreement, respectively.

As of December 31, 2020, we had net working capital of $218.1 million, an increase of approximately $146.1 million from $72.0 million at December 31, 2019. The increase in working capital was primarily due to cash provided from the Royalty Sale and the Credit Agreement in December 2020, as well as the June 2020 public offering of our common stock and pre-funded warrants to purchase our common stock, partially offset by our normal operating expenses associated with the

development of our product candidates and expenses incurred in anticipation of our launch and commercialization of ORLADEYO. Our principal sources of liquidity at December 31, 2020 were approximately $272.1 million in cash and cash equivalents and approximately $28.2 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 and commercialize ORLADEYO. 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 maintaining 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 and future public or private equity or debt financing;
- our existing capital resources and interest earned on that capital;
- revenues from product sales;
- payments under existing, and executing new, contracts with the U.S. Government; 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 and timing of funding we receive from existing U.S. Government contracts for galidesivir, the amount of funding or assistance, if any, we receive from new U.S. Government contracts or other 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, commercialization 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 expenses, revenues, and cash utilization rate.

Based on our expectations for revenue, operating expenses and our option to access an additional $75 million under the Credit Agreement, we believe our financial resources will be sufficient to fund our operations into 2023. However, we have sustained operating losses for the majority of our corporate history and expect that our 2021 expenses will exceed our 2021 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 be largely determined by the success of operations in regard to the successful commercialization of our products and the future progression of our product candidates. We also may consider other plans to fund future operations, including: (1) securing or increasing U.S. Government funding of our programs, including obtaining procurement contracts; (2) out-licensing rights to certain of our products or product candidates, pursuant to which the we would receive cash milestones; (3) raising additional capital through equity or debt financings or from other sources, including royalty or other monetization transactions; (4) obtaining additional product candidate regulatory approvals, which would generate revenue, milestones and cash flow; (5) reducing spending on one or more research and development programs, including by discontinuing development; and/or (6) restructuring operations to change our overhead structure. 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 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 commercial expenses; and key development 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 by either us or our partners;
- our ability to perform under our government contracts and to receive reimbursement and stockpiling procurement contracts;
- the magnitude of work under our government contracts;
- the progress and magnitude of our research, drug discovery and development programs;
- changes in existing collaborative relationships or government contracts;
- our ability to establish additional collaborative relationships with academic institutions, biotechnology or pharmaceutical companies and governmental agencies or other third parties;
- the extent to which our partners, including governmental agencies, 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 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 expect that we will be required to raise additional capital to complete the development and commercialization of our current products and product candidates, and we may seek to raise capital in the future. Additional funding, whether through additional sales of equity or debt securities, collaborative or other arrangements with corporate partners or from other sources, including governmental agencies in general and existing government contracts specifically, may not be available when needed 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 the

currently outstanding common stock, could have the effect of diluting or adversely affecting the holdings or rights of our existing stockholders. In addition, collaborative arrangements may require us to transfer certain material rights to such corporate partners. Insufficient funds may require us to delay, scale back or eliminate certain of our research and development programs. Our future working capital requirements, including the need for additional working capital, will be largely determined by the advancement of our portfolio of product candidates and commercialization of ORLADEYO, as well as rate of reimbursement by U.S. Government agencies of our galidesivir expenses and any future decisions regarding the future of the RAPIVAB and galidesivir programs, including those relating to stockpiling procurement. 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.

The restrictive covenants contained in the Credit Agreement with Athyrium could cause us to be unable to pursue business opportunities that we or our stockholders may consider beneficial without the lender's permission or without repaying all obligations outstanding under the Credit Agreement. These covenants limit our ability to, among other things, grant certain types of liens on our assets; make certain investments; incur or assume certain debt, including accessing additional tranches of debt under the Credit Agreement; engage in certain mergers, acquisitions, and similar transactions; dispose of assets; license certain property; distribute dividends; make certain restricted payments; change the nature of our business; engage in transactions with affiliates and insiders; prepay other indebtedness; or engage in sale and leaseback transactions. A breach of any of these covenants could result in an event of default under the Credit Agreement. As of December 31, 2020, we were in compliance with the covenants under the Credit Agreement.

Financial Outlook for 2021

In the launch period for ORLADEYO, the Company is not providing specific revenue or operating guidance. Based on our expectations for revenue, operating expenses, and our option to access an additional $75 million from our existing credit facility, we believe our current cash runway takes us into 2023.

Off-Balance Sheet Arrangements

As of December 31, 2020, we are not involved in any unconsolidated entities or off–balance sheet arrangements.

Contractual Obligations

In the table below, we set forth our enforceable and legally binding obligations and future commitments and obligations related to all contracts that we are likely to continue regardless of the fact that they are cancelable as of December 31, 2020. Some of the amounts we include in this table are based on management's estimates and assumptions about these obligations, including their duration, the possibility of renewal, anticipated actions by third parties, and other factors. Because these estimates and assumptions are necessarily subjective, the obligations we will actually pay in future periods may vary from those reflected in the table.

	Payments Due by Period (In thousands)				
Contractual Obligations	**Total**	**Less Than 1 Year**	**1-3 Years**	**3-5 Years**	**More Than 5 Years**
Operating lease obligations	$ 11,165	$ 1,302	$ 1,378	$ 1,158	$ 7,327
Purchase obligations(1)	99,741	99,741	-	-	-
Contingent license obligations	1,050	150	300	300	300
Non-recourse notes payable(2)	53,331	53,331	-	-	-
Secured term loan	209,339	-	16,080	193,259	-
Total	$ 374,626	$ 154,524	$ 17,758	$ 194,717	$ 7,627

(1) Purchase obligations include commitments related to clinical development, manufacturing and research operations and other purchase commitments.

(2) The PhaRMA Notes had a final legal maturity date of December 1, 2020, at which time the outstanding principal, together with accrued and unpaid interest, was due in full. As of December 31, 2020, the PhaRMA Notes remain outstanding and in default and the Company will continue to record the liability and accrued interest owed until the Company is determined to no longer be the financial obligor.

The above amounts exclude future potential payments under our Royalty Purchase Agreement with RPI, pursuant to which we are required to make certain royalty payments to RPI based on net product sales of ORLADEYO and BCX9930, as well as on certain ORLADEYO sublicense revenue. Due to the nature of this arrangement, the future potential payments related to the attainment of additional regulatory approvals and sales-based milestones over a period of several years are inherently uncertain, and accordingly, no amounts have been presented for these future potential payments.

In addition to the above, we have committed to make potential future "sublicense" payments to third parties as part of in-licensing and development programs. Payments under these agreements generally become due and payable only upon achievement of certain developmental, regulatory and/or commercial milestones. Because the achievement of these milestones is neither probable nor reasonably estimable, such contingencies have not been recorded on our balance sheet.

Critical Accounting Policies

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" to the Consolidated Financial Statements in Part II, Item 8 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.

Inventory

Our inventories consist of peramivir finished goods and work in process, which are valued at the lower of cost or net realizable value using the first-in, first-out (i.e., FIFO) method. Cost includes materials, labor, overhead, shipping and handling costs. 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. In connection with the FDA approval of RAPIVAB and other regulatory approvals, we began capitalizing costs associated with the production of peramivir inventories.

Accrued Expenses

We enter into contractual agreements with third-party vendors who provide research and development, manufacturing, 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 an obligation has been incurred. This accrual process involves reviewing open contracts and purchase orders, communicating with our applicable personnel to identify services that have been performed and estimating the level of service performed and the associated cost 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 based on the facts and circumstances known to us. We periodically confirm the accuracy of our estimates with the service providers and make adjustments if necessary. Examples of estimated accrued expenses include:

- fees paid to CROs in connection with preclinical and toxicology studies and clinical trials;
- fees paid to investigative sites in connection with clinical trials;
- fees paid to contract manufacturers in connection with the production of our raw materials, drug substance, drug products, and product candidates; and
- 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.

Revenue Recognition

We adopted the provisions of ASC 606 as of January 1, 2018 using the modified retrospective method as applied to contracts that were not completed as of that date. As a result, financial information for reporting periods beginning after January 1, 2018 are presented under ASC 606, while comparative financial information has not been adjusted and continues to be reported in accordance with our historical accounting policy for revenue recognition prior to the adoption of ASC 606.

Collaborative and Other Research and Development Arrangements and Royalties

We recognize revenue when we satisfy a performance obligation by transferring promised goods or services to a customer. Revenue is measured at the transaction price that is based on the amount of consideration that we expect to receive in exchange for transferring the promised goods or services to the customer. The transaction price includes estimates of variable consideration to the extent it is probable that a significant reversal of revenue recognized will not occur.

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 are license, service, royalty and product sale revenues from these collaborative and other research and development arrangements.

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. 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 considering market conditions and entity-specific factors. 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.

Product Sales

Our principal sources of product sales are sales of peramivir to our licensing partners and sales of RAPIVAB to HHS under our procurement contract. In December 2020, we launched ORLADEYO and began recording product revenue. We recognize revenue for sales when the customer obtains control of the product, which generally occurs upon delivery.

Contract Balances

The timing of revenue recognition, billings and cash collections results in billed accounts receivable, unbilled receivables (contract assets) and deferred revenue and billings in excess of revenue recognized (contract liabilities) on the Consolidated Balance Sheets.

Contract assets. Our long-term contracts are billed as work progresses in accordance with the contract terms and conditions, either at periodic intervals or upon achievement of certain milestones. Often this results in billing occurring subsequent to revenue recognition, resulting in contract assets. Contract assets are generally classified as current assets in the Consolidated Balance Sheets.

Contract liabilities. We often receive cash payments from customers in advance of our performance, resulting in contract liabilities. These contract liabilities are classified as either current or long-term in the Consolidated Balance Sheets based on the timing of when we expect to recognize the revenue.

Contract Costs

We may incur direct and indirect costs associated with obtaining a contract. Incremental contract costs that we expect to recover are capitalized and amortized over the expected term of the contract. Non-incremental contract costs and costs that we expect to recover are expensed as incurred.

Research and Development Expenses

Our research and development costs are charged to expense when incurred. 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. 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 on-going review of the level of services actually performed.

Additionally, we have license agreements with third parties, such as AECOM, IRL, and UAB, 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 sub-license payments paid to our academic partners upon receipt of consideration from various commercial partners, and other consideration 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. 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 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 for which no compensation expense is recognized until "performance" has 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 Obligation

The royalty financing obligation is eligible to be repaid based on royalties from net sales of ORLADEYO. Interest expense is accrued using the effective interest rate method over the estimated period the related liability 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 the royalty financing obligation and record interest expense using an imputed effective interest rate. We will 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 the liability, as well as the period over which associated issuance costs will be amortized. A significant increase or decrease in forecasted net sales could materially impact the liability balance, interest expense and the time period for repayment.

Foreign Currency Hedge

In connection with our issuance of the PhaRMA Notes, we entered into a foreign Currency Hedge Agreement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. Under the Currency Hedge Agreement, we have the right to purchase dollars and sell yen at a rate of 100 yen per dollar. The final tranche of the options under the Currency Hedge Agreement expired in November of 2020.

The Currency Hedge Agreement did not qualify for hedge accounting treatment and therefore mark-to-market adjustments were recognized in our Consolidated Statements of Comprehensive Loss. Mark-to-market adjustments were determined by quoted prices in markets that are not actively traded and for which significant inputs are observable directly or indirectly, representing Level 2 in the fair value hierarchy as defined by generally accepted accounting principles ("U.S. GAAP").

Tax

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 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.

Impact of Inflation

We do not believe that our operating results have been materially impacted by inflation during the past three years. However, we cannot be assured that our operating results will not be adversely affected by inflation in the future. We will continually seek to mitigate the adverse effects of inflation on the services that we use through improved operating efficiencies and cost containment initiatives.

Recent Accounting Pronouncements

"Note 1-Significant Accounting Policies and Concentrations of Risk" to the Consolidated Financial Statements included in Part II, Item 8 of this report discusses accounting pronouncements recently issued or proposed but not yet required to be adopted.

ITEM 7A. *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 Credit Agreement. The Term A Loan under the Credit Agreement bears interest each quarter at a rate equal to the three-month LIBOR rate, which is capped to be no less than 1.75% and no more than 3.50% ("LIBOR"), plus 8.25% or, for each quarterly interest period in which a PIK Interest Payment is made, the LIBOR plus 10.25%. Accordingly, increases in interest rates could increase the associated interest payments that we are required to make on the term loans. As of December 31, 2020, interest was accrued at 12.2% on the $125.0 million Term A Loan under the Credit 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

The majority of our transactions and the greatest magnitude of these transactions occur in U.S. dollars and we do not have significant operating subsidiaries or significant investments in foreign countries as of December 31, 2020. Therefore, we are not subject to significant foreign currency exchange risk in our normal operations.

In connection with the issuance by Royalty Sub of the PhaRMA Notes, we had entered into a Currency Hedge Agreement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. The final tranche of the options under the Currency Hedge Agreement expired in November 2020.

ITEM 8. ***FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA***

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED BALANCE SHEETS
(In thousands, except per share amounts)

	December 31,	
	2020	**2019**
ASSETS		
Cash and cash equivalents	$ 272,127	$ 114,172
Restricted cash	2,221	1,551
Investments	28,239	22,054
Receivables	8,646	22,146
Inventory	7,039	-
Prepaid expenses and other current assets	5,528	4,422
Total current assets	323,800	164,345
Property and equipment, net	7,113	7,347
Other assets	3,802	3,590
Total assets	$ 334,715	$ 175,282
LIABILITIES AND STOCKHOLDERS' EQUITY		
Accounts payable	$ 18,713	$ 13,988
Accrued expenses	33,942	21,365
Interest payable	21,670	14,904
Deferred collaboration revenue	150	2,120
Lease financing obligation	1,179	1,377
Senior credit facility	-	9,020
Non-recourse notes payable	30,000	29,561
Total current liabilities	105,654	92,335
Royalty financing obligation	124,717	-
Lease financing obligation	3,871	3,406
Senior credit facility	-	41,289
Secured term loan	119,735	-
Stockholders' equity:		
Preferred stock, $0.01 par value; shares authorized — 5,000; no shares outstanding	-	-
Common stock, $0.01 par value; shares authorized — 450,000; shares issued and outstanding — 176,883 at December 31, 2020 and 154,082 at December 31, 2019	1,769	1,541
Additional paid-in capital	1,002,408	877,300
Accumulated other comprehensive income (loss)	3	39
Accumulated deficit	(1,023,442)	(840,628)
Total stockholders' (deficit) equity	(19,262)	38,252
Total liabilities and stockholders' equity	$ 334,715	$ 175,282

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(In thousands, except per share amounts)

	Year Ended December 31,		
	2020	**2019**	**2018**
Revenues			
Product sales, net	$ 3,301	$ 17,533	$ –
Royalty revenue	3,381	6,303	6,101
Collaborative and other research and development	11,130	24,999	14,552
Total revenues	17,812	48,835	20,653
Expenses			
Cost of products sold	1,550	3,726	–
Research and development	122,964	107,068	84,888
Selling, general and administrative	67,929	37,121	29,514
Royalty	126	375	471
Total operating expenses	192,569	148,290	114,873
Loss from operations	(174,757)	(99,455)	(94,220)
Interest and other income	9,420	1,933	2,252
Interest expense	(14,501)	(11,892)	(9,176)
Loss on extinguishment of debt	(2,011)	-	-
Gain (loss) on foreign currency	(965)	517	(108)

Net loss	$ (182,814)	$ (108,897)	$ (101,252)
Unrealized gain (loss) on available for sale investments	$ (36)	$ 336	$ (54)
Net comprehensive loss	$ (182,850)	$ (108,561)	$ (101,306)
Basic and diluted net loss per common share	**$ (1.09)**	**$ (0.94)**	**$ (0.98)**
Weighted average shares outstanding	**167,267**	**115,600**	**103,185**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands, except per share amounts)

	Year Ended December 31,		
	2020	**2019**	**2018**
Operating activities:			
Net loss	$ (182,814)	$ (108,897)	$ (101,252)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	748	724	770
Loss (gain) on disposal of property and equipment	–	–	7
Stock-based compensation expense	14,794	17,719	9,396
Amortization of debt issuance costs	2,428	1,278	885
Amortization of premium/discount on investments	121	117	110
Change in fair value of foreign currency derivative	632	347	1,049
Changes in operating assets and liabilities:			
Receivables	13,903	(17,853)	1,824
Inventory	(7,039)	1,649	(1,649)
Prepaid expenses and other assets	(2,140)	(1,364)	(866)
Accounts payable and accrued expenses	17,355	11,741	4,487
Interest payable	6,766	3,056	(247)
Deferred revenue	(1,970)	1,899	(7,079)
Net cash used in operating activities:	**(137,216)**	**(89,584)**	**(92,565)**
Investing activities:			
Acquisition of property and equipment	(514)	(343)	(366)
Purchases of investments	(49,818)	(3,018)	(62,614)
Sales and maturities of investments	43,475	81,295	67,748
Realized gain on investments	1	-	-
Net cash provided by (used in) investing activities:	**(6,856)**	**77,934**	**4,768**
Financing activities:			
Sale of common stock, net	93,279	58,500	53,400
Sale of pre-funded warrants	14,817	19,882	–
Net proceeds from common stock issued under stock-based compensation plans	2,446	1,239	2,852
Proceeds from senior credit facility	-	19,477	10,353
Payment of senior credit facility	(52,420)	–	(4,025)
Net proceeds from secured term loan	119,867	–	–
Net proceeds from royalty financing obligation	124,708	–	–
(Decrease) increase in lease financing obligation	–	–	(76)
Net cash provided by financing activities:	**302,697**	**99,098**	**62,504**
Increase (decrease) in cash, cash equivalents and restricted cash	158,625	87,448	(25,293)
Cash, cash equivalents and restricted cash at beginning of year	115,723	28,275	53,568
Cash, cash equivalents and restricted cash at end of year	**$ 274,348**	**$ 115,723**	**$ 28,275**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(In thousands, except per share amounts)

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive (Loss) Income	Accumulated Deficit	Total Stockholders' Equity
Balance at December 31, 2017	**$ 984**	**$ 714,869**	**$ (243)**	**$ (631,843)**	**$ 83,767**
Impact to retained earnings from adoption of ASC 606	–	–	–	1,126	1,126
Net loss	–	–	–	(101,252)	(101,252)
Other comprehensive (loss)	–	–	(54)	–	(54)
Exercise of stock options, 1,106 shares, net	11	2,490	–	–	2,501

Employee stock purchase plan sales, 92 shares, net	1	350	–	–	351
Issuance of common stock, 10,455 shares, net	105	53,295	–	–	53,400
Stock-based compensation expense	-	9,396	–	–	9,396
Balance at December 31, 2018	**$ 1,101**	**$ 780,400**	**$ (297)**	**$ (731,969)**	**$ 49,235**
Impact to retained earnings from adoption of ASC 842	–	–	–	238	238
Net loss	–	–	–	(108,897)	(108,897)
Other comprehensive income	–	–	336	–	336
Exercise of stock options, 283 shares, net	3	832	–	–	835
Employee stock purchase plan sales, 115 shares, net	1	403	–	–	404
Issuance of common stock, 43,621 shares, net	436	58,064	–	–	58,500
Issuance of pre-funded warrants, 11,765 warrants	–	19,882	–	–	19,882
Stock-based compensation expense	–	17,719	–	–	17,719
Balance at December 31, 2019	**$ 1,541**	**$ 877,300**	**$ 39**	**$ (840,628)**	**$ 38,252**
Net loss	–	–	–	(182,814)	(182,814)
Other comprehensive (loss)	–	–	(36)	–	(36)
Exercise of stock options, 510 shares, net	5	1,809	–	–	1,814
Employee stock purchase plan sales, 246 shares, net	3	629	–	–	632
Issuance of common stock, 22,044 shares, net	220	93,059	–	–	93,279
Issuance of pre-funded warrants, 3,511 warrants	–	14,817	–	–	14,817
Stock-based compensation expense	–	14,794	–	–	14,794
Balance at December 31, 2020	**$ 1,769**	**$ 1,002,408**	**$ 3**	**$ (1,023,442)**	**$ (19,262)**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(In thousands, except per share amounts)

Note 1 — Significant Accounting Policies and Concentrations of Risk

The Company

BioCryst Pharmaceuticals, Inc. (the "Company") is a commercial-stage biotechnology company that discovers novel, oral, small-molecule medicines. The Company focuses on the treatment of 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 has incurred losses and negative cash flows from operations since inception.

Based on the Company's expectations for revenue, operating expenses, and its option to access an additional $75 million from its existing credit facility, the Company believes its financial resources available at December 31, 2020 will be sufficient to fund its operations into 2023. The Company has sustained operating losses for the majority of its corporate history and expects that its 2021 expenses will exceed its 2021 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 be largely 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 also may consider other plans to fund future operations, including: (1) securing or increasing U.S. Government funding of its programs, including obtaining procurement contracts; (2) out-licensing rights to certain of its products or product candidates, pursuant to which the Company would receive cash milestones; (3) raising additional capital through equity or debt financings or from other sources, including royalty or other monetization transactions; (4) obtaining additional product candidate regulatory approvals, which would generate revenue, milestones and cash flow; (5) reducing spending on one or more research and development programs, including by discontinuing development; and/or (6) restructuring operations to change its overhead structure. 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, timing, scope and magnitude of its commercial expenses and key development 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"). Such consolidated 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.

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

Restricted cash as of December 31, 2020 and 2019 reflects $796 and $134, respectively, in royalty revenue paid by Shionogi & Co., Ltd. ("Shionogi") designated for interest on the PhaRMA Notes (defined in Note 3) and $1,425 and $1,417, respectively, the Company is required to maintain as collateral for a letter of credit associated with the lease execution and build-out of its new 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, municipal and corporate notes and bonds, commercial paper and asset or mortgage-backed securities, 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 18 months. Some of the securities the Company invests in 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 December 31, 2020, the Company believes that the cost of its investments is recoverable in all material respects.

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.

	December 31, 2020				
	Amortized Cost	Accrued Interest	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Obligations of U.S. Government and its agencies	$ 24,986	$ 14	$ 3	$ (3)	$ 25,000
Certificates of deposit	3,225	11	3	–	3,239
Total Investments	$ 28,211	$ 25	$ 6	$ (3)	$ 28,239

	December 31, 2019				
	Amortized Cost	Accrued Interest	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Obligations of U.S. Government and its agencies	$ 10,488	$ 50	$ 23	$ –	$ 10,561
Corporate debt securities	9,742	59	10	(1)	9,810
Certificates of deposit	1,669	7	7	–	1,683
Total Investments	$ 21,899	$ 116	$ 40	$ (1)	$ 22,054

The Company's investments at December 31, 2020 and 2019 have maturities of one year or less.

Receivables from Collaborations

Receivables from collaborations are recorded for amounts due to the Company related to reimbursable research and development costs from the U.S. Department of Health and Human Services, royalty receivables from Shionogi, Green Cross Corporation ("Green Cross"), Mundipharma International Holdings Limited ("Mundipharma") and Seqirus UK Limited ("SUL"), and product sales to SUL. These receivables are evaluated to determine if any reserve or allowance should be established at each reporting date based on historical collection experience or specific circumstances and no amounts were recorded at December 31, 2020 and 2019.

At December 31, 2020 and December 31, 2019, the Company had the following receivables:

	December 31, 2020		
	Billed	Unbilled	Total
U.S. Department of Health and Human Services	$ –	$ 5,402	$ 5,402
Shionogi & Co. Ltd.	2,037	4	2,041
Green Cross Corporation	740	21	761
Mundipharma International Holdings Limited	39	–	39
Total receivables	$ 2,816	$ 5,427	$ 8,243

	December 31, 2019		
	Billed	Unbilled	Total
U.S. Department of Health and Human Services	$ 1,353	$ 15,023	$ 16,376
Shionogi & Co. Ltd.	1,336	4	1,340
Green Cross Corporation	2,924	8	2,932
Mundipharma International Holdings Limited	56	-	56
Seqirus UK Limited	1,091	351	1,442
Total receivables	$ 6,760	$ 15,386	$ 22,146

Monthly invoices are submitted to the U.S. Department of Health and Human Services 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.

Receivables from Product Sales

Receivables from product sales are recorded for amounts due to the Company related to sales of RAPIVAB and ORLADEYO. At December 31, 2020, receivables related to sales of RAPIVAB and ORLADEYO were $254 and $149, respectively. There were no receivables from product sales as of December 31, 2019. Receivables from product sales 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 and the Company's own historical collection experience. No reserve or allowance amounts were recorded at December 31, 2020.

Inventory

At December 31, 2020 and 2019, the Company's inventory related to peramivir which is being manufactured for the Company's partners and the U.S. Government. Inventory as of December 31, 2020, consisted of raw materials of $206, work-in-process of $2,555 and finished goods of $4,548. As of December 31, 2019, the Company inventory consisted of peramivir finished goods of $276. Inventory is stated at the lower of cost and net realizable value, determined under the first-in, first-out ("FIFO") method, or market. As of December 31, 2020 and 2019, the Company had inventory reserves of $270 and $276, respectively, for estimated unrecoverable capitalized inventory costs.

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 reliant 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.

Patents and Licenses

The Company seeks patent protection on all internally developed processes and products. All patent related costs are expensed to selling, general and administrative expenses when incurred as recoverability of such expenditures is uncertain.

Accrued Expenses

The Company generally 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. The Company periodically confirms the accuracy of its estimates with the service providers and makes adjustments if necessary. Examples of estimated accrued expenses include:

- fees paid to Clinical Research Organizations ("CROs") in connection with preclinical and toxicology studies and clinical trials;
- fees paid to investigative sites in connection with clinical trials;
- fees paid to contract manufacturers in connection with the production of the Company's raw materials, drug substance, drug products, and product candidates; and
- 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. As of December 31, 2020 and December 31, 2019, the carrying value of accrued expenses approximates their fair value due to their short-term settlement.

Accrued expenses were comprised of the following:

	December 31,	
	2020	**2019**
Compensation and benefits	$ 11,030	$ 6,190
Development costs	15,150	11,302
Inventory	2,453	29
Professional fees	333	326
Duties and taxes	80	67
Other	4,896	3,451
Total accrued expenses	$ 33,942	$ 21,365

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.

Accumulated Other Comprehensive Loss

Accumulated other comprehensive loss is comprised of unrealized gains and losses on available-for-sale investments and is disclosed as a separate component of stockholders' equity. Amounts reclassified from accumulated other comprehensive loss are recorded as interest and other income on the Consolidated Statements of Comprehensive Loss. For the year ended December 31, 2020, realized gains of $1 were reclassified out of accumulated other comprehensive loss. No reclassifications out of accumulated other comprehensive loss were recorded in 2019.

Revenue Recognition

Collaborative and Other Research and Development Arrangements and Royalties

The Company recognizes revenue when it satisfies a performance obligation by transferring promised goods or services to a customer. Revenue is measured at the transaction price that is based on the amount of consideration that the Company expects to receive in exchange for transferring the promised goods or services to the customer. The transaction price includes estimates of variable consideration to the extent it is probable that a significant reversal of revenue recognized will not occur.

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 are license, service, royalty and product sale revenues from these collaborative and other research and development arrangements.

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 we expend or costs we incur toward the satisfaction of performance obligation in relation to the total estimated effort of 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 the United States Department of Health and Human Services ("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.

Product Sales

The Company's principal sources of product sales are sales of peramivir to our licensing partners and sales of RAPIVAB to the U.S. Department of Health and Human Services under the Company's procurement contract. In December 2020, the Company launched ORLADEYO and began recording product revenue. The Company recognizes revenue for sales when the customer obtains control of the product, which generally occurs upon delivery.

The Company recorded the following revenues for the years ended December 31:

	2020	2019	2018
Product sales, net	$ 3,301	$ 17,533	$ –
Royalty revenue	3,381	6,303	6,101
Collaborative and other research and development revenues:			
U.S. Department of Health and Human Services	9,231	4,898	2,552
Torii Pharmaceutical Co., Ltd.	1,899	20,101	–
Seqirus UK Limited	–	–	12,000
Total collaborative and other research and development revenues	11,130	24,999	14,552
Total revenues	$ 17,812	$ 48,835	$ 20,653

Advertising

The Company engages in very limited distribution and direct-response advertising when promoting RAPIVAB. Advertising and promotional costs are expensed in "Selling, general and administrative" as the costs are incurred. Advertising expenses related to the launch of ORLADEYO were $6,567 for year ended December 31, 2020. The Company did not incur advertising and product promotion expenses in 2019 and 2018.

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. 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 on-going review of the level of services actually performed.

Additionally, the Company has license agreements with third parties, such as Albert Einstein College of Medicine of Yeshiva University ("AECOM"), Industrial Research, Ltd. ("IRL"), and the University of Alabama at Birmingham ("UAB"), 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 sub-license 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.

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. The fair value of stock option awards is estimated using the Black-Scholes option pricing model. The fair value of restricted stock unit awards is based on the grant date closing price of the common stock. Stock-based compensation cost is recognized as expense on a straight-line basis over the requisite service period of the award. In addition, we have outstanding performance-based stock options for which no compensation expense is recognized until "performance" is deemed to have occurred.

Interest Expense and Royalty Financing Obligation

The royalty financing obligation is eligible to be repaid based on royalties from net sales of ORLADEYO. Interest expense is accrued using the effective interest rate method over the estimated period the related liability 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 the royalty financing obligation and records interest expense using an imputed effective interest rate. The Company will 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 the Company make estimates that could impact the carrying value of the liability, as well as the period over which associated issuance costs will be amortized. A significant increase or decrease in forecasted net sales could materially impact the liability balance, interest expense and the time period for repayment.

Interest Expense and Deferred Financing Costs

Interest expense for the years ended December 31, 2020, 2019 and 2018 was $14,501 $11,892 and $9,176, respectively, and primarily relates to the issuance of the PhaRMA Notes (defined in Note 3) and the Prior Credit Facility and Amended and Restated Senior Credit Facility (each defined in Note 4). Costs directly associated with the issuance of the PhaRMA Notes, the Prior Credit Facility and the Amended and Restated Senior Credit Facility have been capitalized and are netted against the non-recourse notes payable and senior credit facility on the Consolidated Balance Sheets. These costs are being amortized to interest expense over the terms of the PhaRMA Notes and the Amended and Restated Senior Credit Facility (as subsequently amended and restated) using the effective interest rate method. In December 2020, the Company incurred costs directly associated with its royalty monetization (defined in Note 3) and borrowings under the Credit Agreement (defined in Note 4). These costs have been deferred and are being amortized to interest expense over the terms of the respective arrangements. Amortization of deferred financing costs and original issue discount included in interest expense was $1,217, $1,278 and $885 for each of the years ended December 31, 2020, 2019 and 2018, respectively. In December 2020, the outstanding principal balance of the Senior Credit Facility was repaid and related unamortized deferred financing costs and original issue discount of $1,211 were fully expensed as part of loss on debt extinguishment.

Currency Hedge Agreement

In connection with the issuance by Royalty Sub of the PhaRMA Notes, the Company entered into a Currency Hedge Agreement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. The final tranche of the options under the Currency Hedge Agreement expired in November of 2020. The Currency Hedge Agreement did not qualify for hedge accounting treatment; therefore mark-to-market adjustments were recognized in the Company's Consolidated Statements of Comprehensive Loss. Cumulative mark-to-market adjustments for the years ended December 31, 2020, 2019 and 2018 resulted in losses of $632, $347 and $1,049, respectively. Mark-to-market adjustments were determined by a third-party pricing model which uses quoted prices in markets that are not actively traded and for which significant inputs are observable directly or indirectly, representing Level 2 in the fair value hierarchy as defined by U.S. GAAP. In addition, realized currency exchange gains of $662, $863 and $941 were recognized in 2020, 2019 and 2018, respectively, related to the exercise of a U.S. dollar/Japanese yen currency option under the Company's foreign currency hedge.

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, outstanding warrants, and common shares expected to be issued under the Company's employee stock purchase plan were anti-dilutive. The calculation of diluted earnings per share for the years ended December 31, 2020, 2019, and 2018 does not include 14,957, 2,805, and 2,274, respectively, of potential common shares as their impact would be anti-dilutive.

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. The most significant estimates in the Company's consolidated financial statements relate to the valuation of stock options, the royalty financing 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.

Significant Customers and Other Risks

Significant Customers

Other than royalty revenues, the Company's primary sources of revenue that have an underlying cash flow stream are the reimbursement of galidesivir (formerly BCX4430) development expenses earned under cost-plus-fixed-fee contracts with BARDA/HHS and NIAID/HHS and sales of RAPIVAB (peramivir injection) under our procurement contract with the Assistant Secretary for Preparedness and Response within the United States Department of Health and Human Services. The Company relies on BARDA/HHS and NIAID/HHS to reimburse predominantly all of the development costs for its galidesivir program. Accordingly, reimbursement of these expenses represents a significant portion of the Company's collaborative and other research and development revenues. The completion or termination of the NIAID/HHS and BARDA/HHS galidesivir contracts could negatively impact the Company's future Consolidated Statements of Comprehensive Loss and Cash Flows. The Company recognizes royalty revenue from the net sales of RAPIACTA by Shionogi; however, the underlying cash flow from these royalty payments, except for Japanese government stockpiling sales, goes directly to pay the interest, and then the principal, on the Company's non-recourse notes payable. Payment of the interest and the ultimate repayment of principal of these notes will be entirely funded by future royalty payments derived from net sales of RAPIACTA. 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 their 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 single source manufacturers for active pharmaceutical ingredient and finished drug product manufacturing of product candidates in development and on single source distributors for distribution of approved drug products. Delays in the manufacture or distribution of any product could adversely impact the commercial revenue and future procurement stockpiling of the Company's product candidates in development.

Credit Risk

Cash equivalents and investments are financial instruments which 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 18 months or less. Other than product sale and collaborative partner receivables discussed above, the majority of the Company's receivables from collaborations are due from the U.S. Government, for which there is no assumed credit risk.

Recent Accounting Pronouncements

In June 2016, the FASB issued Accounting Standards Update No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"). ASU 2016-13 requires a financial asset (or a group of financial assets) measured at amortized cost basis to be presented at the net amount expected to be collected. In addition, ASU 2016-13 requires credit losses relating to available-for-sale debt securities to be recorded through an allowance for credit losses. ASU 2016-13 requires consideration of a broader range of reasonable and supportable information to develop credit loss estimates. ASU 2016-13 is effective for public companies for interim and annual periods beginning after December 15, 2019. The Company adopted ASU 2016-02 as of January 1, 2020. Given the nature of the Company's receivables from collaborators, investment portfolio and other financial assets, adoption of this standard did not have a material effect on the Company's financial position, results of operations or cash flows.

In August 2018, the FASB issued Accounting Standards Update No. 2018-15, *Intangibles - Goodwill and Other - Internal-Use Software (Subtopic 350-40)* ("ASU 2018-15"). ASU 2018-15 aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. The guidance requires entities to capitalize costs for certain implementation activities in the application development stage and expense the capitalized implementation costs over the expected term of the hosting arrangement. ASU 2018-15 is effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company elected to adopt this standard early, beginning October 1, 2019 on a prospective basis. Adoption did not have a material effect on the Company's financial position, results of operations or cash flows.

The Company has reviewed other new accounting pronouncements that were issued as of December 31, 2020 and does not believe that these pronouncements are either applicable to the Company, or that they will have a material impact on its financial position or results of operations.

Note 2 — Property and Equipment

Property and equipment consisted of the following at December 31:

	2020	2019
Furniture and fixtures	$ 722	$ 602
Office equipment	211	184
Software	1,159	1,159
Laboratory equipment	3,774	3,462
Leasehold improvements	8,583	8,528
	14,449	13,935
Less accumulated depreciation and amortization	(7,336)	(6,588)
Property and equipment, net	$ 7,113	$ 7,347

Depreciation and amortization expense for the years ended December 31, 2020, 2019, and 2018 was $748, $724, and $770, respectively.

Note 3—Royalty Monetizations

RAPIACTA Royalty Monetizations

Overview

On March 9, 2011, the Company completed a $30,000 financing transaction to monetize certain future royalty and milestone payments under the Company's agreement with Shionogi (the "Shionogi Agreement"), pursuant to which Shionogi licensed from the Company the rights to market RAPIACTA in Japan and Taiwan. The Company received net proceeds of $22,691 from the transaction after transaction costs of $4,309 and the establishment of a $3,000 interest reserve account by Royalty Sub, available to help cover interest shortfalls in the future. All of the interest reserve account has been fully utilized with the September 2012 interest payment.

As part of the transaction, the Company entered into a purchase and sale agreement dated as of March 9, 2011 with JPR Royalty Sub, LLC, a wholly-owned subsidiary of the Company ("Royalty Sub"), whereby the Company transferred to Royalty Sub, among other things, (i) its rights to receive certain royalty and milestone payments from Shionogi arising under the Shionogi Agreement, and (ii) the right to receive payments under a Japanese yen/US dollar foreign currency hedge arrangement (as further described below, the "Currency Hedge Agreement") put into place by the Company in connection with the transaction. Royalty payments are paid by Shionogi in Japanese yen, and any milestone payments will be paid in U.S. dollars. The Company's collaboration with Shionogi was not impacted as a result of this transaction.

Non-Recourse Notes Payable

On March 9, 2011, Royalty Sub completed a private placement to institutional investors of $30,000 in aggregate principal amount of its PhaRMA Senior Secured 14.0% Notes due on December 1, 2020 (the "PhaRMA Notes"). The PhaRMA Notes were issued by Royalty Sub under an Indenture, dated as of March 9, 2011 (the "Indenture"), by and between Royalty Sub and U.S. Bank National Association, as Trustee. Principal and interest on the PhaRMA Notes issued are payable from, and are secured by, the rights to royalty and milestone payments under the Shionogi Agreement transferred by the Company to Royalty Sub and payments, if any, made to Royalty Sub under the Currency Hedge Agreement. The PhaRMA Notes bear interest at 14% per annum, payable annually in arrears on September 1st of each year. The Company remains entitled to receive any royalties and milestone payments related to sales of peramivir by Shionogi following repayment of the PhaRMA Notes.

Royalty Sub's obligations to pay principal and interest on the PhaRMA Notes are obligations solely of Royalty Sub and are without recourse to any other person, including the Company, except to the extent of the Company's pledge of its equity interests in Royalty Sub in support of the PhaRMA Notes. The Company may, but is not obligated to, make capital contributions to a capital account that may be used to redeem, or on up to one occasion pay any interest shortfall on, the PhaRMA Notes.

In September 2014, Royalty Sub was unable to pay the accrued interest obligation due September 3, 2013. Under the terms of the Indenture, Royalty Sub's inability to pay the full amount of interest payable in September 2013 by the next succeeding payment date for the PhaRMA Notes, which was September 1, 2014, constituted an event of default. Accordingly, the PhaRMA Notes and related accrued interest have been classified as current liabilities on the December 31, 2014 balance sheet, and thereafter. As a result of the event of default under the PhaRMA Notes, the holders of the PhaRMA Notes may foreclose on the collateral securing the PhaRMA Notes and the equity interest in Royalty Sub and exercise other remedies available to them under the Indenture in respect of the PhaRMA Notes. In such event, the Company may not realize the benefit of future royalty payments that might otherwise accrue to it following repayment of the PhaRMA Notes and it might otherwise be adversely affected. Due to the non-recourse nature of the PhaRMA Notes, in the event of any potential foreclosure, the primary impact to the Company would be the loss of future royalty payments from Shionogi and legal costs associated with retiring the PhaRMA Notes. As the PhaRMA Notes are the obligation of Royalty Sub and non-recourse to the Company, the event of default of the PhaRMA Notes is not expected to have a significant impact on the Company's future results of operations or cash flows. 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 $30,000, together with accrued and unpaid interest of $20,614, was due in full. As of December 31, 2020, the PhaRMA Notes remain outstanding and in default and the Company will continue to record the liability and accrued interest owed until the Company is determined to no longer be the financial obligor.

The Indenture does not contain any financial covenants. The Indenture includes customary representations and warranties of Royalty Sub, affirmative and negative covenants of Royalty Sub, Events of Default and related remedies, and provisions regarding the duties of the Trustee, indemnification of the Trustee, and other matters typical for indentures used in structured financings of this type.

As of December 31, 2020, the aggregate fair value of the PhaRMA Notes was estimated to be approximately 3% of its carrying value of $30,000. The estimated fair value of the PhaRMA Notes is classified as Level 3 in the fair value hierarchy as defined in U.S. GAAP.

Foreign Currency Hedge

In connection with the issuance by Royalty Sub of the PhaRMA Notes, the Company entered into a Currency Hedge Agreement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. Under the Currency Hedge Agreement, the Company had the right to purchase dollars and sell yen at a rate of 100 yen per dollar. The final tranche of the options under the Currency Hedge Agreement expired in November of 2020.

The Currency Hedge Agreement did not qualify for hedge accounting treatment; therefore mark-to-market adjustments were recognized in the Company's Consolidated Statements of Comprehensive Loss. Cumulative mark-to-market adjustments in 2020, 2019 and 2018 resulted in losses of $632, $347 and $1,049, respectively. In addition, realized currency exchange gains of $662, $863 and $941 were recognized in 2020, 2019 and 2018, respectively, related to the exercise of a U.S. dollar/Japanese yen currency option under the Company's foreign currency hedge.

ORLADEYO Royalty Monetization

On December 7, 2020, the Company and RPI 2019 Intermediate Finance Trust ("RPI") entered into a Purchase and Sale Agreement (the "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 "Royalty Sale"). Under the Royalty Purchase Agreement, RPI is entitled to receive tiered, sales-based royalties on net product sales of ORLADEYO in the United States, certain key European markets, and other markets where the Company sells ORLADEYO directly or through distributors (collectively, the "Key Territories") in an amount equal to: (i) 8.75% of aggregate annual net sales of ORLADEYO in the Key Territories for annual net sales up to $350,000 and (ii) 2.75% of annual net sales in the Key Territories for annual net sales between $350,000 and $550,000. No royalty payments are payable on annual net sales in the Key Territories over $550,000. In addition, RPI will be entitled to receive 1.0% of global net sales, if any, of BCX9930.

Under the 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. No payment will be due to RPI for any achievement milestone which may be payable under the existing out-license for ORLADEYO.

The Company will be 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 Royalty Purchase Agreement, the Company has agreed to specified affirmative and negative covenants, including covenants regarding periodic reporting of information by the Company to RPI, third-party audits of royalties paid under the Royalty Purchase Agreement, and restrictions on the ability of the Company or any of its subsidiaries to incur indebtedness other than certain royalty sales and as is permitted to be incurred under the terms of the Company's Credit Agreement with Athyrium Opportunities III Co-Invest 1 LP. Refer to Note 4 for further details on the Credit Agreement. The restrictions 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 Agreement.

The cash consideration of $125,000 obtained pursuant to the Royalty Purchase Agreement is recorded in "Royalty financing obligation" on the Company's consolidated balance sheet as of December 31, 2020. The fair value for the royalty financing obligation at the time of the transaction was based on the Company's estimates of future royalties expected to be paid to RPI over the life of the arrangement. The estimates of future net product sales (and resulting royalty payments) are based on key assumptions including population, penetration and sales price and are determined using forecasts from market data sources, which are considered Level 3 inputs. Deferred issuance costs, which consist primarily of advisory and legal fees, totaled $2,370 as of December 31, 2020. The liability and the deferred issuance costs are amortized using the effective interest method over the term of the arrangement, in accordance with the respective guidance. The effective interest rate as of December 31, 2020 was approximately 24%. For 2020, accrued interest expense in the amount of $2,108 was added to the initial balance of the liability. The Company will utilize the prospective method to account for subsequent changes in the estimated future payments to be made to RPI.

Note 4 — Credit Agreement

On December 7, 2020, the Company entered into a $200,000 Credit Agreement with Athyrium Opportunities III Co-Invest 1 LP ("Athyrium"), as lender and as administrative agent for the lenders. BioCryst Ireland Limited, BioCryst US Sales Co., LLC, and BioCryst UK Limited, each of which is a wholly-owned subsidiary of the Company, are guarantors to the Credit Agreement. The Credit Agreement provides 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 as of December 31, 2020. 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 existing credit facility with MidCap Financial Trust. The Company intends to use the remaining proceeds to support the launch of ORLADEYO in the United States and Europe and to advance the development of BCX9930 into clinical trials in multiple complement-mediated diseases, and for other general corporate purposes.

The Credit Agreement also provides 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"). The Term B Loan and the Term C Loan may be drawn upon if, among other conditions, the Company reaches defined revenue milestones and, with respect to a draw on the Term C Loan, the Term B Loan has been funded prior to or contemporaneously with the Term C Loan. The maturity date of the Credit Agreement is December 7, 2025.

The Credit Agreement provides for quarterly interest-only payments until the maturity date, with the unpaid principal amount of the outstanding Term Loans due and payable on the maturity date. For each of the first eight full fiscal quarters following December 7, 2020, the Company has the option to make the applicable interest payment-in-kind (a "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 Term Loans will bear interest at a rate equal to the three-month LIBOR rate, which shall be no less than 1.75% and no more than 3.50% ("LIBOR"), plus 8.25%, or for each interest period in which a PIK Interest Payment is made, the LIBOR plus 10.25%.

Subject to certain exceptions, the Company is required to make mandatory prepayments of the Term Loans with the proceeds of certain asset sales, certain ORLADEYO out-licensing or royalty monetization transactions (excluding the Royalty Sale), extraordinary receipts, debt issuances, or upon a change of control of the Company and specified other events, subject to certain exceptions. The Company may make voluntary prepayments in whole or in part. Prepayments are 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 Term Loan borrowing date, the amount, if any, by which (a) the sum of (1) 102.00% of the principal amount of the Term Loan being prepaid plus (2) the present value of all interest that would have accrued on the principal amount of the Term Loan being prepaid through and including the second anniversary of the date of the borrowing of such Term Loan, plus 0.50%, exceeds (b) the principal amount of the Term Loan being prepaid; (ii) with respect to any prepayment made between the second and third anniversaries of the applicable Term Loan borrowing date, 2.00% of the principal amount of the Term Loan being prepaid; (iii) with respect to any prepayment made between the third and fourth anniversaries of the applicable Term Loan borrowing date, 1.00% of the principal amount of the Term Loan being prepaid; and (iv) with respect to any prepayment made after the fourth anniversary of the applicable Term Loan borrowing date, 0.00% of the principal amount of the Term Loan being prepaid. Upon the prepayment or repayment, including at maturity, of all or any of the Term Loans, the Company is obligated to pay an exit fee in an amount equal to 2.00% of the principal amount of the Term Loans prepaid or repaid. In addition, each Term Loan is subject to a 1.00% commitment fee at its respective borrowing date.

The Credit 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, grant liens, make investments, incur additional indebtedness, engage in mergers, acquisitions, and similar transactions, dispose of assets, license certain property, distribute dividends, make certain restricted payments, change the nature of the Company's business, engage in transactions with affiliates and insiders, prepay other indebtedness, or engage in sale and leaseback transactions, subject to certain exceptions. Additionally, as of the last day of each fiscal quarter (a “Test Date”), beginning with the first Test Date occurring immediately after the Term C Loan is drawn, if applicable, the Company may not permit consolidated net revenues from ORLADEYO sales in the United States for the four-fiscal quarter period ending on such Test Date to be less than the specified amounts set forth in the Credit Agreement (collectively, the “Revenue Tests”). If the Company fails to satisfy the Revenue Tests as of any Test Date, it will have a one-time right (the “Cure Right”) to repay in full the entire amount of the Term C Loans outstanding at such time together with all accrued and unpaid interest thereon plus the prepayment premium, exit fee, and any other fees or amounts payable under the Credit Agreement at such time. In addition, the Credit Agreement contains a minimum liquidity covenant requiring the Company to maintain at all times, as applicable, at least $15,000 of unrestricted cash and cash equivalents if only the Term A Loan has been drawn; at least $20,000 of unrestricted cash and cash equivalents if the Term B Loan has been drawn but the Term C Loan has not been drawn; and at least $15,000 (or, if the Cure Right has been exercised, $20,000) of unrestricted cash and cash equivalents if the Term C Loan has been drawn, subject to certain exceptions.

A failure to comply with the covenants in the Credit Agreement could permit the Lenders under the Credit Agreement to declare the outstanding principal as well as accrued interest and fees, to be immediately due and payable.

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

As of December 31, 2020, the Company had borrowings of $125,000 under the Credit Agreement. The carrying amount of the debt approximates its fair value based on prevailing interest rates as of the balance sheet date.

The Credit Agreement provides for quarterly interest-only payments until the maturity date, with the unpaid principal amount of the outstanding Term Loans due and payable on the maturity date of December 7, 2025. The Company has elected the first quarterly interest payment to be a PIK Interest Payment and began accruing interest at a rate of 12.17%. As of December 31, 2020, debt fees and issuance costs totaled $7,764 and are being amortized as interest expense on an effective interest rate method over the term of the Term A Loan. Interest expense of $925, net of deferred financing amortization of $131, related to the Credit Agreement was recognized in 2020 related to the Term A Loan.

The Credit Agreement contains two provisions that, if deemed probable, would create the recognition of an embedded feature; however, at this time, the Company does not believe either provision is probable.

Note 5 — Senior Credit Facility

On February 5, 2019, the Company entered into a $100,000 Senior Credit Facility with an affiliate of MidCap Financial Services, LLC, as administrative agent (the “Second Amended and Restated Senior Credit Facility”). Borrowings under the Second Amended and Restated Senior Credit Facility were available in three tranches, with (i) the first tranche comprised of $50,000 funded at closing, which included $30,000 of proceeds that were deemed rolled over from the outstanding principal amount under the Company’s prior credit agreement, (ii) the second tranche comprised of $30,000, and (iii) the third tranche comprised of $20,000, with the second and third tranches to have been funded upon the completion of certain contingencies related to the Company’s development activities of its product candidates and the establishment of certain financial covenants. On September 10, 2019 the Company executed the first amendment to the Second Amended and Restated Credit Facility which extended the commitment termination date for the second tranche to November 30, 2019. On November 30, 2019, the Company’s access to the second tranche expired.

The Second Amended and Restated Senior Credit Facility refinanced and replaced the Amended and Restated Senior Credit Facility dated as of July 20, 2018 (the "Amended and Restated Senior Credit Facility"). The Second Amended and Restated Senior Credit Facility had a variable interest rate of LIBOR (which was not to be less than 0.5%) plus 8%. The Second Amended and Restated Senior Credit Facility included an interest-only payment period through June 2020 and scheduled monthly principal and interest payments for the subsequent 30 months. The Company used a portion of the proceeds of the Second Amended and Restated Senior Credit Facility to pay off outstanding amounts under the Amended and Restated Senior Credit Facility and the remainder was used for general corporate purposes.

In December 2020, the Company repaid the outstanding principal of the Second Amended and Restated Senior Credit Facility of $40,000 along with exit fees and accrued interest through the payoff date that totaled $3,298. The unamortized deferred financing cost and original issue discount of $1,211 was expensed as a loss on debt extinguishment.

Note 6 — Lease Obligations and Other Contingencies

In February 2016, the FASB issued ASU 2016-02: *Leases (Topic 842)*. This ASU requires a lessee to recognize a right-of-use asset and a lease liability on its balance sheet for most operating leases. ASU 2016-02 is effective for annual and interim periods beginning after December 15, 2018, including interim periods within those fiscal years. In July 2018, the FASB issued ASU 2018-11, *Leases (Topic 842): Targeted Improvements*, which provides companies with an additional optional transition method to apply the new standard to leases in effect at the adoption date through a cumulative effect adjustment. The Company adopted the new lease standard as of January 1, 2019 using this optional transition method.

The Company elected the package of practical expedients referenced in ASU 2016-02, which permits companies to retain original lease identification and classification without reassessing initial direct costs for existing leases. The Company also elected the practical expedient that exempts leases with an initial lease term of twelve months or less, as well as the practical expedient that allows companies to select, by class of underlying asset, not to separate lease and non-lease components. Adoption of this standard resulted in the recognition of a right-of-use asset and a lease liability on the Company's January 1, 2019 Consolidated Balance Sheet of $3,621 and $4,822, respectively. There was no material impact on the Company's Consolidated Statement of Comprehensive Loss, and the cumulative transition adjustment recorded to retained earnings upon adoption was $238.

The Company leases certain assets under operating leases, which primarily consisted of real estate leases, laboratory equipment leases and office equipment leases as of December 31, 2020. Certain 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 Sheet represent payments over the lease term, which includes renewal options for certain real estate leases that we are 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. Renewal options for our leases range from 1 to 5 years in length and begin from 2023 through 2026. The weighted average lease term for the Company's operating leases was 13.1 years. 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 weighted average discount rate for the Company's operating leases was 12.7%.

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

Aggregate lease expense under operating leases was $1,754 and $1,464 for the twelve-month periods ended December 31, 2020 and 2019, respectively. 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.

Future lease payments for assets under operating leases as of December 31, 2020, are as follows:

Remaining Maturities of Lease Liabilities

Year Ending December 31,	**Operating Leases**
2021	$ 1,302
2022	758
2023	619
2024	577
2025	582
Thereafter	7,327
Total lease payments	11,165
Less imputed interest	6,115
Total	$ 5,050

The Company's current lease liability at December 31, 2020 and 2019 was $1,179 and $1,377, respectively. The Company's long-term lease liability as of December 31, 2020 and 2019 was $3,871 and $3,406, respectively. The current and long-term portions of the Company's lease liability are presented within "Lease financing obligations" on the Consolidated Balance Sheets. Cash paid for amounts included in the measurement of lease liabilities was $1,696 and $1,457 for the years ended December 31, 2020 and 2019, respectively. The Company's right-of use asset balance associated with operating leases totaled $3,802 and $3,590 at December 31, 2020 and 2019, respectively. These amounts are presented within "Other assets" on the Consolidated Balance Sheets. Operating right-of-use assets are recorded net of accumulated amortization of $2,641 and $1,386 as of December 31, 2020 and 2019, respectively.

Note 7 — Stockholders' Equity

Sales of Common Stock

On November 8, 2017, the Company filed a $200,000 shelf registration statement on Form S-3 with the SEC. This shelf registration statement became effective on December 12, 2017 and allowed the Company to sell securities, including common stock, preferred stock, depository shares, stock purchase contracts, warrants and units, from time to time at prices and on terms to be determined at the time of sale.

On August 6, 2018, the Company completed an underwritten public offering of 10,455 shares of its common stock, offered at a price to the public of $5.50 per share, including shares issued pursuant to the underwriters' 30-day option to purchase additional shares, which was exercised in full. The net proceeds from this offering were approximately $53,400 after deducting underwriting discounts and commissions and estimated offering expenses.

On November 18, 2019, the Company completed an underwritten public offering of 43,621 shares of its common stock, offered at a price to the public of $1.45 per share, including shares issued pursuant to the underwriters' 30-day option to purchase additional shares, which was exercised in full. The net proceeds from this offering were approximately $58,500 after deducting underwriting discounts and commissions and estimated offering expenses.

On November 21, 2019, the Company completed an offering of pre-funded warrants to purchase up to 11,765 shares of its common stock at a price of $1.69 per warrant. Each pre-funded warrant is exercisable subject to conditions in the warrant agreement into 1 share of common stock at an exercise price of $0.01 per share. The net proceeds from this offering were $19,882, excluding any proceeds the Company may receive upon the subsequent exercise of the pre-funded warrants. All warrants issued in this offering remain outstanding at December 31, 2020.

On April 24, 2020, the Company filed a $500,000 shelf registration statement on Form S-3 with the SEC. This shelf registration statement became effective on May 14, 2020 and allows the Company to sell securities, including common stock, preferred stock, depository 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 June 1, 2020, the Company issued 22,044 shares of common stock to the public at a purchase price of $4.50 per share and pre-funded warrants to purchase 3,511 shares of common stock at a purchase of $4.49 per pre-funded warrant, for total net proceeds to the Company of $108,096 million after deducting underwriting discounts and commissions and other offering expenses. Each pre-funded warrant is exercisable subject to conditions in the warrant agreement into 1 share of common stock at an exercise price of $0.01 per share. All warrants issued in this offering remain outstanding at December 31, 2020.

Note 8 — Stock-Based Compensation

As of December 31, 2020, 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 Employee Stock Purchase Plan ("ESPP"). The Incentive Plan was amended and restated on March 19, 2020 and approved by the Company's stockholders on May 12, 2020. The Inducement Plan was adopted by the Board of Directors on April 24, 2019 and amended and restated by the Board of Directors in February 2020 and in July 2020. The ESPP was amended and restated in March 2020 and approved by the Company's stockholders on May 12, 2020. Stock-based compensation expense of $14,794 ($12,938 of expense related to the Incentive Plan, $1,494 of expense related to the Inducement Plan, $362 of expense related to the ESPP) was recognized during 2020, while $17,719 ($17,164 of expense related to the Incentive Plan, $323 of expense related to the Inducement Plan, $232 of expense related to the ESPP) was recognized during 2019 and $9,396 ($9,223 of expense related to the Incentive Plan, $173 of expense related to the ESPP) was recognized during 2018.

The Company accounts for stock-based compensation in accordance with FASB authoritative guidance regarding share-based payments. Total stock-based compensation was allocated as follows:

	Year Ended December 31,		
	2020	2019	2018
Research and development	$ 10,222	$ 13,977	$ 6,867
Selling, general and administrative	4,572	3,742	2,529
Total stock-based compensation expense	$ 14,794	$ 17,719	$ 9,396

Stock Incentive Plan

The Company grants stock option awards and restricted stock unit awards 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 stock at the date of grant. Commencing March 1, 2011, stock option awards and restricted stock units granted to employees generally vest 25% each year until fully vested after four years. In August 2013, December 2014 and December 2019, the Company issued 1,032, 1,250 and 315 performance-based stock options, respectively. These awards vest upon successful completion of specific development milestones. As of December 31, 2020, 100%, 85% and 100% of the August 2013, December 2014 and December 2019 grants, respectively, have vested. During 2020, the Company recognized $1,768 and $684 of stock compensation expense related to milestones within the August 2013 and December 2019 grants for which achievement became probable. Stock option awards granted to non-employee directors of the Company generally vest over one year. All stock option awards have contractual terms of 10 years. The vesting 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 at December 31, 2017	468	14,452	$ 6.06
Plan amendment	4,400	–	–
Restricted stock awards granted	(13)	–	–
Stock option awards granted	(4,272)	4,272	7.15
Stock option awards exercised	–	(1,011)	2.92
Stock option awards cancelled	222	(222)	7.44
Balance at December 31, 2018	805	17,491	6.49
Plan amendment	4,000	–	–
Restricted stock awards granted	(27)	–	–
Stock option awards granted	(4,511)	4,511	3.91
Stock option awards exercised	–	(251)	3.75
Stock option awards cancelled	701	(701)	6.82
Balance at December 31, 2019	968	21,050	5.96
Plan amendment	8,000	–	–
Restricted stock awards granted	(31)	–	–
Stock option awards granted	(7,469)	7,469	8.06
Stock option awards exercised	–	(510)	3.56
Stock option awards cancelled	3,124	(3,124)	6.93
Balance at December 31, 2020	4,592	24,885	$ 6.52

For stock option awards granted under the Incentive Plan during 2020, 2019, and 2018, 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 2020, 2019, and 2018 was $5.48, $2.63, and $4.92, respectively. The fair value of the stock option 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 awards to newly-hired employees as inducements material to each employee entering employment with the Company. Stock option awards granted to newly hired employees generally vest 25% each year until fully vested after four years. Each stock option has a term of 10 years and is subject to the terms and conditions of the Inducement Plan. 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 at December 31, 2019	171	1,329	$ 3.60
Plan amendment	2,900	–	–
Stock option awards granted	(3,002)	3,002	4.02
Stock option awards cancelled	160	(160)	4.15
Balance at December 31, 2020	229	4,171	$ 3.88

For stock option awards granted under the Inducement Plan during 2020 and 2019, 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 2020 and 2019 was $2.73 and $2.41, respectively. The fair value of the stock option 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 2020, 2019, and 2018, 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 Plans

	2020	2019	2018
Expected Life	5.5	5.5	5.5
Expected Volatility	84%	81%	82%
Expected Dividend Yield	0.0%	0.0%	0.0%
Risk-Free Interest Rate	0.4%	1.8%	2.7%

The total intrinsic value of stock option awards exercised under the Incentive Plan was $1,562 during 2020, $1,127 during 2019, and $4,504 during 2018. The intrinsic value represents the total proceeds (fair market value at the date of exercise, less the exercise price, times the number of stock option awards exercised) received by all individuals who exercised stock option awards during the period. No stock option awards were exercised under the Inducement Plan in 2020.

The following table summarizes, at December 31, 2020, by price range: (1) for stock option awards outstanding under the Incentive Plan, the number of stock option awards outstanding, their weighted average remaining life and their weighted average exercise price; and (2) for stock option awards exercisable under the Plan, the number of stock option awards exercisable and their weighted average exercise price:

				Outstanding			Exercisable	
Range				Number	Weighted Average Remaining Life	Weighted Average Exercise Price	Number	Weighted Average Exercise Price
$	0	to	3	2,514	6.1	$ 2.19	1,414	$ 1.25
	3	to	6	12,689	7.0	4.22	6,854	2.48
	6	to	9	10,852	9.2	7.88	2,005	4.89
	9	to	12	2,347	4.5	10.85	2,129	4.51
	12	to	15	559	4.1	12.30	539	6.43
	15	to	18	95	4.5	15.39	95	10.57
$	0	to	18	29,056	7.5	$ 6.14	13,036	$ 3.27

The weighted average remaining contractual life of stock option awards exercisable under the plans at December 31, 2020 was 5.3 years.

The aggregate intrinsic value of stock option awards outstanding and exercisable under the plans at December 31, 2020 was $29,716. The aggregate intrinsic value represents the value (the period's closing market price, less the exercise price, times the number of in-the-money stock option awards) that would have been received by all stock option award holders under the plans had they exercised their stock option awards at the end of the year.

The total fair value of the stock option awards vested under the plans was $18,739 during 2020, $12,499 during 2019, and $8,952 during 2018.

As of December 31, 2020, the number of stock option awards vested and expected to vest under the plans is 26,487. The weighted average exercise price of these stock option awards is $6.13 and their weighted average remaining contractual life is 7.4 years.

The following table summarizes the changes in the number and weighted-average grant-date fair value of non-vested stock option awards during 2020:

	Non-Vested Stock Option Awards	Weighted Average Grant-Date Fair Value
Balance December 31, 2019	11,688	$ 3.77
Stock option awards granted	10,471	4.69
Stock option awards vested	(4,543)	4.12
Stock option awards forfeited	(1,596)	3.96
Balance December 31, 2020	16,020	$ 4.25

As of December 31, 2020, there was approximately $56,094 of total unrecognized compensation cost related to non-vested employee stock option awards granted by the Company. That cost is expected to be recognized as follows: $17,758 in 2021, $16,281 in 2022, $12,484 in 2023, and $9,571 in 2024.

Employee Stock Purchase Plan

The Company has reserved a total of 4,475 shares of common stock to be purchased under the ESPP, of which 2,873 shares remain available for purchase at December 31, 2020. 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 3 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.

There were 246, 115, and 92 shares of common stock purchased under the ESPP in 2020, 2019, and 2018, respectively, at a weighted average price per share of $2.56, $3.51, and $3.83, respectively. Expense of $362, $232, and $173 related to the ESPP was recognized during 2020, 2019, and 2018, 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. The weighted average grant date fair values of shares granted under the ESPP during 2020, 2019, and 2018, were $1.47, $2.01, and $1.89, respectively.

Note 9 — Income Taxes

The Company has incurred net losses since inception and, consequently, has not recorded any U.S. Federal and state income tax expense or benefit.

The components of loss before provision for income taxes were as followings:

	2020
Domestic	$ (176,613)
Foreign	(6,201)
Loss before provision for income taxes	$ (182,814)

The differences between the Company’s effective tax rate and the statutory tax rate in 2020, 2019, and 2018, are as follows:

	2020	2019	2018
Income tax benefit at federal statutory rate (21% for 2020, 2019 and 2018)	$ (38,391)	$ (22,868)	$ (21,263)
State and local income taxes net of federal tax benefit	(2,544)	(1,591)	(2,547)
Permanent items	774	691	503
Rate change	(82)	625	(29)
Expiration of attribute carryforwards	3,774	3,976	2,183
Research and development tax credits	(4,080)	(4,938)	(4,905)
Foreign rate differential	542	-	-
Other	1,456	281	18
Change in valuation allowance	38,551	23,824	26,040
Income tax expense	$ -	$ -	$ -

The Company recognizes the impact of a tax position in its financial statements if it is more likely than not that the position will be sustained on audit based on the technical merits of the position. The Company has concluded that it has an uncertain tax position pertaining to its research and development and orphan drug credit carryforwards. The Company has established these credits based on information and calculations it believes are appropriate and the best estimate of the underlying credit. Any changes to the Company's unrecognized tax benefits are offset by an adjustment to the valuation allowance and there would be no impact on the Company's financial statements. The Company does not expect its unrecognized tax benefits to change significantly over the next 12 months.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	2020	2019
Balance at January 1,	$ 7,210	$ 5,976
Additions to current period tax positions	1,020	1,234
Additions to prior period tax positions	–	–
Reductions to prior period tax provisions	–	–
Balance at December 31,	$ 8,230	$ 7,210

The Company's ability to utilize the net operating loss and tax credit carryforwards in the future may be subject to substantial restrictions in the event of past or future ownership changes as defined in Section 382 of the Internal Revenue Code of 1986, as amended and similar state tax law.

Significant components of the Company's deferred tax assets and liabilities are as follows:

	2020	2019
Deferred tax assets:		
Net federal and state operating losses	$ 159,939	$ 155,190
Research and development credits	66,331	63,275
Royalty income	28,034	-
Stock-based compensation	10,732	9,786
Leasing obligations	1,135	1,070
Other	5,563	3,801
Total deferred tax assets	271,734	233,122
Deferred tax liabilities:		
Fixed assets	(124)	(114)
Right of use asset	(854)	(803)
Total deferred tax liabilities	(978)	(917)
Valuation allowance	(270,756)	(232,205)
Net deferred tax assets	$ –	$ –

The majority of the Company's deferred tax assets relate to net operating loss and research and development carryforwards that can only be realized if the Company is profitable in future periods. It is uncertain whether the Company will realize any tax benefit related to these carryforwards. Accordingly, the Company has provided a full valuation allowance against the net deferred tax assets due to uncertainties as to their ultimate realization. The valuation allowance will remain at the full amount of the deferred tax assets until it is more likely than not that the related tax benefits will be realized. The Company's valuation allowance increased by $38,551, $23,824, and $26,040 in 2020, 2019, and 2018, respectively.

As of December 31, 2020, the Company had U.S. federal operating loss carryforwards of $677,109, state operating loss carryforwards of $494,608, foreign net operating losses of $6,427, and U.S. research and development and orphan drug credit carryforwards of $74,561, which will expire at various dates from 2021 through 2040. Federal losses, state losses, research and development credit carryforwards began expiring in 2020. The foreign net operating losses have an indefinite carryforward period.

Tax years 2017-2020 remain open to examination by the major taxing jurisdictions to which the Company is subject. Additionally, years prior to 2017 are also open to examination to the extent of loss and credit carryforwards from those years. The Company recognizes interest and penalties accrued related to unrecognized tax benefits as components of its income tax provision. However, there were no provisions or accruals for interest and penalties in 2020, 2019 and 2018.

Note 10 — Employee 401(k) Plan

In January 1991, the Company adopted an employee retirement plan ("401(k) Plan") under Section 401(k) of the Internal Revenue Code covering all employees. Employee contributions may be made to the 401(k) Plan up to limits established by the Internal Revenue Service. Company matching contributions may be made at the discretion of the Board of Directors. The Company made matching contributions of $1,569, $926, and $724 in 2020, 2019, and 2018, respectively.

Note 11 — Collaborative and Other Research and Development Contracts

National Institute of Allergy and Infectious Diseases ("NIAID/HHS"). In September 2013, NIAID/HHS contracted with the Company for the development of galidesivir as a treatment for Marburg virus disease and subsequently, Yellow Fever and Ebola virus disease. As of December 31, 2020, all options under this contract have been awarded, and the total value of the contract, as amended, is $45,931, inclusive of the $2,897 added to the contract in August 2020 to support the development of galidesivir. In August 2020, NIAID/HHS awarded the Company a new contract, with potential aggregate funding up of to $43,908 if all contract options are exercised, to manufacture and evaluate the safety, efficacy and tolerability of galidesivir. NIAID/HHS made an initial award of $6,326 to the Company under this new contract.

Biomedical Advanced Research and Development Authority ("BARDA/HHS"). In March 2015, BARDA/HHS awarded the Company a contract for the continued development of galidesivir as a potential treatment for diseases caused by RNA pathogens, including filoviruses. This BARDA/HHS contract includes a base contract of $16,265 to support galidesivir drug manufacturing, as well as $22,855 in additional development options that can be exercised by the government, bringing the potential value of the contract to $39,120. As of December 31, 2020, a total of $20,574 has been awarded under exercised options within this contract.

The contracts with NIAID/HHS and BARDA/HHS are cost-plus-fixed-fee contracts. That is, the Company is entitled to receive reimbursement for all costs incurred in accordance with the contract provisions that are related to the development of galidesivir plus a fixed fee, or profit. BARDA/HHS and NIAID/HHS will make periodic assessments of progress, and the continuation of the contract is based on the Company's performance, the timeliness and quality of deliverables, and other factors. The government has rights under certain contract clauses to terminate these contracts. These contracts are terminable by the government at any time for breach or without cause.

U.S. Department of Health and Human Services ("HHS"). In September 2018, HHS awarded the Company a $34,660 contract for the procurement of up to 50,000 doses of RAPIVAB (peramivir injection) over a five-year period, including an initial base order of 10,000 doses. In September 2019, HHS exercised its option to purchase an additional 10,000 doses of RAPIVAB. The Company delivered a total of 20,000 doses of RAPIVAB and approximately $13,864 of product sales in 2019. On September 3, 2020, the Company announced that HHS had exercised an option under this contract to purchase an additional 10,000 doses of RAPIVAB for $6,932, which the Company expects to deliver in 2021. No shipments were delivered in 2020 under this additional 10,000 dose option.

Torii Pharmaceutical Co., Ltd. ("Torii"). 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 hereditary angioedema ("HAE") attacks in Japan.

Under the Torii Agreement, the Company received an upfront, non-refundable payment of $22,000 and is eligible to receive an additional milestone payment of $15,000 upon receipt from Japan's National Health Insurance System of a reimbursement price approval for ORLADEYO in excess of the threshold specified in the Torii Agreement.

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 commence 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 will be responsible for supplying Torii with its required amounts of ORLADEYO. The activities of the parties pursuant to the Torii Agreement will be overseen by a joint steering committee, to be composed of an equal number of representatives from each party to coordinate the development and commercialization of ORLADEYO in Japan.

Under the Torii Agreement, the Company has granted Torii a right of first negotiation ("ROFN") to commercialize ORLADEYO in Japan for the acute treatment of HAE attacks if the Company develops ORLADEYO for such indication and to commercialize any additional kallikrein inhibitor that the Company may develop in the future for use in HAE in Japan. Under both ROFNs, if the parties do not agree to terms with respect to a definitive amendment to the Torii Agreement or new agreement, as applicable, the terms of the amendment or agreement would be set by a third-party arbitrator.

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 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. The Company recognized $20,101 in revenue in 2019 including $19,344 associated with the license which was transferred to Torii at the execution of the Agreement and $757 related to the 2020 services provided in the performance of the two approvals. The remaining $1,899 of the $22,000 upfront payment was recognized as revenue in 2020 as the services were delivered.

Seqirus UK Limited ("SUL"). On June 16, 2015, the Company and SUL, a limited company organized under the laws of the United Kingdom and a subsidiary of CSL Limited, a company organized under the laws of Australia, entered into a License Agreement (the "SUL Agreement") granting SUL and its affiliates worldwide rights to develop, manufacture and commercialize RAPIVAB (peramivir injection) for the treatment of influenza except for the rights to conduct such activities in Israel, Japan, Korea and Taiwan (the permitted geographies together constituting the "Territory"). Under the terms of the SUL Agreement, the Company received an upfront payment of $33,740 and has achieved all development milestones under the contract totaling $12,000.

On March 4, 2020, the International Court of Arbitration of the International Chamber of Commerce ("ICC Tribunal") delivered a Partial Arbitration Award (the "Partial Arbitration Award") in an arbitration matter between the Company and SUL with respect to the SUL Agreement. In the Partial Arbitration Award, the ICC Tribunal found that, during the term, SUL materially breached and abandoned its core duties to the Company under the Diligent Efforts (as defined in the SUL Agreement) requirements of the SUL Agreement as applicable in the U.S. The ICC Tribunal granted a declaratory judgment in favor of the Company terminating the SUL Agreement and restoring all rights to peramivir to the Company. The parties agreed on a transition process for the product, with a full transition of commercialization of the product in the U.S. and Australia returned to the Company as of August 1, 2020 and November 1, 2020, respectively. The ICC Tribunal also awarded the Company its attorneys' fees and expenses incurred in securing the declaratory judgment as well as the costs incurred by the Company in the arbitration. Finally, the ICC Tribunal found that SUL breached the SUL Agreement by failing to pay the milestone payment due to the Company within 30 days of the approval of peramivir for adult use in the European Union and awarded the Company $5,000 (plus interest) for this claim. The ICC Tribunal retained jurisdiction for further proceedings relating to the award of attorneys' fees and for any dispute relating to the return to the Company of all rights to peramivir in the Territory. The Company recorded the settlement gain of $8,893 in other income and legal fees and other expenses of $5,026 in selling, general and administrative expenses for the year ended December 31, 2020.

Shionogi & Co., Ltd. ("Shionogi"). 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 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.

In December 2017, the Company, on behalf of Royalty Sub, instituted arbitration proceedings against Shionogi in order to resolve a dispute with Shionogi under the Shionogi Agreement regarding the achievement of sales milestones and escalating royalties. The arbitration proceedings have concluded, with the decision that no sale milestones had been achieved and that royalties would remain the same. The costs associated with the arbitration proceedings are recoverable from the assets of Royalty Sub in accordance with the terms of the indenture and servicing agreement relating to the PhaRMA Notes.

Green Cross Corporation ("Green Cross"). 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 will be responsible for all development, regulatory, and commercialization costs in Korea. The Company received a one-time license fee of $250. The license also provides that the Company will 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.

Mundipharma International Holdings Limited ("Mundipharma"). In February 2006, the Company entered into an exclusive, royalty bearing right and license agreement with Mundipharma for the development and commercialization of Mundesine, a Purine Nucleoside Phosphorylase ("PNP") inhibitor, for use in oncology. The agreement, as amended and restated, provides for the possibility of future event payments totaling $15,000 for achieving specified regulatory events for certain indications and tiered royalties ranging from mid to high single-digit percentages of net product sales in each country where Mundesine is sold by Mundipharma. The Company licensed forodesine and other PNP inhibitors from AECOM/IRL (as defined below) and will owe sublicense payments to AECOM/IRL on all milestone payments and royalties received from Mundipharma.

Albert Einstein College of Medicine of Yeshiva University and Industrial Research, Ltd. ("AECOM" and "IRL" respectively). In June 2000, the Company licensed a series of potent inhibitors of PNP from AECOM and IRL, (together, the "Licensors"). The lead product candidates from this collaboration is forodesine. The Company has obtained worldwide exclusive rights to develop and ultimately distribute these, or any other, product candidates that might arise from research on these inhibitors. The Company has the option to expand the agreement to include other inventions in the field made by the investigators or employees of the Licensors. Under this agreement, as amended and restated, the Company has agreed to use commercially reasonable efforts to develop these drugs and to pay certain milestone payments for each licensed product (which range in the aggregate from $1,400 to almost $4,000 per indication) for future development, single digit royalties on net sales of any resulting product made by the Company, and to share a portion of future payments received from other third-party partners, if any. In addition, the Company has agreed to pay annual license fees, which can range from $150 to $500, that are creditable against actual royalties and other payments due to the Licensors. The Licensors have also granted the Company an exclusive worldwide license of galidesivir for any antiviral use.

The University of Alabama at Birmingham ("UAB"). The Company currently has agreements with UAB for influenza neuraminidase and complement inhibitors. Under the terms of these agreements, UAB performed specific research for the Company in return for research payments and license fees. UAB has granted the Company certain rights to any discoveries in these areas resulting from research developed by UAB or jointly developed by UAB with the Company. The Company has agreed to pay single digit royalties on sales of any resulting product and to share in future payments received from other third-party partners. The Company has completed the research under the UAB agreements. These two agreements each have an initial 25-year term, are automatically renewable for five-year terms throughout the life of the last patent and are terminable by the Company upon three months' notice and by UAB under certain circumstances. Upon termination both parties shall cease using the other parties' proprietary and confidential information and materials, the parties shall jointly own joint inventions and UAB shall resume full ownership of all UAB licensed products. There is currently no activity between the Company and UAB on these agreements, but when the Company licenses this technology, such as in the case of the Shionogi and Green Cross, or commercializes products related to these programs, the Company will owe sublicense fees or royalties on amounts received.

Note 12 — Quarterly Financial Information (Unaudited)

	First	Second	Third	Fourth
2020 Quarters				
Revenues	$ 4,823	$ 2,871	$ 6,102	$ 4,016
Net Loss	(37,599)	(38,607)	(46,115)	(60,493)
Basic and diluted net loss per share	(0.24)	(0.24)	(0.26)	(0.34)
2019 Quarters				
Revenues	$ 5,887	$ 1,448	$ 1,775	$ 39,725
Net Loss	(31,054)	(37,629)	(37,592)	(2,622)
Basic and diluted net loss per share	(0.28)	(0.34)	(0.34)	(0.02)

Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors of BioCryst Pharmaceuticals, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of BioCryst Pharmaceuticals, Inc. (the Company) as of December 31, 2020 and 2019, the related consolidated statements of comprehensive loss, stockholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2020, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), and our report dated March 1, 2021 expressed an unqualified opinion thereon.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Accrued Clinical Trial and Manufacturing Activities

Description of the Matter

As discussed in Note 1 to the consolidated financial statements, the Company has recorded $33.9 million of accrued expenses, which includes costs for clinical trial and manufacturing activities (together, clinical related activities) based upon estimates of expenses incurred through the balance sheet date that have yet to be invoiced by the contract research organizations (CROs), clinical study sites, contract manufacturing organizations, or other vendors (together, clinical vendors). This accrual process involves identifying services that have been performed and estimating the level of service performed and the associated cost when the Company has not yet been invoiced or otherwise notified of actual cost.

Auditing the Company's accruals for costs associated with in-process clinical related activities may include judgment because the timing and pattern of vendor invoicing may not correspond to the level of services provided and the estimate can incorporate significant assumptions such as expected patient enrollment, site activation, and estimated project duration.

How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design and tested the operating effectiveness of internal controls that addressed the information used in and the identified risks related to the Company's process for recording accrued costs for clinical related activities.

To evaluate the accrual for clinical related expenses, our audit procedures included, among others, inspecting the Company's contracts with clinical vendors (including pending change orders), testing the completeness and accuracy of the underlying data used in the estimate of the level of service provided including evaluating the significant assumptions as discussed above for the applicable in process contracts with clinical vendors. To assess the significant assumptions, we corroborated the progress of clinical related activities through inquiry with the Company's clinical team and with information obtained directly from third party clinical vendors, as well as tested invoices received from clinical vendors subsequent to the balance sheet date.

Valuation of Royalty Financing Obligation

Description of the Matter

As described in Note 3 to the consolidated financial statements, the Company entered into a Royalty Purchase Agreement ("RPA") in December 2020 with a third party. Pursuant to the RPA, the Company received proceeds of $125.0 million in exchange for the right to receive royalty payments based on future net revenues of the Company's drug, Orladeyo.

The Company recorded the financing as a non-current liability instrument (royalty financing obligation) on the balance sheet at its carrying value of $124.7 million as of December 31, 2020 and imputed interest expense associated with this liability using the effective interest rate method. The effective interest rate is calculated based on the rate that would enable the liability to be repaid in full over the anticipated life of the arrangement. The interest rate on this liability may vary during the term of the agreement depending on a number of factors, including the level and timing of forecasted net revenues which affects the repayment timing and ultimate amount of repayment. The Company evaluates the interest rate quarterly based on its current revenue forecasts utilizing the prospective method.

Auditing the royalty financing obligation was complex and highly judgmental due to the estimation uncertainty in determining the effective interest rate. The Company's effective interest rate model includes revenue projections for which royalties will be paid, which are sensitive to significant assumptions (including population, penetration and sales price) that are affected by expectations about future market conditions.

How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over the Company's processes to account for the royalty financing obligation, including controls over management's review of the revenue projections within the model.

To evaluate the royalty financing obligation, our audit procedures included, among others, assessing the underlying data and assumptions used by the Company in its effective interest rate model. We compared the significant assumptions in the revenue projections to current industry, market and economic trends. We recalculated the current year interest expense based on the amortization schedule and estimate of royalties using the effective interest method, and performed sensitivity analyses to evaluate the changes in the effective interest rate, and associated interest expense, that would result from changes in the assumptions.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 1993.

Raleigh, North Carolina

March 1, 2021

Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors of BioCryst Pharmaceuticals, Inc.

Opinion on Internal Control Over Financial Reporting

We have audited BioCryst Pharmaceuticals Inc.'s internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, BioCryst Pharmaceuticals Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of BioCryst Pharmaceuticals, Inc. as of December 31, 2020 and 2019, the related consolidated statements of comprehensive loss, stockholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2020, and the related notes and our report dated March 1, 2021 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

Raleigh, North Carolina

March 1, 2021

ITEM 9. *CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE*

None.

ITEM 9A. *CONTROLS AND PROCEDURES*

Evaluation of Disclosure Controls and Procedures

We maintain a set of disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Our disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. We carried out an evaluation as required by paragraph (b) of Rule 13a-15 or Rule 15d-15 under the Exchange Act, 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 (as defined in Rule 13a-15(e) or Rule 15d-15(e) under the Exchange Act). Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2020, our disclosure controls and procedures are effective.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting and for the assessment of the effectiveness of internal control over financial reporting. As defined in Rule 13a-15(f) or Rule 15d-15(f) under the Exchange Act, internal control over financial reporting is a process designed by, or under the supervision of, our principal executive and principal financial officers and effected by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the financial statements in accordance with U.S. GAAP. Internal control over financial reporting includes policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect our transactions and the dispositions of our assets; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on our financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In connection with the preparation of our annual financial statements, management has undertaken an assessment of the effectiveness of our internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework) (the COSO Framework). Management's assessment included an evaluation of the design of our internal control over financial reporting and testing of the operational effectiveness of those controls.

Based on this assessment, management has concluded that, as of December 31, 2020, our internal control over financial reporting was effective. Management believes our internal control over financial reporting will provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.

Ernst & Young LLP, the independent registered public accounting firm that audited our financial statements included in this report, has issued an attestation report on the Company's internal control over financial reporting, a copy of which appears on page 77 of this annual report.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2020 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. ***OTHER INFORMATION***

None.

PART III

ITEM 10. ***DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE***

The information required by this item is set forth under the captions *"Items to be Voted upon — 1. Election of Directors," "Executive Officers,"* and *"Corporate Governance"* in our definitive Proxy Statement for the 2021 Annual Meeting of Stockholders and incorporated herein by reference.

ITEM 11. ***EXECUTIVE COMPENSATION***

The information required by this item is set forth under the captions *"Compensation Discussion and Analysis," "Summary Compensation Table," "Grants of Plan-Based Awards in 2020," "Outstanding Equity Awards at December 31, 2020," "2020 Option Exercises and Stock Vested," "Potential Payments Upon Termination or Change in Control," "2020 Director Compensation," "Compensation Committee Interlocks and Insider Participation," "Compensation Committee Report,"* and *"Delinquent Section 16(a) Reports"* in our definitive Proxy Statement for the 2021 Annual Meeting of Stockholders and incorporated herein by reference.

ITEM 12. ***SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS***

The information required by this item is set forth under the captions *"Equity Compensation Plan Information"* and *"Security Ownership of Certain Beneficial Owners and Management"* in our definitive Proxy Statement for the 2021 Annual Meeting of Stockholders and incorporated herein by reference.

ITEM 13. ***CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE***

The information required by this item is set forth under the captions *"Certain Relationships and Related Transactions"* and *"Corporate Governance"* in our definitive Proxy Statement for the 2021 Annual Meeting of Stockholders and incorporated herein by reference.

ITEM 14. ***PRINCIPAL ACCOUNTING FEES AND SERVICES***

The information required by this item is set forth under the caption *"Items to be Voted upon — 2. Ratification of Appointment of Independent Registered Public Accountants"* in our definitive Proxy Statement for the 2021 Annual Meeting of Stockholders and incorporated herein by reference.

PART IV

ITEM 15. ***EXHIBITS, FINANCIAL STATEMENT SCHEDULES***

(a) Financial Statements

The following financial statements appear in Item 8 of this Form 10-K:

No financial statement schedules are included because the information is either provided in the consolidated financial statements or is not required under the related instructions or is inapplicable and such schedules therefore have been omitted.

(b) Exhibits

Number	Description
3.1	Third Restated Certificate of Incorporation of BioCryst Pharmaceuticals, Inc. 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 BioCryst Pharmaceuticals, Inc. 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 BioCryst Pharmaceuticals, Inc. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed May 7, 2014.
3.4	Certificate of Increase of Authorized Number of Shares of Series B Junior Participating Preferred Stock. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed November 4, 2008.
3.5	Certificate of Increase of Authorized Number of Shares of Series B Junior Participating Preferred Stock. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed May 7, 2014.
3.6	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.
3.7	Certificate of Amendment to the Third Restated Certificate of Incorporation of BioCryst Pharmaceuticals, Inc. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed May 13, 2020.
3.8	Amended and Restated Bylaws of BioCryst Pharmaceuticals, Inc., effective October 29, 2008. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed November 4, 2008.
3.9	Amendment to Amended and Restated By-Laws of BioCryst Pharmaceuticals, Inc., effective January 21, 2018. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed January 22, 2018.
(4.1)	Description of Securities
4.2	Indenture, dated as of March 9, 2011 by and between JPR Royalty Sub LLC and U.S. Bank National Association, as trustee. Incorporated by reference to Exhibit 4.3 to the Company's Form 10-Q filed May 6, 2011.
4.3	Form of Pre-Funded Warrant to Purchase Common Stock, dated November 21, 2019. Incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed November 21, 2019.
4.4	Form of Pre-Funded Warrant to Purchase Common Stock, dated June 1, 2020. Incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed June 1, 2020.
10.1&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated March 29, 2012). Incorporated by reference to Exhibit 10.1 of the Company's Form 8-K filed May 25, 2012.
10.2&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated March 8, 2014). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed May 5, 2014.
10.3&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated May 23, 2016). Incorporated by reference to Exhibit 10.1 to the Company's Registration Statement on Form S-8, filed May 23, 2016.
10.4&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated April 3, 2017). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed May 30, 2017.
10.5&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated September 17, 2018). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed October 31, 2018.
10.6&	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated as of April 12, 2019). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed June 4, 2019.
10.7&	BioCryst Pharmaceuticals, Inc. Amended and Restated Stock Incentive Plan (as amended and restated as of March 19, 2020). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed May 13, 2020.
10.8&	Form of Notice of Grant of Non-Employee Director Automatic Stock Option and Stock Option Agreement under the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan. Incorporated by reference to Exhibit 10.4 to the Company's Form 10-K filed March 4, 2008.

10.9&	Form of Notice of Grant of Stock Option and Stock Option Agreement under the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan. Incorporated by reference to Exhibit 10.5 to the Company's Form 10-K filed March 4, 2008.
10.10&	Standard Stock Option Agreement under the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan. Incorporated by reference to Exhibit 10.7 to the Company's Form 10-K filed March 2, 2015.
10.11&	Form of Notice of Grant of Restricted Stock Unit Award and Restricted Stock Unit Agreement under the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan. Incorporated by reference to Exhibit 10.8 of the Company's Form 10-K filed March 2, 2015.
10.12&	BioCryst Pharmaceuticals, Inc. Employee Stock Purchase Plan (as amended and restated as of March 19, 2020). Incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed May 13, 2020.
10.13&	BioCryst Pharmaceuticals, Inc. Inducement Equity Incentive Plan (effective as of April 24, 2019). Incorporated by reference to Exhibit 99.1 to the Company's Form S-8 (File No. 333-231108) filed April 29, 2019.
10.14&	BioCryst Pharmaceuticals, Inc. Inducement Equity Incentive Plan (as amended and restated February 7, 2020). Incorporated by reference to Exhibit 10.2 of the Company's Form 10-Q filed May 11, 2020.
10.15&	BioCryst Pharmaceuticals, Inc. Inducement Equity Incentive Plan (as amended and restated July 17, 2020). Incorporated by reference to Exhibit 99.1 to the Company's Form S-8 (File No. 333-245024) filed August 12, 2020.
(10.16)&	Form of Notice of Grant of Stock Option and Standard Stock Option Agreement under the BioCryst Pharmaceuticals, Inc. Inducement Equity Incentive Plan.
10.17&	BioCryst Pharmaceuticals, Inc. Annual Incentive Plan (effective as of December 16, 2020). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed December 17, 2020.
10.18&	Executive Relocation Policy. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-K filed March 4, 2008.
10.19&	Amended and Restated Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Jon P. Stonehouse, dated February 14, 2007. Incorporated by reference to Exhibit 10.12 to the Company's Form 10-K filed March 14, 2007.
10.20&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Thomas R. Staab II, dated May 23, 2011. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed May 25, 2011.
10.21&	Separation Agreement between BioCryst Pharmaceuticals, Inc. and Thomas R. Staab II, dated November 7, 2019. Incorporated by reference to Exhibit 10.18 to the Company's Form 10-K filed March 13, 2020.
10.22&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and William P. Sheridan, dated June 12, 2008. Incorporated by reference to Exhibit 10.27 to the Company's Form 10-Q filed August 8, 2008.
10.23&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Yarlagadda S. Babu, dated April 27, 2012. Incorporated by reference to Exhibit 10.10 to the Company's Form 10-K filed March 10, 2014.
10.24&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Alane P. Barnes, dated August 8, 2013. Incorporated by reference to Exhibit 10.11 to the Company's Form 10-K filed March 10, 2014.
10.25&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Megan Sniecinski, dated May 31, 2019. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed August 8, 2019.
(10.26)&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Charles Gayer, dated January 14, 2020.
10.27&	Employment Letter Agreement between BioCryst Pharmaceuticals, Inc. and Anthony Doyle, dated March 29, 2020. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed May 11, 2020.
(10.28)†*	License, Development and Commercialization Agreement dated as of February 28, 2007, by and between the Company and Shionogi & Co., Ltd. Incorporated by reference to Exhibit 10.4 to the Company's Form 10-Q filed May 10, 2007.

(10.29)†*	First Amendment to License, Development and Commercialization Agreement, effective as of September 30, 2008, between the Company and Shionogi & Co., Ltd. Incorporated by reference to Exhibit 10.19 to the Company's Form 10-K filed March 6, 2009.
10.30	Stock and Warrant Purchase Agreement dated as of August 6, 2007, by and among BioCryst Pharmaceuticals, Inc. and each of the Investors identified on the signature pages thereto. Incorporated by reference to Exhibit 4.1 of the Company's Form 8-K filed August 7, 2007.
10.31	Stock Purchase Agreement, dated as of February 17, 2005, by and among BioCryst Pharmaceuticals, Inc., Baker Bros. Investments, L.P., Baker Biotech Fund II, L.P., Baker Bros. Investments II, L.P., Baker Biotech Fund II (Z), L.P., Baker/Tisch Investments, L.P., Baker Biotech Fund III, L.P., Baker Biotech Fund I, L.P., Baker Biotech Fund III (Z), L.P. and 14159, L.P. Incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed February 17, 2005.
(10.32)†*	License Agreement dated as of June 27, 2000, by and among Albert Einstein College of Medicine, Industrial Research, Ltd. and BioCryst Pharmaceuticals, Inc., as amended by the First Amendment Agreement dated as of July 26, 2002 and the Second Amendment Agreement dated as of April 15, 2005.
(10.33)†*	Third Amendment Agreement by and among Albert Einstein College of Medicine, Industrial Research, Ltd. and BioCryst Pharmaceuticals, Inc., dated as of December 11, 2009.
10.34#	Fourth Amendment Agreement by and among Albert Einstein College of Medicine, Industrial Research, Ltd. and BioCryst Pharmaceuticals, Inc., dated

	as of May 5, 2010. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed August 6, 2010. (Portions omitted pursuant to request for confidential treatment.)
(10.35)†*	Fifth Amendment Agreement by and among Albert Einstein College of Medicine, Industrial Research, Ltd. and BioCryst Pharmaceuticals, Inc., dated as of November 17, 2011.
(10.36)†*	Sixth Amendment Agreement by and among Albert Einstein College of Medicine, Industrial Research, Ltd. and BioCryst Pharmaceuticals, Inc., dated as of June 19, 2012.
10.37	Novation Agreement among Albert Einstein College of Medicine of Yeshiva University, BioCryst Pharmaceuticals, Inc., Mundipharma International Corporation Limited, Callaghan Innovation Research Limited, and Victoria Link Limited, dated May 18, 2015. Incorporated by reference to Exhibit 10.6 to the Company's Form 10-Q filed August 7, 2015.
10.38	Novation Agreement among Albert Einstein College of Medicine of Yeshiva University, BioCryst Pharmaceuticals, Inc., Callaghan Innovation Research Limited, and Victoria Link Limited, dated June 24, 2015. Incorporated by reference to Exhibit 10.7 to the Company's Form 10-Q filed August 7, 2015.
10.39	Purchase and Sale Agreement, dated as of March 9, 2011 between BioCryst Pharmaceuticals, Inc. and JPR Royalty Sub LLC. Incorporated by reference to Exhibit 10.1 of the Company's Form 10-Q filed May 6, 2011.
10.40	Pledge and Security Agreement, dated as of March 9, 2011 between BioCryst Pharmaceuticals, Inc. and U.S. Bank National Association, as trustee. Incorporated by reference to Exhibit 10.2 of the Company's Form 10-Q filed May 6, 2011.
10.41	Confirmation of terms and conditions of ISDA Master Agreement, dated as of March 7, 2011, between Morgan Stanley Capital Services Inc. and BioCryst Pharmaceuticals, Inc. dated as of March 9, 2011. Incorporated by reference to Exhibit 10.3 of the Company's Form 10-Q filed May 6, 2011.
10.42#	Agreement, dated as of September 12, 2013, between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases. Incorporated by reference to Exhibit 10.2 of the Company's Form 10-Q filed November 8, 2013. (Portions omitted pursuant to request for confidential treatment.)
10.43#	Amendment #1 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated December 26, 2013. Incorporated by reference to Exhibit 10.51 to the Company's Form 10-K filed on March 10, 2014. (Portions omitted pursuant to request for confidential treatment.)

10.44#	Amendment #2 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated January 24, 2014. Incorporated by reference to Exhibit 10.52 to the Company's Form 10-K filed on March 10, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.45#	Amendment #3 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated June 17, 2014. Incorporated by reference to Exhibit 10.5 to the Company's Form 10-Q filed on August 8, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.46#	Amendment #4 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated June 17, 2014. Incorporated by reference to Exhibit 10.6 to the Company's Form 10-Q filed on August 8, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.47#	Amendment #5 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated August 11, 2014. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on November 7, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.48#	Amendment #6 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated August 27, 2014. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on November 7, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.49#	Amendment #8 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated September 17, 2014. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed on November 7, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.50#	Amendment #9 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated October 29, 2014. Incorporated by reference to Exhibit 10.4 to the Company's Form 10-Q filed on November 7, 2014. (Portions omitted pursuant to request for confidential treatment.)
10.51#	Amendment #10 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated February 13, 2015. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on August 7, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.52#	Amendment #11 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated March 19, 2015. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed on August 7, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.53#	Amendment #12 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated June 12, 2015. Incorporated by reference to Exhibit 10.4 to the Company's Form 10-Q filed on August 7, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.54#	Amendment #13 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated June 17, 2015. Incorporated by reference to Exhibit 10.5 to the Company's Form 10-Q filed on August 7, 2015. (Portions omitted pursuant to request for confidential treatment.)

10.55#	Amendment #14 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated September 16, 2015. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed on November 6, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.56	Amendment #15 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated November 16, 2015. Incorporated by reference to Exhibit 10.70 to the Company's Form 10-K filed on February 26, 2016.
10.57#	Amendment #16 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated December 18, 2015. Incorporated by reference to Exhibit 10.71 to the Company's Form 10-K filed on February 26, 2016. (Portions omitted pursuant to request for confidential treatment.)
10.58	Amendment #17 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated April 18, 2016. Incorporated by reference to Exhibit 10.74 to the Company's Form 10-K filed on February 27, 2017.

10.59#	Amendment #18 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated June 30, 2016. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed on August 8, 2016. (Portions omitted pursuant to request for confidential treatment.)
10.60#	Amendment #19 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated August 10, 2016. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on November 8, 2016. (Portions omitted pursuant to request for confidential treatment.)
10.61#	Amendment #20 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated January 9, 2017. Incorporated by reference to Exhibit 10.77 to the Company's Form 10-K filed on February 27, 2017. (Portions omitted pursuant to request for confidential treatment.)
10.62#	Amendment #21 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated March 21, 2018. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on May 9, 2018. (Portions omitted pursuant to request for confidential treatment.)
10.63	Amendment #22 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated September 10, 2018. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed November 8, 2018.
10.64	Amendment #23 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated August 21, 2020. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed November 6, 2020.
10.65	Amendment #23 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated September 14, 2020. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed November 6, 2020.
10.66†*	Agreement, dated September 1, 2020, between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases. Incorporated by reference to Exhibit 10.4 to the Company's Form 10-Q filed November 6, 2020.
10.67†*	Amendment #1 to the Agreement between BioCryst Pharmaceuticals, Inc. and the National Institute of Allergy and Infectious Diseases, dated October 14, 2020. Incorporated by reference to the Company's Form 10-Q filed November 6, 2020.
10.68#	Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated March 27, 2015. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on May 8, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.69#	Amendment #1 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated June 2, 2015. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on August 7, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.70#	Amendment #2 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated July 8, 2015. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on November 6, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.71#	Amendment #3 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated August 25, 2015. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on November 6, 2015. (Portions omitted pursuant to request for confidential treatment.)
10.72#	Amendment #4 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated February 25, 2016. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on May 9, 2016. (Portions omitted pursuant to request for confidential treatment.)

10.73#	Amendment #5 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated April 11, 2016. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on August 8, 2016. (Portions omitted pursuant to request for confidential treatment.)

10.74#	Amendment #6 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated May 20, 2016. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on August 8, 2016. (Portions omitted pursuant to request for confidential treatment.)
10.75#	Amendment #7 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated September 26, 2016. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on November 8, 2016. (Portions omitted pursuant to request for confidential treatment.)
10.76	Amendment #8 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated September 20, 2017. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on November 8, 2017.
10.77#	Amendment #9 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated December 1, 2017. Incorporated by reference to Exhibit 10.88 to the Company's Form 10-K filed on March 12, 2018.
10.78	Amendment #10 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated March 19, 2018. Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q filed on November 8, 2018.
10.79	Amendment #11 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness and Response, dated September 20, 2018. Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q filed on November 8, 2018. (Portions omitted pursuant to request for confidential treatment.)
10.80†*	Amendment #12 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness Response, dated April 17, 2020. Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q filed August 7, 2020.
10.81	Amendment #13 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness Response, dated September 29, 2020. Incorporated by reference to Exhibit 10.8 to the Company's Form 10-Q filed November 6, 2020.
(10.82)	Amendment #14 to the Agreement between BioCryst Pharmaceuticals, Inc. and the Biomedical Advanced Research and Development Authority within the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Preparedness Response, dated November 24, 2020.
10.83	Registration Rights Agreement, dated March 15, 2017, by and between BioCryst Pharmaceuticals, Inc. 667, L.P., and Baker Brothers Life Sciences, L.P. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed March 17, 2017.
10.84	Amendment to the Registration Rights Agreement, dated January 21, 2018, by and among BioCryst Pharmaceuticals, Inc., 667, L.P. and Baker Brothers Life Sciences, L.P. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed January 22, 2018.
10.85	Securities Purchase Agreement, dated November 19, 2019, among BioCryst Pharmaceuticals, Inc., Baker Brothers Life Sciences, L.P. and 667, L.P. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on November 20, 2019.

10.86	Agreement dated as of September 1, 2018 between BioCryst Pharmaceuticals, Inc. and the Centers for Disease Control and Prevention. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on September 6, 2018.
(10.87)	Amendment #1 to Agreement between BioCryst Pharmaceuticals, Inc. and the Centers for Disease Control and Prevention, dated October 1, 2018, assigning contract administration to ASPR-BARDA within the U.S. Department of Health and Human Services.
10.88	Amendment #2 to Agreement between BioCryst Pharmaceuticals, Inc. and the U.S. Department of Health and Human Services, dated September 23, 2019. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on September 26, 2019.
10.89	Amendment #3, dated August 31, 2020, to the Contract dated September 1, 2018 between BioCryst Pharmaceuticals, Inc. and the U.S. Department of Health and Human Services. Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed September 3, 2020.
10.90†*	Commercialization and License Agreement dated as of November 5, 2019 between BioCryst Pharmaceuticals, Inc. and Torii Pharmaceutical Co., Ltd. Incorporated by reference to Exhibit 10.83 to the Company's Form 10-K filed March 13, 2020.
(10.91)†*	Purchase and Sale Agreement, dated as of December 7, 2020, between BioCryst Pharmaceuticals, Inc. and RPI 2019 Intermediate Finance Trust.
(10.92)†*	Credit Agreement, dated as of December 7, 2020, among BioCryst Pharmaceuticals, Inc., as borrower, BioCryst Ireland Limited, as a guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto, and Athyrium Opportunities III Co-Invest 1 LP, as lender and as administrative agent for the lenders.
(21)	Subsidiaries of the Registrant.
(23)	Consent of Ernst & Young, LLP, Independent Registered Public Accounting Firm.
(31.1)	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
(31.2)	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

(32.1)	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
(32.2)	Certification of the Chief Financial Officer pursuant to 18.U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.
(101)	Financial statements from the Annual Report on Form 10-K of BioCryst Pharmaceuticals, Inc. for the fiscal year ended December 31, 2020, formatted in Inline XBRL: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Comprehensive Loss, (iii) Consolidated Statements of Cash Flows, (iv) Consolidated Statements of Stockholders' Equity and (v) Notes to Consolidated Financial Statements.
(104)	Cover Page Interactive Data File – The cover page from this annual report on Form 10-K for the fiscal year ended December 31, 2020 is formatted in Inline XBRL (contained in Exhibit 101).
#	Confidential treatment granted.
†	Portions of this exhibit have been omitted pursuant to Item 601(b)(10) of Regulation S-K. The Company agrees to furnish to the Securities and Exchange Commission a copy of any omitted portions of the exhibit upon request.
*	Certain identified information has been excluded from this exhibit because it is both not material and would likely cause competitive harm to the Company if publicly disclosed.
&	Management contracts.
( )	Filed herewith.

ITEM 16. ***FORM 10-K SUMMARY.***

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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 March 1, 2021.

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Jon P. Stonehouse
Jon P. Stonehouse
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on March 1, 2021:

Signature	**Title(s)**
/s/ Jon P. Stonehouse Jon P. Stonehouse	President, Chief Executive Officer and Director (Principal Executive Officer)
/s/ Anthony Doyle Anthony Doyle	Senior Vice President and Chief Financial Officer (Principal Financial Officer)
/s/ Michael L. Jones Michael L. Jones	Executive Director, Finance and Principal Accounting Officer (Principal Accounting Officer)
/s/ George B. Abercrombie George B. Abercrombie	Director
/s/ Stephen Aselage Stephen Aselage	Director
/s/ Theresa Heggie Theresa Heggie	Director
/s/ Nancy Hutson Nancy Hutson, Ph.D.	Director
/s/ Robert A. Ingram Robert A. Ingram	Director
/s/ Kenneth B. Lee, Jr. Kenneth B. Lee, Jr.	Director
/s/ Alan G. Levin Alan G. Levin	Director
/s/ Helen Thackray Helen Thackray, M.D.	Director

Exhibit 4.1

DESCRIPTION OF SECURITIES

BioCryst Pharmaceuticals, Inc. ("BioCryst" or the "Company") has one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). BioCryst's common stock is registered under Section 12(b) of the Exchange Act and is listed on The Nasdaq Stock Market LLC (Nasdaq Global Select Market) under the symbol "BCRX".

The following is a summary of the material terms of BioCryst's capital stock. This summary is not complete and is qualified in its entirety by reference to the Company's Third Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), and the Company's Amended and Restated Bylaws, as amended (the "Bylaws"), each of which is filed as an exhibit to the Annual Report on Form 10-K of which this Exhibit 4.1 is a part.

Authorized Capital Stock

Under the Certificate of Incorporation, BioCryst is currently authorized to issue up to 450,000,000 shares of common stock, par value $0.01 per share ("Common Stock"), and 5,000,000 shares of preferred stock, par value $0.01 per share ("Preferred Stock"). The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the capital stock of the Company entitled to vote.

Common Stock

Holders of Common Stock are entitled to one vote per share on all matters submitted to a vote of stockholders. There are no cumulative voting rights. Directors are elected by a plurality of the votes cast by the stockholders entitled to vote. Except as provided otherwise in the Certificate of Incorporation, the Bylaws, or the General Corporation Law of the State of Delaware (the "DGCL"), the holders of a majority of the Common Stock present in person or represented by proxy and voting on a matter shall decide any matter to be voted upon by the stockholders at a meeting.

Holders of Common Stock have the right to receive dividends as and when declared by the Company's Board of Directors (the "Board") from funds legally available therefor, subject to any preferential dividend rights of any Preferred Stock then outstanding. BioCryst has never paid cash dividends on its Common Stock.

Upon the Company's dissolution or liquidation, whether voluntary or involuntary, holders of Common Stock are entitled to receive all assets legally available for distribution to stockholders, subject to any preferential rights of any Preferred Stock then outstanding. Holders of Common Stock have no preemptive rights and have no rights to convert their Common Stock into any other securities. There are no redemption or sinking fund provisions applicable to the Common Stock. All outstanding shares of Common Stock are validly issued, fully paid and nonassessable.

Anti-Takeover Provisions

Some provisions of the Certificate of Incorporation, the Bylaws, and DGCL may have the effect of delaying, discouraging, or preventing a change in control of the Company or changes in its management. Pursuant to the Certificate of Incorporation and the Bylaws:

- the Board is authorized to issue "blank check" preferred stock without further stockholder approval;
- the Board is classified, with members thereof serving staggered three-year terms;
- stockholders may not cumulate votes in the election of directors;
- vacancies on the Board may be filled only by the Board;
- stockholders may remove directors only for cause and only by the affirmative vote of the holders of at least 75 percent of the total number of votes entitled to be cast by the holders of all of the shares of the Company's capital stock then entitled to vote generally in the election of directors (a "supermajority vote");
- stockholders may take action only at a duly called meeting of the stockholders, and stockholders are not permitted to act by written consent;

- special meetings of stockholders may be called only by the Board; and
- stockholders must satisfy advance notice procedures to submit proposals or nominate directors for consideration at a stockholders meeting.

A supermajority vote is required to amend Article NINTH and Article TENTH of the Certificate of Incorporation, which pertain to the number, classification, and removal of the Company's directors, the creation and filling of vacancies on the Board, the requirement that actions of stockholders be taken at a duly called meeting and not by written consent, and the requirement that special meetings only be called by the Board.

In addition, BioCryst is subject to the provisions of Section 203 of the DGCL. In general, the statute prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date that the person became an interested stockholder unless, with some exceptions, the business combination or the transaction in which the person became an interested stockholder is approved in a prescribed manner. Generally, a "business combination" includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the stockholder, and an "interested stockholder" is a person who, together with affiliates and associates, owns (or within three years prior, did own) 15% or more of the corporation's outstanding voting stock. This provision may have the effect of delaying, deferring, or preventing a change in control without further action by the stockholders.

Exclusive Forum for Certain Actions

The Bylaws also provide that unless the Company consents 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 the Company's behalf; (ii) any action asserting a claim of breach of a fiduciary duty owed by any of the Company's directors, officers, stockholders, employees, or agents to the Company or to the Company's stockholders; (iii) any action asserting a claim against the Company or any of its directors, officers, stockholders, employees, or agents arising out of or relating to any provision of the DGCL, the Certificate of Incorporation, or the Bylaws; or (iv) any action against the Company or any of its directors, officers, stockholders, employees, or agents governed by the internal affairs doctrine of the State of Delaware. The Bylaws provide that any person or entity purchasing or otherwise acquiring any interest in shares of Common Stock will be deemed to have notice of, and to have consented to, this choice of forum provision. This exclusive forum provision may limit a stockholder's ability to choose its preferred judicial forum for disputes with the Company or the Company's directors, officers, employees, or agents. 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 of 1933, as amended, or the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

BIOCRYST PHARMACEUTICALS, INC.
INDUCEMENT EQUITY INCENTIVE PLAN

NOTICE OF GRANT OF STOCK OPTION

Notice is hereby given of the following stock option grant (the "Option") to purchase shares of the Common Stock of BioCryst Pharmaceuticals, Inc. (the "Company") pursuant to the Company's Inducement Equity Incentive Plan (the "Plan"):

Optionee:	_____
Grant Date:	_____
Option Price:	_____
Number of Optioned Shares:	_____
Option Expiration Date:	_____
Type of Option:	Non-Statutory Stock Option (NSO)

Exercise Schedule / Vesting Terms:

Optionee understands that the Option is granted subject to and in accordance with the express terms and conditions of the Plan and agrees to be bound by and conform to the terms and conditions of the Plan, the Plan Prospectus, this Notice of Grant of Stock Option and its accompanying Stock Option Agreement. Optionee acknowledges that copies of the Plan, the Plan Prospectus, and the Stock Option Agreement are available to Optionee on the Company's intranet and have been made available to Optionee.

No Employment or Service Contract. Nothing in the Option Agreement or the Plan shall confer upon the Optionee the right to continue in the Service of the Company for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Company or the Optionee, which rights are hereby expressly reserved by each, to terminate Optionee's Service at any time for any reason whatsoever, with or without cause.

By my signature below, I hereby acknowledge receipt of this Option granted on the Grant Date specified above and issued to me under the terms and conditions of the Plan.

Optionee:	_____	**BIOCRYST PHARMACEUTICALS, INC.**	
Address:	_____	By:	_____
	_____	Name:	_____
Dated:	_____	Title:	_____

BIOCRYST PHARMACEUTICALS, INC.
STANDARD STOCK OPTION AGREEMENT
INDUCEMENT EQUITY INCENTIVE PLAN
WITNESSETH:

RECITALS

A. The Board of Directors of BioCryst Pharmaceuticals, Inc. (the "Company") has adopted the Company's Inducement Equity Incentive Plan (the "Plan") for the purpose of attracting and retaining the services of selected prospective employees who are expected to contribute to the financial success of the Company or its parent or subsidiary corporations.

B. Optionee is an individual who is expected to render valuable services to the Company or its parent or subsidiary corporations, and this Agreement is executed pursuant to, and is intended to carry out the purposes of, the Plan in connection with the Company's grant of a stock option to Optionee.

NOW, THEREFORE, it is hereby agreed as follows:

1. **Grant of Option.** Subject to and upon the terms and conditions set forth in this Agreement, the Company hereby grants to Optionee, as of the grant date (the "Grant Date") specified in the accompanying Notice of Grant of Stock Option (the "Grant Notice"), a stock option to purchase up to that number of shares of the Company's Common Stock (the "Optioned Shares") specified in the Grant Notice. The Optioned Shares shall be purchasable from time to time during the option term at the option price per share (the "Option Price") specified in the Grant Notice. The option is a nonqualified stock option.

2. **Option Term.** This option shall expire at the close of business on the Expiration Date specified in the Grant Notice, unless sooner terminated in accordance with Paragraph 5 or 6 of this Agreement.

3. **Limited Transferability.** During the lifetime of the Optionee, this option shall be exercisable only by the Optionee and shall not be assignable or transferable by the Optionee except for a transfer by will or by the laws of descent and distribution following the Optionee's death. Notwithstanding the foregoing, this option may, in connection with the Optionee's estate plan, be assigned in whole or in part during the Optionee's lifetime either as (i) as a gift to one or more members of Optionee's immediate family, to a trust in which Optionee and/or one or more such family members hold more than fifty percent (50%) of the beneficial interest or an entity in which more than fifty percent (50%) of the voting interests are owned by Optionee and/or one or more such family members, or (ii) pursuant to a domestic relations order. The assigned portion shall be exercisable only by the person or persons who acquire a proprietary interest in the option pursuant to such assignment. The terms applicable to the assigned portion shall be the same as those in effect for this option immediately prior to such assignment and shall be set forth in such documents issued to the assignee as the Plan Administrator may deem appropriate.

4. **Exercisability.** This option shall become exercisable for the Optioned Shares in installments as is specified in the Grant Notice. As the option becomes exercisable for one or more installments, the installments shall accumulate and the option shall remain exercisable for the accumulated installments until the Expiration Date or the sooner termination of the option term under this Agreement.

5. **Acceleration; Termination.** The option term specified in Paragraph 2 shall terminate (and this option shall cease to be exercisable) prior to the Expiration Date should one of the following provisions become applicable:

(i) Except to the extent otherwise provided in subparagraphs (ii) through (v) below, should optionee cease to remain in Service at any time during the option term, then the period for exercising this option shall be reduced to a three (3)-month period commencing with the date of such cessation of Service, but in no event shall this option be exercisable at any time after the Expiration Date. Upon the expiration of such three (3)-month period or (if earlier) upon the Expiration Date, this option shall terminate and cease to be outstanding. However, should Optionee die during the three (3)-month period following his or her cessation of Service, the personal representative of the Optionee's estate or the person or persons to whom this option is transferred pursuant to the Optionee's will or in accordance with the laws of descent or distribution shall have a twelve (12)-month period following the date of the Optionee's death during which to exercise this Option.

(ii) Should Optionee, after completing five (5) full years of Service, die while in Service, then the exercisability of each of his or her outstanding options shall automatically accelerate so that each such option shall become fully exercisable with respect to the total number of Optioned Shares at the time subject to such option and may be exercised for all or any portion of such shares. The personal representative of the Optionee's estate or the person or persons to whom this option is transferred pursuant to the Optionee's will or in accordance with the laws of descent and distribution shall have a twelve (12)-month period following the date of the Optionee's death during which to exercise this option, but in no event shall this option be exercisable at any time after the Expiration Date.

(iii) Should Optionee die while in Service prior to completing five (5) full years of Service, then the period for which each outstanding vested option held by the Optionee at the time of death shall be exercisable by the Optionee's estate or the person or persons to whom the option is transferred pursuant to the Optionee's will shall be limited to the twelve (12)-month period following the date of the Optionee's death, but in no event shall this option be exercisable at any time after the Expiration Date.

(iv) Should Optionee become permanently disabled (as defined in Section 22(e)(3) of the Internal Revenue Code) and cease by reason thereof to remain in Service at any time during the option term, then the period for exercising this option shall be reduced to a twelve (12)-month period commencing with the date of such cessation of Service, but in no event shall this option be exercisable at any time after the Expiration Date. Upon the expiration of such twelve (12)-month period or (if earlier) upon the Expiration Date, this option shall terminate and cease to be outstanding.

(v) Should (A) the Optionee's Service be terminated for misconduct (including, but not limited to, any act of dishonesty, willful misconduct, fraud or embezzlement) or (B) the Optionee make any unauthorized use or disclosure of confidential information or trade secrets of the Company or its parent or subsidiary corporations, then in any such event this option (vested and unvested) shall terminate immediately and cease to be exercisable.

(vi) During the limited period of exercisability applicable in accordance with subparagraphs (i) through (iv) above, this option may not be exercised for more than the number of the Optioned Shares (if any) for which this option is, at the time of the Optionee's cessation of Service, exercisable in accordance with the exercise provisions specified in this Agreement and the Grant Notice.

(vii) For purposes of this Paragraph 5 and for all other purposes under this Agreement, the following definitional provisions shall be in effect:

A. The Optionee shall be deemed to remain in Service for so long as the Optionee continues to render periodic services to the Company or any parent or subsidiary corporation, whether as an Employee, a non-employee member of the Company's Board of Directors or an independent consultant or advisor.

B. The Optionee shall be deemed to be an Employee and to continue in the Company's employ for so long as the Optionee remains in the employ of the Company or one or more of its parent or subsidiary corporations, subject to the control and direction of the employer entity as to both the work to be performed and the manner and method of performance.

C. A corporation shall be considered to be a subsidiary corporation of the Company if it is a member of an unbroken chain of corporations beginning with the Company, provided each such corporation in the chain (other than the last corporation) owns, at the time of determination, stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

D. A corporation shall be considered to be a parent corporation of the Company if it is a member of an unbroken chain ending with the Company, provided each such corporation in the chain (other than the Company) owns, at the time of determination, stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

6. **Corporate Transaction.** In the event of a Corporate Transaction or a Change in Control, the option shall be treated as specified in the Plan.

7. **Adjustment in Optioned Shares.**

(a) In the event any change is made to the Common Stock issuable under the Plan 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 receipt of consideration, then appropriate adjustments shall be made to (i) the total number and/or class of Optioned Shares subject to this option and (ii) the Option Price payable per share in order to reflect such change and thereby preclude a dilution or enlargement of benefits hereunder.

(b) If this option is to be assumed or is otherwise to remain outstanding after a Corporate Transaction, then this option shall be appropriately adjusted to apply and pertain to the number and class of securities which would have been issuable to the Optionee in the consummation of such Corporate Transaction had the option been exercised immediately prior to such Corporate Transaction, and appropriate adjustments shall also be made to the Option Price payable per share, provided the aggregate Option Price payable hereunder shall remain the same.

8. **Privilege of Stock Ownership**. The holder of this option shall not have any shareholder rights with respect to the Optioned Shares until such individual shall have exercised the option and paid the Option Price.

9. **Manner of Exercising Option.**

(a) In order to exercise this option with respect to all or any part of the Optioned Shares for which this option is at the time exercisable, Optionee (or in the case of exercise after Optionee's death, the Optionee's executor, administrator, heir or legatee, as the case may be) must take the following actions:

(i) Provide the Plan Administrator (or its designee) with written notice of the option exercise (the "Exercise Notice") specifying the number of Optioned Shares for which the option is being exercised.

(ii) Pay the aggregate Option Price for the purchased shares in one of the following alternative forms:

1. full payment in cash or check payable to the Company's order; or

2. full payment in shares of Common Stock held by Optionee for the requisite period necessary to avoid a charge to the Company's reported earnings and valued at Fair Market Value on the Exercise Date; or

3. full payment in a combination of shares of Common Stock held for the requisite period necessary to avoid a charge to the Company's earnings and valued at Fair Market Value on the Exercise Date and cash or check drawn to the Company's order;

4. full payment through a "net settlement" procedure pursuant to which the Company shall withhold shares of Common Stock issuable in connection with the exercise of the option with a Fair Market Value equal to the Option Price plus all applicable Federal and state income and employment taxes required to be withheld by the Company by reason of such purchase; or

5. If the Company's outstanding Common Stock is registered under Section 12(g) of the Securities Exchange Act of 1934, as amended, at the time this option is exercised, then payment of the Option Price may also be effected through a broker-dealer sale and remittance procedure pursuant to which Optionee (i) shall provide irrevocable written instructions to a designated brokerage firm to effect the immediate sale of the purchased shares and remit to the Company, out of the sale proceeds available on the settlement date, sufficient funds to cover the aggregate Option Price payable for the purchased shares plus all applicable Federal and state income and employment taxes required to be withheld by the Company by reason of such purchase and (ii) shall provide written directives to the Company to deliver the certificates for the purchased shares directly to such brokerage firm in order to complete the sale.

(iii) Furnish to the Company appropriate documentation that the person or persons exercising the option (if other than Optionee) have the right to exercise this option.

(b) For purposes of subparagraph (a) above and for all other valuation purposes under this Agreement, the 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 not at the time listed or admitted to trading on any national securities exchange but is traded in the over-the-counter market, the Fair Market Value shall be the mean between the highest bid and lowest asked prices (or, if such information is available, the closing selling price) per share of Common Stock on the date in question in the over-the-counter market, as such prices are reported by the Financial Industry Regulatory Authority through the Nasdaq system or any successor system. If there are no reported bid and asked prices (or closing selling price) for the Common Stock on the date in question, then the mean between the highest bid price and lowest asked price (or the closing selling price) on the last preceding date for which such quotations exist shall be determinative of Fair Market Value.

(ii) If the Common Stock is at the time listed or admitted to trading on any national securities exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the securities exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such exchange. If there is no reported sale of Common Stock on such exchange on the date in question, then the Fair Market Value shall be the closing selling price on the exchange on the last preceding date for which such quotation exists.

(iii) If the Common Stock is on the date in question neither listed or admitted to trading on any stock exchange nor traded in the over-the-counter market, then the fair market value shall be determined by the Plan Administrator after taking into account such factors as the Plan Administrator shall deem appropriate.

(c) The Exercise Date shall be the date on which the Exercise Notice is delivered to the Plan Administrator. Except to the extent the sale and remittance procedure specified above is utilized for the exercise of the option, payment of the Option Price for the purchased shares must accompany such notice.

(d) As soon as practical after the Exercise Date, the Company shall issue to or on behalf of Optionee (or other person or persons exercising this option) the purchased Optioned Shares via electronic means or through delivery of a certificate or certificates representing the purchased Optioned Shares.

(e) In no event may this option be exercised for any fractional share.

10. **Compliance with Laws and Regulations.**

(a) The exercise of this option (or of its tandem stock appreciation right) and the issuance of Common Stock hereunder shall be subject to compliance by the Company and the Optionee with all applicable requirements of law relating thereto and with all applicable regulations of any stock exchange or over-the-counter market on which shares of the Company's Common Stock may be listed or traded at the time of such exercise and issuance.

(b) In connection with the exercise of this option (or its tandem stock appreciation right), Optionee shall execute and deliver to the Company such representations in writing as may be requested by the Company in order for it to comply with the applicable requirements of federal and state securities laws.

11. **Successors and Assigns.** Except to the extent otherwise provided in Paragraph 3 or 6, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, administrators, heirs, legal representatives and assigns of Optionee and the successors and assigns of the Company.

12. **Liability of Company.**

(a) If the Optioned Shares covered by this Agreement exceed, as of the Grant Date, the number of shares of Common Stock which may without shareholder approval be issued under the Plan, then this option shall be void with respect to such excess shares unless shareholder approval of an amendment sufficiently increasing the number of shares of Common Stock issuable under the Plan is obtained in accordance with the provisions of the Plan.

(b) The inability of the Company to obtain approval from any regulatory body having authority deemed by the Company to be necessary to the lawful issuance and sale of any Common Stock pursuant to this Agreement shall relieve the Company of any liability with respect to the non-issuance or sale of the Common Stock as to which such approval shall not have been obtained. The Company, however, shall use its best efforts to obtain all such approvals.

13. **No Employment or Service Contract.** Nothing in this Agreement or in the Plan shall confer upon the Optionee any right to continue in the Service of the Company (or any parent or subsidiary corporation of the Company employing or retaining Optionee) for any period of time or interfere with or otherwise restrict in any way the rights of the Company (or any parent or subsidiary corporation of the Company employing or retaining Optionee) or the Optionee, which rights are hereby expressly reserved by each, to terminate the Optionee's Service at any time for any reason whatsoever, with or without cause.

14. **Notices.** Any notice required to be given or delivered to the Company under the terms of this Agreement shall be in writing and addressed to the Company in care of the Corporate Secretary at its principal corporate offices. Any notice required to be given or delivered to Optionee shall be in writing and addressed to Optionee at the address indicated below Optionee's signature line on the Grant Notice. All notices shall be deemed to have been given or delivered upon personal delivery or upon deposit in the U.S. mail, postage prepaid and properly addressed to the party to be notified**.**

15. **Construction.** This Agreement and the option evidenced hereby are made and granted pursuant to the Plan and are in all respects limited by and subject to the express terms and provisions of the Plan. All decisions of the Plan Administrator with respect to any question or issue arising under the Plan or this Agreement shall be conclusive and binding on all persons having an interest in this option.

16. **Governing Law.** The interpretation, performance, and enforcement of this Agreement shall be governed by the laws of the State of Delaware without resort to that State's conflict-of-laws rules.

17. **Taxes.** In the event this option is designated as a non-statutory stock option in the Grant Notice, Optionee hereby agrees to make appropriate arrangements with the Company or parent or subsidiary corporation employing Optionee for the satisfaction of any federal, state or local income tax withholding requirements and federal social security employee tax requirements applicable to the exercise of this option.

18. **Restrictions on Optioned Shares.** The Company may impose such restrictions, conditions or limitations as it determines appropriate as to the timing and manner of any resales by Optionee or other subsequent transfers by Optionee of any Optioned Shares, including without limitation (a) restrictions under an insider trading policy, (b) restrictions designed to delay and/or coordinate the timing and manner of sales by Optionee and other optionees and (c) restrictions as to the use of a specified brokerage firm for such resales or other transfers.

19. **Conflict with Plan.** In the event of a conflict between the terms and conditions of this Agreement and the Plan, the Plan controls.

20. **Electronic Delivery.** Optionee hereby consents to the delivery of information (including, without limitation, information required to be delivered to Recipient pursuant to applicable securities laws) regarding the Company and its subsidiaries and affiliates, the Plan, and the option via Company web site or other electronic delivery.

21. **Headings.** The headings preceding the text of the sections hereof are inserted solely for convenience of reference, and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Exhibit 10.26

January 14, 2020

Charles Gayer
711 Watts Street
Durham, NC 27701

Dear Charlie:

On behalf of BioCryst Pharmaceuticals, Inc., a Delaware corporation (the "Company"), we are pleased to offer you the position of Chief Commercial Officer. We, along with the other members of the Company's Board of Directors (the "Board"), and the Company's management team, are all very impressed with what you will bring to the Company in this role.

This letter agreement (the "Agreement") will serve to confirm our agreement with respect to the terms and conditions of your employment.

1. Term of Employment.

(a) Subject to the terms and conditions of this Agreement, the Company hereby employs Charles Gayer ("Employee") as Chief Commercial Officer. Employee shall commence employment at the Company's offices in Durham, North Carolina. Employee shall devote substantially full-time attention to the business and affairs of the Company and its affiliates. Employee may (i) serve on corporate, civic, charitable or non-profit boards or committees, subject in all cases to the prior approval of the Board and other applicable written policies of the Company and its affiliates as in effect from time to time, and (ii) manage personal and family investments, participate in industry organizations and deliver lectures at educational institutions or events, so long as no such service or activity interferes, individually or in the aggregate, with the performance of Employee's responsibilities hereunder.

(b) The term of employment of Employee under this Agreement shall commence no later than January 15, 2020 (the "Effective Date") and terminate on the second anniversary of the Effective Date unless earlier terminated in accordance with the provisions of Section 4. In the event Employee is retained by the Company as Chief Commercial Officer past the second anniversary of the Effective Date, the terms of Employee's employment shall continue to be governed by this Agreement unless otherwise provided by the Board.

2. Basic Full-Time Compensation and Benefits.

(a) Commencing as of the Effective Date, as basic compensation for services rendered under this Agreement, Employee shall be entitled to receive from the Company a salary of $31,250 per month ($375,000 per annum) (the "Base Salary"), payable in accordance with the Company's standard payroll practices as in effect from time to time during the term of this Agreement. The Base Salary will be reviewed annually by the Board or a committee thereof and may be raised at the discretion of the Board or such committee.

(b) Employee shall be eligible to earn a cash bonus, payable as soon as reasonably practicable in the calendar year following each calendar year during the term of this Agreement, based on the Company's and/or Employee's achievement of performance related goals proposed by management and approved by the Board or a committee thereof for the Company's applicable fiscal year (the "Incentive Compensation"). The Incentive Compensation actually earned, if any, shall be determined in the sole discretion of the Board or a committee thereof and shall be based on a target amount equal to forty percent (40%) of the Base Salary earned by Employee during such fiscal year (the "Target Amount"). The Board or a committee thereof may, in its discretion, approve an Incentive Compensation payment in excess of the Target Amount if the performance goals have been exceeded. Employee must be currently employed at the Company in order to receive the Incentive Compensation payment for each fiscal year.

(c) Employee shall be entitled to receive such other benefits and perquisites provided to similarly situated executive officers of the Company, subject to modification or termination at any time, which benefits may include, without limitation, reasonable vacation (currently four (4) weeks), sick leave, medical benefits, life insurance, and participation in profit sharing or retirement plans.

3. Performance Based Equity Awards.

(d) During the term of this Agreement, Employee shall be eligible to receive equity-based compensation as determined in the sole discretion of the Board or a committee thereof, which may be subject to the achievement of certain performance targets set by the Board or such committee. All such equity-based awards shall be subject to the terms and conditions set forth in the Company's Stock Incentive Plan as in effect from time to time and award agreements issued thereunder.

4. Termination.

(a) If Employee's employment is terminated by the Company for Cause or by Employee other than pursuant to a Constructive Termination, or due to the expiration of the stated term of this Agreement or Employee's death or Disability, the Company shall pay Employee (i) any accrued and unpaid Base Salary, payable on the next payroll date; (ii)

reimbursement for any and all monies advanced or expenses incurred in connection with Employee's employment for reasonable and necessary expenses incurred by Employee on behalf of the Company for the period ending on the termination date, which amount shall be reimbursed within thirty (30) days of the Company's receipt of proper documentation from Employee; (iii) any compensation that Employee had previously deferred (including any interest earned or credited thereon), in accordance with the terms and conditions of the applicable deferred compensation plans or arrangements then in effect, to the extent vested as of Employee's termination date, paid pursuant to the terms of such plans or arrangements; and (iv) any vested amount or benefit payable under any benefit plan or program in accordance with the terms thereof (the foregoing items in this Section 4(a), the "Accrued Obligations").

For all purposes under this Agreement, a termination for "Cause" shall mean a determination by the Board that Employee's employment be terminated for any of the following reasons: (i) failure or refusal to comply in any material respect with lawful policies, standards or regulations of Company; (ii) a violation of a federal or state law or regulation applicable to the business of the Company; (iii) conviction or plea of no contest to a felony under the laws of the United States or any State; (iv) fraud or misappropriation of property belonging to the Company or its affiliates; (v) a breach in any material respect of the terms of any confidentiality, invention assignment or proprietary information agreement with the Company or with a former employer, (vi) failure to satisfactorily perform Employee's duties after having received written notice of such failure and at least thirty (30) days to cure such failure, or (vii) misconduct or gross negligence in connection with the performance of Employee's duties.

For all purposes under this Agreement, "Disability" shall mean the inability of Employee to perform Employee's duties hereunder by reason of physical or mental incapacity for ninety (90) days, whether consecutive or not, during any consecutive twelve (12) month period.

(b) If Employee's employment is terminated by the Company without Cause, or by Employee pursuant to a Constructive Termination, then Employee will receive any Accrued Obligations and, subject to Section 4(c), Employee will receive the following: (i)continuation of Base Salary for one (1) year following the effective termination date, payable in accordance with the regular payroll practices of the Company; (ii) payment of one times Employee's annual target Incentive Compensation in effect for the fiscal year in which Employee's termination date occurs, payable in equal installments over the regularly scheduled payroll periods of the Company for the one year following the effective date of termination; and (iii) if Employee elects to continue health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") following termination of employment, the Company shall pay the monthly premium under COBRA on the same basis as active employees until the earlier of (x) 12 months following the effective termination date, or (y) the date upon which Employee commences employment with an entity other than the Company. Employee will notify the Company in writing within five (5) days of Employee's receipt of an offer of employment with any entity other than the Company and will accordingly identify the

date upon which Employee will commence employment in such writing (clauses (i) through (iii), "Severance").

For all purposes under this Agreement, "Change of Control" shall mean: (i) the sale, transfer, or other disposition of all or substantially all of the assets of the Company in liquidation or dissolution of the Company; (ii) the consummation of a merger or consolidation of the Company with any other corporation or other entity, other than (I) a merger or consolidation (A) which results in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent fifty percent (50%) or more of the combined voting power of the surviving entity or the ultimate parent thereof outstanding immediately after such merger or consolidation and (B) immediately following which the individuals who comprise the Board immediately prior thereto constitute fifty percent (50%) or more of the board of directors of the entity surviving such merger or consolidation or, if the Company or the entity surviving such merger or consolidation is then a subsidiary, the ultimate parent thereof, or (II) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the beneficial owner (within the meaning of Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the "1934 Act")), directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such Person any securities acquired directly from the Company or its affiliates) representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities; (iii) any person or related group of persons (other than the Company or a person that directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 of the 1934 Act) of securities possessing more than fifty percent (50%) of the total combined voting of the Company's outstanding securities pursuant to a tender or exchange offer made directly to the Company's stockholders; or (iv) a change in the composition of the Board over a period of twelve (12) consecutive months such that a majority of the Board members (rounded up to the next whole number) ceases to be comprised of individuals who either (A) have been Board members continuously since the beginning of such period or (B) have been elected or nominated for election as Board members during such period by at least two-thirds of the Board members described in clause (A) who were still in office at the time such election or nomination was approved by the Board.

For all purposes under this Agreement, "Constructive Termination" shall mean a resignation of employment within 30 days of the occurrence of any of the following events which occurs within 6 months following a Change of Control: (i) a material reduction in Employee's responsibilities; (ii) a material reduction in Employee's Base Salary, unless such reduction is comparable in percentage to, and is part of, a reduction in the base salary of all executive officers of the Company; or (iii) a relocation of Employee's principal office to a location more than 50 miles from the location of Employee's principal office immediately preceding a Change of Control.

(c) The Company's obligation to provide Severance is conditioned upon Employee returning to the Company all of its property and confidential information that is in Employee's

possession and Employee's execution and non-revocation of an enforceable release of claims (the "Release"). If Employee chooses not to execute the Release, revokes Employee's execution of the Release, or fails to comply with the terms of the Release, then the Company shall have no obligation to provide Severance and such Severance amount is subject to recoupment by the Company. The Release shall be provided to Employee no later than seven (7) days following Employee's separation from service and Employee must execute it within the time period specified in the Release (which shall not be longer than forty-five (45) days from the date of receipt). The Release shall not be effective until any applicable revocation period has expired.

5. Non-Competition; Proprietary Information and Inventions.

(a) Proprietary Information and Inventions Agreement; Non-Competition and Non- Solicitation Agreement. As a condition precedent to the employment of Employee by the Company as Chief Commercial Officer pursuant to the terms of this Agreement, Employee shall execute (i) the Company's Proprietary Information and Inventions Agreement, attached hereto as Exhibit A, and (ii) the Company's Non-Competition and Non-Solicitation Agreement, attached hereto as Exhibit B.

(b) Equitable Remedies. Employee acknowledges and recognizes that a violation of the Proprietary Information and Inventions Agreement or the Non-Competition and Non- Solicitation Agreement by Employee may cause irreparable and substantial damage and harm to the Company or its affiliates, could constitute a failure of consideration, and that money damages will not provide a full remedy for the Company for such violations. Employee agrees that in the event of Employee's breach of the Proprietary Information and Inventions Agreement or the Non-Competition and Non-Solicitation Agreement, the Company will be entitled, if it so elects, to institute and prosecute proceedings at law or in equity to obtain damages with respect to such breach, to enforce the specific performance of such agreement(s) by Employee, and to enjoin Employee from engaging in any activity in violation hereof.

6. Miscellaneous.

(a) Entire Agreement. This Agreement, including the exhibits hereto, constitutes the entire agreement between the parties relating to the employment of Employee by the Company and there are no terms relating to such employment other than those contained in this Agreement. No modification or variation hereof shall be deemed valid unless in writing and signed by the parties hereto. No waiver by either party of any provision or condition of this Agreement shall be deemed a waiver of similar or dissimilar provisions or conditions at any time.

(b) Assignability. This Agreement may not be assigned without prior written consent of the parties hereto. To the extent allowable pursuant to this Agreement, this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective executors, administrators, personal representatives, heirs, successors and assigns.

(c) Notices. Any notice or other communication given or rendered hereunder by any party hereto shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, at the respective addresses of the parties hereto as set forth below.

(d) Captions. The section headings contained herein are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof.

(e) Taxes. All amounts to be paid to Employee hereunder are in the nature of compensation for Employee's employment by the Company, and shall be subject to withholding, income, occupation and payroll taxes and other charges applicable to such compensation.

(f) Section 409A. The parties intend for the payments and benefits under this Agreement to be exempt from Section 409A of the Code or, if not so exempt, to be paid or provided in a manner which complies with the requirements of such section and intend that this Agreement shall be construed and administered in accordance with such intention. In the event the Company determines that a payment or benefit under this Agreement may not be in compliance with Section 409A of the Code, the Company shall reasonably confer with Employee in order to modify or amend this Agreement to comply with Section 409A of the Code and to do so in a manner to best preserve the economic benefit of this Agreement. Notwithstanding anything contained herein to the contrary, (i) in the event (i) any payments described in Section 4 would be "deferred compensation" subject to Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"); and (ii) Employee is a "specified employee" (as defined in Code Section 409A(2)(B)(i)), such payments shall, to the extent required by Code Section 409A, be delayed for the minimum period and in the minimum manner necessary to avoid the imposition of the tax required by Section 409A of the Code; (ii) each amount to be paid or benefit to be provided under this Agreement shall be construed as a separately identified payment for purposes of Section 409A of the Code; (iii) any payments that are due within the "short term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable law requires otherwise; and (iv) amounts reimbursable to Employee under this Agreement shall be paid to Employee on or before the last day of the year following the year in which the expense was incurred and the amount of expenses eligible for reimbursement (and in-kind benefits provided to Employee) during any one (1) year may not affect amounts reimbursable or provided in any subsequent year. Notwithstanding anything in this Agreement to the contrary, in the event any payments hereunder could occur in one of two calendar years as a result of being dependent upon the Release becoming nonrevocable, then, to the extent required to avoid the imposition of taxes or penalties under Section 409A of the Code, such payments shall commence on the first regularly scheduled payroll date of the Company, following the date the Release becomes nonrevocable, that occurs in the second of such two calendar years.

(g) Golden Parachute Provisions. If it is determined that any payment or benefit provided by the Company to or for the benefit of Employee, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, including, by example and not by way of limitation, acceleration by the Company or otherwise of the date of vesting or payment under any plan, program, arrangement or agreement of the Company would be subject to the excise tax imposed by Internal Revenue Code section 4999 or any interest or penalties with respect to such excise tax (such excise tax together with any such interest and penalties, shall be referred to as the "Excise Tax"), then the Company shall first make a calculation under which such payments or benefits provided to Employee are reduced to the extent necessary so that no portion thereof shall be subject to the Excise Tax (the "4999 Limit"). The Company shall then compare (i) Employee's Net After-Tax Benefit (as defined below) assuming application of the 4999 Limit with (ii) Employee's Net After-Tax Benefit without application of the 4999 Limit. Employee shall be entitled to the greater of (i) or (ii). "Net After-Tax Benefit" shall mean the sum of (x) all payments that Employee receives or is entitled to receive that are contingent on a change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company within the meaning of Internal Revenue Code section 280G(b)(2), less (y) the amount of federal, state, local, employment, and Excise Tax (if any) imposed with respect to such payments. Any reduction pursuant to this Section 6(g) shall be implemented by determining the Parachute Payment Ratio (as defined below) for each "parachute payment" and then reducing the "parachute payments" in order beginning with the "parachute payment" with the highest Parachute Payment Ratio. For "parachute payments" with the same Parachute Payment Ratio, such "parachute payments" shall be reduced based on the time of payment of such "parachute payments," with amounts having later payment dates being reduced first. For "parachute payments" with the same Parachute Payment Ratio and the same time of payment, such "parachute payments" shall be reduced on a pro rata basis (but not below zero) prior to reducing "parachute payments" with a lower Parachute Payment Ratio. "Parachute Payment Ratio" shall mean a fraction the numerator of which is the value of the applicable "parachute payment" for purposes of Internal Revenue Code Section 280G and the denominator of which is the actual present value of such payment.

(h) Governing Law. This Agreement is made and shall be governed by and construed in accordance with the laws of the State of North Carolina without respect to its conflicts of law principles.

[Signature Page Follows]

If the foregoing correctly sets forth our understanding, please signify your acceptance of such terms by executing this Agreement, thereby signifying your assent, as indicated below.

Yours very truly,

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Jon Stonehouse
Jon Stonehouse
Chief Executive Officer

Cc: Stephanie Angelini
Senior Vice President, Human Resources

AGREED AND ACCEPTED

Sign: /s/ Charles Gayer
Charles Gayer

Exhibit A
(Proprietary Information and Inventions Agreement)

EMPLOYEE'S PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

I, Charles Gayer, recognize that BioCryst Pharmaceuticals, Inc., a Delaware corporation (hereinafter the "Company"), is engaged in a continuous program of research, development, and production respecting its business, present and future, including fields generally related to its business.

I understand that:

A. As part of my employment by the Company I will faithfully and diligently serve and endeavor to further and safeguard the interests of the Company, and I recognize that I am expected to make new contributions and inventions of value to the Company;

B. My employment creates a relationship of confidence and trust between me and the Company with respect to any information:

i. applicable to the business of the Company; or

ii. applicable to the business of any client or customer of the Company,

in each case which may be made known to me by the Company or by any client or customer of Company or learned by me during the period of my employment.

C. The Company possesses and will continue to possess information that has been created, discovered or developed by, or assigned, disclosed or otherwise become known to, the Company (including without limitation information created, discovered, developed, disclosed or made known by me during the period of or arising out of my employment by the Company) , which information is not generally known to the public. All of the aforementioned information is hereinafter called "Proprietary Information." By way of illustration, but not limitation, Proprietary Information includes trade secrets, processes, formulas, data and know-how, improvements, inventions, techniques, marketing plans, financial information, strategies, forecasts, and customer lists.

In consideration of my employment by the Company, employment as Chief Commercial Officer under the terms of the Agreement executed contemporaneously herewith and the compensation received by me from the Company from time to time, I hereby agree as follows:

1. All Proprietary Information shall be the sole property of the Company, and the Company shall be the sole owner of all rights, title and interest in connection therewith. I hereby assign to the Company any and all rights I may have or acquire in such Proprietary Information. At all times, both during my employment by the Company and after its termination, I will keep in confidence and trust all Proprietary Information, and I will not use or disclose any Proprietary Information or anything relating to it without the prior written consent of the

Company, except as may be necessary in the ordinary course of performing my duties as an employee of the Company. In the event I am required to disclose Proprietary Information pursuant to applicable law or court order, I shall, whenever legally permissible, promptly disclose such request to the Company, and cooperate with the Company to seek a protective order and to otherwise limit such disclosure from becoming public.

2. Notwithstanding anything set forth in this Agreement, or any other agreement that I have with the Company or its affiliates to the contrary, I shall not be prohibited from reporting possible violations of federal or state law or regulation to any governmental agency or entity, legislative body, or any self-regulatory organization, or making other disclosures that are protected under the whistleblower provisions of federal or state law or regulation, nor am I required to notify the Company regarding any such reporting, disclosure or cooperation with the government. Pursuant to 18 U.S.C. § 1833(b), I understand that I will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret of the Company or its affiliates that (i) is made (A) in confidence to a federal, state, or local government official, either directly or indirectly, or to my attorney and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. I understand that if I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the trade secret to my attorney and use the trade secret information in the court proceeding if I (x) file any document containing the trade secret under seal, and (y) do not disclose the trade secret, except pursuant to court order. Nothing in this Agreement, or any other agreement that I have with the Company or its affiliates, is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by such section.

3. I agree that, during the period of my employment by the Company, I will not, without the Company's express prior written consent, engage in any employment or consulting other than for the Company. In the event of the termination of my employment by me or by the Company for any reason or at any time upon the Company's request, I will promptly deliver to the Company all documents and data of any nature pertaining to my work with the Company and I will not take with me any documents or data containing or pertaining to any Proprietary Information.

4. I will promptly and fully disclose to the Company, or any persons designated by it, all improvements, inventions, formulas, processes, techniques, know-how, and data, whether or not patentable, copyrightable, or otherwise protectible as intellectual property, made or conceived or reduced to practice by me, either alone or jointly with others, during the period of my employment by the Company which are related to or useful in the business of the Company, or result from the performance of my duties as an employee of the Company or result from use of assets or premises owned, leased, or contracted for by the Company (all said improvements, inventions, formulas, processes, techniques, know-how, and data shall be collectively hereinafter called "Inventions"). I agree to keep complete, accurate, and authentic accounts, notes, data, and records of all Inventions in the manner and form requested by the Company, which accounts, notes, data, and records shall be and remain the sole property of the Company. I agree to surrender the same promptly to the Company upon

its request or, in the absence of such a request, upon the termination of my employment by the Company.

5. I agree that all Inventions are and shall be the sole property of the Company, and that the Company shall be the sole owner of all intellectual property and other rights in connection therewith, and by reason of my being employed by Company, to the extent permitted by law, all of the Inventions consisting of copyrightable subject matter is "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101). To the extent that any Invention is not a "work made for hire," I hereby assign to the Company for no additional consideration any and all rights I may have or acquire in or to such Inventions, including the right to sue, counterclaim, and recover for all past, present, and future infringement, misappropriation, or dilution thereof, and all rights corresponding thereto throughout the world. I further agree as to all such Inventions to assist the Company in every proper way (but at the Company's expense) to apply for, obtain, maintain and from time to time enforce such intellectual property rights, including patents and extensions and continuations of said patents, on said Inventions in any and all countries, and to that end I will execute all documents for use in applying for, obtaining and maintaining such intellectual property enforcing same, as the Company may desire, together with any further assignments thereof to the Company or persons designated by it. The foregoing obligation to assist the Company shall continue beyond the termination of my employment, but the Company shall compensate me at a reasonable rate after such termination for time actually spent by me at the Company's request on such assistance.

6. As a matter of record I attach hereto a complete list of all inventions or improvements relevant to the subject matter of my employment by the Company which have been conceived, made, or reduced to practice by me, alone or jointly with others, prior to my engagement by the Company which I desire to remove from the operation of this Agreement. I covenant that such list is complete. If no such list is attached to this Agreement, I represent that I have no such inventions and improvements at the time of signing this Agreement.

7. I represent that my performance of all of the terms of this Agreement and as an employee of the Company does not and will not breach any agreement to keep in confidence proprietary information of any third party acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree that I will not enter into, any agreement either written or oral, in conflict herewith.

8. I understand that, as part of the consideration of the offer of employment extended to me by the Company or of my continued employment by the Company, as the case may be, I will not bring, have not brought, with me to the Company and I will not use, have not used, in the performance of my responsibilities at the Company, materials or documents of a former employer, unless I have obtained written authorization from the former employer for their possession and use. Accordingly, this is to advise the Company that the only materials that I will bring to the Company or use in my employment are identified on the attached sheet and, as to each such item, I represent that I have obtained, prior to the effective date of my employment with the Company, written authorization for their possession and use in my employment with the Company. I also understand that, in my employment with the

Company. I am not to breach any obligation of confidentiality that I have to former employers, and I agree that I shall fulfill all such obligations during my employment with the Company.

9. This Agreement shall be effective as of the first day of my employment by the Company. I understand and agree that this Agreement is not a contract of employment.

10. This Agreement shall be binding upon me, my heirs, executors, assigns, administrators, and other legal representatives and shall inure to the benefit of the Company, its successors and assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Proprietary Information and Inventions Agreement to be executed by its duly authorized officer and Employee has executed the same as of the dates set forth below.

BIOCRYST PHARMACEUTICALS, INC.	EMPLOYEE
By: /s/ Stephanie Angelini	/s/ Charles Gayer
Stephanie Angelini SVP, Human Resources	Charles Gayer
Date: January 14, 2020	Date: January 14, 2020

Exhibit B
(Non-Competition and Non-Solicitation Agreement)

This Non-Competition and Non-Solicitation Agreement (the "Agreement") is made and entered into this 14th day of January, 2020 (the "Effective Date") by and between BioCryst Pharmaceuticals, Inc., (the "Company") and Charles Gayer (the "Employee"). The Company and Employee are sometimes referred to in this Agreement individually as a "Party" and collectively as "Parties."

WHEREAS, Employee is commencing employment as Chief Commercial Officer with the Company pursuant to an Employment Agreement entered into between Employee and the Company (the "Employment Agreement") and is simultaneously entering into an Employee's Proprietary Information and Inventions Agreement (the "PIIA") with the Company; and

WHEREAS, in consideration for Employee's promises and obligations set forth herein, the Company is offering Employee employment as Chief Commercial Officer under the terms set forth in the Employment Agreement entered into contemporaneous herewith to which Employee was not previously entitled.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth below and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Company and Employee agree as follows:

1. COMPANY BUSINESS AND PROTECTABLE INTERESTS. Employee acknowledges that: (i) by virtue of Employee's position with the Company, Employee will have access to Proprietary Information, as that term is defined in the PIIA, which information has not become publicly available ("Confidential Information"); (ii) the Company together with its subsidiaries (the "Company Group") is currently engaged primarily, but not exclusively, in the business of the discovery, development and commercialization of medicines and programs for rare diseases (the "Business"); (iii) during the course of Employee's employment, the Company Group's Business may expand or change, in which case, such expansions or changes shall correspondingly expand or (if abandoned) contract the definition of "Business" and Employee's obligations under this Agreement; (iv) due to the nature of the Business, Confidential Information developed by the Company Group in furtherance of the treatment for a particular rare disease would have commercial value to any other entity pursuing the development of medicines for the same disease regardless of the location of that entity, and the use of that information by such an entity would have a negative commercial impact on the Company Group; (v) the Company Group has clients, customers and collaborative partners throughout the United States and the world and the specific location of a competing business is not necessarily relevant to the capacity of that business to compete with the Company Group; and (vi) the provisions of this Agreement are reasonably necessary to protect the Company Group's legitimate business interests, are reasonable as to time, territory and scope of activities which are restricted, do not interfere with public policy or public interest and are described with sufficient accuracy and definiteness to enable Employee to understand the scope of the restrictions imposed upon Employee.

2. COMPETITIVE BUSINESS ACTIVITIES. Employee agrees that during the period of Employee's employment with the Company Group and for a period of time ending on the date occurring one year after the date Employee's employment terminates (irrespective of the circumstances of such termination), Employee will not:

(a) on Employee's own or another's behalf, whether as an officer, director, manager, stockholder, partner, member, associate, owner, employee, consultant, or otherwise do any of the following or provide material assistance to any other party or entity to do so:

(i) engage in the Business with respect to medicines or programs with which Employee was materially involved on behalf of the Company Group during Employee's employment or with respect to which Employee obtained Confidential Information during Employee's employment;

(ii) solicit or do business which is the same, similar to or otherwise in competition with the Business, from or with persons or entities: (a) who are clients, customers or collaborative partners of the Company Group; (b) with whom or which Employee or someone for whom Employee was responsible solicited, negotiated, contracted, serviced or had material contact with on the Company Group's behalf; (c) with respect to whom or which Employee obtained Confidential Information during and as a consequence of Employee's employment by the Company Group; or (d) who were clients, customers or collaborative partners of the Company at any time during the last year of Employee's employment with the Company Group; nor shall Employee request, induce, or solicit such persons or entities to curtail or cancel their business with the Company Group;

(iii) offer employment to, hire or otherwise solicit for employment any employee or other person who had been employed or retained by the Company Group during the last year of Employee's employment with the Company Group and with whom Employee had material contacts during the course of Employee's employment; nor shall Employee request, induce, or solicit any employee or independent contractor of the Company Group who had been employed or retained by the Company Group during the last year of Employee's employment with the Company Group and with whom Employee had material contacts during the course of Employee's employment to terminate his or her employment or independent contractor relationship with the Company Group; or

(b) take any action, which is materially detrimental, or otherwise intended to be adverse to the Company Group's goodwill, name, business relations, prospects and operations.

(c) The restrictions set forth in Section 2(a)(i) apply to the following separate and distinct geographical areas: (i) the world; (ii) North America (iii) Europe; (iv) the

United States; (v) the United Kingdom; (vi) the State of North Carolina; (vii) the State of Alabama; (viii) within a 60-mile radius of any location of the Company Group in which Employee had an office or performed material services during Employee's employment with the Company Group; (ix) any city, metropolitan area, county, state or country in which Employee's substantial services were provided, or for which Employee had substantial responsibility, or in which Employee worked on Company Group projects, while employed by the Company Group; (x) any city, metropolitan area, county, state or country in which the Company Group is located or does or, during Employee's employment with the Company Group, did business.

(d) The restrictions set forth in Section 2(a)(i) apply only to prohibit Employee from engaging in activities that are materially similar to the activities in which Employee engaged on behalf of the Company Group or with respect to which Employee would reasonably be expected to use Confidential Information.

(e) Notwithstanding the foregoing, Employee's ownership, directly or indirectly, of not more than one percent of the issued and outstanding stock of a corporation the shares of which are regularly traded on a national securities exchange or in the over-the-counter market shall not violate Sections 2(a)-(b).

3. **REMEDIES.** Employee acknowledges that Employee's failure to abide by this Agreement would cause irreparable harm to the Company Group for which legal remedies would be inadequate. Therefore, in addition to any legal or other relief to which the Company Group may be entitled by virtue of Employee's failure to abide by these provisions; the Company Group may seek equitable relief, including, but not limited to, preliminary and permanent injunctive relief, for Employee's actual or threatened failure to abide by these provisions, and Employee will indemnify the Company Group for all expenses including attorneys' fees in seeking to enforce these provisions.

4. **TOLLING.** The period during which Employee must refrain from the activities set forth in Sections 2(a)-(b) shall be tolled during any period in which Employee fails to abide by these provisions.

5. **VIOLATION BY COMPANY.** In the event that Employee alleges and proves a violation by the Company Group of any obligation of the Company Group to Employee by agreement or operation of law, such violation shall not excuse Employee from Employee's obligations pursuant to this Agreement, but rather Employee shall be entitled to remedies available for the specific violation alleged and proven.

6. **OTHER AGREEMENTS.** Nothing in this Agreement shall terminate, revoke, or diminish Employee's obligations or the Company Group's rights and remedies under law or pursuant to the PIIA, relating to trade secrets or proprietary information.

7. **ENTIRE AGREEMENT.** This Agreement and the PIIA, together constitute the exclusive and complete agreement between the Parties with respect to this subject matter and supersedes any other right of the Employee to severance under any plan, arrangement or

agreement of the Company. No change or modification of this Agreement shall be valid or binding upon the Parties unless such change or modification is in writing and is signed by the Parties.

8. **WAIVER OF BREACH.** The Company's or Employee's waiver of any breach of a provision of this Agreement shall not waive any subsequent breach by the other Party.

9. **SEVERABILITY.** If a court of competent jurisdiction holds that any provision or sub-part thereof contained in this Agreement is invalid, illegal, or unenforceable, that invalidity, illegality, or unenforceability shall not affect any other provision in this Agreement. Additionally, if any of the provisions of this Agreement are held unenforceable by a court of competent jurisdiction, then the Parties desire that such provision, clause, or phrase be "blue- penciled" or rewritten by the court to the extent necessary to render it enforceable.

10. **PARTIES BOUND.** The terms, provisions, covenants and agreements contained in this Agreement shall apply to, be binding upon and inure to the benefit of the Company's successors and assigns, and Employee's heirs, executors, administrators, and other legal representatives. Employee may not assign this Agreement.

11. **REMEDIES.** Employee acknowledges that Employee's breach of this Agreement would cause the Company irreparable harm for which damages would be difficult, if not impossible, to ascertain and legal remedies would be inadequate. Therefore, in addition to any legal or other relief to which the Company may be entitled by virtue of Employee's breach or threatened breach of this Agreement, the Company may seek equitable relief, including but not limited to preliminary and permanent injunctive relief and all other available remedies.

12. **GOVERNING LAW.** This Agreement and the employment relationship created by it shall be interpreted and construed in accordance with the laws of the State of North Carolina, including its statutes of limitations, without giving effect to any conflict-of-laws rule that would result in the application of the laws of a different jurisdiction. The Parties consent to exclusive jurisdiction in North Carolina for the purpose of any litigation relating to this Agreement and agree that any litigation by or involving them relating to this Agreement shall be conducted in the state courts of North Carolina or the appropriate federal district court located in North Carolina. Employee consents to the exercise of personal jurisdiction in any state or federal court located in North Carolina and waives any objection based upon personal jurisdiction or *forum non conveniens* with respect to any action commenced in such courts.

13. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original, with the same effect as if the signatures affixed thereto were upon the same instrument.

14. **EMPLOYEE ACKNOWLEDGMENT.** Employee understands and agrees that (i) this Agreement is not a contract of employment for any particular term and (ii) the consideration for this Agreement includes but is not limited to his promotion to Chief Commercial Officer and the compensation, benefits and other terms set forth in the Agreement executed simultaneously with this Agreement, to which he otherwise would not have been entitled.

IN WITNESS WHEREOF, the Company has caused this Non-Competition and Non- Solicitation Agreement to be executed by its duly authorized officer and Employee has executed the same as of the dates set forth below.

BIOCRYST PHARMACEUTICALS, INC.	EMPLOYEE
By: /s/ Stephanie Angelini	/s/ Charles Gayer
Stephanie Angelini	Charles Gayer
SVP, Human Resources	
Date: January 14, 2020	Date: January 14, 2020

Exhibit 10.28

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.

LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

by and between

BIOCRYST PHARMACEUTICALS, INC.

and

SHIONOGI & CO., LTD.

Dated as of February 28, 2007

LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

This **LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT** (this "***Agreement***") is entered into as of February 28, 2007 by and between BIOCRYST PHARMACEUTICALS, INC., a corporation organized and existing under the laws of the State of Delaware having offices at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("***BioCryst***"), and SHIONOGI & CO., LTD., a corporation organized and existing under the laws of the Japan having offices at 1-8, Doshomachi 3-chome, Chuo-ku, Osaka 541-0045, Japan ("***Shionogi***"). BioCryst and Shionogi are each referred to herein by name or individually as a "***Party***" or collectively as the "***Parties***."

BACKGROUND

WHEREAS, BioCryst owns or controls patents, know-how and other intellectual property related to a compound known as Peramivir.

WHEREAS, Shionogi has expertise in the discovery, development, manufacture and sale of pharmaceutical products in the Territory (as defined below).

WHEREAS, Shionogi wishes to obtain, and BioCryst wishes to grant, in the Territory only, rights and licenses under certain of BioCryst's patents, know-how and trademarks to Shionogi so that Shionogi can obtain the necessary regulatory approvals to sell Licensed Products (as defined below) in the Territory.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the meanings indicated:

(a) "***Affiliate***" means any corporation or other entity which is directly or indirectly controlling, controlled by or under common control of a Party, for so long as such control exists. For the purposes of this Section 1.1(a), "control" means direct or indirect ownership of fifty percent (50%) or more (or, if less than fifty percent (50%), the maximum ownership interest permitted by applicable Law) of the voting rights, shares or other equity or income interest of a Party.

(b) "***BioCryst Know-How***" means Know-How owned, developed or controlled by, or licensed to, BioCryst.

(c) "***BioCryst Intellectual Property Rights***" means all Intellectual Property Rights owned or controlled by BioCryst, including but not limited to BioCryst Know-How, the BioCryst Marks, and BioCryst Patents.

(d) "***BioCryst Logo***" means the company logo of BioCryst in a form provided, and approved in writing, by BioCryst from time to time.

(e) "***BioCryst Marks***" means the BioCryst Logo and any trademark, trade name or logo approved by BioCryst for use in connection with the Commercialization of the Licensed Product (whether or not owned by BioCryst).

(f) "***BioCryst Patents***" means those Patents owned, licensed or controlled by BioCryst which are filed in the Territory and which relate to the manufacture, use or sale of Licensed Products and/or Compound, which are set forth on Schedule 1.1(f).

(g) "***Budget***" means, individually, the applicable budget set forth in the Development Plan or Commercialization plan.

(h) "***cGMPs***" means the United States then-current good manufacturing practices and the equivalent standards of the Japanese government.

(i) "***Change of Control***" means, with respect to a Party, any of the following events: (i) any corporation or other entity is or becomes the "beneficial owner" (as such term is used in sections 12(d) and 13(d) of the Securities Exchange Act of 1934, as amended, except that a corporation or other entity shall be deemed to have "beneficial ownership" of all shares that any such corporation or other entity has the right to acquire, whether such right may be exercised immediately or only after the passage of time), of a majority of the total voting power represented by all classes of capital stock then outstanding of such Party normally entitled to vote in elections of directors of the Party; (ii) such Party consolidates with or merges into another corporation or entity, or any corporation or entity consolidates with or merges into such Party, other than (A) a merger or consolidation which would result in the voting securities of such Party outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) a majority of the combined voting power of the voting securities of such Party or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (B) a merger or consolidation effected to implement a recapitalization of such Party (or similar transaction) in which no corporation or other entity becomes the beneficial owner, directly or indirectly, of voting securities of such Party representing a majority of the combined voting power of such Party's then outstanding securities; or (iii) such Party conveys, transfers or leases all or substantially all of its assets to any corporation or other entity other than a wholly-owned subsidiary of such Party in one or more related transactions.

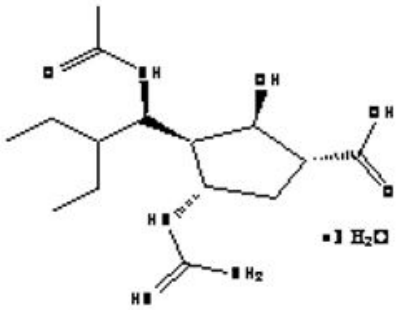
(j) "***COGS***" or "***Cost of Goods Sold***" means, [***].

(k) "***Combination Product***" means [***].

(l) "***Commercialization***" means, with respect to Licensed Product, any and all processes and activities conducted to establish and maintain sales for such Licensed Product, including offering for sale, detailing, selling (including launch), marketing (including education and advertising activities), promoting, manufacturing Licensed Product from Compound, but not manufacturing Compound itself), storing, transporting, supporting, distributing, and importing such product, but shall exclude development and manufacturing of Compound. "Commercialize" and "Commercializing" shall have their correlative meanings.

(m) "***Compound***" means the chemical compound known as "***Peramivir***" having the following chemical structure:

(1S,2S,3R,4R)-3-[(1S)-1-(acetylamino)-2-ethylbutyl] -4-[(aminoiminomethyl)amino]-2-hydroxy-cyclopentanecarboxylic acid, trihydrate



including the salts, esters, prodrugs, metabolites, tautomers, isomers, labeled compounds, conjugates, complexes, and other related compounds thereof.

(n) "***Data***" means any and all research, pharmacology, medicinal chemistry, chemistry, manufacturing and controls, nonclinical, clinical and other data (including investigator reports and clinical study reports (both preliminary and final), statistical analyses, expert opinions and reports, safety and other electronic databases), in each case specifically directed to, or used in the Development and Commercialization of, a Licensed Product and/or Compound.

(o) "***Development***" means, with respect to a Licensed Product, any and all processes and activities conducted to obtain Marketing Approvals for such product, including IND Enabling Studies and all other activities conducted thereafter, which may involve nonclinical studies, studies of chemistry, manufacturing and controls, clinical trials, quality of life assessments, pharmacoeconomics, post-marketing studies, label expansion studies, and further activities related to development of such product to a stage ready for Commercialization thereof. "Develop" and "Developing" shall have their correlative meanings.

(p) "***Development Costs***" means all costs and expenses to be incurred by a Party in the course of the Development of Licensed Product, including, but not limited, to the costs of conducting clinical trials, regulatory filing and maintenance fees, pricing and reimbursement filing and maintenance fees and costs relating to approval by the Regulatory Authority of the Licensed Product.

(q) "***Development Plan***" means the development plan pursuant to which Shionogi shall Develop the Licensed Product, which shall be prepared by the JSC within forty-five (45) days after the Effective Date, attached to this Agreement as Schedule 1.1(q) and made a part of this Agreement, and which may be modified at anytime, and from time to time by the JSC.

(r) "***Diligent Efforts***" means, [***].

(s) "***Effective Date***" means the date hereof.

(t) "***FDA***" means the United States Food and Drug Administration, or any successor entity thereto.

(u) "***Field***" means the prevention and/or treatment of all forms of influenza, in humans (including avian influenza) .

(v) "***GAAP***" means then-current generally accepted accounting principles in the United States as established by the Financial Accounting Standards Board or any successor entity or other entity generally recognized as having the right to establish such principles, in each case consistently applied.

(w) ***"Generic Product"*** means [***].

(x) "***GLP***" means the then-current good laboratory practice (or similar standards) for the performance of laboratory activities for pharmaceutical products as are required by any Regulatory Authority in the applicable jurisdiction.

(y) "***Governmental Entity***" means [***].

(z) **"*Guiding Principle*"** means in the timely Development of Licensed Products.

(aa) "***IND***" means an Investigation of New Drug filing (or the Japanese equivalent) with a Regulatory Authority in the Territory for purposes of obtaining permission to initiate human clinical testing in such jurisdiction.

(bb) "***IND Enabling Studies***" means studies which in each case are reasonably necessary to obtain approval of an IND, including GLP, ADME (absorption, distribution, metabolism and excretion), toxicology, pharmacology and safety pharmacology studies, or studies of chemistry, manufacturing and controls.

(cc) "***Initiation***" means, with respect to a particular clinical trial, the date of enrollment of the first subject or patient in such trial.

(dd) "***Insolvency Event***" means, with respect to any Party, the occurrence of any of the following: (i) such Party shall commence a voluntary case concerning itself under any bankruptcy, liquidation or insolvency code; (ii) an involuntary case is commenced against such Party under any bankruptcy, liquidation or insolvency code and the petition is not controverted within ten (10) business days, or is not dismissed within sixty (60) days, after commencement of the case; (iii) a custodian is appointed for, or takes charge of, all or substantially all of the property of such Party or such Party commences any other proceedings under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to such Party or there is commenced against such Party any such proceeding which remains undismissed for a period of sixty (60) days; (iv) any order of relief or other order approving any such case or proceeding is entered; (v) such Party is adjudicated insolvent or bankrupt; (vi) such Party suffers any appointment of any custodian, receiver or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of sixty (60) days; (vii) such Party makes a general assignment for the benefit of creditors; (viii) such Party shall be unable to pay, its debts generally as they become due; (ix) such party shall call a meeting of its creditors with a view to arranging a compromise or adjustment of its debts; (x) such Party shall by any act or failure to act consent to, approve of or acquiesce in any of the foregoing; or (xi) any corporate, limited liability company, partnership or individual action, as applicable, is taken by such Party for the purpose of effecting any of the foregoing.

(ee) "***Intellectual Property Rights***" shall mean all Patent, copyright, trade secret, trademark and other proprietary and intellectual property rights, anywhere in the world.

(ff) "***Japan***" means the country of Japan.

(gg) "***JSC***" or "***Joint Steering Committee***" shall have the meaning set forth in Section 4.1.

(hh) "***Know-How***" means all scientific and technical information and know-how, trade secrets, Data and technology now or hereafter during the term of this Agreement (whether patented, patentable or not) owned, developed or acquired by a Party or any of its Affiliates or as to which such Party or any of its Affiliates has the right to license (without a payment obligation to any third party), which relates to the Licensed Product and/or Compound, including but not limited to (a) medical, clinical, toxicological or other scientific Data; and (b) processes and analytical methodology useful in the development, testing, formulation, analysis or packaging (but not manufacturing of Compound) of the Licensed Product and/or Compound.

(ii) "***Law***" means, individually and collectively, any and all laws, ordinances, rules, directives and regulations of any kind whatsoever of any governmental or regulatory authority within the applicable jurisdiction.

(jj) "***Licensed Product***" means [***].

(kk) "***Marketing Approval***" means, with respect to a particular product in a particular jurisdiction, all approvals, licenses, registrations or authorizations necessary for the Commercialization of such product in such jurisdiction. Marketing Approval shall be deemed to have been received upon first receipt by a Party or its designee of notice from the applicable Regulatory Authority that Commercialization of such product has been approved in such jurisdiction.

(ll) "Marketing Approval Application" or "MAA" means a filing with the applicable Regulatory Authority for purposes of obtaining Marketing Approval in a particular jurisdiction.

(mm) "Material Use" means [***].

(nn) "***MHLW***" means the Ministry of Health, Labour and Welfare of Japan or any successor entity thereto.

(oo) "***NDA***" means a New Drug Application (or the Japanese equivalent), including all supplements and amendments thereto, for the approval of the Licensed Product as a new drug by the MHLW or applicable Regulatory Authority in the Territory.

(pp) "***Net Sales***" means, [***].

(qq) "***Patent***" means any of the following, whether existing now or in the future anywhere in the world: (a) patents and patent applications; (b) continuations, continuations-in-part, divisionals and substitute applications with respect to any such patent application; (c) any patents issued based on or claiming priority to any such patent applications; (d) any reissue, reexamination, renewal or extension (including any supplemental patent certificate) of any such patents; and (e) any confirmation patent or registration patent or patent of addition based on any such patents.

(rr) "***Phase I Clinical Trial***" means a clinical trial of Licensed Product including small scale clinical trial in human subjects to obtain information on such Licensed Product's safety, tolerability, pharmacological activity, pharmacokinetics and/or pharmacodynamics, and supporting Marketing Approval of such Licensed Product in the Field, as more fully defined in 21 CFR 312.21(a) or the equivalent statute or regulation in the Territory.

(ss) "***Phase II Clinical Trial***" means a well-controlled clinical trial of Licensed Product in patients, a principal purpose of which is to make a preliminary determination that such Licensed Product is safe for its intended use and to obtain sufficient information about such Licensed Product's safety, as well as to obtain an indication of the dosage regimen required, to permit the design of further clinical studies, and supporting Marketing Approval of such Licensed Product in the Field, as more fully defined in 21 CFR 312.21(b) or the equivalent statute or regulation in the Territory.

(tt) "***Phase III Clinical Trial***" means a large scale clinical trial conducted in a sufficient number of patients that is designed to establish that the Licensed Product is safe and efficacious for its intended use, and to obtain warnings, precautions and adverse reactions that are associated with such Licensed Product in the dosage range to be prescribed, and supporting Marketing Approval of such Licensed Product in the Field, as more fully defined in 21 CFR 312.21(c) or the equivalent statute or regulation in the Territory.

(uu) "***Plans***" means, collectively, the Development Plan and the Commercialization Plan.

(vv) "***Pre-Existing Third Party License***" means the agreement dated as of November 23, 1994 by and between, on the one hand The UAB Research Foundation (***"UAB***"), and on the other hand BioCryst, as amended and may be amended from time to time.

(ww) "***Promotional Material***" means all Licensed Product packaging and labeling, and all written, printed, graphic, electronic, audio or video matter, including journal advertisements, sales visual aids, leave behind items, formulary binders, reprints, direct mail, direct-to consumer advertising, Internet postings, broadcast advertisements and sales reminder aids (for example, scratch pads, pens and other like items), in each case created by a Party or on its behalf and used or intended for use in connection with any promotion of a Licensed Product in the Territory.

(xx) "***Regulatory Authority***" means any federal, national, multinational, state, provincial or local regulatory agency, department, bureau or other governmental entity with authority over the Development, Commercialization or other use (including the granting of Marketing Approvals) of any Licensed Product in any jurisdiction, including the FDA, the MHLW and the Pharmaceuticals and Medical Devices Agency.

(yy) "***Regulatory Filings***" means all submissions, applications, filings and approvals by, with or from any Regulatory Authority.

(zz) "***Sale***", "***Sold***" or "***Sell***" shall mean the sale, transfer or disposition of a Licensed Product for commercial or clinical purposes as provided in this Agreement, for value to a Third Party (whether an end user, wholesaler or otherwise) by Shionogi or any of its Affiliates.

(aaa) "***Shionogi Know-How***" means all Know-How owned, developed or acquired by or on behalf of Shionogi and its Affiliates.

(bbb) "***Territory***" means Japan.

(ccc) "***Third Party"*** means any entity other than Shionogi or BioCryst, or their respective Affiliates.

(ddd) "***U.S. Government***" shall mean the federal government of the United States of America and any of its branches and instrumentalities, including its departments, agencies, bureaus, commissions, boards, courts, corporations, offices, and other entities, and any divisions or units thereof.

(eee) "***Valid Claim***" means a claim in any unexpired and issued BioCryst Patent that has not been revoked or held invalid by a final unappealable decision of a court or governmental agency of competent jurisdiction.

ARTICLE 2
LICENSE GRANT, RETAINED RIGHTS AND PROVISION OF DATA

2.1 License Grant; Reservation of Rights. Solely to the extent necessary for Shionogi to perform its obligations hereunder in accordance with the terms of this Agreement, and subject to all of the rights retained hereunder, BioCryst hereby grants Shionogi a personal, non-sublicensable, non-transferable, non-assignable right and license under the BioCryst Patents and BioCryst Know-How, to (i) exclusively Develop Licensed Products solely in the Field and in the Territory, and (ii) exclusively Commercialize Licensed Products solely in the Field and in the Territory. Other than as explicitly set forth in this Section 2.1, no other licenses to the BioCryst Intellectual Property Rights or otherwise (including but not limited to all rights in BioCryst Intellectual Property Rights outside the Field and outside the Territory) are granted in this Agreement. [***]

2.2 Manufacturing. [***].

2.3 Retained Rights; Government Rights. All rights granted to Shionogi hereunder are subject to rights reserved by and/or granted to UAB or the U. S. Government. Shionogi specifically understands and agrees that BioCryst shall have the unrestricted and fully unfettered right under the BioCryst Intellectual Property Rights outside of the Field in the Territory and outside of the Territory in the Field, including in connection with the testing, Development, manufacture and Commercialization of products covered by the BioCryst Patents and BioCryst Know-How.

2.4 BioCryst Logo. BioCryst hereby grants to Shionogi a personal, non-sublicensable, non-transferable, non-assignable right and license to use the BioCryst Logo on Licensed Products in the Field in the Territory in accordance with the terms of this Agreement. Shionogi agrees to mark (i) all packaging, labeling and package inserts for Licensed Product and (ii) such Promotional Material as shall be agreed upon by the Parties in writing, with the BioCryst Logo. All use of the BioCryst Logos shall be as directed by BioCryst and shall be in a form, style and prominence as directed by BioCryst, and all goodwill associated with the use of the BioCryst Logos shall inure to BioCryst.

2.5 Transfer of Data.

(a) BioCryst Existing Data. BioCryst shall transfer to Shionogi, [***] after the Effective Date, all Data (to the extent contractually permissible) possessed or controlled by BioCryst as of the Effective Date, including, but not limited to [***]. Certain Data (including the Future Data described below) specified by Shionogi shall be accompanied by a statement or certificate by an employee or agent of BioCryst in such form as mutually agreed upon by the Parties. Shionogi acknowledges and agrees that delivery of Data in electronic form shall be acceptable. BioCryst represents and warrants that**,** to its best knowledge, all studies, testings and clinical trials from which the Data were derived were conducted in accordance with then-applicable United States Laws.

(b) Shionogi Nonclinical Data and Phase I Data. Shionogi will promptly, [***] disclose to BioCryst all nonclinical Data and Data from Phase I Clinical Trials (whether or not such Data meets the criteria of "Future Data", set forth below in Section 2.5(c)(i)) developed by or on behalf of Shionogi or which otherwise comes into Shionogi's possession or control after the Effective Date.

(c) Future Data.

(i) Data Exchange. From time to time (including upon request by either Party) during the Term of this Agreement, each Party shall, [***], disclose to the other Party all previously undisclosed Data relating to the Licensed Product and/or Compound that (i) comes into such Party's possession or control after the Effective Date and (ii) is necessary to obtain or maintain a Marketing Approval for a Licensed Product ("***Future Data***"). [***].

(ii) Material Use. [***].

(d) Raw Data. A Party generating the Data subject to exchange under Section 2.5(a) and (c)(ii) shall keep all of raw data from which the Data were derived in commercially usable condition in accordance with applicable Laws and shall allow the other Party access to such raw data upon the reasonable request by the other Party.

ARTICLE 3
COMMERCIAL MATTERS

3.1 General. Shionogi shall use Diligent Efforts to Develop Licensed Products in the Field in the Territory, including any IND, MAA, Marketing Approval and any approval for any product labeling or Promotional Materials and to maintain all such Regulatory Filings; and unless otherwise agreed or required by applicable Laws, all such approvals shall be owned by and be held in the name of Shionogi or its Affiliates. BioCryst shall cooperate with Shionogi in preparing all Regulatory Filings and correspondence with Regulatory Authorities in the Territory. Shionogi shall use Diligent Efforts to Commercialize the Licensed Products in the Territory. Notwithstanding the foregoing covenant to cooperate, the Parties acknowledge and agree that all responsibility for Regulatory Filings and exercising Diligent Efforts in the Territory shall be Shionogi's.

3.2 BioCryst's Participation.

(a) Protocols. Shionogi shall pay due consideration to the protocols and desired endpoints in the trials sponsored by BioCryst in preparing the protocols for the clinical trials to be conducted by or on behalf of Shionogi in the Territory. Shionogi shall provide BioCryst with the outline of the draft of protocols (in the English language) for clinical trials. Consistent with applicable Laws, Shionogi shall afford BioCryst an opportunity to comment on such protocols within fifteen (15) business days after receipt and shall consider in good faith such BioCryst's comments with respect thereto.

(b) Filings and Correspondence. Shionogi shall promptly provide BioCryst with (i) copies of all Regulatory Filings relating to the Territory submitted by Shionogi (in the original language) and (ii) copies of material correspondence with Regulatory Authorities in the Territory (including minutes of meetings, telephone conferences and/or discussions with such Regulatory Authority) (in the original language). Shionogi agrees to assist BioCryst the English translation of such documents at BioCryst's cost.

(c) Regulatory Meetings. Shionogi shall promptly provide BioCryst with reasonable advanced notice (to the extent practicable) of meetings, scheduled or unscheduled, with any Regulatory Authority that pertain to a Licensed Product, and, to the extent not prohibited by applicable Law, shall afford BioCryst's representatives an opportunity to attend and participate in all such meetings with relevant Regulatory Authorities as observers, to the extent reasonably practicable under the circumstances. Likewise, BioCryst shall promptly provide Shionogi with reasonable advanced notice (to the extent practicable) of meetings, scheduled or unscheduled, with any Regulatory Authority that pertain to a Licensed Product developed by BioCryst (for clarity, BioCryst itself, and not licensees of BioCryst) outside the Territory, and, to the extent not prohibited by applicable Law, shall afford Shionogi's representatives an opportunity to attend and participate in all such meetings with relevant Regulatory Authorities as observers, to the extent reasonably practicable under the circumstances.

(d) JSC Oversight. In addition to Section 3.2(a), (b) and (c) above with respect to Regulatory Filings and meetings with Regulatory Authorities, Shionogi's Development and Commercialization activities, including the content and subject matter of, and strategy for, any MAA, all correspondence submitted to Regulatory Authorities related to clinical trial design, all proposed labeling and labeling discussions and decisions with Regulatory Authorities, and all post-Marketing Approval labeling discussions and decisions with Regulatory Authorities (including the final approved labeling), and post-Marketing Approval labeling changes or expansions, in each case relating in any way to Licensed Product, shall be subject to reasonable oversight by the JSC.

3.3 Cooperation. Each Party agrees to make its personnel reasonably available, upon reasonable notice by the other Party, at their respective places of employment to consult with the other Party on issues arising related to the activities conducted in accordance with this Article 3 or otherwise relating to regulatory matters involving the Licensed Product, including any request from any Regulatory Authority, including regulatory, scientific, technical and clinical testing issues, or otherwise. Each Party (the "***Enabling Party***") agrees to cooperate with the other (the "***Filing Party***"), at its request, to comply with specific requests of a Regulatory Authority (such as requests to inspect clinical trial sites), with respect to Data supplied or to be supplied by the Enabling Party to the Filing Party for filing with such Regulatory Authority, or with respect to Licensed Product supplied by the Enabling Party. The Enabling Party shall ensure that its contractors likewise comply with this Section 3.3.

3.4 Use of Contractors. Subject to the terms of this Agreement, Shionogi shall have the right to use the services of Third Party contractors, including contract research organizations, contract sales forces and the like, to assist Shionogi in fulfilling its obligations and exercising its rights under this Agreement, provided that each such Third Party is bound by a written agreement, that is consistent with terms of this Agreement, including confidentiality and intellectual property ownership provisions consistent with those set forth therein**.** Shionogi shall provide BioCryst with quarter annual updates of the identity of all contractors who assist Shionogi in exercising its rights or fulfilling its obligations hereunder. For the purposes of clarity, Shionogi shall remain responsible for the performance by all such contractors.

3.5 Development Supply.

(a) From the Effective Date through [***], BioCryst will supply to Shionogi, at Shionogi**'**s expense, and Shionogi agrees to purchase exclusively from BioCryst, (i) the Licensed Product (including its placebos if needed) for use in clinical studies to be conducted in the Territory by or on behalf of (subject to the terms of Section 3.4, above) Shionogi, and (ii) the Compound necessary for the Development of the Licensed Product.

(b) On [***], BioCryst will supply Shionogi with Compound (at Shionogi's expense) and Shionogi will have established the necessary resources to formulate Licensed Product from Compound for clinical use. The Parties agree to evaluate in good faith the above arrangement on an ongoing basis to ensure the timely progression and development of the Licensed Product in the Territory.

(c) During the term of this Agreement, BioCryst shall supply to Shionogi, [***] of Compound (in such individual amounts and at such times as reasonably agreed upon by the Parties) for Shionogi to use Diligent Efforts to develop an optimized intramuscular formulation of the Compound for use by Shionogi in the Territory and for use by BioCryst outside the Territory pursuant to Section 10.2**.** In addition, if the Parties agree in writing that Shionogi may explore the possibility to Develop New Formulations under mutually agreed conditions, BioCryst shall also supply to Shionogi, [***] (but upon such additional terms and conditions as the Parties may agree), the Compound for Development of such New Formulation. Both Parties understand and agree that there are no assurances that Shionogi's efforts will generate an optimized intramuscular formulation of the Compound or lead to the successful Development of New Formulations.

(d) All Licensed Product and Compound delivered by BioCryst to Shionogi shall be manufactured in accordance and in compliance with the specifications to be determined by BioCryst; provided, however that BioCryst shall give due consideration to revised specifications (if any) requested by Shionogi. BioCryst shall carry out its responsibilities hereunder in conformance with cGMPs and all other applicable Laws (all of the foregoing, in the United States). All supply of Licensed Product and Compound shall be subject to the terms and conditions set forth in this Section 3.5 and shall be subject to the terms and on prices as attached in Schedule 3.5 hereto.

(e) BioCryst shall transfer to Shionogi the formulation and manufacturing processes that (i) are maintained or subsequently developed or optimized by BioCryst and (ii) are designed to ensure the quality of Licensed Product. All transfer of such Know-How shall take place in Birmingham, Alabama unless otherwise agreed upon by the Parties. If the transfer is to occur wholly or partially outside of Birmingham, Alabama, then Shionogi shall promptly [***].

3.6 Commercial Supply. BioCryst will supply to Shionogi, at Shionogi's expense, and Shionogi agrees to purchase exclusively from BioCryst, Compound in bulk powder form for purposes of Commercialization in the Territory. Such supply shall be subject to the terms and on prices as attached in Schedule 3.5 hereto**.** Shionogi shall be responsible for manufacturing Licensed Product from Compound provided by BioCryst to Shionogi.

3.7 Covenant and Manufacturing Option. For the avoidance of doubt, the Parties hereby agree that they intend that BioCryst supply, and Shionogi exclusively purchase from BioCryst, Compound for all uses contemplated in this Agreement. Shionogi hereby acknowledges and agrees that it has no rights to, and shall not (and it and its Affiliates shall not otherwise) manufacture or have manufactured or purchase from a Third Party Compound unless otherwise agreed in writing between BioCryst and Shionogi. However, Shionogi shall have the option to manufacture or have manufactured Compound for the Territory; [***]. In the event that Shionogi exercises such option to manufacture Compound, BioCryst shall transfer to Shionogi all BioCryst Know-How or other technologies relating to manufacture of the Compound. All transfer of such Know-How shall take place in Birmingham, Alabama unless otherwise agreed upon by the Parties. If the transfer is to occur wholly or partially outside of Birmingham, Alabama, then Shionogi shall [***]. In such event, all products Commercialized in the Field which derive from such Compound shall be deemed for all purposes hereunder to be a Licensed Product.

ARTICLE 4
GOVERNANCE

4.1 Joint Steering Committee. Promptly following the Effective Date, but no later than forty-five (45) days after the Effective Date, the Parties shall establish a joint steering committee (the **"*Joint Steering Committee*"** or **"*JSC*"**) to oversee, review and coordinate the conduct and progress of the Development of Licensed Product in the Territory. The JSC shall be responsible for, among other things: annually reviewing and updating the Development Plan; monitoring the competitive landscape for the Licensed Product in the Territory; and undertaking such other matters as are specifically provided for the JSC under this Agreement. Shionogi shall keep the JSC fully informed of progress and results of its activities under the Development Plan through its members on the JSC and as otherwise provided herein.

4.2 Committee Membership. The JSC shall be comprised of an equal number of representatives from each of BioCryst and Shionogi. The exact number of such representatives shall initially be three (3) for each of BioCryst and Shionogi, or such other number as the Parties may agree. The initial members of the JSC shall be as set forth on Exhibit A. Either Party may replace its respective committee representatives at any time with prior written notice to the other Party. Unless otherwise agreed, the JSC shall have at least one representative with relevant decision-making authority from each Party such that the JSC is able to effectuate all of its decisions within the scope of its responsibilities. In the event a JSC member from either Party is unable to attend or participate in a JSC meeting, the Party who designated such representative may designate a substitute representative for the meeting in its sole discretion.

4.3 Subcommittees. From time to time, the JSC may establish subcommittees to oversee particular projects or activities, and such subcommittees will be constituted as the JSC approves (each, a "***Subcommittee***"). If any Subcommittee is unable to reach a decision on any matter after endeavoring in good faith for [***] to do so, such matter shall be referred to the JSC for resolution as provided in Section 4.6.

4.4 Committee Co-Chairs. Each Party shall appoint one of its members to the JSC to co-chair the JSC's meetings (each, a "***Co-Chair***"). The Co-Chairs shall (i) ensure the orderly conduct of the JSC's meetings, (ii) attend each JSC meeting (either in-person, videoconference or telephonically), and (iii) prepare and issue written minutes of each meeting within thirty (30) days thereafter accurately reflecting the discussions and decisions of such Committee. In the event the Co-Chair from either Party is unable to attend or participate in a JSC meeting, the Party who designated such Co-Chair may designate a substitute Co-Chair for the meeting in its sole direction.

4.5 Committee Meetings. The JSC shall meet quarterly, or as more or less often as otherwise agreed by the Parties, and such meeting may be conducted by telephone, videoconference or in person as determined by the Co-Chairs. As appropriate, other employee representatives of the Parties may attend JSC meetings as nonvoting observers if mutually agreed by the Parties. Each Party may also call for special meetings of the JSC to resolve particular matters requested by such Party and within the areas of responsibility of the JSC. Each Co-Chair shall ensure that its JSC members receive adequate notice of such meetings.

4.6 Decision Making. Decisions of the JSC shall be made by consensus of the members present in person or by other means (e.g., teleconference) at any meeting, with each Party having one vote. In order to make any decision, the JSC must have present (in person, videoconference or telephonically) at least one representative of each Party. All decisions of the JSC shall be consistent with the Guiding Principle. Notwithstanding anything herein to the contrary, the JSC shall have no authority to amend, modify or waive compliance with this Agreement. In the event that the JSC cannot reach agreement with respect to any matter that is subject to its decision-making authority, then the matter shall be resolved pursuant to the provisions set forth in Article 15 ("***Dispute Resolution***").

4.7 Performance of Representatives. BioCryst and Shionogi shall cause each of their representatives on the JSC and any other committee (including Subcommittees) or team established under this Agreement to vote, and shall otherwise perform their respective activities under this Agreement, in a good faith manner consistent with the Guiding Principle.

4.8 Day-to-Day Decision-Making Authority. Shionogi shall have decision making authority with respect to the day-to-day operations of the Development and Commercialization of Licensed Product in the Territory, provided that such decisions are not inconsistent with the Plans or the Guiding Principle, other decisions of the JSC and any other committee (including Subcommittees) or team established under this Agreement within the scope of their authority specified therein, or the express terms and conditions thereof.

ARTICLE 5
DEVELOPMENT

5.1 General. Shionogi shall use Diligent Efforts to Develop in the Territory Licensed Product for use in the Field, all in accordance with the Development Plan. Shionogi shall be responsible for conducting, and shall use Diligent Efforts to conduct, the activities set forth in the Development Plan to progress and complete such activities within the timeframes set forth in the Development Plan. Shionogi agrees not to perform, directly or indirectly (or through any Third Party on behalf of Shionogi), any Development activities outside the Territory with respect to any Licensed Product, and not to perform any Development activities in or for use in the Territory with respect to any Licensed Product except in accordance with the Development Plan or, in each case, as otherwise provided herein. Shionogi shall pay due consideration to the protocols and desired endpoints in the trials sponsored by BioCryst in preparing the protocols for the clinical trials to be conducted by or on behalf of Shionogi in the Territory.

5.2 Product Development outside the Territory. BioCryst shall have sole decision-making authority with regard to the Development and Commercialization of Licensed Products outside the Territory (and no rights under this Agreement are granted to Shionogi outside the Territory).

5.3 Development Reports. Within thirty (30) days after the end of each calendar quarter, Shionogi shall prepare and provide to BioCryst a written report that (i) summarizes the progress of the Development activities performed by Shionogi hereunder during the preceding calendar quarter, (ii) identifies any issues or circumstances of which it is aware that may prevent or adversely affect in a material manner the activities under the Development Plan in the then-current calendar quarter, and, to the extent reasonably practicable, (iii) identifies steps that may be taken, or changes that may be made, to resolve such issues. Shionogi shall maintain records in sufficient detail as will properly reflect all work done in the performance of activities arising out of, in conducting, or otherwise in connection with its Licensed Product Development activities. Likewise, BioCryst shall prepare and provide to Shionogi a quarterly written report summarizing the Development performed by BioCryst outside the Territory in reasonable detail. To the extent known by BioCryst and permitted by its licensees (and not otherwise prohibited by Law), BioCryst shall provide the foregoing information to Shionogi relating to BioCryst's licensees outside of the Territory, provided that Shionogi shall keep such information strictly confidential pursuant to Section 11.2. BioCryst shall also provide Shionogi with its development plan and any amendment thereto in a timely manner.

5.4 Interactions Between Committees and Internal Teams. The Parties recognize that while they will establish the various committees and teams for the purposes hereof, each Party maintains internal structures (including its own committees, teams and review boards) that will be involved in administering such Party's activities under this Agreement. The Parties shall establish procedures (including the appointment of alliance managers) to facilitate communications between the various committees and teams hereunder and the relevant internal committee, team or board within the Party in order to maximize the efficiency of the Parties' activities pursuant to this Agreement. In addition, each of the Joint Steering Committee and any subcommittee shall coordinate with each other as appropriate.

5.5 Development Costs. Development Costs relating to the Licensed Product in the Territory shall be borne 100% by Shionogi, subject to Section 2.5(c).

5.6 Clinical Milestone Events. Shionogi shall use Diligent Efforts to achieve the events set forth in the table below (each a "***Milestone Event***") by the date set forth in the table below (each a "***Milestone Date***") in furtherance of the Development of the Licensed Products. The Parties agree that the JSC shall have forty-five (45) days from the Effective Date to review, and comment on the Milestone Events contained herein and shall use such Milestone Events contained herein as a framework to create other more detailed steps it feels necessary to Develop the Licensed Products. Any changes or additions to the Milestone Events or Milestone Dates made by the JSC shall be made in good faith and shall be consistent with the Guiding Principles and shall be included in the Development Plan.

Milestone Event	Milestone Date
Submission of the first Phase II Clinical Trial protocol to MHLW or the applicable Regulatory Authority in the Territory	[***]
Submission of the first Phase III Clinical Trial protocol to MHLW or the applicable Regulatory Authority in the Territory	[***]
Submission of NDA to MHLW or the applicable Regulatory Authority in the Territory	[***]

ARTICLE 6
COMMERCIALIZATION

6.1 General. Shionogi undertakes that it will Commercialize the Licensed Products in the Territory and carry out its obligations hereunder in compliance with all applicable Laws.

6.2 Commercialization Plan. Shionogi shall, beginning [***] prior to the anticipated date of Marketing Approval for a Licensed Product in the Territory and continuing until the expiration of the term of this Agreement, prepare and submit to BioCryst for its review and comment (which comments Shionogi shall consider reasonably and in good faith), a Territory-wide plan for the Commercialization of such Licensed Product in the Field following receipt of the requisite Marketing Approval (a "***Commercialization Plan***") covering in detail (to the extent available) the [***] period prior to the first anticipated date on which such Licensed Product would be first shipped in commercial quantities for commercial sale to Third Parties in the Territory, and providing general plans (with an estimated Budget) for the [***] period following such anticipated shipping date. On or before December 15 of each calendar year, Shionogi shall update each Commercialization Plan to include detailed plans for the following calendar year (with an estimated Budget), and shall submit such updated Commercialization Plan to BioCryst for its review and comment (which comments Shionogi shall reasonably consider in good faith). Each Commercialization Plan shall include a detailed description of each Commercialization activity to be conducted in the Territory thereunder, including the following, as applicable:

(a) [***];

(b) [***];

(c) [***];

(d) [***];

(e) [***];

(f) [***];

(g) [***];

(h) [***];

(i) [***]

(j) [***].

6.3 Amendments. Shionogi shall review the Commercialization Plans on a regular basis during each calendar year and shall promptly submit any significant modifications of such plans to BioCryst for review and comment (which comments Shionogi shall reasonably consider in good faith).

6.4 Promotional Material. No later than [***] prior to the expected date of National Health Insurance (NHI) price listing for the first Licensed Product in the Territory, Shionogi shall provide BioCryst with a representative example of its proposed major Promotional Material, and BioCryst shall have the right to make comments or observations thereon within [***] of its receipt thereof. Thereafter, Shionogi shall provide BioCryst with a representative example of its Promotional Material as soon as practicable after BioCryst's written request, such a request shall not be made more than once each calendar year, and BioCryst shall have the right to make comments or observations thereon within [***] of its receipt thereof. Notwithstanding BioCryst's right to make comments or observations, and other than with respect to the BioCryst Logos (with respect to which BioCryst shall have sole decision-making power, even with respect to Shionogi's Promotional Literature) all other decisions with respect to Shionogi's Promotional Material shall be made by Shionogi in its sole discretion after in good faith taking into consideration BioCryst's comments and observations.

6.5 Costs of Commercialization. Shionogi shall be responsible for all costs associated with the Commercialization of Licensed Products within the Territory.

6.6 Trademark. Shionogi shall have the right to select the trademark, from among the stocks of trademarks of Shionogi or BioCryst to be used in connection with the Commercialization of the Licensed Product in the Territory after paying due consideration of the opinions of the JSC. If Shionogi selects a registered trademark owned by BioCryst in the Territory, BioCryst shall grant to Shionogi a royalty-free license to use such trademark for the Licensed Product in the Field and in the Territory for the term of this Agreement upon such additional terms as BioCryst may request**.** If Shionogi selects its own registered trademark for use on Licensed Products in the Territory (the "***Licensed Product Mark***"), the ownership of such Licensed Product Mark shall remain in Shionogi and such Licensed Product Mark shall not be included in the BioCryst Marks.

6.7 Outside of Territory. Shionogi shall ensure that no Licensed Products are Commercialized outside of the Territory. Shionogi shall ensure that no Licensed Products are manufactured outside of the Territory, except as specifically provided herein.

ARTICLE 7
ADVERSE EVENT AND PRODUCT COMPLAINT REPORTING

7.1 By Shionogi. Shionogi will promptly (a) provide BioCryst with all Licensed Product complaints, adverse event information and safety data from clinical studies and Commercialization in its control; and (b) report all such adverse events in the Territory in accordance with Laws, and provide such information to BioCryst in such a manner and time so as to enable BioCryst to comply with all applicable Laws outside the Territory. Shionogi shall maintain a Territory-wide adverse event database for the Licensed Products and shall generate adverse event reports for BioCryst's use. BioCryst shall have free and unfettered access to all data in such database. Shionogi shall be responsible for submitting adverse events reports to the applicable Regulatory Authorities in the Territory. Shionogi shall bear 100% of the costs of adverse events reporting and of maintaining the Territory-wide adverse events database.

7.2 By BioCryst. BioCryst will promptly (a) provide Shionogi with all Licensed Product complaints, adverse event information and safety data from clinical studies and Commercialization in its control; and (b) report all such adverse events outside the Territory in accordance with Laws, and provide such information to Shionogi in such a manner and time so as to enable Shionogi to comply with all applicable Laws in the Territory. BioCryst shall, at its own cost, maintain a global adverse event database for the Licensed Products and shall generate adverse event reports outside the Territory for Shionogi's use. Shionogi shall have free and unfettered access to all data in such database. BioCryst shall be responsible for submitting adverse events reports to the applicable Regulatory Authorities outside the Territory, with respect to which BioCryst shall bear 100% of the costs.

7.3 Adverse Events and Reporting. As soon as reasonably practicable, but in no event later than three (3) months after the Effective Date, the Parties shall jointly establish, and mutually agree upon adverse event and complaint reporting procedures which each Party must adhere to and shall execute a separate agreement relating thereto. Such procedures shall at all times include any measures necessary for each Party to fully comply with applicable Laws and such procedures may be amended with the Parties' mutual consent from time to time. Such operating procedures and any material revisions to them shall be provided to the JSC for review and comment before execution of the aforesaid agreement. In addition, each Party shall promptly notify the other if such Party becomes aware of any information or circumstance that is likely to have a material adverse effect on the Development or Commercialization of the Licensed Products.

ARTICLE 8
INSURANCE

8.1 Shionogi shall obtain and maintain, during the term of this Agreement, comprehensive general liability insurance, including products liability insurance and coverage for clinical trials, with reputable and financially secure insurance carriers in a form and at levels, respectively, that are reasonable and customary in the pharmaceutical industry for companies of comparable size and activities, but in any event shall be a minimum of [***] per occurrence with an annual aggregate limit of not less than [***]. The premium of any insurance will be borne by Shionogi. Such liability insurance shall be maintained on an occurrence basis to provide such protection for [***] after expiration or termination of this Agreement. Shionogi shall furnish to BioCryst on request certificates issued by the insurance company setting forth the amount of the liability insurance (or evidence of self insurance). BioCryst shall receive thirty (30) days written notice prior to termination or material reduction to the level of Shionogi's insurance policy as required by this Article 8.

ARTICLE 9
PAYMENTS

9.1 Signing Fee. Within [***] of the Effective Date, in partial consideration for the licenses and rights granted to Shionogi under this Agreement, Shionogi shall pay or cause to be paid, a non-refundable, non-creditable payment of Fourteen Million U.S. Dollars ($14,000,000) to BioCryst as a signing fee (the "***Signing Fee***").

9.2 Milestone Payments. As additional partial consideration for the licenses and rights granted by BioCryst to Shionogi herein, Shionogi shall pay to BioCryst the following one-time, non-refundable, non-creditable payments:

(a) [***]. Notwithstanding the foregoing, in the event of bona fide extraordinary circumstances relating to the profile of the Licensed Product which first arose during the Phase [***] Trial [***], the Parties will discuss in good faith extending the period for payment under Section 9.2(a)(i), above, which in no event shall exceed the [***] of receipt of the final case report form from the Phase [***] Trial for a Licensed Product in the Territory. If such bona fide safety concern is related to a formulation and Shionogi notifies BioCryst of its good faith decision to re-conduct a Phase [***] Trial with a newly developed formulation, then the payment set forth in this Subsection 9.2 (a) shall be made no later than the earlier of [***]. If such newly developed formulation again demonstrates in Phase [***] Trial a bona fide safety concern after re-conducting Phase [***] Trial and Shionogi has again made the good faith decision to repeat Phase [***] Trial(s) with another newly developed formulation, [***].

(b) [***] in the Territory for a Licensed Product.

(c) [***] in the Territory.

9.3 Royalty Payments. In partial consideration for the licenses and rights granted to Shionogi under this Agreement, Shionogi shall pay to BioCryst the following royalty payments, which shall be paid within [***] after the end of each calendar quarter:

(a) for sales of Licensed Products to any Governmental Entity ("***Non-Commercial Sales***"), the greater of [***]. For the purposes of this Agreement, "***Adjusted Net Sales***" shall mean [***].

(b) for sales of Licensed Products to non-Governmental Entity parties ("***Commercial Sales***"), royalty payments on incremental Net Sales according to the following rates for the following ranges of Net Sales:

(i) [***].

(ii) [***].

By way of example [***]:

Amount of Net Sales	Royalty Rate	Royalty Payment
[***]	[***]%	[***]
[***]	[***]%	[***]
[***]		[***]

(c) Term. The term for the obligations to pay royalties under this Section 9.3 shall expire on the date that is the later of (i) [***]. If the royalty obligations in this Section 9.3(c) are prohibited by applicable Law, then the royalty obligations shall continue until such time as the obligation is prohibited by applicable Law.

(d) Patent Coverage Adjustment**.** If there is no Valid Claim that, but for this Agreement would be infringed by the manufacture, use or sale of Licensed Product in the Territory, then the royalty obligations from Shionogi to BioCryst shall be reduced by [***]. If there is a Valid Claim, and if

(i)

[***] , *then* [***]

(ii)

[***]

Where:

- GPS = the number of units of Generic Products sold in the Territory for a given period; and
- LPS = the number of units of Licensed Products sold in the Territory for a given period.

For purposes of this Section 9.3(d) the number of "***units***" sold shall be appropriately adjusted to account for units of varying volumes.

(e) Third Party Rights.

(i) New Formulations. In the event Third Party Intellectual Property Rights are necessary (or desired by Shionogi) in order to Develop or Commercialize New Formulations of Licensed Products in the Territory and BioCryst desires to obtain a license to such Third Party Intellectual Property Rights for outside the Territory, Shionogi shall procure a worldwide license to such Intellectual Property Rights from such Third Party (each, a "***Third Party New Formulations License***"). Shionogi agrees (a) to keep BioCryst apprised of and involved in the negotiations of such license, (b) to take into consideration BioCryst's requests regarding the same, and (c) not to execute any agreement for a Third Party New Formulations License with such Third Party without obtaining BioCryst's prior consent on the terms and conditions of such agreement which relate to the license outside the Territory. If BioCryst obtains rights under the Third Party New Formulations License outside the Territory, BioCryst shall bear royalties and other payments owed to the licensing Third Party of such Third Party Intellectual Property Rights outside the Territory. The Parties agree that no royalty offset (described in Section 9.3(e)(ii), below) shall be available to Shionogi for payments made under Third Party New Formulations Licenses.

(ii) Royalty Offset. In the event that, Shionogi, in order to exploit the licenses and rights granted to it under Section 2.1 hereof, actually makes royalty or other payments to one or more Third Parties ("***Third Party Payments***") as consideration for a license to Intellectual Property Rights of such Third Parties, in the absence of which the importation or use of Compound or manufacture, use or sale of Licensed Product could not legally be made in the Territory due to the infringement of valid claims in such Intellectual Property Rights of such Third Parties, then Shionogi shall have the right to reduce the royalties otherwise due to BioCryst pursuant to this Section 9.3 for such Licensed Product by [***] of such Third Party Payments. Notwithstanding the foregoing, the offset set forth in this Section 9.3(e) (ii) shall in no event reduce the royalty for Licensed Product in the Territory by [***] of the royalty rate otherwise due to BioCryst pursuant to this Section 9.3.

(f) Royalty Reports. All royalty payments shall be accompanied by a written report from Shionogi to BioCryst, showing for the calendar quarter for which such payment applies, in U.S. Dollars, all information required by BioCryst to verify the royalty payments payable hereunder, including but not limited to the information set forth on Schedule 9.3(f) and any other information customary with industry standards of the Territory.

9.4 One-time Net Sales Milestone Payments for Sales of Licensed Products. In partial consideration for the licenses and rights granted to Shionogi under this Agreement, Shionogi shall pay or cause to be paid, to BioCryst within [***] of the first achievement of the following milestones, the following one-time, non-refundable, non-creditable payments in the amounts set forth next to such milestone:

Cumulative Calendar Year Net Sales including both Non-Commercial Sales and Commercial Sales	**Payment (in U.S. Dollars)**
• [***]	• [***]
• [***]	• [***]
• [***]	• [***]
• [***]	• [***]
Total Commercial Sales Milestone Payments:	**$95 million**

9.5 Payments for Clinical and Commercial Supply. In consideration for the supply of Licensed Product and Compound for Development and commercial use, Shionogi shall pay to BioCryst an amount equal to [***].

9.6 Payments; Foreign Exchange. All amounts referenced herein are in United States Dollars. Unless otherwise specified, all payments under this Agreement shall be made within thirty (30) days of the date of invoice, in U.S. Dollars, by wire transfer to a bank and to an account designated by BioCryst. Any payment amount, or any component used to calculate a payment amount, computed in a currency other than the U.S. Dollar shall be converted into U.S. Dollars at the exchange rate for transfers from such currency to U.S. Dollars as quoted by [***] on the business day immediately prior to the payment day. Any payments or portions thereof due hereunder which are not paid when due shall bear interest equal to the lesser [***]. This Section 9.6 shall in no way limit any other remedies available to either Party. Other than as set forth herein or except in the case of overpayment, all payments hereunder shall be non-refundable and non-creditable.

9.7 Taxes. The Parties agree that all amounts due by Shionogi to BioCryst under this Agreement shall be treated as "***royalties***" for purposes of the U.S. Japan Income Tax Treaty. Accordingly, all payments hereunder shall be made free and clear, and without deduction or withholding, of any present or future taxes, duties, levies and other similar charges, including related interest, additions to tax and penalties ("***Taxes***"). [***].

9.8 Audit Rights. Each Party shall have the right, at its own expense, to inspect the other Party's relevant financial books and records through an independent certified public accountant designated by the auditing Party and reasonably acceptable to the Party being audited upon at least fifteen (15) days advance written notice for the purpose of confirming the audited Party's compliance with the terms herein. Each Party and its Affiliates shall keep full, true and accurate books of account containing all particulars that may be necessary for the purpose of calculating all royalties and other payments payable under this Agreement and shall retain such books of account for a minimum of [***] after the applicable reporting period. Audit results and findings shall be shared by the auditing Party with the audited Party. If the audit reveals an underpayment, the audited Party shall make up such underpayment within thirty (30) days, plus interest at the rate of [***]. If the audit reveals an overpayment, the auditing Party shall return such overpayment within thirty (30) days. If the audit reveals an underpayment or overpayment in the amount of [***] for any calendar quarter, then the audited Party shall reimburse the auditing Party for the costs of the audit. Notwithstanding the foregoing, any audit of BioCryst shall be limited to the books and records necessary in order to verify the calculation of COGS.

ARTICLE 10
INTELLECTUAL PROPERTY

10.1 Prosecution and Maintenance of BioCryst Patents. BioCryst shall prosecute and maintain the BioCryst Patents as BioCryst reasonably determines. As between BioCryst and Shionogi, BioCryst shall determine whether, where and when to maintain any of the BioCryst Patents and to file any patent applications included in the BioCryst Patents and, if it determines to take any action, it shall do so at its own cost and expense. However, with respect to the BioCryst Patent Japanese [***] ("***Core Patent***"), BioCryst undertakes to prosecute and maintain such Core Patent in the Territory and shall provide Shionogi with copies of all material communications received from or filed in patent office(s) in the Territory. In the event that BioCryst determines not to continue to prosecute or maintain any of the BioCryst Patents, BioCryst shall notify Shionogi not less than [***] before any relevant deadlines. Thereafter, Shionogi shall have the right to pursue at its sole cost and discretion the prosecution or maintenance of such patent application or patent. The Parties shall reasonably cooperate with each other in gaining patent term extension(s) or the like applicable to the BioCryst Patents in the Territory.

10.2 Inventions. The ownership of any improvements to the BioCryst Intellectual Property Rights (including any Patents and any other BioCryst Intellectual Property Rights, whether patentable or not) that include, are based on, or are derived from, Compound or Licensed Product (or the Development or Commercialization thereof), BioCryst Patents or the BioCryst Know-How, including but not limited to the Shionogi Know-How ("***Agreement Improvements***", which for the avoidance of doubt shall include Intellectual Property Rights underlying New Formulations and shall include the Licensed Product Mark) shall be determined in accordance with the laws of inventorship of the United States. Shionogi hereby grants to BioCryst an irrevocable, exclusive, worldwide, perpetual, royalty-free, fully paid up, transferable and sublicensable right under Shionogi's interest in Agreement Improvements (including without limitation to Shionogi's interest in joint inventions made with BioCryst) to make, have made, use, sell, import, have imported, and otherwise fully commercially exploit such inventions outside of the Territory in all fields and inside the Territory outside of the Field (it being understood that the Licensed Product Mark shall not be used by BioCryst inside the Territory). Notwithstanding the foregoing, in the case that Agreement Improvements are relevant to Compound or Licensed Products (including New Formulations) and also other products, technology or applications, then the foregoing license grant shall be deemed to be non-exclusive.

10.3 Infringement by Third Party.

(a) Each Party shall notify the other Party promptly of any conduct on the part of Third Parties that it deems to be a potential infringement, misappropriation, act of unfair competition, dilution or other violation of the BioCryst Intellectual Property Rights.

(b) BioCryst will have the first right, in its sole discretion and expense, to take any and all action it deems necessary to stop such violation, including the bringing of an action based on the BioCryst Intellectual Property Rights or for unfair competition with respect thereto. BioCryst will exclusively control the prosecution or settlement of any such action and will bring such action in the name of BioCryst only or in the name of both BioCryst and Shionogi. Shionogi shall have the right (but not obligation) to participate in such action through its own counsel at Shionogi's cost. If BioCryst does not take any action to stop such violation within sixty (60) days from the date when either of BioCryst or Shionogi notifies the other Party of such violation, Shionogi shall have the right (but not obligation) to take any and all action it deems necessary to stop such violation. In either case, the Parties shall provide all reasonable assistance to each other and reasonably cooperate to prosecute or settle such action. Each of BioCryst and Shionogi shall recover their respective actual out-of-pocket expenses or equitable proportions thereof associated with any such action or settlement thereof from any monetary proceeds, damages and other relief obtained by BioCryst and/or Shionogi. Any excess amount shall be retained by the Party in charge of the enforcement action; provided, however, that if such party is Shionogi, all such proceeds shall be deemed to be "***Net Sales***" under the terms of this Agreement, for which a royalty shall be paid to BioCryst.

(c) In the event that any action is brought against BioCryst or Shionogi or any Affiliate of either Party alleging the violation of the Intellectual Property Rights of a Third Party by reason of the Development, manufacture or Commercialization of Compound and/or Licensed Product in the Field and in the Territory, Shionogi shall have the first right, but not the obligation, to defend itself and BioCryst in such action at its sole expense. BioCryst shall have the right to participate in such action through its own counsel at BioCryst's cost. The Parties shall provide all reasonable assistance to each other and reasonably cooperate to defend or settle such action. Neither Party shall assert counterclaims based on the BioCryst Intellectual Property Rights, or compromise, settle or otherwise dispose of any such action without the other Party's advice and prior consent, provided that the Party not defending the action shall not unreasonably withhold its consent to any settlement which does not have a material adverse effect on its business.

ARTICLE 11
PUBLICITY; CONFIDENTIALITY

11.1 Publicity.

(a) Oversight by Communications Subcommittee. The JSC shall constitute a Communications Subcommittee. Prior to communicating or disclosing any publications, abstracts, scientific presentations, websites, press releases or other disclosures relating to the relationship of the Parties, each Party shall submit to the Communications Subcommittee a copy of such communication or disclosure for review in accordance with this Agreement and guidelines established by the Communications Subcommittee. Such guidelines shall include among other things a process for ensuring submission of all such communications and disclosures by the Parties to the Communications Subcommittee reasonably in advance of disclosure to allow sufficient time for review, including the preparation of a communications calendar that anticipates disclosures expected to be made during the following calendar quarter. If the Communications Subcommittee is unable to agree upon the acceptability of a public disclosure after endeavoring to do so in good faith, BioCryst's Co-Chair shall have the right to cast the deciding vote.

(b) Prior Review. Each Party may disclose results and significant developments regarding Licensed Product and other activities in connection with this Agreement from time to time only with the approval of the other Party, which approval shall not be unreasonably withheld, conditioned or delayed. Such disclosures may include achievement of significant events in the research, Development (including regulatory process), manufacture or Commercialization of Licensed Product under this Agreement or the receipt of material payments. When a Party (the "***Requesting Party***") elects to make any such public disclosure under this Section 11.1(b), it will give the other Party (the "***Cooperating Party***") through its Communications Subcommittee representatives, a copy of any such statement and at least five (5) business days to review and comment on such statement, it being understood that if the Cooperating Party does not notify the Requesting Party in writing within such five (5) business day period of any objections, such disclosure shall be deemed approved, and in any event the Cooperating Party shall work diligently and reasonably to agree on the text of any proposed disclosure in an expeditious manner. The principles to be observed in such disclosures shall be accuracy, compliance with applicable Law and regulatory guidance documents, and reasonable sensitivity to potential negative reactions of the FDA and/or the MHLW or the applicable Regulatory Authority in the Territory (and their foreign counterparts).

(c) Publications. Except as required by applicable Law or court order, any publication or presentation of Confidential Information (as defined below), including studies or clinical trials carried out by a Party or the Parties under this Agreement shall be subject to the oversight and guidelines of the Communications Subcommittee. The Communications Subcommittee shall establish, promptly after the Effective Date, guidelines that (i) allow for each Party's timely review of all such publications or presentations, (ii) provide for protection of Confidential Information and ensure coordination with other applicable joint-committees prior to any disclosure of protectable subject matter, and (iii) ensure that all such publications and presentations are consistent with good scientific practice and accurately reflect work done and the contributions of the Parties. Unless otherwise mutually agreed upon by the Parties, (A) the Party desiring to publish or present any (the "***Publishing Party***") shall transmit to the other Party (the "***Reviewing Party***") for review and comment a copy of the proposed publication or presentation, at least [***] prior to the submission of the proposed publication or presentation to any Third Party; (B) the Publishing Party shall postpone the publication or presentation for up to an additional [***] upon request by the Reviewing Party in order to allow the Reviewing Party to consider appropriate patent applications or other protection to be filed on information contained in the publication or presentation; (C) upon request of the Reviewing Party, the Publishing Party shall remove all Confidential Information of the Reviewing Party from the information intended to be published or presented; and (D) the Publishing Party shall consider all reasonable comments made by the Reviewing Party to the proposed publication or presentation. For the avoidance of doubt, no restriction set forth in this Section 11.1 shall apply to BioCryst's actions outside the Territory.

11.2 Confidential Information; Exceptions. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing, the Parties agree that the receiving Party shall keep confidential and shall not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement any confidential and proprietary information or materials of the other Party furnished to it by the other Party or learned by it from or through its exercise of its rights pursuant to this Agreement (collectively, "***Confidential Information***") during the term hereof and for a period of five (5) years following the termination of this Agreement; provided, however, that the obligation to keep a Party's trade secrets confidential shall survive for such time as such information remains a protected trade secret. For the avoidance of doubt, Agreement Improvements shall be deemed to be the Confidential Information of both Parties. Notwithstanding the foregoing, Confidential Information shall not include any information to the extent that it can be established by written documentation of the receiving Party that such information:

(a) was already known to the receiving Party, other than under an obligation of confidentiality (except to the extent such obligation has expired or an exception is applicable under the relevant agreement pursuant to which such obligation established), at the time of disclosure;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving Party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement; or

(d) was disclosed to the receiving Party, other than under an obligation of confidentiality (except to the extent such obligation has expired or an exception is applicable under the relevant agreement pursuant to which such obligation established), by a Third Party who had no obligation to the disclosing Party not to disclose such information to others.

11.3 This Agreement. Each of the Parties agrees not to disclose to any Third Party the terms and conditions of this Agreement without the prior approval of the other Party, except (i) to advisors (including attorneys and accountants) on a need to know basis, in each case under circumstances that reasonably ensure the confidentiality thereof, or (ii) under circumstances that reasonably ensure the confidentiality of the information, to the extent necessary to comply with the terms of agreements with Third Parties existing as of the Effective Date; provided, however, that if a Party is required by Law to make any such disclosure of the terms or conditions of this Agreement, it will give reasonable advance notice to the other Party of such disclosure requirement and will use its reasonable efforts to secure confidential treatment of the terms and conditions which the Parties agree should be maintained as confidential. In addition to the foregoing, with respect to complying with the disclosure requirements of the U.S. Securities and Exchange Commission, the Financial Services Agency of Japan (collectively the "***Securities Authorities***") in connection with any required filing with any of the Securities Authorities of this Agreement, the filing Party shall provide to the other Party a copy of the proposed filing and the Parties shall work cooperatively in good faith, taking into consideration the other Party's suggestions, regarding the text of the disclosure as well as information for which the filing Party will seek to obtain confidential treatment. Notwithstanding the foregoing, the Parties shall agree upon and release a mutual press release to announce the effectiveness of this Agreement together with a corresponding Question & Answer outline for use in responding to inquiries about the Agreement; thereafter, the Parties may each disclose to Third Parties the information contained in such press release and Question & Answer outline without the need for further approval by the other.

11.4 Authorized Disclosure. Except as expressly provided otherwise in this Agreement, each Party may use and disclose Confidential Information of the other Party as follows: (i) under appropriate confidentiality provisions substantially equivalent to those in this Agreement, in connection with the performance of its obligations or as reasonably necessary or useful in the exercise of its rights under this Agreement in complying with the terms of agreements with Third Parties existing as of the Effective Date; (ii) to the extent such disclosure is reasonably necessary in filing or prosecuting patent, copyright and trademark applications in accordance with this Agreement, prosecuting or defending litigation, complying with applicable governmental regulations, obtaining regulatory approval or fulfilling post-approval regulatory obligations, or otherwise required by Law, provided, however, that if a Party is required by Law to make any such disclosure of the other Party's Confidential Information it will, except where impracticable for necessary disclosures (for example, in the event of medical emergency), give reasonable advance notice to the other Party of such disclosure requirement and, except to the extent inappropriate in the case of patent applications, will use its reasonable efforts to secure confidential treatment of such Confidential Information required to be disclosed; (iii) in communication with advisors (including lawyers and accountants) on a need to know basis, in each case under appropriate confidentiality provisions substantially equivalent to those of this Agreement; or (iv) to the extent mutually agreed to by the Parties. Notwithstanding the foregoing and for the avoidance of doubt, Shionogi acknowledges and agrees that BioCryst may disclose to the U.S. Government or other Regulatory Authority all Data received from Shionogi; provided, however, that in the event BioCryst intends to disclose the Data or information (including databases) under a different process than the process applied by Shionogi in its protocol, CSR and/or analytical report, then BioCryst shall obtain Shionogi's consent prior to such disclosure.

ARTICLE 12
SHIONOGI OPTION TO LICENSE OTHER PRODUCTS

12.1 Right of First Negotiation. BioCryst hereby grants [***].

12.2 [***].

ARTICLE 13
REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 By BioCryst. BioCryst hereby represents and warrants to, and covenants with, Shionogi as follows:

(a) BioCryst is duly organized and validly existing under the Laws of its jurisdiction of incorporation and has full corporate power and authority, and has taken all corporate action necessary, to enter into and perform its obligations under this Agreement.

(b) This Agreement is a legal, valid and binding obligation of BioCryst, enforceable against BioCryst in accordance with its terms. Neither the execution and delivery of this Agreement by BioCryst, nor the performance by BioCryst of its obligations hereunder, conflicts with any agreement, instrument or understanding, oral or written, by which BioCryst is bound.

(c) To BioCryst's knowledge, no authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any applicable Law currently in effect, is required in connection with the execution and delivery of this Agreement by BioCryst, or the performance by BioCryst of its obligations hereunder.

(d) BioCryst has sufficient right in and to BioCryst Patents and BioCryst Know-How to enable it to carry out its obligations under this Agreement. To its best knowledge, BioCryst has not committed and shall not commit any breach of the Pre-Existing Third Party License which will lead to a forfeiture of the rights granted under this Agreement.

(e) BioCryst has not been debarred or the subject of debarment proceedings by any Regulatory Authority. BioCryst shall not knowingly use in connection with the Development of Licensed Product any employee, consultant or investigator that has been debarred or the subject or debarment proceedings by any Regulatory Authority.

(f) BioCryst shall use diligent efforts in carrying out its obligations pursuant to this Agreement, consistent with all applicable United States Laws and highest industry standards.

13.2 By Shionogi. Shionogi hereby represents and warrants to, and covenants with, BioCryst as follows:

(a) Shionogi is duly organized and validly existing under the Laws of its jurisdiction of incorporation and has full corporate power and authority, and has taken all corporate action necessary, to enter into and perform its obligations under this Agreement.

(b) This Agreement is a legal, valid and binding obligation of Shionogi, enforceable against Shionogi in accordance with its terms. Neither the execution and delivery of this Agreement by Shionogi, nor the performance by Shionogi of its obligations hereunder, conflicts with any agreement, instrument or understanding, oral or written, by which Shionogi is bound.

(c) To Shionogi's knowledge, no authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any applicable Law currently in effect, is required in connection with the execution and delivery of this Agreement by Shionogi, or the performance by Shionogi of its obligations hereunder.

(d) Neither Shionogi nor any of its Affiliates have been debarred or the subject of debarment proceedings by any Regulatory Authority. Neither Shionogi nor any of its Affiliates shall use in connection with the Development of Licensed Product any employee, consultant or investigator that has been debarred or the subject or debarment proceedings by any Regulatory Authority.

(e) Shionogi shall use Diligent Efforts in carrying out its obligations pursuant to this Agreement, consistent with all applicable Laws and highest industry standards.

13.3 Disclaimer. ALL PATENTS, KNOW-HOW, DATA AND OTHER INTELLECTUAL PROPERTY RIGHTS, AND ALL LICENSED PRODUCT AND COMPOUND PROVIDED HEREUNDER IS PROVIDED AS-IS. NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY WITH REGARD TO ANY PATENT, KNOW-HOW, DATA, LICENSED PRODUCT, COMPOUND OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, EACH PARTY DISCLAIMS, AND WAIVES ALL WARRANTIES OF AND TO, THE OTHER, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY LICENSED PRODUCT, BIOCRYST INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OR DEALING OR USAGE OF TRADE, AND ANY IMPLIED WARRANTY OF NONINFRINGEMENT.

OTHER THAN IN CONNECTION WITH A PARTY'S INDEMNITY OBLIGATIONS, A BREACH OF THE LICENSE GRANTS TO SHIONOGI OR IN CONNECTION WITH AN INDEMNIFYING PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER RESULTING OR ARISING FROM ANY CAUSE OR CLAIM WHATSOEVER, WHETHER BY TORT, OR CONTRACT OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS AND LOSS OF SAVINGS, BUSINESS DATA, OR GOODWILL. SHIONOGI'S SOLE AND EXCLUSIVE REMEDY FOR DAMAGES RELATING TO LICENSED PRODUCT OR COMPOUND SUPPLIED BY BIOCRYST SHALL BE REPLACEMENT BY BIOCRYST OF ANY NON-CONFORMING MATERIAL**.**

13.4 Compliance with Laws. Shionogi understands and acknowledges that BioCryst is subject to regulation by agencies of the U.S. Government, including, but not limited to, the U.S. Department of Commerce and the U.S. Treasury Department's Office of Foreign Assets Control, both of which regulate the import, export and diversion of certain products and technology from and to certain countries. Any and all obligations of BioCryst to provide the Compound or Licensed Product, as well as any other technical information or assistance, and all rights on the part of Shionogi to perform its obligations hereunder, shall be subject in all respects to such United States laws and regulations as shall from time to time govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of the United States, including but not limited to regulations promulgated under Executive Order No. 12924 of August 19, 1994 issued pursuant to the President's authority under the International Emergency Economic Powers Act, Title 50 U.S. C., Chapter 35, Section 1701 et seq. and those contained in Title 31, Part 500 of the U.S. Code of Federal Regulations. Shionogi agrees to cooperate with BioCryst including, without limitation, providing required documentation, in order to comply with any and all applicable United States Laws and regulations. Shionogi warrants that it shall comply with all United States Laws and regulations governing exports in effect from time to time that are applicable to BioCryst as if such laws and regulations were applicable to Shionogi. In the event any rights or obligations hereunder are or become illegal or the subject of sanctions or restrictions, then BioCryst shall have the right, in its sole discretion, to terminate, without penalty and immediately upon written notice, the provisions of this Agreement which in BioCryst's sole discretion relate to such restrictions.

ARTICLE 14
TERM AND TERMINATION

14.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue unless terminated pursuant to this Article 14.

14.2 Termination By BioCryst. Without limiting any other rights or remedies either Party may have under this Agreement or otherwise, BioCryst shall have the right to terminate this Agreement upon notice to Shionogi at any time in the event that the Pre-Existing Third Party License is terminated (or modified to an extent that BioCryst cannot perform its obligations hereunder), or if any of the following shall occur:

(a) if Shionogi breaches, in any material respect, any of its representations, warranties or obligations under this Agreement, and, if curable, such breach is not cured within thirty (30) days after Shionogi's receipt of written notice of such breach; or

(b) if Shionogi suffers an Insolvency Event.

14.3 Termination By Shionogi.

(a) Termination for Breach. Without limiting any other rights or remedies either Party may have under this Agreement or otherwise, Shionogi shall have the right to terminate this Agreement upon written notice to BioCryst, if BioCryst breaches, in any material respect, any of its representations, warranties or obligations under this Agreement, and, if curable, such breach is not cured within thirty (30) days after BioCryst's receipt of written notice of such breach.

(b) Termination without Cause. Shionogi shall have the right to terminate this Agreement at any time at its discretion by providing BioCryst with [***] prior written notice. Shionogi agrees to terminate this Agreement pursuant to this Section 14.3(b) in the event that, at any time, Shionogi does not plan to exercise, or has not exercised, or will not exercise, Diligent Efforts to Develop or Commercialize Licensed Products.

14.4 Effect of Termination.

(a) The termination or expiration of this Agreement shall not affect any payment of any debts or obligations accruing prior to such date of termination or expiration. Sections [***] shall survive the termination or expiration of this Agreement.

(b) Furthermore, upon termination of this Agreement all licenses and rights granted to Shionogi shall terminate, and Shionogi shall terminate all activities related to the Development and Commercialization of Licensed Products, cease all use of the BioCryst Intellectual Property Rights, and shall return to BioCryst all documents (including copies) of any kind concerning the Compound, BioCryst Intellectual Property Rights or the Licensed Products and other Confidential Information received from BioCryst or otherwise created in the course of performing this Agreement. Shionogi shall promptly destroy all Compound and Licensed Product which it holds in stock at the time of such termination or expiration of this Agreement. Shionogi shall promptly and diligently provide to BioCryst all assistance reasonably necessary in order to assist BioCryst in transitioning and assigning to BioCryst all aspects of the Parties' relationship hereunder, including but not limited to all work in progress, regulatory submissions, Agreement Improvements and Shionogi Know-How to BioCryst. For the avoidance of doubt, and in consideration for BioCryst's granting the New NI Compound option to Shionogi, Shionogi hereby assigns to BioCryst all Intellectual Property Rights in the Agreement Improvements (to the extent that such Agreement Improvements are solely related to the Compound and/or Licensed Product; and to the extent such Agreement Improvements are not solely related to the Compound and/or Licensed Product, Shionogi will and hereby does grant to BioCryst an irrevocable, non-exclusive, worldwide, perpetual, royalty-free, fully paid up, transferable and sublicensable right under Shionogi's interest in such Agreement Improvements), and agrees to take all further actions reasonably requested by BioCryst to perfect such assignment and vest the rights assigned to BioCryst in BioCryst or its designee(s). Shionogi shall pay to BioCryst any and all amounts already due under this Agreement and transfer and assign to BioCryst any Regulatory Filings relating to the Licensed Product that are in Shionogi's possession (including and but not limited to any IND, MAA, Marketing Approval or any approval for any product labeling or Promotional Materials owned by or held in the name of Shionogi or its Affiliates), including the ownership thereof.

(c) In the event of termination of this Agreement by a Party for the other Party's uncured material breach, such termination shall not affect the terminating Party's right to claim damages against the breaching Party for such breach. In the event the non-breaching Party waives its right under Section 14.3 to terminate, such non-breaching Party shall not be prevented from seeking damages for a material breach by the breaching Party during the Term of this Agreement.

ARTICLE 15
DISPUTE RESOLUTION

15.1 General. Any dispute or disagreement between the Parties arising out of, under or in connection with this Agreement shall be settled in accordance with this Article 15.

15.2 Informal Mediation. In the event any dispute or disagreement between the Parties arises out of, under or in connection with this Agreement, either Party shall submit the dispute to the following executives for resolution: for BioCryst, Senior Executive Officer responsible for corporate development (or such successor as may be named by BioCryst); for Shionogi: General Manager of License Department responsible for alliance management (or such successor as may be named by Shionogi). Such executives shall work together in good faith for a period of [***] to resolve the dispute.

15.3 Escalation. In the event that a dispute is not resolved pursuant to the provisions of Section 15.2, above, the dispute or disagreement shall be submitted to the Senior Officers (defined below) for resolution. In such event, either Party, by written notice to the other Party, may formally request that the dispute be resolved by the Senior Officers, specifying the nature of the dispute with sufficient specificity to permit adequate consideration by the Senior Officers. The Parties shall cause their respective Senior Officers to use commercially reasonable efforts to resolve the referred dispute in good faith within [***] of receiving such written notification, including, without limitation, by means of a face-to-face meeting if requested by either Party. "***Senior Officers***" means, for Shionogi, the Senior Executive Officer or similar ranking officer, and for BioCryst, the CEO or similar ranking officer.

15.4 Arbitration. Any disputes, controversies between the Parties arising under or in connection with this Agreement not resolved through the procedures set out in the preceding clauses of this ARTICLE 15 shall be finally settled by arbitration without the right to appeal, in New York City, if requested by Shionogi, or in Osaka, if requested by BioCryst, before a panel of three (3) arbitrators under the Rules of the International Chamber of Commerce ("***ICC Rules***"), which Rules are deemed to be incorporated by reference to this clause. Each Party shall nominate an arbitrator, and the Party-nominated arbitrators shall agree upon the third arbitrator who will be the chair of the arbitrate tribunal. If the two Party-nominated arbitrators are unable to agree upon the chair, the chair shall be selected as provided in the ICC Rules. The arbitration award shall be binding upon the Parties and enforceable by any court of competent jurisdiction. The arbitration award shall include an award as to costs including attorney fees. These provisions shall not prevent a Party from making application to any court of competent jurisdiction seeking equitable relief in case of urgency.

15.5 No Arbitration of Intellectual Property Issues. Notwithstanding anything to the contrary contained herein, unless otherwise agreed by the Parties, disputes relating to Intellectual Property Rights shall not be subject to arbitration, and shall be submitted to a court of competent jurisdiction.

ARTICLE 16
INDEMNIFICATION

16.1 Indemnification by Shionogi. Shionogi shall indemnify, defend, and hold harmless BioCryst, the Affiliates of BioCryst, and their respective officers, directors, managers, members, partners, owners, employees, licensees, successors, and assigns (collectively, the "***BioCryst Indemnitees***") from and against all actions, causes of action, suits, debts, obligations, losses, damages, amounts paid in settlement, liabilities, costs, and expenses whatsoever, including reasonable attorneys' fees (collectively, "***Losses***"), whether arising out of a claim involving a Third Party or between the Parties, resulting to, imposed upon, asserted against, or incurred by any of BioCryst Indemnitees in connection with, or arising out of or relating to this Agreement, including without limitation, the Licensed Products and the Development or Commercialization thereof (including but not limited to product liability claims and recalls in the Territory), and/or any breach by Shionogi of a representation, warranty or covenant under this Agreement**.**

16.2 Indemnification by BioCryst. BioCryst shall indemnify, defend, and hold harmless Shionogi, the Affiliates of Shionogi, and their respective officers, directors, managers, members, partners, owners, employees, licensees, successors, and assigns (collectively, the "***Shionogi Indemnitees***") from and against all Losses, whether arising out of a claim involving a Third Party or between the Parties, resulting to, imposed upon, asserted against, or incurred by any of Shionogi Indemnitees in connection with, or arising out of or relating to (a) any material breach of this Agreement by BioCryst or (b)the gross negligence or willful misconduct on the part of BioCryst.

16.3 Indemnification Procedures. If any claim, demand, action or proceeding is made or commenced by any Third Party (a "***Third-Party Claim***") against any BioCryst Indemnitee or Shionogi Indemnitee that is entitled to be indemnified with respect thereto under this ARTICLE 16 (the "***Indemnified Party***"), the Indemnified Party shall give the other Party (the "***Indemnifying Party***") prompt written notice thereof; the failure to give such written notice shall not affect the liability of the Indemnifying Party under this Agreement except to the extent such failure materially and adversely affects the ability of the Indemnifying Party to defend the Third-Party Claim. The Indemnifying Party shall have the right to assume the defense and resolution of the Third-Party Claim, provided that (i) the Indemnified Party shall have the right to participate in the defense of the Third-Party Claim at its own expense through counsel of its choice (control of the defense will remain with the Indemnifying Party), (ii) the Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement that would require any act or forbearance on the part of the Indemnified Party or which does not unconditionally release the Indemnified Party from all liability in respect of the Third-Party Claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, and (iii) the Indemnified Party may undertake the defense of the Third-Party Claim, at the Indemnifying Party's expense, if the Indemnifying Party fails promptly to assume and diligently to prosecute the defense.

ARTICLE 17
MISCELLANEOUS

17.1 Assignment. This Agreement and any rights granted hereunder are personal to each Party and shall not be sold, assigned, sublicensed, encumbered or otherwise transferred (each a "***Transfer***"), directly or indirectly, by operation of law or otherwise, by either Party without the prior written consent of the other Party, which consent may be granted or withheld in such other Party's sole discretion; provided, however, that BioCryst, without notice and at any time for any reason, may Transfer this Agreement in whole or in part to (i) any of its Affiliates who agree to be bound by the terms and conditions of this Agreement or (ii) to any successor of BioCryst by merger, sale of all or substantially all of its business assets to which this Agreement relates or otherwise. Any attempted Transfer of this Agreement or any of the rights granted hereunder in violation of this Section 17.1 shall be void *ab initio*. The consent by any Party to any Transfer shall not constitute a waiver of the necessity for such consent in any subsequent Transfer. Notwithstanding anything to the contrary contained in this Section 17.1, either Party shall have the right to assign its rights under this Agreement in connection with a Change of Control of such Party to the successor in interest to such Party; provided, however, that the Party effecting a Change of Control shall give written notice of such Change of Control to the other Party within ten (10) days of such Change of Control, and such Transfer shall not relieve such assigning Party of its obligations under this Agreement except to the extent any permitted assignee assumes in writing the obligations of the assigning Party under this Agreement.

17.2 Section 365(n). All licenses granted under this Agreement are deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of right to "intellectual property" as defined in Section 101 of such Code. In addition, if Shionogi desires to register license granted hereunder with the Japanese Patent Office, BioCryst shall provide reasonable cooperation to this end.

17.3 Governing Law; Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York without regard to choice-of-law principles of the State of New York. All actions arising under this Agreement which are not arbitrable shall be brought in the State and Federal Courts located in New York County, New York. The Parties hereby irrevocably submit to the jurisdiction of such courts.

17.4 Severability. If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. In the event any provisions shall be held invalid, illegal or unenforceable, the Parties shall use best efforts to substitute a valid, legal and enforceable provision, which, insofar as practical, implements the purposes hereof.

17.5 Notices. All notices, requests, demands and other communications hereunder shall be given in writing and shall be: (a) personally delivered; (b) sent by telecopier, facsimile transmission or other electronic means of transmitting written documents; or (c) sent to the Parties at their respective addresses indicated herein by registered or certified U.S. mail, return receipt requested and postage prepaid, or by private overnight mail courier service. The respective addresses to be used for all such notices, demands or requests are as follows:

If to BioCryst, to:

BIOCRYST PHARMACEUTICALS, INC.
2190 Parkway Lake Drive
Birmingham, Alabama 35244
USA
Attention: CEO
Facsimile No.: +1-205-4640

with a copy to:

Proskauer Rose LLP
1585 Broadway
New York, New York 10036-8299
USA
Attention: Daryn Grossman, Esq.
Telephone: +1-212-969-3000
Facsimile: +1-212-969-2900

or to such other person or address as BioCryst shall furnish to Shionogi in writing.

If to Shionogi, to:

SHIONOGI & CO., LTD.
12-4, Sagisu 5 chome
Fukushima-ku, Osaka 553-0002
Japan
Attention: General Manager, License Department
Telephone: +81-6-6455-2393
Facsimile: +81-6-6455-2053

or to such other person or address as Shionogi shall furnish to BioCryst in writing.

If personally delivered, such communication shall be deemed delivered upon actual receipt; if electronically transmitted pursuant to this paragraph, such communication shall be deemed delivered on the day transmitted unless it is received after 5:00 p.m., local time, or on a day which is not a business day, in which case it shall be deemed delivered on the next business day after transmission (and sender shall bear the burden of proof of delivery); if sent by overnight courier pursuant to this paragraph, such communication shall be deemed delivered upon receipt; and if sent by mail pursuant to this paragraph, such communication shall be deemed delivered as of the date of delivery indicated on the receipt issued by the relevant postal service; or, if the addressee fails or refuses to accept delivery, as of the date of such failure or refusal. Either Party may change its address for the purposes of this Agreement by giving notice thereof in accordance with this Section 17.4.

17.6 No Waiver. None of the provisions of this Agreement can be waived except in a writing signed by the Party granting the waiver. No failure by a Party to exercise any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any right preclude any other or further exercise of that right or the exercise of any other rights. The waiver by any Party of any breach of this Agreement shall not be deemed a waiver of any prior or subsequent breach. All remedies of either Party shall be cumulative and the pursuit of one remedy shall not be deemed a waiver of any other remedy.

17.7 Further Assurances. Each Party shall execute, acknowledge and deliver, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as the other Party shall reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

17.8 No Third-Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to give any other person or entity any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein, other than BioCryst Indemnitees, Shionogi Indemnitees and any assignee permitted under Section 17.1 above.

17.9 Relationship of the Parties. The relationship of the Parties under this Agreement shall be solely that of independent contractors and nothing herein shall be construed to create or imply any relationship of employment, agency, joint venture, partnership or any relationship other than that of independent contractors. BioCryst and Shionogi acknowledge and agree that each of them is engaged in a separate and independent business and neither shall state, represent or imply any interest in or control over the business of the other.

17.10 Government Funding. BioCryst's obligations under this Agreement have been funded in whole or in part with Federal funds from the Office of Public Health Emergency Preparedness, Office of Public Health Emergency Medical Countermeasures, under Contract No, HHSO100200700032C.

17.11 Cost. Unless otherwise specified, each Party shall bear the full Cost of its compliance with the terms of this Agreement and its respective obligations hereunder. For purposes of this Agreement, the term "**Costs**" when used herein means the fully allocated costs including but not limited to the fully allocated cost of goods and services and manufacturing overhead directly related to Licensed Product, and allocation of all administrative and general expenses directly related to Licensed Product. Costs shall be determined by generally accepted accounting principles, applied on a consistent basis.

17.12 Interpretation. The captions and headings to this Agreement are for convenience only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections, Schedules or Exhibits mean the particular Articles, Sections, Schedules or Exhibits to this Agreement and references to this Agreement include all Exhibits and Schedules attached hereto. Each accounting term used herein that is not specifically defined herein shall have the meaning given to it under GAAP, but only to the extent consistent with its usage and the other definitions in this Agreement. Unless context otherwise clearly requires, whenever used in this Agreement: (i) the words "**include**" or "**including**" shall be construed as incorporating, also, "**but not limited to**" or "**without limitation**;" (ii) the word "**day**", "**month**" or "**year**" means a calendar day, month or year unless otherwise specified; (iii) the word "**notice**" means notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement; (iv) the words "**hereof**," "**herein**," "**hereby**" and derivative or similar words refer to this Agreement (including any Exhibits and Schedules); (v) provisions that require that a Party, the Parties or any committee or team hereunder "**agree,**" "**consent**" or "**approve**" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise; (vi) words of any gender include the other gender; and (vii) references to any specific Law or article, section or other division thereof shall be deemed to include the then-current amendments thereto or any replacement Law thereof.

17.13 No Modifications. Unless otherwise specified herein and the Exhibits attached hereto, nothing contained in this Agreement shall affect the rights and obligations of the Parties under the other License Documents, and the terms and conditions of all such agreements shall remain in full force and effect.

17.14 Entire Agreement. This Agreement and the Exhibits and Schedules attached hereto constitute the entire understanding between the Parties relating to the subject matter hereof, and no amendment or modification to this Agreement shall be valid or binding upon the Parties unless designated as such, made in writing and signed by the representatives of such Parties

17.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together, shall constitute one and the same instrument.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement in duplicate originals by their duly authorized representatives as of the date and year first above written.

BIOCRYST PHARMACEUTICALS, INC.

By: /s/JON P. STONEHOUSE
Name: JON P. STONEHOUSE
Title: Chief Executive Officer

SHIONOGI & CO., LTD.

By: /s/MOTOZO SHIONO
Name: MOTOZO SHIONO
Title: President

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.

FIRST AMENDMENT
TO
LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

This First Amendment (this "**Amendment**") to the License, Development and Commercialization Agreement between BioCryst Pharmaceuticals, Inc. ("**BioCryst**") and Shionogi & Co., Ltd. ("**Shionogi**"), dated as of February 28, 2007 (the "**Agreement**"), shall be effective as of September 30, 2008 (the "**First Amendment Date**").

WITNESSETH

WHEREAS, pursuant to Section 17.14 of the Agreement, the Agreement may be amended in writing by BioCryst and Shionogi; and

WHEREAS, BioCryst and Shionogi desire to amend the Agreement to expand the Territory to Taiwan (defined below) and to provide rights for Shionogi to perform a Phase III Clinical Trial in Hong Kong (defined below), which is outside the Territory.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and in the Agreement, BioCryst and Shionogi, intending to be legally bound hereby, amend, update and supplement the Agreement as follows:

1. Amendment of the Agreement. The parties hereby agree to amend the Agreement, effective as of the First Amendment Date as follows:

a. Definitions. The following definitions shall be added to Section 1.1 of the Agreement, as follows:

(fff) *"**Hong Kong**"* means the Hong Kong Special Administrative Region of the People's Republic of China.

(ggg) *"**2008 Trial**"* means the Phase III Clinical Trial described in Section 5.1(a), below.

(hhh) "***Taiwan***" means the territories of Taiwan, Republic of China.

b. Territory. Section 1.1(bbb) of the Agreement is hereby amended and restated in its entirety as: ""**Territory**" means Japan and Taiwan".

c. References to Japan. The following references to "Japan" or "Japanese" are hereby amended and restated in their entirety as follows:

1(h) *"**cGMPs**"* means the United States then-current good manufacturing practices and the equivalent standards of the Governmental Entities in the Territory.

1(aa) *"**IND**"* means an Investigation of a New Drug Filing (or the Japanese or Taiwanese equivalent) with a Regulatory Authority in the Territory for purposes of obtaining permission to initiate human clinical testing in such jurisdiction.

1(oo) "***NDA***" means a New Drug Application (or the Japanese or Taiwanese equivalent), including all supplements and amendments thereto, for the approval of the Licensed Product as a new drug by the MHLW or applicable Regulatory Authority in the Territory.

d. Section 2.1. Section 2.1 is hereby amended and restated in its entirety as:

License Grant; Reservation of Rights; Right to Conduct 2008 Trial in Hong Kong.

(a) Solely to the extent necessary for Shionogi to perform its obligations hereunder in accordance with the terms of this Agreement, and subject to all of the rights retained hereunder, BioCryst hereby grants Shionogi a personal, non-sublicensable, non-transferable, non-assignable right and license under the BioCryst Patents and BioCryst Know-How, to (i) exclusively Develop Licensed Products solely in the Field and in the Territory, and (ii) exclusively Commercialize Licensed Products solely in the Field and in the Territory. The foregoing license grant shall be deemed to extend to Shionogi's Affiliate, Taiwan Shionogi & CO., Ltd. ("Shionogi Taiwan") solely with respect to activities in Taiwan. Other than as explicitly set forth in this Section 2.1, no other licenses to the BioCryst Intellectual Property Rights or otherwise (including but not limited to all rights in BioCryst Intellectual Property Rights outside the Field and outside the Territory) are granted in this Agreement. **[***]**.

(b) In connection with the 2008 Trial, and only for such purpose, BioCryst hereby grants Shionogi the limited, nonexclusive right to conduct the 2008 Trial in Hong Kong. For the purposes of clarity, it is understood and agreed that the foregoing right set forth in this Section 2.1(b) is granted in furtherance of Shionogi's rights in the Territory, is subject in all respects to all of the terms and conditions set forth in this Agreement including the license grant and retained rights, including in Sections 2.1(a) and 2.3, and does not include any further rights to Develop or Commercialize in Hong Kong. All rights granted under this Section 2.1(b) shall terminate upon the completion of the 2008 Trial.

e. Section 2.2. Section 2.2 is hereby amended and restated in its entirety as:

Manufacturing. **[***]**.

f. Section 3.5(f). The following is hereby added as a new Section 3.5(f):

(f) BioCryst will be obligated to supply Licensed Product and Compound to Shionogi pursuant to this Section 3.5 (and otherwise under this Agreement) only in Japan, and not in any other location, including Taiwan, unless otherwise agreed to in writing by the Parties.

g. Section 3.6. The following is hereby added to the end of Section 3.6:

BioCryst will be obligated to supply Compound to Shionogi pursuant to this Section 3.6 (and otherwise under this Agreement) only in Japan, and not in any other location, including Taiwan, unless otherwise agreed to in writing by the Parties.

h. Section 5.1. The following is hereby added at the end of the existing Section 5.1:

Shionogi hereby acknowledges and agrees that, notwithstanding the fact that the Territory includes the jurisdictions of Japan and Taiwan, Shionogi shall give priority to its Development activities and achievement of the Milestone Events set forth in Section 5.6 in Japan over Taiwan.

i. Section 5.1(a). The following is hereby added as a new Section 5.1(a) of the Agreement:

5.1(a) 2008 Trial Diligence. Shionogi hereby agrees to use Diligent Efforts to undertake and complete the 2008 Trial in accordance with the criteria and time frames set forth on Schedule 5.1(a), solely at Shionogi's cost and expense.

j. Section 5.2. Section 5.2 is hereby amended and restated in its entirety as:

Product Development outside the Territory. Other than as expressly set forth in Section 2.1(b) and solely with respect to Hong Kong, BioCryst shall have sole decision-making authority with regard to the Development and Commercialization of Licensed Products outside the Territory (and no rights under this Agreement are granted to Shionogi outside the Territory).

k. Section 6.6. The following is herby added to the end of the existing Section 6.6 of the Agreement:

In no event may Shionogi or any Affiliate of Shionogi directly or indirectly register, or attempt to register, or assert any rights to any party in respect of any translation of a trademark, domain name or trade name owned by BioCryst.

l. Section 9.3. The preamble of Section 9.3 is herby amended and restated in its entirety as:

Royalty Payments. In partial consideration for the licenses and rights granted to Shionogi under this Agreement, Shionogi shall pay to BioCryst the following royalty payments, on a country-by-country basis within the Territory (pursuant to the currency and exchange provisions set forth in Section 9.6 herein and the taxes provision in Section 9.7 herein), as calculated based on Net Sales in Japanese Yen, regardless of the country of sale (as converted, where applicable), which shall be paid within **[***]** the end of each calendar quarter:

m. Section 9.3(c). Section 9.3(c) is hereby amended and restated in its entirety as:

Term. The term for the obligations to pay royalties under this Section 9.3 shall expire on a country-by-country basis within the Territory on the date that is the later of (i) **[***]** and (ii) **[***]**. If the royalty obligations in this Section 9.3(c) are prohibited by applicable Law, then the royalty obligations shall continue until such time as the obligation is prohibited by applicable Law.

n. Section 9.3(d). Section 9.3(d) is hereby amended and restated in its entirety as:

Patent Coverage Adjustment. If there is no Valid Claim that, but for this Agreement would be infringed by the manufacture, use or sale of Licensed Product in either Japan or Taiwan, then the royalty obligations from Shionogi to BioCryst shall be reduced by **[***]**. If there is a Valid Claim in Japan, and if

(i)

[***] , *then* **[***]**; OR

(ii)

[***] , *then* **[***]**

Where:

- GPS = the number of units of Generic Products sold in Japan for a given period, and
- LPS = the number of units of Licensed Products sold in Japan for a given period.

For purposes of this Section 9.3(d) the number of "***units***" sold shall be appropriately adjusted to account for units of varying volumes.

o. Section 9.3(f). Section 9.3(f) is hereby amended and restated in its entirety as:

Royalty Reports. All royalty payments shall be accompanied by written reports from Shionogi to BioCryst, showing for the calendar quarter for which such payment applies, in U.S. Dollars, all information required by BioCryst to verify the royalty payments payable hereunder, including but not limited to the information set forth on Schedule 9.3(f) for each country within the Territory, and any other information customary with industry standards of the Territory.

p. Section 10.1. The references to "the Territory" in Section 10.1 are hereby changed to "Japan".

2. Shionogi Taiwan. Shionogi hereby guarantees the obligations of Shionogi Taiwan and agrees to ensure that Shionogi Taiwan complies with each and every one of Shionogi's obligations under the Agreement.

3. No Other Changes. Except as expressly modified by this Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

4. Interpretation of Certain Terms. All terms which are capitalized but not defined in this Amendment shall have the meanings ascribed in the Agreement. The words "this Agreement," "hereunder," "hereof" and other similar words in the Agreement from and after the First Amendment Date shall mean and include the Agreement as amended hereby.

5. Governing Law; Venue. This Amendment shall be governed by and construed and enforced in accordance with the laws of the State of New York without regard to choice-of-law principles of the State of New York. All actions arising under this Amendment which are not arbitrable shall be brought in the State and Federal Courts located in New York County, New York. The Parties hereby irrevocably submit to the jurisdiction of such courts.

6. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as a sealed instrument by and through their duly authorized representatives.

BIOCRYST PHARMACEUTICALS, INC.
2190 Parkway Lake Drive
Birmingham, Alabama 35244
United States

By: /s/ David McCullough

Name: David McCullough
Title: VP Corp. Dev., Strategy, Commercial

Date: October 15, 2008

Shionogi & Co., Ltd.
1-8, Doshomachi 3-chome
Chuo-ku, Osaka 541-0045
Japan

By: /s/ Takuko Yamada Sawada

Name: Takuko Yamada Sawada
Title: Corporate Officer, Executive General Manager, Pharmaceutical Development Div.

Date: October 3, 2008

SCHEDULE 5.1(a)
PHASE III CLINICAL TRIAL DESCRIPTION

The Phase III trial which Shionogi plans to conduct in the 2008/2009 flu season and use for registration in the Territory for the purpose of receiving Marketing Approval from the Regulatory Authorities in the Territory for the treatment of seasonal flu. The formulation in this Phase III study will be administered intravenously.

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.

LICENSE AGREEMENT
BETWEEN
ALBERT EINSTEIN COLLEGE OF MEDICINE, INDUSTRIAL RESEARCH, LTD
AND
BIOCRYST PHARMACEUTICALS, INC.

LICENSE AGREEMENT

This Agreement is entered into as of June ___, 2000 ("Effective Date"), by and among Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefield Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

AECOM and Industrial have established laboratories directed by Drs. Vern Schramm, Peter C. Tyler and Richard H. Furneaux ("the Investigators") to conduct research relating to the identification and characterization of novel inhibitors of human purine nucleoside phosphorylase ("PNP"). Licensee wishes to acquire an exclusive license in the Field (defined below) from Licensors with respect to certain patent rights and related know-how owned by Licensors.

NOW, THEREFORE, in consideration of the promises and mutual covenants, conditions and limitations herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensors and Licensee agree as follows:

1. Definitions

1.01 **"Field"** means any use of inhibitors for human PNP that have an IC50 value less than [***], as determined by the method described in Bantia, *et al.*, Immunopharmacology 35, page 54, paragraph 2.1 (1997).

1.02 **"Agreement Patents"** means the U.S., New Zealand and PCT patent applications listed on Appendix A, together with any and all patents which issue from or are based on such applications and from any and all divisionals and continuations of such applications, any and all reissues of such patents and any and all patents which are based on such applications. Appendix A shall be updated from time to time by the parties, which as of the Effective Date includes all patents, patent applications and inventions which (1) are in the Field (2) include, as an inventor, the Investigators or employees of Licensors working under the supervision of the Investigators and (3) are owned by one or more of the Licensors. Agreement Patents shall not include any patents which have expired or been found finally to be invalid by a court or administrative agency of competent jurisdiction from which no appeal can be or is taken.

1.03 **"Licensed Product"** means any product or service in the Field the development, manufacture, use or sale of which is covered by a claim in an Agreement Patent, on a country-by-country basis.

1.04 **"Net Sales"** means the total consideration, in any form, received by Licensee and its Affiliates in connection with the sale or other disposition of Licensed Products by Licensee and/or any of its Affiliates to an independent third party, less:

(a) trade discounts allowed, refunds, returns and recalls; and,
(b) when included in gross sales, freight, shipping, duties, and sales, V.A.T. and/or use taxes based on sales prices, but not including taxes when assessed on incomes derived from such sales.

For any non-cash consideration received as Net Sales, the parties will appoint an independent third party to determine the present day value of such consideration and that value shall be added to Net Sales in place of the non-cash consideration.

1.05 **"Net Proceeds"** shall mean the total consideration, in any form (including, but not limited to, royalties, license signing fees, maintenance fees, milestones and minimum payments, whether or not such fees and payments are creditable against future royalties to be paid to Licensee, research and development funds other than Contract Research, and just that portion of the funds received for equity purchases of Licensee which exceeds the fair market value of the equity), received by Licensee from a Sublicensee in connection with the grant to said Sublicensee of the right to make and sell (or otherwise dispose of) Licensed Products. For any non-cash consideration received as Net Proceeds, the parties will appoint an independent third party to determine the present day value of such consideration and that value shall be added to Net Proceeds in place of the non-cash consideration. Net Proceeds does not include Contract Research.

1.06 **"Affiliate"** means any entity, that, directly or indirectly, through one or more intermediates, controls, is controlled by, or is under common control with Licensee. For the purposes of this definition, control shall mean the direct or indirect ownership of at least fifty percent (50%) of (i) the stock shares entitled to vote for the election of directors or (ii) ownership interest.

1.07 **"Sublicensee"** shall mean any non-Affiliate third party to whom Licensee has granted the right to make and sell (or otherwise dispose of) Licensed Products.

1.08 **"Contract Research"** shall mean those funds received by Licensee from a Sublicensee in connection with the grant to said Sublicensee of a sublicense to make and sell (or otherwise dispose of) Licensed Products, which funds are specifically earmarked and actually used to pay for synthesis, manufacturing, toxicology studies, clinical studies, and/or other research and/or development by Licensee relating directly to Licensed Products, which work is to be performed by or for Licensee after the date of the sublicense agreement and is to be performed at cost, without any profit to Licensee.

2. **Licensors' Agreements With U.S. And New Zealand Governments**

2.01 AECOM, through its Investigator, has and will perform research sponsored in part by the United States Government and related to the Field. As a result of this government sponsorship of the aforementioned research, the United States Government retains certain rights in such research as set forth in 35 U.S.C. §200 et. seq. and applicable regulations. AECOM will take all necessary action to reserve for Licensee exclusive rights to the technology developed by Investigator in the Field under the sponsorship of the government (and licensed to Licensee hereunder), with the proviso that such reservation shall be to the extent permitted under 35 U.S.C. Section 200 et. seq. and applicable regulations.

2.02 The continuance of such government sponsored research by AECOM and its Investigator during the term of this Agreement will not constitute a breach of this Agreement. All rights reserved to the U.S. Government under 35 U.S.C. §200 et. seq. and applicable regulations shall remain so reserved and shall in no way be affected by this Agreement. AECOM and its Investigator are not obligated under this Agreement to take any action which would conflict in any respect with their past, current or future obligations to the U.S. Government as to work already performed and to be performed in the future.

2.03 Industrial has and may continue to perform research sponsored in part by the New Zealand Foundation for Research, Science and Technology and related to the Field. Industrial retains ownership of all intellectual property generated in the course of the aforementioned research.

2.04 AECOM, through its Investigator, will conduct research in collaboration with the National Cancer Institute ("NCI") and with contractors hired by NCI (including, for example, Industrial) relating to Licensed Products pursuant to grants issued by NCI and/or the National Institutes of Health. Such research may include synthesis of Licensed Product, animal trials for determining toxicity and metabolism, IND filings, and clinical trials in humans. AECOM agrees to keep Licensee fully informed regarding this research program and to consult with Licensee concerning all phases of this research program. The participation of AECOM (and Industrial) in this government sponsored collaborative research program and the conduct of this research program by AECOM, NCI and contractors of NCI during the term of this Agreement will not constitute a breach of this Agreement.

3. **Agreement Patents**

3.01 As of the Effective Date, Licensee will pay the cost of prosecuting, maintaining and resisting challenges to the validity of the Agreement Patents listed on Appendix A (as well as the cost of filing, prosecuting, maintaining and resisting challenges to the validity of corresponding applications in at least the United States, Europe (an EPO filing designating all member countries, (Canada, China, Japan, Korea and Australia) using patent counsel selected by Licensors and approved by Licensee, which approval shall not be unreasonably withheld. In this regard, Licensee will pay the cost of defending and/or prosecuting any interference, reexamination, reissue, opposition, cancellation and nullity proceedings involving Agreement Patents. Licensors will keep Licensee fully informed concerning such applications and will consult with Licensee concerning the prosecution of such applications. In the event that Licensee elects not to maintain or prosecute any patent or patent application within the Agreement Patents, Licensee shall give Licensor thirty (30) days prior written notice of such election. Any patents or patent applications so elected shall at the end of the notice period cease to be considered Agreement Patents, and Licensor shall then be free, at its election, to abandon or maintain the prosecution of such patent application or issued patent or grant rights to such patent application or issued patent to third parties. Licensee will also pay the costs of filing and prosecuting the foreign patent applications listed as Nos. 6, 7, 8, 9, 10 and 11 on Appendix A incurred by Licensors between [***] and the Effective Date, up to a maximum of [***] Dollars ($[***]).

3.02 Subject to paragraph 3.01, should Licensors wish to seek, obtain and maintain protection for foreign counterparts of the Agreement Patents in jurisdictions (other than the United States, Europe, Japan, Canada, China, Korea and Australia) in which Licensees do not agree to pay the cost, Licensors shall have the option of proceeding to do so at Licensors' own cost. All such applications filed and patents granted shall form part of the Agreement Patents.

3.03 During the term of this Agreement, Licensors grant to Licensee the option to expand Agreement Patents to include inventions which are (1) in the Field, (2) made by the Investigators, or by employees of Licensors working under the supervision of the Investigators, subsequent to the Effective Date, and (3) owned by one or more of Licensors ("Option Inventions"). Licensors will disclose all Option Inventions to Licensee in writing promptly after such Invention is made and before any publication thereof and will provide Licensee with a suitable description and other information reasonably requested by Licensee for the purpose of evaluating the Option Invention. Within thirty (30) business days of Licensee's receipt of an Option Invention disclosure, Licensee will provide written notification to Licensors that either:

(a) Licensee is not interested in expanding Agreement Patents to include the Option Invention, in which event Licensee's option with respect to the subject Option Invention shall immediately expire; or

(b) Licensee is interested in expanding Agreement Patents to include the subject Option Invention, in which event Licensee shall pay to Licensors [***] Dollars ($[***]), which payment is not refundable and not creditable against any other payment due to Licensors hereunder, and Licensee's option with respect to the subject Option Invention shall be extended for another sixty (60) days or until the filing of a patent application on the Option Invention by Licensors, whichever is longer;

(c) If Licensors are unable to obtain a U.S. patent on an Option Invention selected by Licensee pursuant to subparagraph (b) because of prior disclosures or publications of the Option Invention by the Investigators or by employees of Licensors working under the supervision of the Investigators, then Licensors shall promptly refund to Licensee all amounts paid by Licensee in respect of such Option Invention pursuant to any and all of Sections 3.01, 3.03(b) and 3.04.

3.04 Within thirty (30) days of the expiration of the extended option period set forth in subparagraph 3.03(b) above, Licensee shall pay to Licensors [***] Dollars ($[***]), which payment is not refundable and not creditable against any other payment due to Licensors hereunder. Upon Licensors' receipt of such payment the definition of Agreement Patents shall be deemed amended to include the patent application filed on the subject Option Invention. If Licensee fails to make the [***] Dollar ($[***]) payment, then Licensee's option with respect to the subject Option Invention shall immediately expire and the definitions of Agreement Patents will not be amended to include the patent application filed on the subject Option Invention.

3.05 In the event that Licensee elects for any reason to not include an Option Invention as an Agreement Patent, or Licensee's option expires, Licensors shall be free to publish such invention in the scientific literature and/or seek patent protection, in its own discretion, and exploit such invention outside of the Field, however, Licensors shall not otherwise license, disclose or otherwise provide such inventions to any third party for use within the Field.

4. **License Grant**

4.01 Subject to Article 2, Licensors hereby grant to Licensee and Affiliates a worldwide, exclusive license to the Agreement Patents, along with the right by Licensee only to grant sublicenses, to make, have made, use, have used, import and sell Licensed Products. Licensee will not grant any sublicense under Agreement Patents unless it first receives the prior written consent of Licensors as to the identity of the proposed sublicensee, which consent will not be unreasonably withheld. For purposes of the foregoing, each of the top [***] ([***]) pharmaceutical companies as reported by Scripps World Pharmaceutical News (at the time of the proposed sublicense) shall hereby be deemed approved by Licensors. Licensee shall provide Licensors with a full and complete copy of any such sublicense within thirty (30) days of execution thereof by Licensee.

4.02 Notwithstanding the exclusive rights granted to Licensee pursuant to paragraph 4.01, Licensors shall retain the right to make, use and practice Agreement Patents in their own laboratories solely for non-commercial scientific purposes and for continued non-commercial research. Further, Licensors shall have the right to make available to not-for-profit scientific institutions and non-commercial researchers small quantities of biological materials covered under Agreement Patents, solely for non-commercial scientific and research purposes, provided this is done under a material transfer agreement, substantially in the form of Appendix B.

4.03 Nothing contained in this Agreement shall be construed or interpreted as a grant, by implication or otherwise, of any license except as expressly specified in Paragraph 4.01 hereof. The license specified in Paragraph 4.01 is limited to the Field. Licensors are free to grant licenses to third parties under Agreement Patents for all uses outside of the Field.

5. **Confidentiality**

5.01 Nothing herein contained shall preclude Licensors from making required reports or disclosures to the NIH or to any other philanthropic or governmental funding organization, provided, however, that no Licensee Confidential Information is disclosed in the process.

5.02 Licensee will retain in confidence confidential information of Licensors and Licensee will not disclose any such confidential information to any third party without the consent of Licensors, except that Licensee shall have the right to disclose such information to any third party for commercial or research and development purposes under written terms of confidentiality and non-disclosure which are commercially reasonable. Licensee will keep confidential all confidential information of Licensors for a period of five (5) years after termination or expiration of this Agreement, provided, however, that the obligation of confidentiality will not apply to any such information which:

(a) was known to Licensee or generally known to the public prior to its disclosure hereunder; or

(b) subsequently becomes known to the public by some means other than a breach of this Agreement, including but not limited to publication and/or laying open to inspection of any patent applications or patents; or

(c) is subsequently disclosed to Licensee by a third party having a lawful right to make such disclosure; or

(d) is required to be disclosed by regulation, law or court order to the most limited extent necessary to comply therewith, provided Licensor is given a fair opportunity to defend against such disclosure; or

(e) is independently developed by Licensee without the benefit of Agreement Know-how as evidenced by Licensee's written records.

5.03 During the term of this Agreement, it is contemplated that Licensors may become aware of written, oral, visual or other proprietary and confidential business information, scientific information, technology, inventions, technical information, biological materials, processes and the like which are owned or controlled by Licensee ("Licensee Confidential Information"). Licensors agree to retain such Licensee Confidential Information in confidence and not to disclose any such Licensee Confidential Information to a third party without prior written consent of Licensee for a period ending five (5) years after termination of this Agreement, except that such obligations shall not apply to any information which:

(a) was known to Licensors or generally known to the public prior to its disclosure hereunder; or

(b) subsequently becomes known to the public by some means other than a breach of this Agreement; or

(c) is subsequently disclosed to Licensors by a third party having a lawful right to make such disclosure; or

(d) is required to be disclosed by regulation, law or court order to the most limited extent necessary to comply therewith, provided Licensee is given a fair opportunity to defend against such disclosure; or

(e) is independently developed by Licensors without the benefit of Licensee Confidential Information as evidenced by Licensors' written records.

6. **Royalties and Payments**

6.01 Licensee will pay to Licensors a royalty of [***] percent ([***]%) on Net Sales. Licensee shall make such payments beginning with the first sale of such Licensed Products and ending with the longer of [***] ([***]) years from First Commercial Sale of a Licensed Product or until the expiration of the last Agreement Patent which covers a Licensed Product made, used or sold by Licensee or its Affiliates. For the purpose of this paragraph, "First Commercial Sale" shall occur when Licensee or an Affiliate makes an unrestricted release of a Licensed Product to its sales and marketing organizations in national markets throughout (i) the United States or (ii) in a major western European country or (iii) Japan, intended to reach the general market for the Licensed Product.

6.02 Licensee shall pay to Licensors [***] percent ([***]%) of Net Proceeds.

6.03 (a) Only one royalty will be payable on Net Sales by Licensee and Affiliates and Sublicensees on a Licensed Product under paragraph 6.01, regardless of the number of patent claims in an Agreement Patent which cover such Licensed Product.

(b) If a Licensed Product is not covered by a claim of an issued patent of Agreement Patents in the country of manufacture, use or sale, then the royalty payable on that Licensed Product pursuant to paragraph 6.01 shall be reduced by [***] percent ([***]%).

6.04 (a) Within [***] ([***]) days of execution of this Agreement, Licensee shall pay to Licensors [***] Dollars (US$[***]) as a license signing fee, which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

(b) On the [***] anniversary of the Effective Date of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fee is non-refundable but is creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following the anniversary.

(c) On the [***] anniversary of the Effective Date of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fee is non-refundable but is creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following the anniversary.

(d) If the first clinical trials (Phase I) for a Licensed Product are initiated by Licensee (or an Affiliate or a Sublicensee) before the [***] anniversary of the Effective Date, then on each of the [***], [***], [***], [***] and [***] anniversaries of the Effective Date of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fees are non-refundable but are creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following each anniversary.

(e) If the first clinical trials (Phase I) for a Licensed Product are not initiated by Licensee (or an Affiliate or a Sublicensee) before the [***] anniversary of the Effective Date, then on each of the [***], [***], [***], [***] and [***] anniversaries of the Effective Date of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fees are non-refundable but are creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following each anniversary. However, if such clinical trials are initiated by Licensee (or an Affiliate or a Sublicensee) after the [***] anniversary and before the [***] anniversary, then any license maintenance fees due thereafter pursuant to this paragraph shall be reduced from [***] Dollars (US$[***]) to [***] Dollars (US$[***]).

(f) If the first Phase III trials for a Licensed Product are initiated by Licensee (or an Affiliate or a Sublicensee) before the [***] anniversary of the Effective Date, then on the [***] anniversary of the Effective Date of this Agreement, and within [***] ([***]) days of each anniversary thereafter until expiration of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fees are non-refundable but are creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following each anniversary.

(g) If the first Phase III trials for a Licensed Product are not initiated by Licensee (or an Affiliate or a Sublicensee) before the [***] anniversary of the Effective Date, then on the [***] anniversary of the Effective Date of this Agreement, and within [***] ([***]) days of each anniversary thereafter until expiration of this Agreement, Licensee will pay to Licensors [***] Dollars (US$[***]) as a license maintenance fee, which fees are non-refundable but are creditable against actual royalties and actual payments due to Licensors pursuant to paragraphs 6.01 and 6.02 during the twelve month period following each anniversary. However, if such clinical trials are initiated by Licensee (or an Affiliate or a Sublicensee) after the [***] anniversary, then any license maintenance fees due thereafter pursuant to this paragraph shall be reduced from [***] Dollars (US$[***]) to [***] Dollars (US$[***]).

6.05 Licensee shall make the following milestone payments to Licensors:

(a) Except as specified below, upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars ($[***]), which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product for an [***] (i.e., [***]) indication, Licensee shall pay to Licensors only [***] Dollars ($[***]) pursuant to this subparagraph for such filing, which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of an IND for a Licensed Product that is not, on its face, directly associated with any indication (i.e. a generic IND), Licensee shall owe [***] payment to Licensors pursuant to this subparagraph for such filing.

(b) Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials (i.e. the first administration of a Licensed Product to a patient, including combined Phase I and Phase II trials) for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials for each Licensed Product for an [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]), pursuant to this subparagraph for the initiation of such trials, which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

(c) Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product for an [***] indication, Licensee shall owe [***] payment to Licensors pursuant to this subparagraph for the initiation of such trials.

(d) Except as specified below, upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product for an [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]) pursuant to this subparagraph for such FDA approval, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

6.06 Licensee's failure to pay full royalties under paragraphs 6.01 or 6.02 or to make the payments required by paragraph 6.05, after written notice of such failure and an opportunity to cure (thirty days), shall be a breach of a material condition of this Agreement. Licensee's failure to make any of the payments required by paragraph 6.04, after written notice of such failure and an opportunity to cure (thirty days), shall be the equivalent of an immediate termination of this Agreement by Licensee pursuant to paragraph 10.02.

7. **Payment Reports and Records**

7.01 [***] of all payments required to be made by Licensee to Licensors pursuant to this Agreement shall be made to Industrial in U.S. Dollars by wire transfer or by check payable to Industrial and sent to the address set out in paragraph 13.01 for Industrial and [***] shall be made to AECOM in U.S. Dollars by wire transfer or by check payable to AECOM and sent to the address set out in paragraph 13.01 for AECOM.

7.02 Payment due from Licensee to Licensors pursuant to paragraphs 6.01 and 6.02 will be paid within thirty (30) days after the end of each calendar year quarter during which the payment accrued. Payment shall be accompanied by a statement of the amount of Net Sales and Net Proceeds realized by Licensee and Affiliates and Sublicensees, the amount of any deduction, and the total payment due from Licensee to Licensors.

7.03 Licensee and its Affiliates shall maintain complete and accurate books of account and records showing Net Sales, Net Proceeds and Contract Research. Such books and records of Licensee and its Affiliates shall be open to inspection, in confidence, during usual business hours, by an independent certified public accountant appointed by AECOM on behalf of Licensors to whom Licensee has no reasonable objection, for two (2) years after the calendar year to which they pertain, for the purpose of verifying the accuracy of the payments made to Licensors by Licensee pursuant to this Agreement. Licensee shall use commercially reasonable efforts to require any Sublicensees hereunder to maintain such books and allow such inspection by Licensee and shall, on request, disclose such information to Licensors as part of such inspection. Inspection shall be at Licensors' sole expense and reasonably limited to those matters related to Licensee's payment obligations under this Agreement and shall take place not more than once per calendar year. However, if the inspection reveals an underpayment to Licensors of ten percent 10% or greater, then the cost of the inspection shall be borne by Licensee. All information provided and/or inspected during such audits shall be subject to the confidentiality obligations of this Agreement.

8. **Infringement**

8.01 Licensee shall have the right, in its sole discretion and its expense, to initiate legal proceedings on its behalf or in Licensors' names, if necessary, against any infringer, or potential infringer, of an Agreement Patent who makes, uses or sells products in the Field. Licensee shall notify Licensors of its intention to initiate such proceedings at least twenty (20) days prior to commencement thereof. Any settlement or recovery received from any such proceeding shall be divided [***] percent ([***]%) to Licensee and [***] percent ([***]%) to Licensors after Licensee deducts from any such settlement or recovery its actual counsel fees and out-of-pocket expenses relative to any such legal proceeding. If Licensee decides not to initiate legal proceedings against any such infringer, then Licensors shall have the right to initiate such legal proceedings. Any settlement or recovery received from any such proceeding initiated by Licensors shall be divided [***] percent ([***]%) to Licensee and [***] percent ([***]%) to Licensors after Licensors deducts from any such settlement or recovery its actual counsel fees and out-of-pocket expenses relative to any such legal proceeding.

8.02 In the event that either party initiates or carries on legal proceedings to enforce any Agreement Patent against an alleged infringer, the other party shall fully cooperate with and supply all assistance reasonably requested at the expense of the party requesting such assistance. Further, the other party, at its expense, shall have the right to be represented by counsel of its choice in any such proceeding. The party who initiates or carries on the legal proceedings shall have the sole right to conduct such proceedings provided, however, that such party shall consult with the other party to this Agreement prior to entering into any settlement thereof.

9. **Prohibition on Use of Names; No Publicity**

9.01 Licensors and Licensee each shall not use the name of the other without prior written consent, except if the use of such name is required by law, regulation, federal securities law, or judicial order, in which event the party intending to use such name will promptly inform the other prior to any such required use. Neither party will make any public announcement regarding the existence of this Agreement and/or the collaboration hereunder without obtaining the prior written consent of the other party, except if such announcement is required by law, regulation, federal securities law or judicial order, in which event the party intending to make such announcement will promptly inform the other party prior to such announcement.

10. **Term and Termination**

10.01 Unless terminated earlier under other provisions hereof, this Agreement will expire upon the termination of Licensee's last obligation to make payments to Licensors hereunder with respect to all of the Agreement Patents existing as of the Effective Date. Upon termination or expiration of this Agreement for any reason, Sections 5, 9, 10.05, 12 and 13 shall survive.

10.02 Licensee may terminate this Agreement and the licenses granted hereunder any time after payment of the amounts specified in paragraph 6.04(a) by giving notice to Licensors sixty (60) days prior to such termination. Upon such expiration, Licensee shall not use Agreement Patents for any purpose and all of Licensee's rights in Agreement Patents shall be terminated.

10.03 If either Licensors or Licensee defaults on or breaches any material condition of this Agreement, the aggrieved party may serve notice upon the other party of the alleged default or breach. If such default or breach is not remedied within sixty (60) days from the date of such notice, the aggrieved party may at its election terminate this Agreement. Any failure to terminate hereunder shall not be construed as a waiver by the aggrieved party of its right to terminate for future defaults or breaches. Licensee's damages for any breach of the Agreement by Licensors will be limited to a reduction or suspension of the payment obligations of Licensee hereunder. Upon termination of this Agreement by Licensors pursuant to this paragraph, the licenses granted by Licensors to Licensee shall terminate and Licensee shall not use Agreement Patents for any purpose and all of Licensee's rights in Agreement Patents shall be terminated.

10.04 If Licensee becomes insolvent or makes an assignment for the benefit of creditors or if proceedings for a voluntary bankruptcy are instituted on behalf of Licensee or if Licensee is declared bankrupt or insolvent, Licensors may at their election terminate this Agreement by notice to Licensee. Upon termination of this Agreement by Licensors pursuant to this paragraph, the licenses granted by Licensors to Licensee shall terminate and Licensee shall not use Agreement Patents for any purpose and all of Licensee's rights in Agreement Patents shall be terminated.

10.05 Termination of this Agreement by Licensee or Licensors shall not prejudice the rights of either party accruing herein.

10.06 If Licensee terminates this Agreement pursuant to paragraph 10.02 or if Licensors terminate this Agreement pursuant to paragraphs 10.03 or 10.04, then Licensee hereby grants to Licensors, or shall use commercially reasonable efforts to procure for Licensors, a worldwide, royalty-bearing, non-exclusive license, with the right to grant sublicenses, under any Improvement Patents or Improvement Know-How (as defined below) developed by or for Licensee or its Affiliates during the term of this Agreement. As used in this paragraph, the term "Improvement Patents" means any U.S. or foreign patent application or patent which claims an invention the practice of which would be covered by a claim of patent or patent application of Agreement Patents, or practice of which results in a product covered by a claim of a patent or patent application of Agreement Patents. "Improvement Know How" means confidential information, including clinical trial information, the practical application of which would be covered by a claim of a patent or patent application of Agreement Patents, or which results in a product covered by a claim of a patent or patent application of Agreement Patents. The royalty-rate for such license shall be determined by good faith negotiations between the parties and which shall not exceed Licensee's obligations under this agreement including license fees, milestone payments and royalty obligations. Further, Licensors shall bear the cost of any license procured from a third party by Licensee for the benefit of Licensors, so long as such license is accepted by Licensors.

11. **Amendment and Assignment**

11.01 This Agreement sets forth the entire understanding between the parties pertaining to the subject matter hereof.

11.02 Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified, except by an instrument in writing signed by both parties.

11.03 Without the prior written approval of the other party, which approval shall not be unreasonably withheld, no party may assign this Agreement except to an entity acquiring substantially all of the such party's business to which this Agreement relates.

12. **Miscellaneous Provisions**

12.01 This Agreement shall be construed and the rights of the parties governed in accordance with the laws of the State of New York, excluding its law of conflict of laws. Any dispute or issue arising hereunder, including any alleged breach by any party, shall be heard, determined and resolved by an action commenced in the state or federal courts in New York, New York, which the parties hereby agree shall have proper jurisdiction and venue over the issues and the parties. Licensors and Licensee hereby agree to submit to the jurisdiction of the state or federal courts in New York and waive the right to make any objection based on jurisdiction or venue. The New York courts shall have the right to grant all relief to which Licensors and Licensee are or shall be entitled hereunder, including all equitable relief as the Court may deem appropriate.

12.02 This Agreement has been prepared jointly.

12.03 If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

12.04 Licensee agrees to indemnify AECOM and Industrial, their trustees, employees and agents for the cost of defense and for damages awarded, if any, as a result of any third party claims, liabilities, suits or judgments arising out of the research, development, marketing, manufacture and sale of Licensed Products by Licensee, its Affiliates and its sublicensees, and/or the licenses granted under this Agreement, so long as such claims, liabilities, suits, or judgments are not attributable to grossly negligent or intentionally wrongful acts or omissions by Licensors, their trustees, employees and agents or a breach by Licensors of this Agreement. This indemnity is conditioned upon Licensors' obligation to: (i) advise Licensee of any claim or lawsuit, in writing promptly after Licensors has received notice of said claim or lawsuit (ii) assist Licensee and its representatives in the investigation and defense of any lawsuit and/or claim for which indemnification is provided (iii) permit Licensee to control the defense of such claim or lawsuit for which indemnification is provided. For purposes of clarity, Licensee will not indemnify Licensors, their trustees, employees or agents for any liabilities incurred or arising out of Licensor's activities under Section 2 of this Agreement.

12.05 Nothing in this Agreement is or shall be construed as:

(a) A warranty or representation by Licensors that anything made or used by Licensee under any license granted in this Agreement is or will be free from infringement of patents, copyrights, and other rights of third parties; or

(b) Granting by implication, estoppel, or otherwise any license, right or interest other than as expressly set forth herein.

12.06 Except as expressly set forth in this Agreement, the parties MAKE NO REPRESENTATIONS AND EXTEND NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTE OR OTHERWISE, AND THE PARTIES SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF NON-INFRINGEMENT.

12.07 Licensee will utilize commercially reasonable efforts to develop and commercially exploit Licensed Products. Between the Effective Date and the [***] anniversary thereof, Licensee shall spend at least [***] Dollars (US$[***]) on the development of Licensed Products with at least [***] Dollars (US$[***]) to be spent to fund development other than at BioCryst and its Affiliates. Licensee will spend this amount whether or not one or more sublicenses are granted by Licensee during this time period; except that if Licensee does not spend this amount, [***] percent ([***]%) of the difference between the required amount and the amount that Licensee has actually spent, shall be paid to Licensor in a single cash payment. At least one month before the first anniversary of the Effective Date and each anniversary thereafter until the commercialization of the first Licensed Product, Licensee shall provide Licensors in writing with a development plan, budget and report which sets forth (1) the work to be undertaken by Licensee on the development and commercialization of Licensed Products during the next twelve-month period, (2) the funds to be expended by Licensee in this regard, and (3) the funds actually expended by Licensee and the progress made thus far on the development and commercialization of Licensed Products during the previous twelve month period including, where requested by Licensors, a summary of the results of development and clinical trials undertaken (once these results are allowed to be released), which summary shall include all triggers of Licensee's financial obligations to Licensors.

12.08 Licensors and Licensee represent and warrant that, to the best of their knowledge, as of the Effective Date:

(i) they have the legal right and authority to enter into this Agreement and to perform all of their obligations hereunder;

(ii) the execution, delivery and performance of this Agreement does not and will not conflict with, or constitute a breach or default under, or require the consent of any third party under any other agreement or violate any provision of law, statute, rule or regulation or any ruling, writ, injunction, order, judgment or decree of any court, administrative agency or other governmental body;

(iii) when executed by all parties, this Agreement will constitute the valid and legally binding obligation and shall be enforceable in accordance with its terms;

(iv) there are no existing or threatened actions, suits or claims pending or threatened against it that may affect the performance of its obligations under the Agreement.

12.09 Licensors further represent and warrant that as of the Effective Date and to the best of their knowledge, they are not aware of any intellectual property rights of third parties (other than the prior patents cited by the patent offices in connection with the prosecution of Agreement Patents) that would be infringed by the practice of the Agreement Patents.

12.10 Licensee represents and warrants that before Licensee, or its Affiliates or Sublicensees makes any sales of Licensed Products, Licensee or its Affiliates or Sublicensees will have adequate insurance and financial resources to cover all liability for any failure of such Licensed Product including, without limitation, failure in design, manufacture, production and/or operation.

13. **Notices**

13.01 Any notice or report required or permitted hereunder shall be given in writing, and shall be deemed to have been properly given and effective upon delivery; by registered or certified mail, return receipt request, or by facsimile with proof of receipt and a confirmation copy sent by overnight courier, or overnight courier, to the following addresses:

To Licensee:

BioCryst Pharmaceuticals, Inc.
2190 Parkway Lake Drive
Birmingham, Alabama 35244
Attn: John R. Uhrin

With Copy to:

Brobeck, Phleger & Harrison LLP
1633 Broadway, 47th Floor
NewYork, NY 10019
Attention: Nigel L. Howard, Esq.

To AECOM:

Albert Einstein College of Medicine
of Yeshiva University
1300 Morris Park Avenue
Bronx, NY 10461
Attention: Office of Industrial Liaison

With Copy to:
Kenneth P. George, Esq.
Amster, Rothstein & Ebenstein
90 Park Avenue – 21st Floor
New York, NY 10016

To Industrial:

Dr. Richard H. Furneaux
Industrial Research Ltd.
Gracefield Research Centre
Gracefield Road
P.O. Box 31-310
Lower Hutt, New Zealand

With Copy to:

West Walker Bennett
Mobil on the Park
157 Lambton Quay
P.O. Box 1344
Wellington, New Zealand
Attn: Mr. Mike Bennett

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the day and year first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY, A DIVISION OF YESHIVA UNIVERSITY

WITNESS:	By	/s/ Emanuel Genn
		Emanuel Genn
/s/ [illegible]	Title	Associate Dean for Business Affairs
June 23, 2000	Date	June 23, 2000

INDUSTRIAL RESEARCH LTD.

WITNESS:	By	/s/ [illegible]
/s/ [illegible]	Title	Chief Executive Officer
	Date	23 June 2000

BIOCRYST PHARMACEUTICALS, INC.

WITNESS:	By	/s/ J. Claude Bennett
		J. Claude Bennett, M.D.
/s/ [illegible]	Title	President and Chief Operating Officer
V.P. Corporate Development		
June 21, 2000	Date	June 21, 2000

FIRST AMENDMENT AGREEMENT

This Amendment Agreement is made effective July 26, 2002 by and between Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefield Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

Licensors and Licensee are parties to a License Agreement dated June 27, 2000 ("the License Agreement") and wish to make changes to the License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in the License Agreement and in this First Amendment Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 6.05 of the License Agreement is hereby amended to read as follows:

6.05 Licensee shall make the following milestone payments to Licensors:

(a) Except as specified below, upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars ($[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product for a [***] ("[***]") indication, Licensee shall pay to Licensors only [***] Dollars ($[***]) pursuant to this subparagraph for such filing, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of an IND for a Licensed Product that is not, on its face, directly associated with any indication (i.e. a generic IND), Licensee shall owe [***] payment to Licensors pursuant to this subparagraph for such filing.

(b) Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials (i.e. the administration of a Licensed Product to a patient for the primary purpose of assessing clinical efficacy; and not Phase I clinical trials for the primary purpose of assessing safety or pharmacokinetics) for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials for each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]), pursuant to this subparagraph for the initiation of such trials, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

(c) Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]), pursuant to this subparagraph for the initiation of such trials, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

(d) Except as specified below, upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]) pursuant to this subparagraph for such FDA approval, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

2. Upon execution of this First Amendment Agreement, Licensee shall pay to Licensors [***] Dollars ($[***]), which payment is non-refundable and not creditable against any other payment due to Licensors. Licensors waive any claim for any payments due to Licensors under paragraph 6.05 for events occurring prior to July 26, 2002.

3. The applicable provisions of this First Amendment Agreement shall be deemed to be incorporated into the License Agreement in full and to be an integral part thereof as though fully set forth therein. With the exception of the above amendments, all other provisions of the License Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Amendment Agreement on the date first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY

By: /s/ Emanuel Genn
Name: Emanuel Genn
Title: Associate Dean for Business Affairs

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ W. Randall Pittman
Name: W. Randall Pittman
Title: Chief Financial Officer

INDUSTRIAL RESEARCH LTD.

By: /s/ David Michael Bibby
Name: David Michael Bibby
Title: General Manager — Science Development

SECOND AMENDMENT AGREEMENT

This Second Amendment Agreement is made effective April 15, 2005 by and between Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefield Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

Licensors and Licensee are parties to a License Agreement dated June 27, 2000, as amended by a First Amendment Agreement effective July 26, 2002 (collectively "the License Agreement"), and now wish to make changes to the License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in the License Agreement and in this Second Amendment Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Subparagraph 6.05(b) of the License Agreement is hereby amended to read as follows:

(b) Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials (i.e. the administration of a Licensed Product to a patient for the primary purpose of assessing clinical efficacy; and not Phase I clinical trials for the primary purpose of assessing safety or pharmacokinetics) for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***] Dollars (US$[***]), which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials for each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] Dollars ($[***]), pursuant to this subparagraph for the initiation of such trials, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. No payment shall be due under this paragraph for any Phase II clinical trial initiated by a third party Investigator, even if the trial is supported by Licensee (an "Investigator Initiated Trial"). However, If the Investigator Initiated Trial enables Licensee (or an Affiliate) to initiate a Phase III clinical trial or if Licensee (or an Affiliate) proceeds to initiate a similar Phase II clinical trial, then the payment required by this paragraph shall become due and payable.

2. The applicable provisions of this Second Amendment Agreement shall be deemed to be incorporated into the License Agreement in full and to be an integral part thereof as though fully set forth therein. With the exception of the above amendments, all other provisions of the License Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Second Amendment Agreement on the date first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY

By: /s/ Emanuel Genn
Name: Emanuel Genn
Title: Associate Dean for Business Affairs

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Randall B. Riggs
Name: Randall B. Riggs
Title: Vice President, Business Development

INDUSTRIAL RESEARCH LTD.

By: /s/ G.A. Todd
Name: G.A. Todd
Title: General Manager New Ventures

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.

THIRD AMENDMENT AGREEMENT

This Amendment Agreement is made effective December 11, 2009 by and between Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefield Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

Licensors and Licensee are parties to a License Agreement dated June 27, 2000, as amended by a First Amendment Agreement effective July 26, 2002 and a Second Amendment Agreement effective April 15, 2005 (collectively "the License Agreement"), and now wish to make changes to the License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Licensee Agreement and in this Third Amendment Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 6.01 of the License Agreement is hereby amended to include the following additional sentence:

Notwithstanding the [***] royalty on Net Sales set forth above, if Licensee later requests a different royalty rate for a Licensed Product for a [***] indication, Licensors agree to consider such request.

2. Paragraph 6.05 of the License Agreement is hereby amended to read as follows:

6.05 Licensee shall make the following milestone payments to Licensors:

a. Except as specified below, upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***], which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of each IND for a Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] pursuant to this Subparagraph for such filing, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the filing by Licensee (or an Affiliate) of an IND for a Licensed Product that is not, on its face, directly associated with any indication (i.e. a generic IND), Licensee shall owe [***] to Licensors pursuant to this Subparagraph for such filing.

   [***] shall be due under this Subparagraph for a Licensed Product solely for a [***] indication.

b. Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials (i.e. the administration of a Licensed Product to a patient for the primary purpose of assessing clinical efficacy; and not Phase I clinical trials for the primary purpose of assessing safety or pharmacokinetics) for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***], which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase II clinical trials for each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***], pursuant to this Subparagraph for the initiation of such trials, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. No payment shall be due under this paragraph for any Phase II clinical trial initiated by a third party Investigator, even if the trial is supported by Licensee (an "Investigator Initiated Trial"). However, if the Investigator Initiated Trial enables Licensee (or an Affiliate) to initiate a Phase III clinical trial or if Licensee (or an Affiliate) proceeds to initiate a similar Phase II clinical trial, then the payment required by this paragraph shall become due and payable.

[***] shall be due under this Subparagraph for a Licensed Product solely for a [***] indication.

c. Except as specified below, upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product (or each indication for a Licensed Product), Licensee shall pay to Licensors [***], which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon the initiation by Licensee (or an Affiliate) of Phase III clinical trials for each Licensed Product for a [***] Indication, Licensee shall pay to Licensors only [***], pursuant to this Subparagraph for the initiation of such trials, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

   [***] shall be due under this Subparagraph for a Licensed Product solely for a [***] indication.

d. Except as specified below, upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product (or each Indication for a Licensed Product), Licensee shall pay to Licensors [***], which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement. Upon Licensee's (or an Affiliate's) first receipt of governmental approval (FDA or equivalent approval in a European country or Japan) to market each Licensed Product for a [***] indication, Licensee shall pay to Licensors only [***] pursuant to this Subparagraph for such FDA approval, which payments are non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

   [***] shall be due under this Subparagraph for a Licensed Product solely for a [***] indication.

e. The first time the aggregate Net Sales of Licensed Products for a [***] indication in a consecutive twelve month period total [***], Licensee shall pay to Licensors [***], which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

f. The first time the aggregate Net Sales of Licensed Products in a consecutive (12) twelve month period total [***], Licensee shall pay to Licensors [***], which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

g. The first time the aggregate Net Sales of Licensed Products in a consecutive twelve (12) month period total [***], Licensee shall pay to Licensors [***], which payment is non-refundable and not creditable against any other payment due to Licensors pursuant to this Agreement.

h. The calculation of Net Sales pursuant to Subparagraphs (f) and (g) above shall exclude: (i) Net Sales of Licensed Products for a [***] indication; and (ii) Net Sales of Licensed Products solely for a [***] indication.

3. The applicable provisions of this Third Amendment Agreement shall be deemed to be incorporated into the License Agreement in full and to be an integral part thereof as though fully set forth therein. With the exception of the above amendments, all other provisions of the License Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Third Amendment Agreement on the date first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY

By: /s/ John L. Harb
Name: John L. Harb
Title: Assistant Dean
Scientific Operations

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Alane Barnes
Name: Alane Barnes
Title: General Counsel

INDUSTRIAL RESEARCH LTD.

By: /s/ Jeff Lycett
Name: Jeff Lycett
Title: Board Secretary

Exhibit 10.35

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.

FIFTH AMENDMENT AGREEMENT

This Amendment Agreement is made effective November 17, 2011 by and among Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefield Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

Licensors and Licensee are parties to a License Agreement dated June 27, 2000, as amended by a First Amendment Agreement effective July 26, 2002, a Second Amendment Agreement effective April 15, 2005, a Third Amendment Agreement effective December 11, 2009 and a Fourth Amendment Agreement effective May 5, 2010 (collectively "the License Agreement"), and now wish to further amend the License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in the License Agreement and in this Fifth Amendment Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 6.02 of the License Agreement is hereby amended to read in its entirety as follows:

6.02 (a) Licensee shall pay to Licensors [***] percent ([***]%) of Net Proceeds.

(b) Licensee shall pay to Licensors [***] percent ([***] %) of Sublicensee Royalties.

(c) Any payments due to be paid by Licensee to Licensors under paragraph 6.02(a) may be made either in cash or, at the sole option of Licensee, in Qualified Licensee Shares or a combination of cash and Qualified Licensee Shares. Any such Qualified Licensee Shares shall be subject to the terms of Sections 6 and 8 hereof. Any Qualified Licensee Shares issued under paragraph 6.02(a) shall be valued based on the Volume Weighted Average Price of such shares determined as of the date payment is due under paragraph 7.02 of the License Agreement. Notwithstanding the foregoing, unless otherwise agreed to by the parties, Licensee shall not be permitted to issue Qualified Licensee Shares (i) to the extent that the number of Qualified Licensee Shares to be issued would exceed six (6) times the average daily trading volume of Licensee's common stock for the twenty (20) consecutive trading days ending on the trading day immediately before the date such Qualified Licensee Shares are to be issued or (ii) if Licensee does not meet the eligibility requirements for continued listing on the applicable Trading Market (as defined below).

2. The applicable provisions of this Fifth Amendment Agreement shall be deemed to be incorporated into the License Agreement in full and to be an integral part thereof as though fully set forth therein. With the exception of the above amendments, all other provisions of the License Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Fifth Amendment Agreement as of the date first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY

By: /s/ John L. Harb
Name: John L. Harb
Title: Assistant Dean Scientific Operations

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Alane Barnes
Name: Alane Barnes
Title: VP, General Counsel

INDUSTRIAL RESEARCH, LTD.

By: /s/ Shaun Coffey
Name: Shaun Coffey
Title: Chief Executive

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.

SIXTH AMENDMENT AGREEMENT

This Sixth Amendment Agreement is made effective June 19, 2012 by and among Albert Einstein College of Medicine of Yeshiva University, a Division of Yeshiva University, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 1300 Morris Park Avenue, Bronx, New York 10461 ("AECOM"), Industrial Research Ltd., a company organized and existing under the laws of New Zealand, having an office and place of business at Gracefield Research Centre, Gracefleld Road, P.O. Box 31-310, Lower Hutt, New Zealand ("Industrial") (AECOM and Industrial are collectively referred to herein as "Licensors"), and BioCryst Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware having an office and place of business at 2190 Parkway Lake Drive, Birmingham, Alabama 35244 ("Licensee").

Statement

Licensors and Licensee are parties to a License Agreement dated June 27, 2000, as amended by a First Amendment Agreement effective July 26, 2002, a Second Amendment Agreement effective April 15, 2005, a Third Amendment Agreement effective December 11, 2009, a Fourth Amendment Agreement effective May 5, 2010 and a Fifth Amendment Agreement effective November 17, 2011 (collectively "the License Agreement"), and now wish to further amend the License Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in the License Agreement and in this Sixth Amendment Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 1.01 of the License Agreement is hereby amended to read in its entirety as follows:

1.01 "**Field"** means (i) any use of inhibitors for human PNP that have an IC50 value less than ***, as determined by the method described in Bantia, *et al.*, Immunopharmacology, 35, page 54, paragraph 2.1 (1997) and (ii) any antiviral use of BCX-4430, including but not limited to prophylactic antiviral and therapeutic antiviral uses. Except for those compounds which are also inhibitors for human PNP as described above, specifically excluded from the "Field" are inhibitors for MTAP and/or MTAN and processes for producing and using such inhibitors to inhibit MTAP and/or MTAN. An inhibitor for the human MTAP enzyme is defined as having a Ki or Ki* value of [***] or less using the assays with human MTAP published in *Biochemistry* **2004,** *43,* 9-18, page 10. An inhibitor for the bacterial MTAN enzyme is defined as having a Ki or Ki* value of [***] or less using the assays with *E. coli* MTAN published in the *Journal of Biological Chemistry* **2005**, 280:18265-18273, page 18268. Non-limiting examples of excluded inhibitors are the compounds listed below:

[***]

2. The following new Paragraph 1.09 is hereby added to the License Agreement:

1.09 "**BCX-4430**" means the compound known as BCX-4430 having the following chemical structure [***] together with its isomers, positional isomers, radioisomers, salt forms, anhydrides, hydrates, polymorphs, metabolites, prodrugs and ester forms.

3. The applicable provisions of this Sixth Amendment Agreement shall be deemed to be incorporated into the License Agreement in full and to be an integral part thereof as though fully set forth therein. With the exception of the above amendments, all other provisions of the License Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Sixth Amendment Agreement as of the date first above written.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY

By: /s/ John L. Harb
Name: John L. Harb
Title: Assistant Dean Scientific Operations

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Alane Barnes
Name: Alane Barnes
Title: VP, General Counsel

INDUSTRIAL RESEARCH, LTD.

By: /s/ Shaun Coffey
Name: Shaun Coffey
Title: Chief Executive

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 of 3

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
P00014	See Block 16C		

6. ISSUED BY	CODE	7. ADMINISTERED BY *(If other than Item 6)*	CODE
ASPR-BARDA	ASPR-BARDA	ASPR-BARDA	ASPR-BARDA01
200 Independence Ave., S.W.		330 Independence Ave, SW, Rm G644	
Room 640-G		Washington DC 20201	
Washington DC 20201			

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

BIOCRYST PHARMACEUTICALS, INC. 726613
BIOCRYST PHARMACEUTICALS, INC.
4505 EMPEROR BLVD STE 200
DURHAM NC 277038457

CODE 726613 FACILITY CODE

(x) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

x 10A. MODIFICATION OF CONTRACT/ORDER NO. HHSO100201500007C

10B. DATED *(SEE ITEM 13)* 03/27/2015

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended. ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended , by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted ; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted , such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation data, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: FAR 43.103 (A) (3) Reflect other agreements of the parties modifying the terms of contracts.
	D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is not x is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

Tax ID Number: 62-1413174
DUNS Number: 618194609
The purpose of this modification is to modify Articles G.1 Contracting Officer; and G.2. Contracting Officer Representative of the contract terms.

The contract current value, obligated amount and period of performance remain UNCHANGED.

The contract overall value, obligated amount and period of performance remain UNCHANGED.

All other terms and conditions of the contract remain unchanged.
Period of Performance: 03/31/2015 to 05/31/2021

Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*	
Jon P. Stonehouse CEO		ROSHAWN K. MAJORS	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)	11/24/2020	RoShawn Washington (Simpson) *(Signature of Contracting Officer)*	Nov. 24, 2020

Previous edition unusable

STANDARD FORM 30 (REV. 11/2016)
Prescribed by GSA FAR (48 CFR) 53.243

SUPPLEMENTAL AGREEMENT

Beginning with the effective date of this modification, the Government and the Contractor mutually agree as follows:

Under **SECTION G CONTRACT ADMINISTRATIVE DATA, ARTICLES G.1 and G.2.** are hereby modified to reflect the following:

ARTICLE G.1. CONTRACTING OFFICER

The following Contracting Officer (CO) will represent the USG for the purpose of this contract:

RoShawn Washington (Simpson)
Contracting Officer
DHHS/OS/ASPR/BARDA/DCMA
O'Neill Federal Office Building
Washington, D.C. 20515
Office Phone: (202) 260-0889
Direct Phone: (202) 868-9276
Email: roshawn.simpson@hhs.gov

1) The Contracting Officer (CO) is the only individual who can legally commit the USG to the expenditure of public funds. No person other than the Contracting Officer can make any changes to the terms, conditions, general provisions, or other stipulations of this contract.

2) The Contracting Officer is the only person with the authority to act as agent of the USG under this contract. Only the Contracting Officer has authority to (1) direct or negotiate any changes in the statement of work; (2) modify or extend the period of performance; (3) change the delivery schedule; (4) authorize reimbursement to the Contractor of any costs incurred during the performance of this contract; (5) otherwise change any terms and conditions of this contract.

3) No information other than that which may be contained in an authorized modification to this contract, duly issued by the Contracting Officer, which may be received from any person employed by the US government, other otherwise, shall be considered grounds for deviation from any stipulation of this contract.

4) The USG may unilaterally change the CO or CS designation.

All other terms in Article G.1. remain unchanged.

ARTICLE G.2. CONTRACTING OFFICER'S REPRESENTATIVE (COR) and ALTERNATE CONTRACTING OFFICER'S REPRESENTATIVE (COR)

The following COR and Alternate COR will represent the government for the purpose of this contract:

Carol J. Diaz-Diaz, Ph,D.
Contracting Officer Representative
DHHS/OS/ASPR/BARDA/AVAT
O'Neill Federal Office Building
Washington, D.C. 20515
Office Phone: (202) 969-3576
Direct Phone: (202) 823-1507
Email: carol.diaz-diaz@hhs.gov

The COR is responsible for:

1) Recommending to the Contracting Officer changes in requirements;

2) Assisting the Contracting Officer in interpreting the statement of work and any other technical performance requirements;

3) Performing technical evaluation as required;

4) Performing technical inspections and acceptances required by this contract; and

5) Assisting in the resolution of technical problems encountered during performance. The USG may unilaterally change the COR designation.

All other terms in Article G.2. remain unchanged.

All other contract terms remain unchanged.

END OF MODIFICATION P0014

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 | 5

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
00001	10/01/2018		

6. ISSUED BY CODE 2543

Centers for Disease Control and Prevention
Office of Acquisition Services (OAS)
2920 Brandywine Rd, RM 3000
Atlanta, GA 30341-5539

7. ADMINISTERED BY *(If other than Item 6)* CODE 14531

ASPR-BARDA
200 Independence Ave. SW
Room 640-G
Washington, DC 20201-

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

BIOCRYST PHARMACEUTICALS INC
4505 EMPEROR BLVD STE 200

DURHAM, NC 27703-8457

CODE 618194609 FACILITY CODE

(√)	
	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED *(See Item 11)*
X	10A. MODIFICATION OF CONTRACT/ORDER NO. 75D30118C02984
	10B. DATED *(See Item 13)* 09/01/2018

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers __ is extended, __ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(√)	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER *(Specify type of modification and authority)* Unilateral FAR 42.202, Assignment of Contract Administration

E. IMPORTANT: Contractor ☒ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*
See page two

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME OF CONTRACTING OFFICER Christine N. Godfrey
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY *(Signature of Contracting Officer)*
		16C. DATE SIGNED 10/11/18

NSN 7540-01-152-8070
PREVIOUS EDITION UNUSABLE

30-105

STANDARD FORM 30 (REV. 10-83)
Prescribed by GSA
FAR (48 CFR) 53.243

Pursuant to FAR 42.202, Assignment of Contract Administration, the above referenced task order is modified as follows:

1. Change the contract administration office --

FROM:

Centers for Disease Control and Prevention (CDC)
Office of Acquisition Services (OAS)
2920 Brandywine Road
Atlanta, GA 30341-5539

TO:

ASPR-BARDA
200 Independence Ave. SW
Room 640-G
Washington DC 20201

2. Change the paying office – For goods/services delivered or provided by 9/30/2018, the paying office has not changed and invoices shall be sent to the Centers for Disease Control and Prevention for those delivered items. For goods/services delivered or provided on or after 10/1/2018, see paying office change below:

FROM:

Centers for Disease Control and Prevention
Financial Management Office (FMO)
PO Box 15580
Atlanta, GA 30333-0080

TO:

PSC/FMS
psc_invoices@psc.hhs.gov

3. Change the invoice instructions – For goods/services delivered or provided by 9/30/2018, the invoice instructions have not changed and the contractor shall follow the current Centers for Disease Control and Prevention instructions for those delivered items. For goods/services delivered on or after 10/1/2018, see invoice instructions change below:

TO:

INVOICES - COMMERCIAL

(a) Invoice Submission.
(1) The Contractor shall submit invoices once per month.
(2) A proper invoice, with all required back-up documentation shall be sent electronically, via email, to the COR mailbox:

(i) Contracting Officer's Representative (COR)

(3) A proper invoice, not including non-invoice related documents (i.e. deliverables, reports, balance statements) shall be sent electronically, via email, to:

(i) Contract Specialist via mailbox: Makoto.Braxton@hhs.gov

(ii) Financial Management Service (FMS) via mailbox: psc_invoices@psc.hhs.gov

(4) The subject line of your email invoice submission shall contain the contract number, order number (if applicable), and the number of invoices. The Contractor shall send one email per contract per month. The email may have multiple invoices for the contract. Invoices must be in the following formats: PDF, TIFF, or Word. No Excel formats will be accepted. The electronic file cannot contain multiple invoices; example, 10 invoices requires 10 separate files (PDF or TIFF or Word).
(5) Invoices shall be submitted in accordance with the contract terms, i.e. payment schedule, progress payments, partial payments, deliverables, etc.
(6) All calls concerning contract payment shall be directed to the COR.
(7) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(b) Invoice Elements.
(1) In accordance with FAR 52.212-4, Contract Terms and Conditions-Commercial Items, the Contractor shall submit an electronic invoice to the email addresses designated in the contract to receive invoices. A proper invoice must include the following items:
(i) Name and address of the Contractor;
(ii) Invoice date and number;
(iii) Contract number, contract line item number and, if applicable, the order number;
(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
(vi) Terms of any discount for prompt payment offered;
(vii) Name and address of official to whom payment is to be sent;
(viii) Name, title, and phone number of person to notify in event of defective invoice; and
(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
(x) Electronic funds transfer (EFT) banking information.
(A) The Contractor shall include EFT banking information on the invoice.
(B) In accordance with the requirements of the Debt Collection Improvement Act of 1996, all payments under this order will be made by electronic funds transfer (EFT). The Contractor shall provide financial institution information to the Finance Office designated above in accordance with FAR 52.232-33 Payment by Electronic Funds Transfer - System for Award Management.
(2) Additionally, the Program Support Center (PSC) requires:
(i) the invoice to break-out price/cost by contract line item number (CLIN) as specified in the pricing section of the contract
(ii) the invoice to include the Dun & Bradstreet Number (DUNS) of the Contractor

4. Change the Contracting Officer –

TO:

Makoto Braxton, ASPR Support Division Chief, Chief Contracting Officer
Email: Makoto.Braxton@hhs.gov
Phone: 202-260-6794

5. All other items and terms and conditions remain unchanged.

SECTION B. Line Items & Supply Details

Base Period: 09/01/2018 – 08/31/2019

ITEM	SUPPLIES / SERVICES	QTY / UNIT	UNIT PRICE	EXTENDED PRICE
0001	Peramivir (RAPIVAB 200mg/20ml vial - 3 doses per package) See Section B.2 for additional details. Ordering Period: 09/01/2018 - 08/31/2019	10,000 Packages	$693.20	$6,932,000.00
	Line(s) Of Accounting: 939ZWUX 2642 2018 75-X-0956 5664711101 $6,932,000.00			

Option Period 1: 09/01/2019 – 08/31/2020

ITEM	SUPPLIES / SERVICES	QTY / UNIT	UNIT PRICE	EXTENDED PRICE
0002	Peramivir (RAPIVAB 200mg/20ml vial - 3 doses per package) See Section B.2 for additional details. Ordering Period: 09/01/2019 – 08/31/2020	10,000 Packages	$693.20	$6,932,000.00

Option Period 2: 09/01/2020 – 08/31/2021

ITEM	SUPPLIES / SERVICES	QTY / UNIT	UNIT PRICE	EXTENDED PRICE
0003	Peramivir (RAPIVAB 200mg/20ml vial - 3 doses per package) See Section B.2 for additional details. Ordering Period: 09/01/2020 – 08/31/2021	10,000 Packages	$693.20	$6,932,000.00

Option Period 3: 09/01/2021 – 08/31/2022

ITEM	SUPPLIES / SERVICES	QTY / UNIT	UNIT PRICE	EXTENDED PRICE
0004	Peramivir (RAPIVAB 200mg/20ml vial - 3 doses per package) See Section B.2 for additional details. Ordering Period: 09/01/2021 – 08/31/2022	10,000 Packages	$693.20	$6,932,000.00

Option Period 4: 09/01/2022 – 08/31/2023

ITEM	SUPPLIES / SERVICES	QTY / UNIT	UNIT PRICE	EXTENDED PRICE

0005	Peramivir (RAPIVAB 200mg/20ml vial - 3 doses per package) See Section B.2 for additional details. Ordering Period: 09/01/2022 – 08/31/2023	10,000 Packages	$693.20	$6,932,000.00

Contract Total Value: $34,660,000.00

Exhibit 10.91

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 or because it contains personally identifiable information omitted from this exhibit pursuant to Item 601(a)(6) under Regulation S-K.

Purchase and Sale Agreement

By and Between

BioCryst Pharmaceuticals, Inc.

and

RPI 2019 Intermediate Finance Trust

Dated as of December 7, 2020

TABLE OF CONTENTS

Index of Exhibits, Schedules and Annexes

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT, dated as of December 7, 2020 (this "Agreement"), is made and entered into by and between RPI 2019 Intermediate Finance Trust, a Delaware statutory trust (the "Buyer"), and BioCryst Pharmaceuticals, Inc., a Delaware corporation (the "Seller").

W I T N E S S E T H:

WHEREAS, the Seller is in the business of, among other things, developing and commercializing the Products; and

WHEREAS, the Buyer desires to purchase the Revenue Participation Right from the Seller in exchange for payment of the Purchase Price, and the Seller desires to sell the Revenue Participation Right to the Buyer in exchange for the Buyer's payment of the Purchase Price, in each case on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the representations, warranties, covenants and agreements set forth herein and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Seller and the Buyer hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. The following terms, as used herein, shall have the following meanings:

"Affiliate" means, with respect to any particular Person, any other Person directly or indirectly controlling, controlled by or under common control with such particular Person. For purposes of the foregoing sentence, the term "control" means direct or indirect ownership of (x) fifty percent (50%) or more, including ownership by trusts with substantially the same beneficial interests, of the voting and equity rights of such Person, firm, trust, corporation, partnership or other entity or combination thereof, or (y) the power to direct the management of such person, firm, trust, corporation, partnership or other entity or combination thereof, by contract or otherwise.

"Agreement" is defined in the preamble.

"Athyrium" means Athyrium Opportunities III Co-Invest 1 LP, together with its successors in such capacity.

"Athyrium Credit Agreement" means that certain Credit Agreement dated as of the date hereof among the Seller, each Person identified as a "Guarantor" on the signature pages thereto and each other Person that joins as a Guarantor (together with their successors and permitted assigns) (each, a "Guarantor"), each of the Persons identified as a "Lender" on the signature pages thereto and their successors and assigns, and Athyrium, as administrative agent, and its successors and assigns, as amended, restated, amended and restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), increased, restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any indentures, credit facilities, term loan facility or other agreement extending the maturity thereof, refinancing, replacing or otherwise restructuring all or a portion of the Indebtedness under such indentures, credit facilities, term loan facility or other agreement or any successor or replacement indentures, credit facilities, term loan facility or other agreement and whether with the original obligors, agent, lenders, institutional investors or otherwise, and whether provided under the original Athyrium Credit Agreement or one or more other credit or other agreements or indentures, and any agreement (and related document) governing Indebtedness incurred to refinance, in whole or in part, the borrowings, other extensions of credit and commitments then outstanding or permitted to be outstanding under such debt facilities or successor debt facilities, whether by the same or any other obligor, issuer, agent, lender or group of lenders (or institutional investors).

"Athyrium Indebtedness" means all of the Seller's and its Subsidiaries' Indebtedness and other Obligations and commitments to provide credit extensions to the Seller or any of its Subsidiaries, in each case, under the Athyrium Loan Documents.

"Athyrium Loan Documents" means (a) the Athyrium Credit Agreement, and (b) each other "Loan Document" or such similar term as defined in the Athyrium Credit Agreement, in each case as amended, restated, amended and restated, modified or otherwise supplemented from time to time.

"Attributable Indebtedness" means "Attributable Indebtedness" or such similar term as defined in the Athyrium Credit Agreement.

"Back-Up Security Interest" is defined in Section 2.1(b).

"Bankruptcy Laws" means, collectively, bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, fraudulent transfer or other similar laws affecting the enforcement of creditors' rights generally.

"BCX9930" means (a) the oral Factor D inhibitor known as BCX9930 described on Exhibit A hereto, [***].

"BCX9930 Royalty Payments" means, for each calendar quarter, an amount payable to the Buyer equal to (a) the amount of worldwide aggregate BCX9930 Net Sales (other than Product Partnering Revenue attributable to BCX9930) during such calendar quarter, multiplied by one percent (1%), and (b) the amount of Product Partnering Revenue attributable to BCX9930 multiplied by one percent (1%).

"Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions located in New York are permitted or required by applicable law or regulation to remain closed.

"Buyer" is defined in the preamble.

"Buyer Indemnified Parties" is defined in Section 7.1(a).

"Capital Lease" means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person.

"Clinical and Commercial Quarterly Report" is defined in Section 6.1(a).

"Clinical and Commercial Semi-Annual Report" is defined in Section 6.1(a).

"Clinical Trial" means a clinical trial intended to support the Marketing Approval or Commercialization of a Product.

"Clinical Updates" means (a) a summary of any material updates with respect to the Clinical Trials, including the number of patients currently enrolled in each such Clinical Trial, the number of sites conducting each such Clinical Trial, the material progress of each such Clinical Trial, any material modifications to each such Clinical Trial, any adverse events in the Clinical Trials, (b) written plans to start new Clinical Trials, and (c) investigator brochures for the Product.

"Closing" means the closing of the sale, transfer, assignment and conveyance of the Revenue Participation Right hereunder.

"Closing Date" means the date on which the Closing occurs pursuant to Section 3.1.

"CMC" means chemistry, manufacturing and controls with respect to a Product.

"Combination Product" means:

(a) a single pharmaceutical formulation (whether co-formulated or administered together via the same administration route) containing as its active ingredients both a Product and one or more other therapeutically or prophylactically active pharmaceutical or biologic ingredients (each an "Other Component"), or

(b) a combination therapy comprised of a Product and one or more Other Component(s), whether priced and sold in a single package containing such multiple products, packaged separately but sold together for a single price, or sold under separate price points but labeled for use together,

in each case, including all dosage forms, formulations, presentations, and package configurations. Drug delivery vehicles, adjuvants and excipients will not be deemed to be "active ingredients", except in the case where such delivery vehicle, adjuvant or excipient is recognized by the FDA as an active ingredient in accordance with 21 C.F.R. 210.3(b)(7). All references to Products in this Agreement shall be deemed to include Combination Products.

"Commercial Updates" means a summary of material updates with respect to the Seller's and its Affiliates' and any Licensee's sales and marketing activities and, if material, commercial manufacturing matters with respect to a Product.

"Commercialization" means any and all activities directed to the distribution, marketing, detailing, promotion, selling and securing of reimbursement of a Product (including the using, importing, selling and offering for sale of such Product), and shall include post-Marketing Approval studies to the extent required by a Regulatory Authority, post-launch marketing, promoting, detailing, distributing, selling such Product, importing, exporting or transporting such Product for sale, and regulatory compliance with respect to the foregoing. When used as a verb, "Commercialize" shall mean to engage in Commercialization. Except with respect to post-Marketing Approval studies required by a Regulatory Authority, Commercialization shall not include any activities directed to the research or development (including pre-clinical and clinical development) or manufacture of a Product.

"Commercially Reasonable Efforts" means the level of efforts and resources (measured as of the time that such efforts and resources are required to be used under this Agreement) that are commonly used by a commercial-stage public biotechnology company of similar size and resources to Seller (provided that such size and resources shall not decrease below the size and resources of the Seller as of the Closing Date), to develop, manufacture or commercialize, as the case may be, a comparable product for a comparable clinical indication (with respect to market size and commercial opportunity) at a similar stage in its development or product life and of a similar market and potential to the Product, but without regard to the Seller's financial obligations under this Agreement.

"Confidential Information" is defined in Section 8.1.

"Controlling Agreement" is defined in Section 10.14.

"Convertible Bond Indebtedness" means any Indebtedness having a feature which entitles the holder thereof to convert or exchange all or a portion of such Indebtedness into shares of common capital stock of the Seller; provided, that, (a) the principal amount (or accreted value, if applicable) of such Convertible Bond Indebtedness does not exceed $[***], (b) such Convertible Bond Indebtedness shall be unsecured, (c) no Subsidiary shall Guarantee such Convertible Bond Indebtedness, (d) such Convertible Bond Indebtedness shall not mature, and no scheduled or mandatory principal payments, repayments, prepayments, cash settlements, repurchases, redemptions or sinking fund or like payments (but excluding, for the avoidance of doubt, regularly scheduled cash interest payments and conversion of such Convertible Bond Indebtedness into shares of common capital stock of the Seller in accordance with the terms thereof) of such Convertible Bond Indebtedness shall be required at any time on or prior to the date that is one (1) year after the "Maturity Date" or such similar term under the Athyrium Loan Documents (which in the case of the maturity of such Convertible Bond Indebtedness shall be tested at the time of incurrence thereof), other than upon a "Change of Control", "fundamental change", "make-whole fundamental change" or similar event, (e) such Convertible Bond Indebtedness shall (i) not include (A) any financial maintenance covenants or (B) other covenants and defaults that are, taken as a whole, more restrictive on the Seller and its Subsidiaries than the covenants and defaults set forth in the Athyrium Loan Documents and (ii) have a cash interest rate of less than the greater of (x) [***] percent ([***]%) per annum and (y) such cash interest rate as the administrative agent under the Athyrium Credit Agreement, in its sole discretion, shall approve in writing after the Closing Date, upon the request of the Seller in light of changes to market interest rates for similar convertible notes, (f) such Convertible Bond Indebtedness shall include conversion, redemption and fundamental change provisions that are customary for public market convertible indebtedness (pursuant to a public offering or an offering under Rule 144A or Regulation S of the Securities Act), (g) such Convertible Bond Indebtedness shall be subordinated in right of payment to the Royalty Payments that are owed or may be owed in the future to the Buyer pursuant to the terms of a subordination, intercreditor, or other similar agreement (or terms of subordination incorporated into the indenture under which such Convertible Bond Indebtedness is issued), in each case in form and substance, and on terms, approved by the Buyer, the Seller, and the applicable Third Party in writing, (h) no Default or Event of Default or such similar terms (in each case as defined in the Athyrium Credit Agreement) shall have occurred and be continuing at the time of incurrence of such Convertible Bond Indebtedness or could result therefrom, and (i) the Seller shall have delivered to the administrative agent under the Athyrium Credit Agreement a certificate of an officer of the Seller certifying as to the foregoing.

"Direct Sales Territories" means the United States, the United Kingdom, Germany, France, [***] and [***].

"Disclosing Party" is defined in Section 8.1.

"Disclosure Schedule" means the Disclosure Schedule, dated as of the date hereof, delivered to the Buyer by the Seller concurrently with the execution of this Agreement.

"Distributor" means a Third Party that (a) purchases or has the option to purchase any Product in finished form from or at the direction of the Seller or any of its Affiliates, (b) has the right, option or obligation to distribute, market and sell such Product (with or without packaging rights) in one or more regions, and (c) does not otherwise make any royalty, milestone, profit share or other similar payment to the Seller or its Affiliate based on such Third Party's sale of the Product. The term "packaging rights" in this definition will mean the right for the Distributor to package or have packaged Product supplied in unpackaged bulk form into individual ready-for-sale packs.

"EMA" means the European Medicines Agency, or any successor agency thereto.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member, membership or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination, but excluding, for the avoidance of doubt, any Convertible Bond Indebtedness to the extent that the same have not yet been converted into shares of common capital stock of the Seller.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"Existing Out-License" is defined in Section 4.1(h)(ii).

"Existing Patent Rights" is defined in Section 4.1(k)(i).

"FD&C Act" means the United States Federal Food, Drug, and Cosmetic Act.

"FDA" means the U.S. Food and Drug Administration, or any successor agency thereto.

"First Commercial Sale" means, with respect to a Product, the first sale for use or consumption by an end-user of such Product in any country of the world after Marketing Approval of such Product has been granted in such country, or such marketing and sale is otherwise permitted, by the Regulatory Authority of such country.

"GAAP" means generally accepted accounting principles in the United States in effect from time to time.

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such indebtedness or other obligation of the payment or performance of such indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), (b) any lien on any assets of such Person securing any indebtedness or other obligation of any other Person, whether or not such indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such indebtedness to obtain any such lien) or (c) any direct or indirect liability, contingent or not, of that Person for (i) any obligations for undrawn letters of credit for the account of that Person or (ii) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantor" is defined in the definition of the Athyrium Credit Agreement.

"Governmental Entity" means any: (a) nation, principality, republic, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or other entity and any court, arbitrator or other tribunal); (d) multi-national organization or body; or (e) individual, body or other entity exercising, or entitled to exercise, any executive, legislative, judicial, administrative, regulatory, police, military or taxing authority or power of any nature.

"Gross Sales" is defined in the definition of "Net Sales".

"HAE" is defined in Section 5.1(a).

"HSBC Cash Collateral Accounts" means, collectively, Deposit Account #[***] and Deposit Account #[***] of the Seller established and maintained at HSBC Bank for the sole purpose of securing the Seller's obligations under the HSBC Letter of Credit; provided that (a) no such Deposit Account shall hold an aggregate of cash and cash equivalents in excess of [***] percent ([***]%) of the aggregate face amount of the letters of credit it is securing and (b) with respect to all such Deposit Accounts, the aggregate amount deposited there in at any time does not exceed [***].

"HSBC Letter of Credit" means the letter of credit issued by HSBC Bank in favor of the landlord with respect to the Seller's leased real property located at 2100 Riverchase Center, Ste. 200 / Building 200, Birmingham, AL 35244, in an aggregate face amount equal to One Million Four Hundred Thousand Dollars ($1,400,000).

"HSBC Liens" means Liens in favor of HSBC Bank on the HSBC Cash Collateral Accounts to the extent securing obligations of the Seller permitted pursuant to clause (g) of the definition of Permitted Contingent Obligations.

"Improvements" means any improvement, invention or discovery relating to a Product (other than with respect to a new composition of matter), including the formulation, or the method of manufacture of a Product.

"In-License" means any license, settlement agreement or other agreement or arrangement between the Seller or any of its Affiliates and any Third Party pursuant to which the Seller or any of its Affiliates obtains a license or a covenant not to sue or similar grant of rights to any Patents or other intellectual property rights of such Third Party that is necessary for the research, development, manufacture, use or Commercialization of a Product.

"Indebtedness" of any Person means any indebtedness for borrowed money, any obligation evidenced by a note, bond, debenture or similar instrument, or any guarantee of any of the foregoing.

"Indemnified Party" is defined in Section 7.2.

"Indemnifying Party" is defined in Section 7.2.

"Indirect Sales Territories" means all countries except for the Direct Sales Territories.

"Intellectual Property Product Rights" means any and all of the following as they exist throughout the world at any time: (a) the Patent Rights; (b) rights in registered and unregistered trademarks, service marks, trade names, trade dress, logos, packaging design, slogans and Internet domain names, and registrations and applications for registration of any of the foregoing, in each case, with respect to any Product; (c) rights in all Know-How necessary for the development, manufacture or Commercialization of any Product; and (d) any and all other intellectual property rights and/or proprietary rights, whether or not patentable, specifically relating to any of the foregoing, as necessary for the development, manufacture or Commercialization of a Product.

"Intellectual Property Rights" means any and all of the following as they exist throughout the world at any time: (a) the Patent Rights and (b) the Know-How Rights.

"Intellectual Property Updates" means an updated list of the Patent Rights, including any new Patents issued or filed, amended or supplemented, relating to a Product in any country or any abandonments or other termination of prosecution with respect to any of the Patent Rights, and any other material information or developments with respect to the Intellectual Property Rights.

"Intercreditor Agreement" means that certain Intercreditor Agreement by and among Athyrium, the Seller and the Buyer, and acknowledged and agreed to by the Seller, BioCryst Ireland Limited, and any future Guarantor, in substantially the form attached hereto as Exhibit B, as amended, amended and restated, supplement and otherwise modified from time to time in accordance with the terms thereof.

"Judgment" means any judgment, order, writ, injunction, citation, award or decree of any nature.

"JPR Royalty Sub" means JPR Royalty Sub LLC, a Delaware limited liability company.

"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.

"Know-How" means any and all proprietary or confidential information, know-how and trade secrets, including processes, formulae, models and techniques (but excluding rights in research in progress, algorithms, data, databases, data collections, chemical and biological materials and the results of experimentation and testing).

"Know-How Rights" means any and all Know-How owned or in-licensed by the Seller or any of its Affiliates or under which the Seller or any of its Affiliates is or may become empowered to grant licenses necessary for the development, manufacture, or Commercialization of a Product.

"Knowledge of the Seller" means the actual knowledge of the individuals listed on Schedule 1.1 of the Disclosure Schedule, after reasonable due inquiry.

"License Revenue" means any payments or other consideration in any form received by Seller or any of its Affiliates from a Licensee or any of its Affiliates or sublicensees under or pursuant to an Out-License of any rights relating to Orladeyo or any sublicense under or other agreement ancillary to such Out-License, or payments received by Seller or any of its Affiliates from a Third Party in lieu of any of the foregoing payments, in each case, except for:

(a) payments or grants received from a commercial or non-commercial Third Party, specifically to cover future reasonable, documented fully-burdened costs incurred by or on behalf of Seller or any Affiliate after the execution of such Out-License directly attributable to the performance of research and development of Orladeyo, which costs are expressly covered by the Licensee under such Out-License;

(b) equity investments in Seller or any Affiliate to the extent priced at or below fair market value, provided that in the case of common stock or its equivalent, fair market value shall be the greater of: (i) the last reported closing price of Seller's common stock on Nasdaq, or (ii) the 30-day volume-weighted average price of Seller's common stock;

(c) loans received as part of a debt financing for so long as an obligation of repayment exists, provided that if at the time any such debt becomes due, the amount of such debt that is forgiven, and, for accounting or Tax purposes (in accordance with GAAP), is booked as income to Seller or its Affiliates, then such amount shall be deemed License Revenue hereunder;

(d) loans received where Orladeyo forms part of the security package provided for the loan for so long as an obligation of repayment exists; provided that at the time any such debt becomes due, the amount of such debt that is forgiven, and, for accounting or Tax purposes (in accordance with GAAP), is booked as income to Seller or its Affiliates, shall be deemed License Revenue hereunder;

(e) Tax credits or Tax receipts; and

(f) sales or supply of Orladeyo inventory at or below Seller's actual cost of goods sold, provided, however that any mark-up from, or other amounts in excess of, the Seller's cost of goods sold for such inventory shall be License Revenue.

Notwithstanding anything to the contrary in this Agreement, "License Revenue" shall include, without limitation, any and all royalties, upfront payment, license signing fee, license maintenance fee, minimum royalty payment in excess of earned royalties, option fee, lump sum payment, distribution fee, joint marketing fee, profit share, milestone payment, and other payments. In the event Seller or its Affiliate(s) receives non-monetary consideration, License Revenue shall be calculated based on the fair market value of such consideration at the time of the transaction (where fair market value shall be determined by agreement of the Parties or by an independent appraiser mutually agreeable to the Parties), assuming an arm's length transaction made in the ordinary course of business. To the extent that Seller makes any offsetting payments to a Licensee (such as a true-up payment) that are specifically permitted pursuant to the Out-License (not entered into in violation of this Agreement) with such Licensee, then the License Revenue under such Out-License shall be calculated net of such payments. Without limiting clauses (a) through (f) above, to the extent that Seller permits any Licensee to set off any payments payable pursuant to the Out-License with such Licensee against any amounts payable by Seller to such Licensee, then the License Revenue under such Out-License shall include all such payments payable to Seller under such Out-License without giving effect to any such setoff.

"Licensee" means, with respect to any Product, a Third Party to whom the Seller or any Affiliate of the Seller has granted a license or sublicense to Commercialize such Product. For clarity, a Distributor shall not be deemed to be a "Licensee."

"Lien" means any mortgage, lien, pledge, participation interest, charge, adverse claim, security interest, encumbrance or restriction of any kind, including any restriction on use, transfer or exercise of any other attribute of ownership of any kind.

"Loss" means any and all Judgments, damages, losses, claims, costs, liabilities and expenses, including reasonable fees and out-of-pocket expenses of counsel.

"Loss of Market Exclusivity" shall mean, on a Product-by-Product and country-by-country basis, the later to occur of: (a) the expiration of the last-to-expire Valid Claim of a Patent Right covering such Product in such country; and (b) the expiry of all Regulatory Exclusivity Periods for such Product in such country.

"Marketing Approval" means, an NDA approved by the FDA, a Marketing Authorization Application approved by the EMA under the centralized European procedure, or any corresponding non-U.S. or non-EMA application, registration or certification in a Direct Sales Territory, necessary or reasonably useful to market a Product approved by the corresponding Regulatory Authority, including pricing and reimbursement approvals where required. For clarity, notwithstanding the foregoing, solely with respect to Section 5.1(a) and Section 6.2, "Marketing Approval" shall not include pricing and reimbursement approvals.

"Material Adverse Effect" means (a) an adverse effect in any material respect on the timing, duration or amount of the Royalty Payments, (b) a material adverse effect on (i) a Product, (ii) any of the Intellectual Property Rights, including the Seller's rights in or to any Intellectual Property Rights, (iii) any Marketing Approval of a Product or the timing thereof, (iv) the legality, validity or enforceability of any provision of this Agreement, (v) the ability of the Seller to perform any of its obligations under this Agreement, (vi) the rights or remedies of the Buyer under this Agreement, or (vii) the business of the Seller or its Affiliates or (c) an adverse effect in any material respect on the Revenue Participation Rights, the Product Collateral, or the Back-Up Security Interest.

"MidCap Credit Agreement" means that certain Second Amended and Restated Credit and Security Agreement, dated as of February 5, 2019, by and among the Seller, the Subsidiaries of the Seller from time to time, MidCap Financial Trust, as administrative agent, and the lenders party thereto from time to time, .

"MidCap Indebtedness" means all Indebtedness or other obligations of the Seller and its Subsidiaries outstanding under the Midcap Loan Documents.

"MidCap Loan Documents" " means the MidCap Credit Agreement, the "Security Documents" (as defined therein) and all other agreements and documents entered into in connection therewith.

"Minimum Return Date" means the earlier of the following dates: (a) the date on which the trailing [***] months of net revenue of the Company, in accordance with GAAP, equals at least $[***] million and all Royalty Payments for any Net Sales of Products that make up such revenue have been paid to Buyer; (b) the date on which Seller's market capitalization is at least $[***] billion for [***] consecutive trading days; (c) the date that is on or after [***] years after the Closing Date and on which Seller's market capitalization is at least $[***] billion for [***] consecutive trading days; and (d) the date of expiration of the last-to-expire Valid Claim of the Patent Rights covering Orladeyo in the United States.

"NDA" means a New Drug Application submitted to the FDA in the United States in accordance with the FD&C Act with respect to a pharmaceutical product or any analogous application or submission with any Regulatory Authority outside of the United States.

"Net Sales" means, with respect to each Product, the gross amount invoiced, billed or otherwise recorded for sales of such Product anywhere in the world by or on behalf of the Seller, its Affiliates, any Distributor, or any Licensee of the Seller or any of the Seller's Affiliates (each of the foregoing Persons, for purposes of this definition, shall be considered a "Related Party") to a Third Party in an arms-length transaction ("Gross Sales") less the following amounts, to the extent actually incurred or accrued in accordance with generally accepted accounting principles consistently applied, and not reimbursed by such Third Party, provided, that any given amount may be taken as a permitted deduction only once:

(a) reasonable and customary rebates, chargebacks, quantity, trade and similar discounts, credits and allowances and other price reductions reasonably granted, allowed, incurred or paid in so far as they are applied to sales of a Product;

(b) discounts (including cash, quantity, trade, governmental, and similar discounts), coupons, retroactive price reductions, charge back payments and rebates granted to managed care organizations or to federal, state and local governments, or to their agencies (including payments made under the new "Medicare Part D Coverage Gap Discount Program" and the "Annual Fee for Branded Pharmaceutical Manufacturers" specific to the Product), in each case, as applied to sales of the Product and actually given to customers;

(c) reasonable and customary credits, adjustments, and allowances, including those granted on account of price adjustments, billing errors, and damage, Product otherwise not in saleable condition, and rejection, return or recall of a Product;

(d) reasonable and customary freight and insurance costs incurred with respect to the shipment of a Product to customers, in each case if charged separately and invoiced to the customer;

(e) customs duties, surcharges and other similar governmental charges incurred in connection with the exportation or importation of a Product to the extent included in the gross amount invoiced;

(f) sales, use, value-added, excise, turnover, inventory and other similar Taxes (excluding income Taxes), and that portion of annual fees due under Section 9008 of the United States Patient Protection and Affordable Care Act of 2010 (Pub. L. No. 111-48) and any other fee imposed by any equivalent applicable law, in each of the foregoing cases, that Seller allocates to sales of a Product in accordance with Seller's standard policies and procedures consistently applied across its products, as adjusted for rebates and refunds, imposed in connection with the sales of the Product to any Third Party, to the extent such Taxes are not paid by the Third Party;

(g) actual copayment waiver amounts uncollected or uncollectible debt amounts with respect to sales of a Product, provided that if the debt is thereafter paid, the corresponding amount shall be added to the Net Sales of the period during which it is paid;

(h) reasonable, customary and documented out of pocket amounts directly relating to co-pay programs, bridging programs or other similar patient assistance programs which may be implemented from time to time by the Seller; and

(i) other similar or customary deductions taken in the ordinary course of business as permitted in calculating net sales or net revenue (as applicable) under generally accepted accounting principles consistently applied.

For clarity, "Net Sales" will not include (i) sales or dispositions for charitable, promotional, pre-clinical, clinical, regulatory, compassionate use, named patient use or indigent or other similar programs, reasonable quantities of Products used as samples, and Products used in the development of Products, (ii) sales or dispositions between any of the Related Parties (unless a Related Party is the final end-user of such Product), but will include subsequent sales or dispositions of Products to a non-Related Party, (iii) License Revenue, or (iv) solely with respect to BCX9930, any amounts or other consideration received by a Related Party from a Licensee, Distributor, or a non-Related Party in consideration of the grant of a (sub)license or co-promotion or distribution right to such non-Related Party.

With respect to sales of a Product invoiced in U.S. dollars, Net Sales shall be determined in U.S. dollars. With respect to sales of a Product invoiced in a currency other than U.S. dollars, Net Sales shall be determined by converting the currencies at which the sales are made into U.S. dollars, at rates of exchange determined in a manner consistent with the Seller's or a Licensee's, as applicable, method for calculating rates of exchange in the preparation of the Seller's or such Licensee's annual financial statements in accordance with generally accepted accounting principles consistently applied.

Net Sales for any Combination Product shall be calculated on a country-by-country basis by multiplying actual Net Sales of such Combination Product by the fraction A/(A+B) where "A" is the weighted average invoice price of the Product contained in such Combination Product when sold separately in such country during the applicable accounting period in which the sales of the Combination Product were made, and "B" is the combined weighted average invoice prices of all of the Other Components contained in such Combination Product sold separately in such country during such same accounting period. If a Product contained in such Combination Product is not sold separately in finished form in such country, the Seller and the Buyer shall determine Net Sales for such Product by mutual agreement based on the relative contribution of such Product and each such other active ingredient in such Combination Product in accordance with the above formula, and shall take into account in good faith any applicable allocations and calculations that may have been made for the same period in other countries.

"Obligations" means "Obligations" or such similar term as defined in the Athyrium Credit Agreement.

"Orladeyo" means (a) the product known as ORLADEYO™ (berotralstat) that is the subject of NDA No. 214094, [***].

"Orladeyo Direct Sales" means (a) Net Sales of Orladeyo by or on behalf of the Seller, any of the Seller's Affiliates or its or their respective Distributors anywhere in the world, in each case other than (i) Net Sales of Orladeyo by or on behalf of any Licensee, and (ii) Product Partnering Revenue attributable to Orladeyo; and (b) Net Sales of Orladeyo by or on behalf of any Licensee in or for the Direct Sales Territories.

"Orladeyo Direct Sales Royalty Rate" means the percentage based on the applicable level of Orladeyo Direct Sales in a calendar year as set forth in the chart below:

Payment Tiers based on Annual Orladeyo Direct Sales	Orladeyo Direct Sales Royalty Rate
A. Annual Orladeyo Direct Sales of up to $350,000,000	8.75%
B. Annual Orladeyo Direct Sales exceeding $350,000,000 and less than or equal to $550,000,000	2.75%
C. Annual Orladeyo Direct Sales in excess of $550,000,000	0%

"Orladeyo Indirect Revenue" means all License Revenue received by the Seller or any of the Seller's Affiliates from any Licensee of Orladeyo, other than (a) the regulatory approval milestone payable under Section 8.2.1 of the Torii License, (b) in respect of Orladeyo Direct Sales, and (c) Product Partnering Revenue attributable to Orladeyo.

"Orladeyo Indirect Revenue Sharing Rate" means the percentage based on the applicable level of Orladeyo Indirect Revenue in a calendar year as set forth in the chart below:

Applicable Orladeyo Indirect Revenue	Orladeyo Indirect Revenue Sharing Rate	Orladeyo Indirect Revenue Threshold
A. Orladeyo Indirect Revenue that does not constitute (a) Orladeyo Indirect Royalties, or (b) a milestone payment attributable to a threshold of commercial sales achieved or similar sales-based measurement (collectively, such Orladeyo Indirect Revenue set forth in this Row A, the "Orladeyo Flat Rate Indirect Revenue").	20%	N/A
B. All Orladeyo Indirect Revenue including (without duplication) Orladeyo Indirect Royalties but excluding Orladeyo Flat Rate Indirect Revenue	20%	Annual Orladeyo Indirect Sales up to $150,000,000 in such calendar year
C. All Orladeyo Indirect Revenue including (without duplication) Orladeyo Indirect Royalties but excluding Orladeyo Flat Rate Indirect Revenue	10%	Annual Orladeyo Indirect Sales exceeding $150,000,000 and less than or equal to $230,000,000 in such calendar year
D. All Orladeyo Indirect Revenue including (without duplication) Orladeyo Indirect Royalties but excluding Orladeyo Flat Rate Indirect Revenue	0%	Annual Orladeyo Indirect Sales exceeding $230,000,000 in such calendar year

"Orladeyo Indirect Sales" means Net Sales of Orladeyo by or on behalf of any Licensee in or for the Indirect Sales Territories.

"Orladeyo Indirect Royalties" means Orladeyo Indirect Revenue that constitutes (a) royalties payable on Orladeyo Indirect Sales, (b) any payments made in lieu of the foregoing, (c) recovery of monetary damages from a Third Party in an action brought for such Third Party's infringement of any Patent Rights, where such damages, whether in the form of judgment or settlement, are awarded for such infringement of such Patent Rights, and (d) any interest on all of the foregoing.

"Orladeyo Royalty Payments" means, for each calendar quarter, an amount payable to the Buyer equal to (a) the amount of all aggregate Orladeyo Direct Sales during such calendar quarter multiplied by the Orladeyo Direct Sales Royalty Rate, (b) the amount of all aggregate Orladeyo Indirect Revenue during such calendar quarter multiplied by the applicable Orladeyo Indirect Revenue Sharing Rate, and (c) and the amount of Product Partnering Revenue attributable to Orladeyo multiplied by 8.75%.

"Other Component" is defined in the definition of "Combination Products".

"Other Intercreditor Agreement" means an intercreditor agreement, among, the Buyer, the Seller and the administrative agent, trustee or representative under the Athyrium Credit Agreement and/or the holders of any Indebtedness incurred pursuant to clause (b)(ii) of the definition of Restricted Indebtedness or any agent, representative or trustee acting on behalf of such holders, on substantially the same terms as the Intercreditor Agreement, as amended, amended and restated, supplement and otherwise modified from time to time in accordance with the terms thereof.

"Out-License" means each license or other agreement between the Seller or any of its Affiliates and any Third Party (other than Distributors) pursuant to which the Seller or any of its Affiliates grants a license or sublicense of any Intellectual Property Right to market, detail, promote, sell or secure reimbursement of a Product.

"Patents" means any and all patents and patent applications existing as of the date of this Agreement and all patent applications filed hereafter, including any continuation, continuation-in-part, division, provisional or any substitute applications, any patent issued with respect to any of the foregoing patent applications, any certificate, reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent or other governmental actions which extend any of the subject matter of a patent, and any substitution patent, confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing.

"Patent Rights" means any and all Patents owned or in-licensed by the Seller or any of its Affiliates or under which the Seller or any of its Affiliates is or may become empowered to grant licenses necessary or reasonably useful in the development, manufacture, use, marketing, promotion, sale or distribution of a Product, as well as existing or future Patents covering any Improvements.

"Permitted Contingent Obligations" means (a) Guarantees resulting from endorsements for collection or deposit in the ordinary course of business; (b) Guarantees incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds and other similar obligations not to exceed [***] in the aggregate at any time outstanding; (c) Guarantees arising under indemnity agreements with title insurers; (d) Guarantees arising with respect to customary indemnification obligations in favor of purchasers in connection with sales, transfers, licenses, leases or other dispositions of personal property assets permitted under the Athyrium Loan Documents; (e) Guarantees arising under the Athyrium Loan Documents; (f) Guarantees existing or arising in connection with any security deposit or letter of credit obtained for the sole purpose of securing a lease of real property, or in connection with ancillary bank services such as a corporate credit card facility, provided that the aggregate face amount of all such security deposits, letters of credit and ancillary bank services does not at any time exceed [***] in the aggregate at any time outstanding; and (g) the HSBC Letter of Credit secured solely by HSBC Liens.

"Permitted Indebtedness" is defined in the definition of "Restricted Indebtedness".

"Permitted License" is defined in Section 6.7(a).

"Permitted Liens" means the following:

(a) Liens for Taxes, assessments or governmental charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided, that, such Liens secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established;

(c) Liens on property existing at the time of acquisition of such property provided that such liens were in existence prior to such acquisition and not incurred in contemplation thereof;

(d) Permitted Licenses, including any interest or title of a licensee under a Permitted License;

(e) Liens under the Athyrium Loan Documents;

(f) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(g) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, indemnity and performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not materially interfere with the ordinary conduct of the business of the applicable Person;

(i) licenses, sublicenses, leases or subleases granted to others in the ordinary course of business or otherwise and not interfering in any material respect with the Revenue Participation Right, the Product Rights, the Product Collateral, or the Back-Up Security Interest;

(j) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement

(k) normal and customary banker's liens and rights of setoff upon deposits of cash in favor of banks or other depository institutions;

(l) Liens of a collection bank arising under Section 4-210 of the UCC on items in the course of collection;

(m) Liens of sellers of goods to the Seller and any of its Subsidiaries arising under Article 2 of the UCC or similar provisions of applicable 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;

(n) HSBC Liens; and

(o) cash collateral securing letters of credit permitted under clause (f) of the definition of Permitted Contingent Obligations.

"Permitted Purchaser" means any Third Party who acquires rights to Orladeyo and/or BXC9930, as applicable, in a Permitted Sale.

"Permitted Sale" means any sale, transfer, assignment or other disposition, not constituting an Out-License, of any rights relating to Orladeyo and/or BXC9930, as applicable, solely to the extent such rights pertain to the [***] (collectively, the "Permitted Sale Territory").

"Permitted Sale Territory" is defined in the definition of "Permitted Sale".

"Person" means any individual, firm, corporation, company, partnership, limited liability company, trust, joint venture, association, estate, trust, Governmental Entity or other entity, enterprise, association or organization.

"Prime Rate" means the prime rate published by The Wall Street Journal, from time to time, as the prime rate.

"Product" and "Products" means, individually and collectively, Orladeyo and BCX9930.

"Product Collateral" means the Seller's rights, title and interests in (a) the Products (including all inventory of the Products), (b) the Product Rights owned, licensed or otherwise held by the Seller, and (c) any proceeds from either (a) or (b) above, including all accounts receivable and general intangibles resulting from the sale, license or other disposition of Products by the Seller or its Licensees.

"Product Partnering Revenue" means the pre-tax profit realized by Seller or its Affiliates arising from any Permitted Sale, with the profit being calculated as: (i) aggregate payments or other consideration in any form received by Seller or any of its Affiliates from a Permitted Sale, or payments received by Seller or any of its Affiliates from a Third Party in lieu of any of the foregoing payments arising from a Permitted Sale, in each case, except for the Excluded Payments (defined below), minus (ii) aggregate out-of-pocket expenses incurred by Seller or its Affiliates after the Closing Date solely for the development or commercialization of Orladeyo and/or BXC9930, as applicable, in the Permitted Sale Territory. For purposes of Product Partnering Revenue, "Excluded Payments" means:

(a) payments or grants received from a commercial or non-commercial Third Party, specifically to cover future reasonable, documented fully-burdened costs incurred by or on behalf of Seller or any Affiliate after the execution of such Permitted Sale directly attributable to the performance of research and development of Orladeyo and/or BXC9930, as applicable, within the Permitted Sale Territory, which costs are expressly covered by the purchaser under such Permitted Sale;

(b) equity investments in Seller or any Affiliate to the extent priced at or below fair market value, provided that in the case of common stock or its equivalent, fair market value shall be the greater of: (i) the last reported closing price of Seller's common stock on Nasdaq, or (ii) the 30-day volume-weighted average price of Seller's common stock;

(c) loans received as part of a debt financing for so long as an obligation of repayment exists, provided that if at the time any such debt becomes due, the amount of such debt that is forgiven, and, for accounting or Tax purposes (in accordance with GAAP), is booked as income to Seller or its Affiliates, then such amount shall be deemed Product Partnering Revenue hereunder;

(d) loans received where Orladeyo and/or BXC9930, as applicable, forms part of the security package provided for the loan for so long as an obligation of repayment exists, provided that if at the time any such debt becomes due, the amount of such debt that is forgiven, and, for accounting or Tax purposes (in accordance with GAAP), is booked as income to Seller or its Affiliates, then such amount shall be deemed Product Partnering Revenue hereunder;

(e) Tax credits or Tax receipts; and

(f) sales or supply of Orladeyo and/or BXC9930, as applicable, inventory at or below Seller's actual cost of goods sold, provided, however that any mark-up from, or other amounts in excess of, the Seller's cost of goods sold for such inventory shall be Product Partnering Revenue.

Notwithstanding anything to the contrary in this Agreement, "Product Partnering Revenue" shall include, without limitation, any and all contingent payments, upfront payments, option fees, lump-sum payments, distribution fees, joint-marketing fees, profit share, milestone payments, and other payments. In the event Seller or its Affiliate(s) receives non-monetary consideration pursuant to a Permitted Sale, Product Partnering Revenue shall be calculated based on the fair market value of such consideration at the time of the transaction (where fair market value shall be determined by agreement of the Parties or by an independent appraiser mutually agreeable to the Parties), assuming an arm's length transaction made in the ordinary course of business. To the extent that Seller makes any offsetting payments to a Permitted Purchaser (such as a true-up payment) that are specifically permitted pursuant to the Permitted Sale (not entered into in violation of this Agreement) with such Permitted Purchaser, then the Product Partnering Revenue under such Permitted Sale shall be calculated net of such payments. To the extent that Seller permits any Permitted Purchaser to set off any payments payable pursuant to the Permitted Sale with such Permitted Purchaser against any amounts payable by Seller to such Permitted Purchaser, then the Product Partnering Revenue under such Permitted Sale shall include all such payments payable to Seller under such Permitted Sale without giving effect to any such setoff.

"Product Rights" means any and all of the following, as they exist throughout the world: (a) Intellectual Property Product Rights, (b) regulatory filings, submissions and approvals, including Marketing Approvals, with or from any Regulatory Authorities with respect to any of the Products, (c) In-Licenses and (d) Out-Licenses.

"Purchase Price" is defined in Section 2.2.

"Receiving Party" is defined in Section 8.1.

"Regulatory and IP Semi-Annual Report" is defined in Section 6.1.

"Regulatory Authority" means any national or supranational governmental authority, including the FDA, the EMA or such equivalent regulatory authority, or any successor agency thereto, that has responsibility in granting a Marketing Approval.

"Regulatory Exclusivity Period" shall mean, with respect to each Product in any country, any period of data, market or other regulatory exclusivity (other than Patent exclusivity) granted or afforded by law or by a Regulatory Authority in such country that confers exclusive marketing rights with respect to such Product in such country or prevents another party from using or otherwise relying on any data supporting the Marketing Approval for such Product.

"Regulatory Updates" means a summary of any and all material information and developments that materially impact a Product with respect to any regulatory filings or submissions made to any Regulatory Authority.

"Related Party" is defined in the definition of "Net Sales".

"Report" is defined in Section 6.1.

"Representative" means, with respect to any Person, (a) any direct or indirect member or partner of such Person and (b) any manager, director, trustee, officer, employee, agent, advisor or other representative (including attorneys, accountants, consultants, contractors, actual and potential lenders, investors, co-investors and assignees, bankers and financial advisers) of such Person.

"Restricted Indebtedness" mean any financing, sale, or loan of royalties on the Products, or any Indebtedness, in each case other than the following (collectively, "Permitted Indebtedness"):

(a) true sales of royalties that contain no financial covenants or other provisions typically found in loan agreements, and in connection with such true sale Seller or its Affiliates do not grant any Lien on any assets of Seller or its Affiliates, other than a back-up security interest to perfect the true sale;

(b) (i) additional Indebtedness incurred pursuant to the Athyrium Loan Documents, (ii) other secured Indebtedness, so long as in the case of any Indebtedness incurred pursuant to this clause (ii), the holders of such Indebtedness or any agent, representative or trustee acting on behalf of such holders have become party to the Intercreditor Agreement or entered into an Other Intercreditor Agreement, and (iii) unsecured Indebtedness, so long as (x) the principal amount of any Indebtedness incurred pursuant to this clause (b) (together with the aggregate outstanding principal amount of all Indebtedness previously incurred pursuant to this clause (b)) does not at the time of incurring such additional Indebtedness exceed [***]% of the aggregate principal amount of Indebtedness and commitments to extend credit under the Athyrium Loan Documents outstanding at such time and (y) except as otherwise agreed by the parties, such unsecured Indebtedness contemplated by clause (iii) shall be subordinated in right of payment to the Royalty Payments that are owed or may be owed in the future to the Buyer pursuant to the terms of a subordination, intercreditor, or other similar agreement (or terms of subordination incorporated into the indenture under which such unsecured indebtedness is issued), in each case in form and substance, and on terms, approved by the Buyer, the Seller, and the applicable Third Party lender of such unsecured indebtedness in writing;

(c) certain customary de minimis exceptions incurred in the ordinary course of business;

(d) Indebtedness under the Athyrium Loan Documents, and renewals, refinancings and extensions thereof;

(e) intercompany Indebtedness permitted under the Athyrium Loan Documents (and at any time when the Athyrium Loan Documents are not outstanding, any bona fide intercompany Indebtedness entered into in the good faith business judgment of the Seller);

(f) obligations (contingent or otherwise) of the Seller or any Subsidiary existing or arising under any Swap Contract, provided, that, such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view";

(g) purchase money Indebtedness (including obligations in respect of capital leases or synthetic leases) hereafter incurred by the Seller or any of its Subsidiaries to finance the purchase of fixed assets, and renewals, refinancings, and extensions thereof, provided, that, (i) no default or "Event of Default" has occurred under the Athyrium Loan Documents and is continuing both immediately prior to and after giving effect thereto, (ii) the total of all such Indebtedness for all such Persons taken together shall not exceed an aggregate principal amount of $[***] at any one time outstanding, (iii) such Indebtedness when incurred shall not exceed the purchase price of the asset(s) financed, and (iv) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing except by an amount equal to unpaid accrued interest and premium thereon plus other amounts owing or paid related to such Indebtedness, and fees, commissions and expenses (including upfront fees and original issue discount) reasonably incurred, in connection with such refinancing

(h) other unsecured Indebtedness hereafter incurred by the Seller or any of its Subsidiaries in an aggregate amount not to exceed $[***] at any one time outstanding;

(i) Permitted Contingent Obligations;

(j) Indebtedness incurred in the ordinary course of business not to exceed $[***] in the aggregate at any time outstanding owed to any Person providing property, casualty, liability, or other insurance to the loan parties, including to finance insurance premiums, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the policy year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such policy year;

(k) Convertible Bond Indebtedness;

(l) Attributable Indebtedness in respect of Capital Leases incurred pursuant to automobile leases entered into in the ordinary course of business as part of employee compensation for employees based in Europe; provided that the aggregate amount of such Attributable Indebtedness incurred pursuant to this clause (l) shall not exceed $[***] at any one time outstanding; and

(m) other Indebtedness permitted by the Athyrium Credit Agreement after the Closing Date requested by the Seller in its good faith business judgment, not with the purpose or effect of adversely impacting the Buyer, the Revenue Participation Right, the Product Rights, the Product Collateral, or the Back-up Security Interest and permitted by the holders of the Indebtedness under the Athyrium Credit Agreement and the Intercreditor Agreement.

"Revenue Participation Right" means the right to receive the Royalty Payments.

"Royalty Payments" means the Orladeyo Royalty Payments and BCX9930 Royalty Payments.

"Safety Notices" means any recalls, field notifications, market withdrawals, warnings, "dear doctor" letters, investigator notices, safety alerts or other notices of action issued or instigated by the Seller, any of its Affiliates or any Regulatory Authority relating to an alleged lack of safety or regulatory compliance of any Product.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933.

"Seller" is defined in the preamble. References to the Seller herein (i) shall be deemed to include any assignee of the Seller pursuant to Section 10.4, but (ii) shall not include any Permitted Purchaser.

"Seller Certificate" is defined in Section 5.1(l).

"Seller Indemnified Parties" is defined in Section 7.1(b).

"Subsidiary" means any and all corporations, partnerships, limited liability companies, joint ventures, associations and other entities controlled (by contract or otherwise) by the Seller directly or indirectly through one or more intermediaries. For purposes hereof, the Seller shall be deemed to control a partnership, limited liability company, association or other business entity if the Seller, directly or indirectly through one or more intermediaries, shall be allocated a majority of partnership, limited liability company, association or other business entity gains or losses or shall be or control the managing director or general partner of such partnership, limited liability company, association or other business entity. Notwithstanding the foregoing, until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, unless expressly provided herein, Subsidiaries of the Seller shall not include JPR Royalty Sub.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned property, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not.

"Third Party" means any Person that is not the Seller or the Seller's Affiliates.

"Torii License" means that certain Commercialization and License Agreement between Torii Pharmaceutical Co., Ltd. and Biocryst Pharmaceuticals, Inc. dated November 5, 2019.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, that, if, with respect to any financing statement or by reason of any provisions of applicable law, the perfection or the effect of perfection or non-perfection of the back-up security interest or any portion thereof granted pursuant to Section 2.1(b) is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than the State of New York, then "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"Valid Claim" shall mean: (a) any claim of an issued and unexpired Patent included within the Patent Rights, that shall not have been withdrawn, lapsed, abandoned, revoked, canceled or disclaimed, or held invalid or unenforceable by a court, Governmental Entity, national or regional patent office or other appropriate body that has competent jurisdiction in a decision being final and unappealable or unappealed within the time allowed for appeal; and (b) a claim of a pending Patent application included within the Patent Rights that is filed and being prosecuted in good faith and that has not been finally abandoned or finally rejected and which has been pending for no more than [***] years from the date of filing of the earliest Patent application to which such pending Patent application claims priority.

Section 1.2 Certain Interpretations. Except where expressly stated otherwise in this Agreement, the following rules of interpretation apply to this Agreement:

(a) "either" and "or" are not exclusive and "include," "includes" and "including" are not limiting and shall be deemed to be followed by the words "without limitation";

(b) "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if";

(c) "hereof," "hereto," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) references to a Person are also to its permitted successors and assigns;

(e) definitions are applicable to the singular as well as the plural forms of such terms;

(f) references to an "Article", "Section" or "Exhibit" refer to an Article or Section of, or an Exhibit to, this Agreement, and references to a "Schedule" refer to the corresponding part of the Disclosure Schedule;

(g) references to "$" or otherwise to dollar amounts refer to the lawful currency of the United States; and

(h) references to a law include any amendment or modification to such law and any rules and regulations issued thereunder, whether such amendment or modification is made, or issuance of such rules and regulations occurs, before or after the date of this Agreement.

ARTICLE 2

PURCHASE, SALE AND ASSIGNMENT OF THE REVENUE PARTICIPATION RIGHT

Section 2.1 Purchase, Sale and Assignment.

(a) At the Closing and upon the terms and subject to the conditions of this Agreement, the Seller shall sell, transfer, assign and convey to the Buyer, without recourse (except as expressly provided herein), and the Buyer shall purchase, acquire and accept from the Seller, the Revenue Participation Right, free and clear of all Liens, except for any Lien contemplated under subparts (a), (b), (f), (g), and (k) of the definition of "Permitted Liens". Immediately upon the sale to the Buyer by the Seller of the Revenue Participation Right pursuant to this Section 2.1, all of the Seller's right, title and interest in and to the Revenue Participation Right shall terminate, and all such right, title and interest shall vest in the Buyer.

(b) It is the intention of the parties hereto that the sale, transfer, assignment and conveyance contemplated by this Agreement be, and is, a true, complete, absolute and irrevocable sale, transfer, assignment and conveyance by the Seller to the Buyer of all of the Seller's right, title and interest in and to the Revenue Participation Right. Neither the Seller nor the Buyer intends the transactions contemplated by this Agreement to be, or for any purpose characterized as, a loan from the Buyer to the Seller or a pledge, a security interest, a financing transaction or a borrowing. It is the intention of the parties hereto that the beneficial interest in and title to the Revenue Participation Right and any "proceeds" (as such term is defined in the UCC) thereof shall not be part of the Seller's estate in the event of the filing of a petition by or against the Seller under any Bankruptcy Laws. Each of the Seller and the Buyer hereby waives, to the maximum extent permitted by applicable law, any right to contest or otherwise assert that this Agreement does not constitute a true, complete, absolute and irrevocable sale, transfer, assignment and conveyance by the Seller to the Buyer of all of the Seller's right, title and interest in and to the Revenue Participation Right under applicable Law, which waiver shall, to the maximum extent permitted by applicable Law, be enforceable against the Seller in any bankruptcy or insolvency proceeding relating to the Seller. Accordingly, the Seller shall treat the sale, transfer, assignment and conveyance of the Revenue Participation Right as a sale of an "account" or a "payment intangible" (as appropriate) in accordance with the UCC, and the Seller hereby authorizes the Buyer to file financing statements (and continuation statements with respect to such financing statements when applicable) naming the Seller as the debtor and the Buyer as the secured party in respect to the Revenue Participation Right. Not in derogation of the foregoing statement of the intent of the parties hereto in this regard, and for the purposes of providing additional assurance to the Buyer in the event that, despite the intent of the parties hereto, the sale, transfer, assignment and conveyance contemplated hereby is hereafter held not to be a sale, the Seller does hereby grant to the Buyer, as security for the payment of amounts to the Buyer equal to the Purchase Price (including a market rate of return thereon) less all Royalty Payments received by the Buyer pursuant to this Agreement, a security interest in and to all right, title and interest in, to and under the Revenue Participation Right, the Royalty Payments (excluding, for the avoidance of doubt, accounts and payment intangibles (each as defined in the UCC) of the Seller) and the Product Collateral, and the Seller does hereby authorize the Buyer, from and after the Closing, to file such financing statements (and continuation statements with respect to such financing statements when applicable) in such manner and such jurisdictions as are necessary or appropriate to perfect such security interest (the "Back-Up Security Interest").

Section 2.2 Purchase Price. At the Closing and upon the terms and subject to the conditions of this Agreement, the purchase price to be paid as consideration to the Seller for the sale, transfer, assignment and conveyance of the Revenue Participation Right to the Buyer is One Hundred Twenty-Five Million Dollars ($125,000,000) in cash (the "Purchase Price").

Section 2.3 No Assumed Obligations, Etc. Notwithstanding any provision in this Agreement to the contrary, the Buyer is only agreeing, on the terms and conditions set forth in this Agreement, to purchase, acquire and accept the Revenue Participation Right and is not assuming any liability or obligation of the Seller of whatever nature, whether presently in existence or arising or asserted hereafter.

ARTICLE 3

CLOSING

Section 3.1 Closing(a) . Subject to the satisfaction of the conditions set forth in ARTICLE 5, the Closing shall take place remotely via the exchange of documents and signatures on the date hereof, subject to the satisfaction or waiver of the conditions set forth in ARTICLE 5 (other than those conditions that by their nature are to be satisfied at the Closing).

Section 3.2 Payment of Purchase Price(a) . At the Closing, the Buyer shall deliver (or cause to be delivered) payment of the Purchase Price to the Seller by electronic funds transfer or wire transfer of immediately available funds to one or more accounts specified by the Seller.

Section 3.3 Bill of Sale. At the Closing, upon confirmation of the receipt of the Purchase Price, the Seller shall deliver to the Buyer a duly executed bill of sale evidencing the sale, transfer, assignment and conveyance of the Revenue Participation Right in form attached hereto as Exhibit C.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES

Section 4.1 Seller's Representations and Warranties. Except as set forth on the Disclosure Schedules attached hereto, the Seller represents and warrants to the Buyer that as of the date hereof:

(a) Existence; Good Standing. The Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Seller is duly licensed or qualified to do business and is in corporate good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified and in corporate good standing has not and would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) Authorization. The Seller has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Seller.

(c) Enforceability. This Agreement has been duly executed and delivered by an authorized officer of the Seller and constitutes the valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

(d) No Conflicts. The execution, delivery and performance by the Seller of this Agreement and the consummation of the transactions contemplated hereby and thereby do not and will not (i) contravene or conflict with the certificate of incorporation or bylaws of the Seller, (ii) contravene or conflict with or constitute a material default under any law binding upon or applicable to the Seller or the Revenue Participation Right or (iii) contravene or conflict with or constitute a material default under any material agreement or Judgment binding upon or applicable to the Seller or the Revenue Participation Right.

(e) Consents. Except for the consents that have been obtained on or prior to the Closing, the UCC financing statements contemplated by Section 2.1(b), or any filings required by the federal securities laws or stock exchange rules, no consent, approval, license, order, authorization, registration, declaration or filing with or of any Governmental Entity or other Person is required to be done or obtained by the Seller in connection with (i) the execution and delivery by the Seller of this Agreement, (ii) the performance by the Seller of its obligations under this Agreement or (iii) the consummation by the Seller of any of the transactions contemplated by this Agreement.

(f) No Litigation. Neither the Seller nor any of its Subsidiaries is a party to, and has not received any written notice of, any action, suit, investigation or proceeding pending before any Governmental Entity and, to the Knowledge of the Seller, no such action, suit, investigation or proceeding has been threatened against the Seller, that, individually or in the aggregate, has had or would, if determined adversely, reasonably be expected to have a Material Adverse Effect.

(g) Compliance.

(i) All applications, submissions, information and data related to a Product submitted or utilized as the basis for any request to any Regulatory Authority by or on behalf of the Seller were true and correct in all material respects as of the date of such submission or request, and, to the Knowledge of the Seller any material updates, changes, corrections or modification to such applications, submissions, information or data required under applicable laws or regulations have been submitted to the necessary Regulatory Authorities.

(ii) Neither the Seller nor any of its Subsidiaries has committed any act, made any statement or failed to make any statement that would reasonably be expected to provide a basis for the FDA or EMA to invoke its policy with respect to "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities", or similar policies, set forth in any applicable laws or regulations.

(iii) The Seller has provided to the Buyer prior to the date hereof in a data room available to the Buyer true and correct copies or summaries of all material written communications sent or received by the Seller and any of its Affiliates to or from any Regulatory Authorities that relate to each Product since [***].

(iv) None of the Seller, any of its Subsidiaries and, to the Seller's Knowledge, any Third Party manufacturer of any Product, has received from the FDA a "Warning Letter", Form FDA-483, "Untitled Letter," or similar material written correspondence or notice alleging violations of applicable laws and regulations enforced by the FDA, or any comparable material written correspondence from any other Regulatory Authority with regard to either Product or the manufacture, processing, packaging or holding thereof, the subject of which communication is unresolved and if determined adversely to the Seller or such Subsidiary would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(v) Since [***], (A) there have been no Safety Notices, (B) to the Seller's Knowledge, there are no unresolved material product complaints with respect to any Product, which would result in a Material Adverse Effect, and (C) to the Seller's knowledge, there are no facts currently in existence that would, individually or in the aggregate, reasonably be expected to result in (1) a material Safety Notice with respect to any Product, or (2) a material change in the labeling of any Product. Since [***], neither the Seller nor any of its Subsidiaries has experienced any significant failures in the manufacturing of any Product for clinical use or commercial sale that, individually or in the aggregate, have had or would reasonably be expected to result in, if such failure occurred again, a Material Adverse Effect.

(h) Licenses.

(i) In-Licenses. There are no In-Licenses.

(ii) Out-Licenses. Except as set forth on Schedule 4.1(h)(ii) of the Disclosure Schedule, there are no Out-Licenses (any Out-License set forth on Schedule 4.1(h)(ii) of the Disclosure Schedule, an "Existing Out-License"). A true, correct and complete copy of each Existing Out-License has been provided to the Buyer by the Seller in a data room available to the Buyer. Neither the Seller nor the respective counterparty thereto has made or entered into any amendment, supplement or modification to, or granted any waiver under any provision of any Existing Out-License.

(iii) Validity and Enforceability of Out-Licenses. Each Existing Out-License is a valid and binding obligation of the Seller and the counterparty thereto. To the Knowledge of the Seller, each Existing Out-License is enforceable against each counterparty thereto in accordance with its terms except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law). The Seller has not received any written notice in connection with any Existing Out-License challenging the validity, enforceability or interpretation of any provision of such agreement.

(iv) No Termination. The Seller has not (A) given notice to a counterparty of the termination of any Existing Out-License (whether in whole or in part) or any notice to a counterparty expressing any intention or desire to terminate any Existing Out-License or (B) received from a counterparty thereto any written notice of termination of any Existing Out-License (whether in whole or in part) or any written notice from a counterparty expressing any intention or desire to terminate any Existing Out-License.

(v) No Breaches or Defaults. There is and has been no material breach or default under any provision of any Existing Out-License either by the Seller or, to the Knowledge of the Seller, by the respective counterparty (or any predecessor thereof) thereto, and there is no event that upon notice or the passage of time, or both, would reasonably be expected to give rise to any breach or default either by the Seller or, to the Knowledge of the Seller, by the respective counterparty to such agreement.

(vi) Payments Made. The respective counterparty of each Existing Out-License has made all payments to the Seller required under each Existing Out-License as of the date hereof.

(vii) No Assignments. The Seller has not consented to any assignment by the counterparty to any Existing Out-License of any of its rights or obligations under any such Existing Out-License and, to the Knowledge of the Seller, the counterparty has not assigned any of its rights or obligations under any such Existing Out-License to any Person.

(viii) No Indemnification Claims. The Seller has not notified any Person of any claims for indemnification under any Existing Out-License nor has the Seller received any claims for indemnification under any Existing Out-License.

(ix) No Infringement. Neither the Seller nor any of its Subsidiaries has received any written notice from, or given any written notice to, any counterparty to any Existing Out-License regarding any infringement of any of the Existing Patent Rights licensed thereunder.

(i) No Liens; Title to Revenue Participation Right. None of the property or assets, in each case, that specifically relate to the Products, including Intellectual Property Rights, of the Seller or any of its Subsidiaries is subject to any Lien, except for a Permitted Lien. Upon the Closing, the Buyer will have acquired, subject to the terms and conditions set forth in this Agreement, good and marketable title to the Revenue Participation Right, free and clear of all Liens, except for a Lien contemplated by subparts (a), (b), (f), (g), and (k) of the definition of "Permitted Liens".

(j) Manufacturing; Supply. All Products have, since [***], been manufactured, transported, stored and handled in all material respects in accordance with applicable law and with good manufacturing practices. Since [***], neither the Seller nor any Affiliate of the Seller has experienced any significant failures in the manufacturing or supply of any Product that, individually or in the aggregate, have had or would reasonably be expected to result in, if such failure occurred again, a Material Adverse Effect. The Seller has on hand or has made adequate provisions to secure sufficient clinical quantities of Products to complete all clinical trials and all activities required for Marketing Approvals, in each case, that are ongoing or planned as of the date hereof. The Seller has on hand or has made adequate provisions to secure sufficient quantities of Orladeyo to support the commercial launch of Orladeyo in the Direct Sales Territories.

(k) Intellectual Property.

(i) Schedule 4.1(k)(i)(A) of the Disclosure Schedule lists all of the currently existing Patents included within the Patent Rights (the "Existing Patent Rights"). The Seller is the sole and exclusive owner of all of the Existing Patent Rights. Schedule 4.1(k)(i)(A) of the Disclosure Schedule specifies as to each listed patent or patent application the jurisdictions by or in which each such patent has issued as a patent or such patent application has been filed, including the respective patent or application numbers.

(ii) Neither Seller nor any of its Subsidiaries is a party to any pending and, to the Knowledge of the Seller, there is no threatened, litigation, interference, reexamination, opposition or like procedure involving any of the Existing Patent Rights.

(iii) All of the issued patents within the Existing Patent Rights are (A) to the Knowledge of the Seller, valid and enforceable, and (B) in full force and effect. None of the issued patents within the Existing Patent Rights have lapsed, expired or otherwise terminated. Neither Seller nor any of its Subsidiaries has received any written notice relating to the lapse, expiration or other termination of any of the issued patents within the Existing Patent Rights, and neither Seller nor its Subsidiaries has received any written legal opinion that alleges that, an issued patent within any of the Existing Patent Rights is invalid or unenforceable.

(iv) Neither Seller nor any of its Subsidiaries has received any written notice that there is any, and, to the Knowledge of the Seller, there is no, Person who is or claims to be an inventor under any of the Existing Patent Rights who is not a named inventor thereof.

(v) Neither Seller not its Affiliates has received any written notice of any claim by any Person challenging the inventorship or ownership of, the rights of the Seller in and to, or the patentability, validity or enforceability of, any of the Existing Patent Rights, or asserting that the development, manufacture, importation, sale, offer for sale or use of the Product infringes, misappropriates or otherwise violates or will infringe, misappropriate or otherwise violate such Person's Patents or other intellectual property rights.

(vi) To the Knowledge of the Seller, the discovery, development manufacture, importation, sale, offer for sale or use of each Product, in each case in the form such Product exists as of the date hereof and as such activity is currently contemplated by the Seller, has not and will not, infringe, misappropriate or otherwise violate any Patents or other intellectual property rights owned by any Third Party.

(vii) To the Knowledge of the Seller, no Person has infringed, misappropriated or otherwise violated, or is infringing, misappropriating or otherwise violating, any of the Intellectual Property Rights.

(viii) The Seller has paid all maintenance fees, annuities and like payments required as of the date hereof with respect to each of the Existing Patent Rights.

(l) Indebtedness. Schedule 4.1(l) sets forth a complete list of the outstanding Indebtedness of the Seller and its Subsidiaries in excess of $[***] in the aggregate.

(m) Lien Related Representation and Warranties. The Seller's exact legal name is, and for the immediately preceding five (5) years has been, "BioCryst Pharmaceuticals, Inc." The Seller is, and for the prior five (5) years has been, incorporated in the State of Delaware.

(n) Brokers' Fees. Except for Cowen and Company, there is no investment banker, broker, finder, financial advisor or other intermediary who has been retained by or is authorized to act on behalf of the Seller who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 4.2 Buyer's Representations and Warranties. The Buyer hereby represents and warrants to the Seller that:

(a) Existence; Good Standing. The Buyer is a statutory trust duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Authorization. The Buyer has the requisite trust right, power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary action on the part of the Buyer.

(c) Enforceability. This Agreement has been duly executed and delivered by an authorized person of the owner trustee of the Buyer and constitutes the valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

(d) No Conflicts. The execution, delivery and performance by the Buyer of this Agreement do not and will not (i) contravene or conflict with the organizational documents of the Buyer, (ii) contravene or conflict with or constitute a default under any material provision of any law binding upon or applicable to the Buyer or (iii) contravene or conflict with or constitute a default under any material contract or other material agreement or Judgment binding upon or applicable to the Buyer.

(e) Consents. Except for any filings required by the federal securities laws or stock exchange rules, no consent, approval, license, order, authorization, registration, declaration or filing with or of any Governmental Entity or other Person is required to be done or obtained by the Buyer in connection with (i) the execution and delivery by the Buyer of this Agreement, (ii) the performance by the Buyer of its obligations under this Agreement or (iii) the consummation by the Buyer of any of the transactions contemplated by this Agreement.

(f) No Litigation. There is no action, suit, investigation or proceeding pending or, to the knowledge of the Buyer, threatened before any Governmental Entity to which the Buyer is a party that would, if determined adversely, reasonably be expected to prevent or materially and adversely affect the ability of the Buyer to perform its obligations under this Agreement.

(g) Financing. The Buyer has sufficient cash to pay the Purchase Price at the Closing. The Buyer acknowledges that its obligations under this Agreement are not contingent on obtaining financing.

(h) Tax Status. Under current law, the Buyer is exempt from U.S. federal withholding tax on all payments with respect to the Revenue Participation Right by reason of the Buyer's status as eligible for zero percent treaty rates with respect to such payments.

(i) Brokers' Fees. There is no investment banker, broker, finder, financial advisor or other intermediary who has been retained by or is authorized to act on behalf of the Buyer who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 4.3 No Implied Representations and Warranties. The Buyer acknowledges and agrees that, other than the express representations and warranties of the Seller specifically contained in ARTICLE 4, (a) there are no representations or warranties of the Seller either expressed or implied with respect to the Patent Rights or Royalty Payment and that the Buyer does not rely on, and shall have no remedies in respect of, any representation or warranty not specifically set forth in ARTICLE 4, and all other representations and warranties are hereby expressly disclaimed, and (b) nothing contained herein guarantees that sales of the Products or the aggregate Royalty Payments due to the Buyer will achieve any specific amounts (it being understood and agreed that nothing in this Section 4.3 shall limit in any way the Seller's obligations under ARTICLE 8). Notwithstanding the foregoing, claims for fraud, gross negligence, or willful misconduct shall not be waived or limited in any way by this Section 4.3. Except for the Revenue Participation Right, Back-up Security Interest and the Buyer's rights under Section 6.5(d), the Buyer further acknowledges and agrees that no licenses or assignments under any assets (including the Patent Rights or any other intellectual property) of the Seller and its Affiliates are granted pursuant to this Agreement, including by implication, estoppel, exhaustion or otherwise.

ARTICLE 5

CONDITIONS TO CLOSING

Section 5.1 Conditions to the Buyer's Obligations. The obligations of the Buyer to consummate the transactions contemplated hereunder on the Closing Date are subject to the satisfaction or waiver, at or prior to the Closing Date, of each of the following conditions precedent:

(a) The Seller shall have received Marketing Approval from the FDA for Orladeyo to prevent attacks of hereditary angioedema ("HAE") in adults and adolescent patients twelve (12) years and older with a final product label in the form of the draft label attached hereto as Exhibit D.

(b) The Seller shall have performed and complied in all material respects with all agreements, covenants, obligations and conditions required to be performed and complied with by it under this Agreement at or prior to the Closing Date, and the Buyer shall have received a certificate executed by a duly authorized officer of the Seller on the Closing Date certifying on behalf of the Seller to the effect of the foregoing.

(c) The representations and warranties of the Seller contained in Section 4.1 shall have been true and correct in all material respects as of the date hereof and shall be true and correct in all material respects as of the Closing Date as though made at and as of the date hereof and as of the Closing Date, respectively, except to the extent any such representation or warranty expressly speaks as of a particular date, in which case it shall be true and correct in all material respects as of such date; provided, that to the extent that any such representation or warranty is qualified by the term "material" or "Material Adverse Effect" such representation or warranty (as so written, including the term "material" or "Material Adverse Effect") shall have been true and correct in all respects as of the date hereof and shall be true and correct in all respects as of the Closing Date or such other date, as applicable. The Buyer shall have received a certificate executed by an authorized officer of the Seller on the Closing Date certifying on behalf of the Seller to the effect of the foregoing.

(d) No event or events shall have occurred, or be reasonably likely to occur, that, individually or in the aggregate, have had or would reasonably be expected to result in (or, with the giving of notice, the passage of time or otherwise, would result in) a Material Adverse Effect. The Buyer shall have received a certificate executed by a duly authorized officer of the Seller on the Closing Date certifying on behalf of the Seller to the effect of the foregoing.

(e) There shall not have been issued and be in effect any Judgment of any Governmental Entity enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(f) There shall not have been instituted or be pending any action or proceeding by any Governmental Entity or any other Person (i) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (ii) seeking to obtain material damages in connection with the transactions contemplated hereby or (iii) seeking to restrain or prohibit the Buyer's purchase of the Revenue Participation Right.

(g) The Buyer shall have received a fully executed copy of the Athyrium Credit Agreement.

(h) all Midcap Indebtedness and related Liens shall have been paid off and released, as applicable, on or prior to the Closing Date.

(i) The Buyer shall have received the Intercreditor Agreement, duly executed and delivered by the Seller and Athyrium.

(j) The Buyer shall have received a valid, properly executed Internal Revenue Service Form W-9 certifying that the Seller is exempt from U.S. federal "backup" withholding Tax.

(k) The Seller shall have delivered to the Buyer the legal opinions of Gibson, Dunn & Crutcher, LLP, as counsel to the Seller, in substantially the forms attached hereto as Exhibit E.

(l) The Buyer shall have received a certificate of the Secretary or an Assistant Secretary of the Seller, dated the Closing Date, certifying as to (i) the incumbency of each officer of the Seller executing this Agreement and (ii) the attached thereto copies of (A) the Seller's certificate of incorporation, (B) bylaws, and (C) resolutions adopted by the Seller's Board of Directors authorizing the execution and delivery by the Seller of this Agreement and the consummation by the Seller of the transactions contemplated hereby (the "Seller Certificate").

(m) The Seller shall have confirmed it has scheduled delivery to Buyer of a CD or USB containing copies of all documents uploaded to the [***] data room and the [***] Virtual Data Site, in each case, related to the transactions contemplated by this Agreement, as of the date hereof, maintained by the Seller and made available to the Buyer, including all documents referred to in Section 4.1(g)(iii) and Section 4.1(h)(i).

Section 5.2 Conditions to the Seller's Obligations. The obligations of the Seller to consummate the transactions contemplated hereunder on the Closing Date are subject to the satisfaction or waiver, at or prior to the Closing Date, of each of the following conditions precedent:

(a) The Buyer shall have performed and complied in all material respects with all agreements, covenants, obligations and conditions required to be performed and complied with by it under this Agreement at or prior to the Closing Date, and the Seller shall have received a certificate executed by a duly authorized person of RP Management, LLC, as Administrator of the Buyer, on the Closing Date certifying on behalf of the Buyer to the effect of the foregoing.

(b) The representations and warranties of the Buyer contained in Section 4.2 shall have been true and correct in all material respects as of the date hereof and shall be true and correct in all material respects as of the Closing Date as though made at and as of the date hereof and Closing Date, respectively, except to the extent any such representation or warranty expressly speaks as of a particular date, in which case it shall be true and correct in all material respects as of such date; provided, that to the extent that any such representation or warranty is qualified by the term "material," or "Material Adverse Effect" such representation or warranty (as so written, including the term "material" or "Material Adverse Effect") shall have been true and correct in all respects as of the date hereof and shall be true and correct in all respects as of the Closing Date or such other date, as applicable. The Seller shall have received a certificate executed by a duly authorized person of RP Management, LLC, as Administrator of the Buyer, on the Closing Date certifying on behalf of the Buyer to the effect of the foregoing.

(c) There shall not have been issued and be in effect any Judgment of any Governmental Entity enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(d) There shall not have been instituted or be pending any action or proceeding by any Governmental Entity or any other Person (i) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (ii) seeking to obtain material damages in connection with the transactions contemplated hereby or (iii) seeking to restrain or prohibit the Buyer's purchase of the Revenue Participation Right.

(e) The Seller shall have received a valid, properly executed Internal Revenue Service Form W-8BEN-E certifying that the Buyer is exempt from U.S. federal withholding Tax in respect of all payments with respect to the Revenue Participation Rights under an applicable United States income Tax treaty.

(f) The Buyer shall have delivered to the Seller standard existence and authority opinions in respect of the Buyer, enforceability opinions on this Agreement, and an opinion that this Agreement does not conflict with the organizational documents of the Buyer or applicable law, each such opinion in a form previously agreed upon by the Seller and the Buyer.

(g) The Seller shall have received a certificate of an authorized person of the owner trustee of the Buyer, dated the Closing Date, certifying as to the incumbency of the officers executing this Agreement on behalf of the Buyer.

ARTICLE 6

COVENANTS

Section 6.1 Reporting. From and after the date hereof, the Seller shall provide the Buyer:

(a) promptly following the end of each calendar quarter, but in any event, in each case, no later than [***] calendar days after the end of such calendar quarter, as applicable, a reasonably detailed quarterly report setting forth, with respect to such same period, (i) the Clinical Updates and (ii) the Commercial Updates (the "Clinical and Commercial Quarterly Report"); provided that beginning with (A) the [***] calendar quarter following Regulatory Approval (in the case of Clinical Updates) or (B) the [***] calendar quarter following the First Commercial Sale in the United States (in the case of Commercial Updates) of a given Product (on a Product-by-Product basis), the Seller shall no longer be required to deliver Clinical and Commercial Quarterly Reports for such Product and shall thereafter promptly following the end of each [***]-month period in a calendar year ([***]), but in any event, in each case, no later than [***] calendar days after the end of such [***]-month period, as applicable, a reasonably detailed semi-annual report setting forth, with respect to such same period, (1) any Clinical Updates and (2) the Commercial Updates (the "Clinical and Commercial Semi-Annual Report");

(b) promptly following the end of each [***]-month period in a calendar year ([***]), but in any event, in each case, no later than [***] calendar days after the end of such [***]-month period, as applicable, a reasonably detailed semi-annual report setting forth, with respect to such same period, (i) the Regulatory Updates, and (ii) the Intellectual Property Updates (the "Regulatory and IP Semi-Annual Report", and, collectively with the Quarterly Reports, the Clinical and Commercial Quarterly Report and the Semi-Annual Clinical and Commercial Reports, the "Reports"); and

(c) The Seller shall include in each Report any (i) material CMC updates and (ii) details as to the achievement of any development, sales, regulatory or other milestone event set forth in each Out-License.

(d) The Seller shall also provide the Buyer with such additional information regarding the updates included in each Report as the Buyer may reasonably request from time to time. The Seller shall prepare and maintain and shall cause its Affiliates and Licensees to prepare and maintain reasonably complete and accurate records of the information to be disclosed in each Report. All Reports, and the Confidential Information contained therein, shall be the Confidential Information of Seller and subject to the obligations of confidentiality set forth in ARTICLE 8.

Section 6.2 Royalty Payments; Revenue Participation and Royalty Payment Details.

(a) From and after the First Commercial Sale of a Product in any country, the Seller shall pay to the Buyer, without any setoff or offset (subject, in each case, to Section 6.13), the Royalty Payment for each calendar quarter promptly, but in any event no later than [***] calendar days after the end of each of the first three calendar quarters and [***] calendar days after the end of the last calendar quarter in each calendar year (or [***] Business Days after the filing of the Company's annual report on Form 10-K, if earlier), provided that for any payments received by the Seller after the date that is [***] calendar days after the end of each calendar quarter, such payment will be paid with the following calendar quarter's Royalty Payment. A late fee of [***]% over the Prime Rate (calculated on a per annum basis) will accrue on all unpaid amounts with respect to any Royalty Payment from the date such obligation was due. The imposition and payment of a late fee shall not constitute a waiver of the Buyer's rights with respect to such payment default.

(b) From and after the First Commercial Sale of a Product in any country, for each calendar quarter promptly, but in any event no later than [***] calendar days after the end of each of the first three calendar quarters and [***] calendar days after the end of the last calendar quarter in each calendar year (or [***] Business Days after the filing of the Company's annual report on Form 10-K, if earlier), the Seller shall provide to Buyer a report, in substantially the form attached to this Agreement as Exhibit F, setting forth in reasonable detail (i) with respect to BCX9930, Gross Sales and Net Sales for the applicable calendar quarter and calendar year to date, on a country-by-country basis (including a detailed break-down of all permitted deductions from Gross Sales used to determine Net Sales and any Net Sales described in Section 6.5(d)), (ii) with respect to Orladeyo, (A) the calculation of Orladeyo Direct Sales, including Gross Sales and Net Sales for the applicable calendar quarter and calendar year to date, on a country-by-country basis (including a detailed break-down of all permitted deductions from Gross Sales used to determine Net Sales and any Net Sales described in Section 6.5(d)), (B) the calculation of Orladeyo Indirect Revenues on a country-by-country and Licensee-by-Licensee basis (including a detailed breakdown of Orladeyo Indirect Revenue consisting of royalties, upfront payments, milestones and other fixed payments), and (iii) with respect to each Product, (A) the calculation of the Royalty Payment payable to the Buyer for the applicable calendar quarter, identifying, on a country-by-country basis, the number of units of each Product sold by the Seller, its Affiliates and each Licensee and (B) foreign currency exchange rates used (which shall be rates of exchange determined in a manner consistent with the Seller's method for calculating rates of exchange in the preparation of the Seller's annual financial statements in accordance with accounting principles generally accepted in the United States); provided that for any reports received by the Seller after the date that is [***] calendar days after the end of each calendar quarter, the Seller shall provide to the Buyer the relevant information from such reports in the following calendar quarter's report.

(c) Any payments required to be made by either party under this Agreement shall be made in United States Dollars via electronic funds transfer or wire transfer of immediately available funds to such bank account as the other party shall designate in writing prior to the date of such payment.

Section 6.3 Disclosures. Except for a press release previously approved in form and substance by the Seller and the Buyer or any other public announcement using substantially the same text as such press release, neither the Buyer nor the Seller shall, and each party hereto shall cause its respective Representatives, Affiliates and Affiliates' Representatives not to issue a press release or other public announcement or otherwise make any public disclosure with respect to this Agreement or the subject matter hereof without the prior written consent of the other party hereto (which consent shall not be unreasonably withheld or delayed), except as may be required by applicable law or stock exchange rule (in which case the party hereto required to make the press release or other public announcement or disclosure shall allow the other party hereto reasonable time to comment on, and, if applicable, reasonably direct the disclosing party to seek confidential treatment in respect of portions of, such press release or other public announcement or disclosure in advance of such issuance).

Section 6.4 Inspections and Audits of the Seller. Following the Closing, upon at least fourteen (14) Business Days written notice and during normal business hours, no more frequently than once per calendar year, the Buyer may cause an inspection and/or audit by an independent public accounting firm reasonably acceptable to the Seller to be made of the Seller's books of account for the three (3) calendar years prior to the audit for the purpose of determining the correctness of Royalty Payments made under this Agreement. Upon the Buyer's reasonable request, no more frequently than once per calendar year while any Out-License remains in effect, the Seller shall use Commercially Reasonable Efforts to exercise any rights it may have under any Out-License relating to a Product to cause an inspection and/or audit by an independent public accounting firm to be made of the books of account of any counterparty thereto for the purpose of determining the correctness of Royalty Payments made under this Agreement. All of the out-of-pocket expenses of any inspection or audit requested by the Buyer hereunder (including the fees and expenses of such independent public accounting firm designated for such purpose) shall be borne solely by the Buyer, unless the independent public accounting firm determines that Royalty Payments previously paid during the period of the audit were underpaid by an amount greater than [***] of the Royalty Payments actually paid during such period, in which case such expenses shall be borne by the Seller. Any such accounting firm shall not disclose the confidential information of the Seller or any such Licensee relating to a Product to the Buyer, except to the extent such disclosure is necessary to determine the correctness of Royalty Payments or otherwise would be included in a Report. All information obtained by the Buyer as a result of any such inspection or audit shall be Confidential Information subject to ARTICLE 8. If any audit discloses any underpayments by the Seller to the Buyer, then such underpayment, shall be paid by the Seller to the Buyer within thirty (30) calendar days of it being so disclosed. If any audit discloses any overpayments by the Seller to the Buyer, then the Seller shall have the right to credit the amount of the overpayment against each subsequent quarterly Royalty Payment due to the Buyer until the overpayment has been fully applied. If the overpayment is not fully applied prior to the final quarterly Royalty Payment due hereunder, the Buyer shall promptly refund an amount equal to any such remaining overpayment.

Section 6.5 Intellectual Property Matters.

(a) The Seller shall provide to the Buyer a copy of any written notice received by the Seller from a Third Party alleging or claiming that the making, having made, using, importing, offering for sale or selling of a Product infringes or misappropriates any Patents or other intellectual property rights of such Third Party, together with copies of material correspondence sent or received by the Seller related thereto, as soon as practicable and in any event not more than [***] following such delivery or receipt.

(b) The Seller shall promptly inform the Buyer of any infringement by a Third Party of any Patent Right of which any of the individuals named in the definition of "Knowledge of the Seller" (or the successors of such Person at the Seller) becomes aware. Without limiting the foregoing, the Seller shall provide to the Buyer a copy of any written notice of any suspected infringement of any Patent Rights delivered or received by the Seller, as well as copies of material correspondence related thereto, as soon as practicable and in any event not more than [***] following such delivery or receipt.

(c) Within [***] of initiating, or permitting a Licensee to initiate, an enforcement action regarding any suspected infringement by a Third Party of any Patent Right, the Seller shall provide the Buyer with written notice of such enforcement action.

(d) If the Seller recovers monetary damages from a Third Party in an action brought for such Third Party's infringement of any Patent Rights relating to a Product, where such damages, whether in the form of judgment or settlement, are awarded for such infringement of such Patent Rights, (i) such recovery will be allocated first to the reimbursement of any expenses incurred by the Seller (or any party to an In-License or Permitted Licensees of such Patent Rights entitled to such reimbursement under any such In-License or Out-License) in bringing such action (including all reasonable attorney's fees), (ii) any remaining amounts will be reduced, if applicable, to comply with allocation of recovered damages with licensors of such Patent Rights required under any In-Licenses or Permitted Licensees of such Patent Rights under any Out-Licenses, if any, and (iii) any residual amount of such damages after application of (i) and (ii) will be treated as Orladeyo Direct Sales with respect to the Direct Sales Territories, Orladeyo Indirect Sales with respect to the Indirect Sales Territories, Product Partnering Revenue with respect to the Permitted Sale Territory, or BCX9930 Net Sales, as applicable.

Section 6.6 In-Licenses.

(a) The Seller shall promptly (and in any event within [***]) provide the Buyer with (i) executed copies of any In-License entered into by the Seller or its Affiliates, and (ii) executed copies of each amendment, supplement, modification or written waiver of any provision of any In-License.

(b) The Seller shall use Commercially Reasonable Efforts to comply in all material respects with its obligations under any In-Licenses it enters into and shall not take any action or forego any action that would reasonably be expected to result in a material breach thereof. Promptly, and in any event within [***], after receipt of any (written or oral) notice from a counterparty to any In-License or its Affiliates of an alleged material breach under any In-License, the Seller shall provide the Buyer a copy thereof. The Seller shall use its Commercially Reasonable Efforts to cure any material breaches by it under any In-License and shall give written notice to the Buyer upon curing any such breach. The Seller shall provide the Buyer with written notice following becoming aware of a counterparty's material breach of its obligations under any In-License. The Seller shall not terminate any In-License without providing the Buyer prior written notice. Promptly, and in any event within [***] following the Seller's notice to a counterparty to any In-License of an alleged breach by such counterparty under any such In-License, the Seller shall provide the Buyer a copy thereof.

Section 6.7 Out-Licenses and Permitted Sales.

(a) Subject to compliance with this Section 6.7, the Seller may enter into either (i) an Out-License with a Third Party or enter into an agreement to research, develop or manufacture any Product in all or any portion of the world without the Buyer's prior written consent; provided, that such license shall not assign or otherwise convey title to or impose any Lien, other than the grant of the license or sublicense, in favor of any Third Party (any such license, a "Permitted License"), or (ii) a Permitted Sale.

(b) The Seller shall promptly (and in any event within [***]) provide the Buyer with (i) executed copies of each Out-License and Permitted Sale, and (ii) executed copies of each amendment, supplement, modification or written waiver of any material provision of an Out-License or Permitted Sale.

(c) The Seller shall include in all Out-Licenses (other than Existing Out-Licenses) and all definitive agreement(s) for Permitted Sales provisions permitting the Seller to audit such Licensee or Permitted Purchaser (as applicable) and shall use commercially reasonable efforts to include terms and conditions consistent in all material respects with the Buyer's rights to audit the Seller set forth in Section 6.4.

(d) The Seller shall provide the Buyer prompt (and in any event within [***]) written notice of a Licensee's material breach of its obligations under any Out-License or a Permitted Purchaser's material breach of its obligations under any Permitted Sale of which any of the individuals named in the definition of "Knowledge of the Seller" (or the successors of such Person at the Seller) becomes aware.

(e) The Seller shall provide the Buyer with written notice promptly (and in any event within [***]) following the termination of any Out-License or Permitted Sale.

Section 6.8 Restricted Indebtedness. Prior to the Minimum Return Date, the Seller shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Restricted Indebtedness. As a condition to the incurrence of any secured Permitted Indebtedness for borrowed money with one or more lenders other than the holders of Indebtedness under the Athyrium Credit Agreement, either (i) the Seller shall cause such lender or lenders or any agent, representative or trustee acting on behalf of such lender or lenders to become a party to the Intercreditor Agreement in accordance with the terms thereof or (ii) the Buyer shall enter, and the Seller shall enter and cause such lender or lenders or any agent, representative or trustee acting on behalf of such lender or lenders to enter into an Other Intercreditor Agreement. Notwithstanding the foregoing and except as otherwise agreed by the parties, following the Minimum Return Date, the Seller shall not, and shall not permit any of its Subsidiaries to incur any Convertible Bond Indebtedness unless such Convertible Bond Indebtedness shall be subordinated in right of payment to the Royalty Payment that are owed or may be owed in the future to the Buyer pursuant to the terms of a subordination, intercreditor, or other similar agreement (or terms of subordination incorporated into the indenture under which such Convertible Bond Indebtedness is issued), in each case in form and substance, and on terms, approved by the Buyer, the Seller, and the applicable Third Party in writing.

Section 6.9 Diligence.

(a) The Seller shall use Commercially Reasonable Efforts to complete clinical development and Commercialize (either directly or through Licensees) (a) Orladeyo in the Direct Sales Territories for HAE, and (b) BCX9930 in the Direct Sales Territories for paroxysmal nocturnal hemoglobinuria. In furtherance of the foregoing, the Seller shall use Commercially Reasonable Efforts to prepare, execute, deliver and file any and all agreements, documents or instruments that are necessary or desirable to secure and maintain all Marketing Approvals required to Commercialize Orladeyo and BCX9930 in the Direct Sales Territories and the Seller shall use Commercially Reasonable Efforts to not withdraw or abandon, or fail to take any action necessary to prevent the withdrawal or abandonment of, any such Marketing Approvals.

(b) On a country-by-country and Product-by-Product basis, if a Loss of Market Exclusivity has occurred in such country for such Product, the Seller's obligations under Section 6.9(a) shall no longer apply in such country for such Product.

Section 6.10 Efforts to Consummate Transactions. Subject to the terms and conditions of this Agreement, each of the Seller and the Buyer will use its commercially reasonable efforts prior to the Closing to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary under applicable law to consummate the transactions contemplated by this Agreement. Each of the Buyer and the Seller agrees to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to consummate or implement expeditiously the transactions contemplated by this Agreement.

Section 6.11 Further Assurances. After the Closing, the Seller and the Buyer agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to give effect to the transactions contemplated by this Agreement.

Section 6.12 Back-Up Security Interest. Notwithstanding anything herein to the contrary, the Seller shall not enter into any contracts or arrangement or otherwise knowingly take any action or knowingly fail to act in a manner that would, individually or in the aggregate, reasonably be expected to materially and adversely affect the Buyer's interest in the Revenue Participation Right or the Back-Up Security Interest. The parties agree that the entry into the Athyrium Loan Documents and any agreement evidencing any secured Indebtedness permitted by clause (b)(ii) of the definition of Restricted Indebtedness, which shall be subject to and in compliance with the Intercreditor Agreement or any Other Intercreditor Agreement, shall be deemed to not materially and adversely affect the Buyer's interest in the Revenue Participation Right or the Back-Up Security Interest.

Section 6.13 Certain Tax Matters.

(a) The Seller and the Buyer agree that for Tax purposes, (a) the Seller and the Buyer shall treat the transactions contemplated by this Agreement as a sale of the Revenue Participation Right and (b) any and all amounts remitted by the Seller to the Buyer after the Closing Date pursuant to this Agreement shall be treated as received by the Seller as agent for the Buyer. The parties hereto agree not to take any position that is inconsistent with the provisions of this Section 6.13(a) on any tax return or in any audit or other tax-related administrative or judicial proceeding unless the other party hereto has consented in writing (such consent not to be unreasonably withheld, conditioned or delayed) to such actions. If there is an inquiry by any Governmental Entity of the Buyer or the Seller related to the treatment described in this Section 6.13(a), the parties hereto shall cooperate with each other in responding to such inquiry in a reasonable manner which is consistent with this Section 6.13(a).

(b) Notwithstanding anything to the contrary in this Agreement, each of the Buyer and the Seller shall be entitled to withhold and deduct (or cause to be withheld and deducted) from any amount payable under this Agreement to the other party any Tax that the Buyer or the Seller, as applicable, determines that it is required to withhold and deduct under applicable law, and any such amount withheld and deducted shall be treated for all purposes of this Agreement as being paid to the other party; provided that each of the Buyer and the Seller shall give the other party prior notice and the opportunity, in good faith, to contest and prevent such withholding and deduction. The parties hereto shall use commercially reasonable efforts to give or cause to be given to the other party hereto such assistance and such information concerning the reasons for withholding or deduction (including, in reasonable detail, the method of calculation for the deduction or withholding thereof) as may be reasonably necessary to enable the Buyer or the Seller, as applicable, to claim exemption therefrom, or credit therefor, or relief (whether at source or by reclaim) therefrom, and, in each case, shall furnish the Buyer or the Seller, as applicable, with proper evidence of the taxes withheld and deducted and remitted to the relevant taxing authority. The Buyer agrees (i) to notify the Seller in writing if (A) Buyer becomes ineligible to use or deliver the Form W-8BEN-E delivered to the Seller under Section 5.2(e), or (B) the Form W-8BEN-E delivered to the Seller under Section 5.2(e) ceases to be accurate or complete, and (ii) to provide (to the extent it is legally eligible to do so) any additional Tax forms that the Seller may reasonably request.

ARTICLE 7

INDEMNIFICATION

Section 7.1 General Indemnity. From and after the Closing:

(a) the Seller hereby agrees to indemnify, defend and hold harmless the Buyer and its Affiliates and its and their directors, managers, trustees, officers, agents and employees (the "Buyer Indemnified Parties") from, against and in respect of all Losses suffered or incurred by the Buyer Indemnified Parties to the extent arising out of or resulting from (i) any breach of any of the representations or warranties of the Seller in this Agreement, and (ii) any breach of any of the covenants or agreements of the Seller in this Agreement; and

(b) the Buyer hereby agrees to indemnify, defend and hold harmless the Seller and its Affiliates and its and their directors, officers, agents and employees (the "Seller Indemnified Parties") from, against and in respect of all Losses suffered or incurred by the Seller Indemnified Parties to the extent arising out of or resulting from (i) any breach of any of the representations or warranties of the Buyer in this Agreement, and (ii) any breach of any of the covenants or agreements of the Buyer in this Agreement.

Section 7.2 Notice of Claims. If either a Buyer Indemnified Party, on the one hand, or a Seller Indemnified Party, on the other hand (such Buyer Indemnified Party on the one hand and such Seller Indemnified Party on the other hand being hereinafter referred to as an "Indemnified Party"), has suffered or incurred any Losses for which indemnification may be sought under this ARTICLE 7, the Indemnified Party shall so notify the other party from whom indemnification is sought under this ARTICLE 7 (the "Indemnifying Party") promptly in writing describing such Loss, the amount or estimated amount thereof, if known or reasonably capable of estimation, and the method of computation of such Loss, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss shall have occurred. If any claim, action, suit or proceeding is asserted or instituted by or against a Third Party with respect to which an Indemnified Party intends to claim any Loss under this ARTICLE 7, such Indemnified Party shall promptly notify the Indemnifying Party of such claim, action, suit or proceeding and tender to the Indemnifying Party the defense of such claim, action, suit or proceeding. A failure by an Indemnified Party to give notice and to tender the defense of such claim, action, suit or proceeding in a timely manner pursuant to this Section 7.2 shall not limit the obligation of the Indemnifying Party under this ARTICLE 7, except to the extent such Indemnifying Party is actually prejudiced thereby.

Section 7.3 Limitations on Liability(a) . Except for claims arising from a breach of confidentiality obligations under ARTICLE 8 or in cases of fraud, gross negligence, or willful misconduct, no party hereto shall be liable for any consequential, punitive, special or incidental damages under this ARTICLE 7 (and no claim for indemnification hereunder shall be asserted) as a result of any breach or violation of any covenant or agreement of such party (including under this ARTICLE 7) in or pursuant to this Agreement. In connection with the foregoing, the parties hereto acknowledge and agree that (i) the Buyer's damages, if any, for any such action or claim will typically include Losses for Royalty Payments that the Buyer was entitled to receive in respect of its ownership of the Royalty Payments but did not receive timely or at all due to such indemnifiable event and (ii) the Buyer shall be entitled to make claims for all such missing or delayed Royalty Payments as Losses hereunder, and such missing or Royalty Payments shall not be deemed consequential, punitive, special, indirect or incidental damages

Section 7.4 Exclusive Remedy. Except as set forth in Section 10.11, from and after Closing, the rights of the parties hereto pursuant to (and subject to the conditions of) this ARTICLE 7 shall be the sole and exclusive remedy of the parties hereto and their respective Affiliates with respect to any Losses (whether based in contract, tort or otherwise) resulting from or relating to any breach of the representations, warranties covenants and agreements made under this Agreement or any certificate, document or instrument delivered hereunder, and each party hereto hereby waives, to the fullest extent permitted under applicable law, and agrees not to assert after Closing, any other claim or action in respect of any such breach. Notwithstanding the foregoing, claims for fraud, gross negligence, or willful misconduct shall not be waived or limited in any way by this ARTICLE 7.

Section 7.5 Tax Treatment of Indemnification Payments. For all purposes hereunder, any indemnification payments made pursuant to this ARTICLE 7 will be treated as an adjustment to the Purchase Price for U.S. federal income tax to the fullest extent permitted by applicable law.

ARTICLE 8

CONFIDENTIALITY

Section 8.1 Confidentiality. Except as provided in this ARTICLE 8, Section 10.4 or otherwise agreed in writing by the parties, the parties hereto agree that, during the term of this Agreement and for [***] years thereafter, each party (the "Receiving Party") shall keep confidential and shall not publish or otherwise disclose and shall not use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder) any information furnished to it by or on behalf of the other party (the "Disclosing Party") pursuant to this Agreement (such information, "Confidential Information" of the Disclosing Party), except for that portion of such information that:

(a) was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the Disclosing Party;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of this Agreement or any other agreement;

(d) is independently developed by the Receiving Party or any of its Affiliates, as evidenced by written records, without the use of or reference of the Confidential Information; or

(e) is subsequently disclosed to the Receiving Party on a non-confidential basis by a Third Party without obligations of confidentiality with respect thereto.

Section 8.2 Authorized Disclosure.

(a) Either party may disclose Confidential Information to the extent such disclosure is reasonably necessary in the following situations:

(i) prosecuting or defending litigation;

(ii) complying with applicable laws and regulations, including regulations promulgated by securities exchanges;

(iii) complying with a valid order of a court of competent jurisdiction or other Governmental Entity;

(iv) for regulatory, Tax or customs purposes;

(v) for audit purposes, provided that each recipient of Confidential Information must be bound by customary and reasonable obligations of confidentiality and non-use prior to any such disclosure;

(vi) disclosure to its Affiliates and Representatives on a need-to-know basis, provided that each such recipient of Confidential Information must be bound by contractual or professional obligations of confidentiality and non-use at least as stringent as those imposed upon the parties hereunder prior to any such disclosure;

(vii) upon the prior written consent of the Disclosing Party;

(viii) disclosure to its potential investors, and other sources of funding, including debt financing, or potential partners, collaborators or acquirers, and their respective accountants, financial advisors and other professional representatives, provided, that such disclosure shall be made only to the extent customarily required to consummate such investment, financing transaction partnership, collaboration or acquisition and that each recipient of Confidential Information must be bound by customary obligations of confidentiality and non-use prior to any such disclosure;

(ix) as is necessary in connection with a permitted assignment pursuant to Section 10.4.

(b) Notwithstanding the foregoing, in the event the Receiving Party is required to make a disclosure of the Disclosing Party's Confidential Information pursuant to Section 8.2(a)(i), (ii), (iii) or (iv), it will, except where impracticable, give reasonable advance notice to the Disclosing Party of such disclosure and use reasonable efforts to secure confidential treatment of such information. In any event, the Buyer shall not file any patent application based upon or using the Confidential Information of Seller provided hereunder.

(c) Notwithstanding anything set forth in this Agreement, materials and documentation relating to the Seller's Intellectual Property Rights may be only disclosed to or accessed by the Buyer and its attorneys and auditors, without further disclosure to any other Representative of the Buyer.

ARTICLE 9

TERMINATION

Section 9.1 Mutual Termination. This Agreement may be terminated by mutual written agreement of the Buyer and the Seller.

Section 9.2 Automatic Termination. Unless earlier terminated as provided in Section 9.1, following the Closing, this Agreement shall continue in full force and effect until sixty (60) days after such time as the Seller is no longer obligated to make any Royalty Payments under this Agreement, at which point this Agreement shall automatically terminate, except with respect to any rights that shall have accrued prior to such termination.

Section 9.3 Survival. Notwithstanding anything to the contrary in this ARTICLE 9, the following provisions shall survive termination of this Agreement: Section 6.3 (Disclosures), ARTICLE 7 (Indemnification), ARTICLE 8 (Confidentiality), this Section 9.3 (Survival) and ARTICLE 10 (Miscellaneous). Termination of the Agreement shall not relieve any party of liability in respect of breaches under this Agreement by any party on or prior to termination.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Headings. The table of contents and the descriptive headings of the several Articles and Sections of this Agreement and the Exhibits and Schedules are for convenience only, do not constitute a part of this Agreement and shall not control or affect, in any way, the meaning or interpretation of this Agreement.

Section 10.2 Notices. All notices and other communications under this Agreement shall be in writing and shall be by email with PDF attachment, facsimile, courier service or personal delivery to the following addresses, or to such other addresses as shall be designated from time to time by a party hereto in accordance with this Section 10.2:

If to the Seller, to it at:

BioCryst Pharmaceuticals, Inc.
4505 Emperor Blvd., Suite 200
Durham, North Carolina 27703
Attention: Alane Barnes
E-mail: [***]

with a copy to:

Gibson, Dunn & Crutcher LLP
555 Mission Street
San Francisco, CA 94105
Attention: Ryan Murr
E-mail: rmurr@gibsondunn.com

If to the Buyer, to it at:

RPI 2019 Intermediate Finance Trust
110 E. 59th Street, Suite 3300
New York, New York 0022
Attention: George Lloyd
Email: [***]

with a copy to:

Goodwin Procter LLP
100 Northern Avenue
Boston, Massachusetts 02210
Attention: Arthur R. McGivern & Jacqueline Mercier
Email: amcgivern@goodwinlaw.com & jmercier@goodwinlaw.com

All notices and communications under this Agreement shall be deemed to have been duly given (i) when delivered by hand, if personally delivered, (ii) when sent, if sent by facsimile, with an acknowledgement of sending being produced by the sending facsimile machine, (iii) when sent, if by email with PDF attachment, with an acknowledgement of receipt being produced by the recipient's email account, or (iv) one Business Day following sending within the United States by overnight delivery via commercial one-day overnight courier service.

Section 10.3 Expenses. Except as otherwise provided herein, all fees, costs and expenses (including any legal, accounting and banking fees) incurred in connection with the preparation, negotiation, execution and delivery of this Agreement and to consummate the transactions contemplated hereby shall be paid by the party hereto incurring such fees, costs and expenses.

Section 10.4 Assignment. The Seller may not assign in whole or in part this Agreement, any of its rights or obligations hereunder, or any of its rights in a Product, including any Product Rights, without the Buyer's prior written consent, except (a) for a Permitted Sale; or (b) to a Third Party in connection with the sale or transfer of all or substantially all of the Seller's business or assets related to a Product, whether by merger, sale of assets, reorganization, or other conveyance of title and only if upon closing any such transaction, the Seller causes such Affiliate or Third Party, as applicable, to deliver a writing to the Buyer in which it assumes all of the obligations of the Seller to the Buyer under this Agreement, and such Affiliate or Third Party shall be deemed an assignee of Seller under this Agreement; provided that, for the avoidance of doubt, nothing in this Section 10.4 shall restrict the Sellers from engaging in a Permitted Sale, from licensing any Product Rights pursuant to a Permitted License, from transferring the Marketing Approvals for any jurisdiction to a Licensee or a Permitted Purchaser in connection with a Permitted License or Permitted Sale covering such jurisdiction, or incurring any Permitted Indebtedness. Following the Closing, the Buyer may assign this Agreement in whole or in part to any Person, including to any Third Party or to one or more of its Affiliates; provided that the Buyer shall cause such Person to become a party to the Intercreditor Agreement in accordance with the terms thereof or enter into an intercreditor agreement with the administrative agent, trustee or representative under the Athyrium Credit Agreement in form and substance substantially the same as the Intercreditor Agreement. This Agreement shall be binding upon, inure to the benefit of and be enforceable by, the parties hereto and their respective permitted successors and assigns. Any purported assignment in violation of this Section 10.4 shall be null and void. Notwithstanding the foregoing, nothing in this Agreement shall prohibit Athyrium or the administrative agent, trustee or representative under the Athyrium Credit Agreement at such time from taking any action permitted by the Intercreditor Agreement or an Other Intercreditor Agreement, including but not limited to commencing or maintaining any Enforcement Action (as defined in the Intercreditor Agreement) or such similar term (as defined in an Other Intercreditor Agreement) or exercising any rights with respect to its collateral under the Bankruptcy Laws.

Section 10.5 Amendment and Waiver.

(a) This Agreement may be amended, modified or supplemented only in a writing signed by each of the parties hereto. Any provision of this Agreement may be waived only in a writing signed by the party hereto granting such waiver.

(b) No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No course of dealing between the parties hereto shall be effective to amend, modify, supplement or waive any provision of this Agreement.

Section 10.6 Entire Agreement. This Agreement, the Exhibits annexed hereto and the Disclosure Schedule constitute the entire understanding between the parties hereto with respect to the subject matter hereof and supersede all other understandings and negotiations with respect thereto. As of the date hereof, the Non-Disclosure Agreement between RP Management, LLC and the Seller, dated as of [***] is hereby terminated without further force and effect, superseded by ARTICLE 8 of this Agreement and all obligations between the parties relating to confidentiality shall be governed by ARTICLE 8 of this Agreement.

Section 10.7 No Third Party Beneficiaries. This Agreement is for the sole benefit of the Seller and the Buyer and their permitted successors and assigns and nothing herein expressed or implied shall give or be construed to give to any Person, other than the parties hereto and such successors and assigns, any legal or equitable rights hereunder, except that the Indemnified Parties shall be third party beneficiaries of the benefits provided for in Section 7.1.

Section 10.8 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.

Section 10.9 Jurisdiction; Venue.

(a) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS RESPECTIVE PROPERTY AND ASSETS, TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE COURT OR FEDERAL COURT OF THE UNITED STATES OF AMERICA SITTING IN NEW YORK COUNTY, NEW YORK, AND ANY APPELLATE COURT THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, AND THE BUYER AND THE SELLER HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. THE BUYER AND THE SELLER HEREBY AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE LAW. EACH OF THE BUYER AND THE SELLER HEREBY SUBMITS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF SUCH NEW YORK STATE AND FEDERAL COURTS. THE BUYER AND THE SELLER AGREE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THAT PROCESS MAY BE SERVED ON THE BUYER OR THE SELLER IN THE SAME MANNER THAT NOTICES MAY BE GIVEN PURSUANT TO SECTION 10.2 HEREOF.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY NEW YORK STATE OR FEDERAL COURT. EACH OF THE BUYER AND THE SELLER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(C) EACH PARTY HEREBY JOINTLY AND SEVERALLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT DELIVERED HEREUNDER OR IN CONNECTION HEREWITH, OR ANY TRANSACTION ARISING FROM OR CONNECTED TO ANY OF THE FOREGOING. EACH OF THE PARTIES REPRESENTS THAT THIS WAIVER IS KNOWINGLY, WILLINGLY, AND VOLUNTARILY GIVEN.

Section 10.10 Severability. If any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any situation in any jurisdiction, then, to the extent that the economic and legal substance of the transactions contemplated hereby is not affected in a manner that is materially adverse to either party hereto, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect and the enforceability and validity of the offending term or provision shall not be affected in any other situation or jurisdiction.

Section 10.11 Specific Performance. Each of the parties acknowledges and agrees that the other party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached or violated. Accordingly, each of the parties agrees that, without posting bond or other undertaking, the other party will be entitled to seek an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement and to seek to enforce specifically this Agreement and the terms and provisions hereof in any action, suit or other proceeding instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter in addition to any other remedy to which it may be entitled, at law or in equity. Each of the parties further agrees that, in the event of any action for specific performance in respect of such breach of violation, it will not assert the defense that a remedy at law would be adequate.

Section 10.12 Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of executed counterparts transmitted by telecopy, facsimile or other similar means of electronic transmission, including "PDF," shall be considered original executed counterparts, provided receipt of such counterparts is confirmed.

Section 10.13 Relationship of the Parties. The relationship between the Buyer and the Seller is solely that of purchaser and seller, and neither the Buyer nor the Seller has any fiduciary or other special relationship with the other party or any of its Affiliates. This Agreement is not a partnership or similar agreement, and nothing contained herein shall be deemed to constitute the Buyer and the Seller as a partnership, an association, a joint venture or any other kind of entity or legal form for any purposes, including any Tax purposes. The Buyer and the Seller agree that they shall not take any inconsistent position with respect to such treatment in a filing with any Governmental Entity.

Section 10.14 Intercreditor Agreement. Notwithstanding anything to the contrary herein, the Liens and Back-Up Security Interest granted to the Buyer and its successors and assigns pursuant to this Agreement and the exercise of any right or remedy by the Buyer and its successors and assigns hereunder are subject to the provisions of the Intercreditor Agreement and the provisions of any Other Intercreditor Agreement. If there is conflict between the terms of the Intercreditor Agreement or an Other Intercreditor Agreement (each a "Controlling Agreement"), on the one hand, and the terms of this Agreement, on the other hand, with respect to the Liens, security interests or the exercise of any right or remedy of the Buyer or any holder of any Indebtedness that is a party to a Controlling Agreement, then the terms of such Controlling Agreement will control.

Section 10.15 Trustee Capacity of Wilmington Trust, National Association. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed by the parties hereto that (i) this Agreement is executed and delivered by Wilmington Trust, National Association, not individually or personally but solely in its trustee capacity, in the exercise of the powers and authority conferred and vested in it under the trust agreement of the Buyer, (ii) each of the representations, undertakings and agreements herein made on the part of the Buyer is made and intended not as a personal representation, undertaking and agreement by Wilmington Trust, National Association, but is made and intended for the purpose of binding only the Buyer and, (iii) nothing herein contained shall be construed as creating any liability on Wilmington Trust, National Association, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, (iv) Wilmington Trust, National Association has made no investigation as to the accuracy or completeness of any representations and warranties made by the Buyer in this Agreement, and (v) under no circumstances shall Wilmington Trust, National Association be personally liable for the payment of any indebtedness or expenses of the Buyer or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Buyer under this Agreement or any related documents.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective representatives thereunto duly authorized as of the date first above written.

SELLER
BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Anthony Doyle
Name: Anthony Doyle
Title: Chief Financial Officer

BUYER
RPI 2019 INTERMEDIATE FINANCE TRUST

By: Wilmington Trust, National Association, not in its individual capacity but solely in its capacity as owner trustee

By: /s/ Cynthia L. Major
Name: Cynthia L. Major
Title: Banking Officer

Exhibit 10.92

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 or because it contains personally identifiable information omitted from this exhibit pursuant to Item 601(a)(6) under Regulation S-K.

CREDIT AGREEMENT

Dated as of December 7, 2020

among

BIOCRYST PHARMACEUTICALS, INC.,
as the Borrower,

BIOCRYST IRELAND LIMITED

as a Guarantor

The other Guarantors from time to time party hereto,

The Lenders from time to time party hereto

and

ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP,
as Administrative Agent

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of December 7, 2020 among BIOCRYST PHARMACEUTICALS, INC., a Delaware corporation (the "Borrower"), the Guarantors (defined herein) listed on the signature pages hereto and from time to time party hereto, the Lenders (defined herein) from time to time party hereto and ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP, a Delaware limited partnership, as Administrative Agent for the Lenders (each as defined below).

The Borrower has requested that the Lenders make an investment in the Borrower in the form of term loan facilities and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

"Accrediting Organization" means any Person from which any Loan Party or Subsidiary has received an accreditation as of the Closing Date or thereafter.

"Acquisition" means, with respect to any Person, (a) the acquisition by such Person, in a single transaction or in a series of related transactions, of (i) assets of another person which constitute all or substantially all of the assets of such Person, or of any division, line of business or other business unit of such Person or (ii) at least a majority of the Voting Stock of another Person or (b) a Product Acquisition, in each case whether or not involving a merger, amalgamation or consolidation with such other Person and whether for cash, property, services, assumption of Indebtedness, securities or otherwise.

"Administrative Agent" means Athyrium Opportunities III Co-Invest 1 LP, a Delaware limited partnership, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 12.02 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) UK Financial Institution.

"Affiliate" means, with respect to a specified Person, (a) another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified and (b) other than with respect to any Lender and the Administrative Agent, any manager, officer or director of such Person.

"Agreement" means this Credit Agreement.

"Applicable Percentage" means with respect to any Lender at any time, (a) in respect of the Term A Facility, with respect to any Term A Lender at any time, the percentage (carried out to the ninth decimal place) of the Term A Facility represented by (i) at any time during the Term A Availability Period, such Term A Lender's Term A Commitment at such time and (ii) thereafter, the outstanding principal amount of such Term A Lender's Term A Loans at such time, (b) in respect of the Term B Facility, with respect to any Term B Lender at such time, the percentage (carried out to the ninth decimal place) of the Term B Facility represented by (i) at any time during the Term B Availability Period, such Term B Lender's Term B Commitment at such time and (ii) at any time thereafter, the outstanding principal amount of such Term B Lender's Term B Loans at such time and (c) in respect of the Term C Facility, with respect to any Term C Lender at such time, the percentage (carried out to the ninth decimal place) of the Term C Facility represented by (i) at any time during the Term C Availability Period, such Term C Lender's Term C Commitment at such time and (ii) at any time thereafter, the outstanding principal amount of such Term C Lender's Term C Loans at such time. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Appropriate Lender" means, at any time, with respect to any Facility, a Lender that has a Commitment with respect to such Facility or holds a Loan under such Facility at such time.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Assumption" means an assignment and assumption agreement entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 12.06(b), and accepted by the Administrative Agent), in substantially the form of Exhibit C hereto or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

"Athyrium" means Athyrium Capital Management, LP and its successors and assigns.

"Attributable Indebtedness" means, on any date, (a) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease of any Person, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease and (c) in respect of any Securitization Transaction of any Person, the outstanding principal amount of such financing, after taking into account reserve accounts and making appropriate adjustments, determined by the Administrative Agent in its reasonable judgment.

"Audited Financial Statements" means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal year of the Borrower ended December 31, 2019, and the related consolidated statements of income or operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, including the notes thereto, audited by independent public accountants of recognized national standing and prepared in conformity with GAAP.

"Back-Up Security Interest" means the "Back-Up Security Interest" as such term is defined in the Royalty Financing Agreement as in effect on the date hereof.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or insolvency proceedings).

"BCX9930" means the molecule described in investigational new drug application (IND) 142,217 filed with the FDA and in analogous filings in jurisdictions outside the United States and referenced by the Borrower as "BCX9930".

"BCX9930 Product Family" means (a) BCX9930, [***].

"BCX9930 Net Product Sales" means, for any period, consolidated net revenues of the Borrower and its Subsidiaries from sales of the BCX9930 Product Family in any jurisdiction for such period, all as determined and reported in accordance with GAAP.

"Board of Directors" means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) with respect to a partnership, the Board of Directors of the general partner of the partnership, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof, and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

"Borrower" has the meaning set forth in the introductory paragraph hereto.

"Borrowing" means a Term A Borrowing, a Term B Borrowing or a Term C Borrowing, as the context may require.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York, New York.

"Businesses" means, at any time, a collective reference to the businesses operated by the Borrower and its Subsidiaries at such time.

"Buyer" means the "Buyer" as such term is defined in the Royalty Financing Agreement as in effect on the date hereof.

"Capital Lease" means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person.

"Cash Equivalents" means, as at any date, (a) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided, that, the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition, (b) Dollar denominated time deposits and certificates of deposit of (i) any United States commercial bank of recognized standing having capital and surplus in excess of $[***] or (ii) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody's is at least P-1 or the equivalent thereof (any such bank being an "Approved Bank"), in each case with maturities of not more than 270 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable or fixed rate notes issued by, or guaranteed by, any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within six months of the date of acquisition, (d) repurchase agreements entered into by any Person with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of $[***] for direct obligations issued by or fully guaranteed by the United States in which such Person shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations, and (e) Investments, classified in accordance with GAAP as current assets, in money market investment programs registered under the Investment Company Act of 1940, which are administered by reputable financial institutions having capital of at least $[***] and the portfolios of which are limited to Investments of the character described in the foregoing subdivisions (a) through (d).

"Cash Pay Election" shall have the meaning set forth in Section 2.06(d).

"cGCP" means the then current Good Clinical Practices that establish the international ethical and scientific quality standards for designing, conducting, recording and reporting clinical trials that are promulgated or endorsed for the United States by the FDA (including through ICH E6 and 21 CFR Parts 50, 54, 56 and 312) and for outside the United States by comparable Governmental Authorities.

"cGLP" means the then current Good Laboratory Practices that establish the international ethical and scientific quality standards for designing, conducting, recording and reporting non-clinical and laboratory testing that are promulgated or endorsed for the United States by the FDA and for outside the United States by comparable Governmental Authorities.

"cGMP" means the then current Good Manufacturing Practice for drugs and biologics (including the regulations for drugs and finished pharmaceutical products contained in 21 C.F.R. Parts 210 and 211 and related Guidance documents issued by the United States Food and Drug Administration), or medical devices (including the Quality System Regulations contained in 21 C.F.R. Part 820, as applicable, and related Guidance documents issued by the United States Food and Drug Administration), and for outside the United States by comparable Governmental Authorities.

"CHAMPVA" means, collectively, the Civilian Health and Medical Program of the Department of Veterans Affairs, and all laws and implementing rules and regulations and requirements pertaining to such program, in each case as the same may be amended, supplemented or otherwise modified from time to time.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (i) the adoption or taking effect of any law, rule, regulation or treaty, (ii) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (iii) the making or issuance of any request, rule, 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 in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means the occurrence of any of the following events:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of Equity Interests representing 35% or more of the aggregate ordinary voting power in the election of the Board of Directors of the Borrower represented by the issued and outstanding Equity Interests of the Borrower on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of twelve (12) consecutive months, a majority of the members of the Board of Directors of the Borrower cease to be composed of individuals (i) who were members of that Board of Directors on the first day of such period, (ii) whose election, appointment or nomination to that Board of Directors was approved by individuals referred to in clause (i) above constituting at the time of such election, appointment or nomination at least a majority of that Board of Directors, or (iii) whose election, appointment or nomination to that Board of Directors was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that Board of Directors; or

(c) any "Change of Control" (or any comparable term) shall occur under any document, instrument or other agreement evidencing any Indebtedness with an aggregate principal amount in excess of the Threshold Amount; or

(d) except to the extent expressly permitted by this Agreement, the Borrower shall cease to directly or indirectly own, beneficially and of record (other than director's qualifying shares of investments by foreign nationals to the extent mandated by applicable Laws), 100% of the issued and outstanding Equity Interests of each Subsidiary of the Borrower.

"CLIA" means the Clinical Laboratory Improvement Amendments (42 U.S.C. § 263a) and the implementing regulations at 42 C.F.R. pt. 493.

"Clinical Trial Material" means any raw materials, parts, or supplies used in the ordinary course of development of a Product for which regulatory approval has not yet been obtained and that are used exclusively for purposes of supporting clinical and preclinical research.

"Closing Date" means the date hereof.

"CMS" means the U.S. Centers for Medicare and Medicaid Services.

"Collateral" means a collective reference to all real and personal property with respect to which Liens in favor of the Administrative Agent, for the benefit of the Secured Parties, are purported to be granted pursuant to and in accordance with the terms of the Collateral Documents.

"Collateral Access Agreement" means an agreement in form and substance reasonably satisfactory to the Administrative Agent pursuant to which a 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 Loan Party, acknowledges the Liens of the Administrative Agent and waives (or, if approved by the Administrative Agent, subordinates) any Liens held by such Person on such property, and permits the Administrative Agent reasonable access to any Collateral stored or otherwise located thereon.

"Collateral Documents" means a collective reference to the Security Agreement, the Pledge Agreement, the Deposit Account Control Agreements, the Perfection and Due Diligence Certificate, the Collateral Access Agreements, the Real Property Security Documents, the IP Security Agreements, the Irish Security Documents and other security documents as may be executed and delivered by the Loan Parties pursuant to the terms of Section 7.12, Section 7.14, Section 7.20 or pursuant to the terms of any Collateral Document.

"Commitment" means a Term A Commitment, a Term B Commitment or a Term C Commitment, as the context may require.

"Companies Act" means the Companies Act 2014, of Ireland.

"Compliance Certificate" means a certificate substantially in the form of Exhibit D.

"Confidential Information" means all non-public information, whether written, oral or in any electronic, visual or other medium, that is the subject of reasonable efforts to keep it confidential and that is owned by the Borrower or any Subsidiary or that the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and that is used by the Borrower or any other Person to manufacture, develop, import, market, promote, advertise, offer for sale, sell, use and/or otherwise distribute or provide a Product or Service.

"Consolidated Revenues" means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, revenues for such period as determined and reported in accordance with GAAP; provided, that, "Consolidated Revenues" shall exclude the revenues generated by any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of the income resulting from such revenues is not at the time permitted by operation of the terms of its Organization Documents or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to be Controlled by another Person if such other Person possesses, directly or indirectly, power to vote [***]% or more of the securities having ordinary voting power for the election of directors, managing general partners or the equivalent.

"Convertible Bond Indebtedness" means Indebtedness having a feature which entitles the holder thereof to convert or exchange all or a portion of such Indebtedness into shares of common capital stock of the Borrower; provided, that, (a) the principal amount (or accreted value, if applicable) of such Convertible Bond Indebtedness does not exceed $[***], (b) such Convertible Bond Indebtedness shall be unsecured, (c) no Subsidiary shall Guarantee such Convertible Bond Indebtedness, (d) such Convertible Bond Indebtedness shall not mature, and no scheduled or mandatory principal payments, repayments, prepayments, cash settlements, repurchases, redemptions or sinking fund or like payments (but excluding, for the avoidance of doubt, regularly scheduled cash interest payments and conversion of such Convertible Bond Indebtedness into shares of common capital stock of the Borrower in accordance with the terms thereof) of such Convertible Bond Indebtedness shall be required at any time on or prior to the date that is one (1) year after the Maturity Date, other than upon a "Change of Control", "fundamental change", "make-whole fundamental change" or similar event, (e) such Convertible Bond Indebtedness shall (i) not include (A) any financial maintenance covenants or (B) other covenants and defaults that are, taken as a whole, more restrictive on the Borrower and its Subsidiaries than the covenants and defaults set forth in the Loan Documents and (ii) have a cash interest rate of less than the greater of (x) [***] percent ([***]%) per annum and (y) such cash interest rate as the Administrative Agent, in its sole discretion, shall approve in writing after the Closing Date, upon the request of the Borrower in light of changes to market interest rates for similar convertible notes, (f) such Convertible Bond Indebtedness shall include conversion, redemption and fundamental change provisions that are customary for public market convertible indebtedness (pursuant to a public offering or an offering under Rule 144A or Regulation S of the Securities Act), (g) such Convertible Bond Indebtedness shall be subordinated in right of payment to the Obligations pursuant to the terms of a subordination, intercreditor, or other similar agreement (or terms of subordination incorporated into the indenture under which such Convertible Bond Indebtedness is issued), in each case, in form and substance, and on terms, approved by the Administrative Agent in writing in its sole discretion, (h) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Convertible Bond Indebtedness or could result therefrom and (i) the Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Financial Officer of the Borrower certifying as to the foregoing.

"Copyright License" means any agreement, whether written or oral, providing for the grant of any right to use any Work under any Copyright.

"Copyrights" means (a) all proprietary rights afforded Works pursuant to Title 17 of the United States Code, including, without limitation, all rights in mask works, copyrights and original designs, and all proprietary rights afforded such Works by other countries for the full term thereof (and including all rights accruing by virtue of bilateral or international treaties and conventions thereto), whether registered or unregistered, including, but not limited to, all applications for registration, renewals, extensions, reversions or restorations thereof now or hereafter provided for by law and all rights to make applications for registrations and recordations, regardless of the medium of fixation or means of expression, which are owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to the Borrower or the Borrower; and (b) all copyright rights under the copyright laws of the United States and all other countries for the full term thereof (and including all rights accruing by virtue of bilateral or international copyright treaties and conventions), whether registered or unregistered, including, but not limited to, all applications for registration, renewals, extensions, reversions or restorations of copyrights now or hereafter provided for by law and all rights to make applications for copyright registrations and recordations, regardless of the medium of fixation or means of expression, which are owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and which are used by the Borrower or any other Person to manufacture, develop, import, market, promote, advertise, offer for sale, sell, use, provide and/or otherwise distribute a Product or Service.

"Covered Party" has the meaning specified in Section 12.21.

"Cure Right" has the meaning specified in Section 9.04.

"Debt Issuance" means the issuance by any Loan Party or any Subsidiary of any Indebtedness other than Indebtedness permitted under Section 8.03.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to the sum of (a) Three-Month LIBOR for the applicable Interest Period plus (b) [***]% per annum, to the fullest extent permitted by applicable Laws.

"Defaulting Lender" means, subject to Section 2.12(b), any Lender, as determined by the Administrative Agent, that (a) has failed to perform any of its funding obligations hereunder, including with respect to any Term A Commitments, any Term B Commitments or any Term C Commitments, within three (3) Business Days of the date required to be funded by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations hereunder or (c) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment or (iv) become the subject of a Bail-In Action; provided, that, a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interests in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

"Delaware Divided LLC" means any Delaware LLC which has been formed upon the consummation of a Delaware LLC Division.

"Delaware LLC" means any limited liability company organized or formed under the laws of the State of Delaware.

"Delaware LLC Division" means the statutory division of any Delaware LLC into two or more Delaware LLCs pursuant to Section 18-217 of the Delaware Limited Liability Company Act.

"Deposit Account" means a "deposit account" (as defined in Article 9 of the Uniform Commercial Code), investment account, securities account or other account in which funds are held or invested to or for the credit or account of any Loan Party.

"Deposit Account Control Agreement" means any account control agreement by and among a Loan Party, the applicable depository bank or securities intermediary (as the case may be) and the Administrative Agent, in each case in form and substance reasonably satisfactory to the Administrative Agent.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any Sale and Leaseback Transaction or any issuance by any Subsidiary of its Equity Interests) of any property by any Loan Party or any Subsidiary, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith (including any disposition, allocation, transfer or conveyance of property to a Delaware Divided LLC pursuant to a Delaware LLC Division), but excluding the following: (a) the sale, lease, license, transfer or other disposition of inventory in the ordinary course of business (including Stockpile Sales), (b) the sale, lease, license, transfer or other disposition in the ordinary course of business of surplus, obsolete or worn out equipment no longer used or useful in the conduct of business of any Loan Party or any Subsidiary, (c) any sale, lease, license, transfer or other disposition of property to any Loan Party or any Subsidiary; provided, that, if the transferor of such property is a Loan Party, (i) the transferee thereof must be a Loan Party or (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 8.02, (d) the abandonment or other disposition of IP Rights that are not material and are no longer used or useful in any material respect in the business of the Borrower and its Subsidiaries taken as a whole, (e) licenses, sublicenses, leases or subleases (other than relating to intellectual property) granted to third parties in the ordinary course of business and not interfering with the Businesses, (f) any Involuntary Disposition, (g) dispositions of cash and Cash Equivalents in the ordinary course of business pursuant to transactions permitted hereunder, (h) dispositions consisting of the sale, transfer, assignment or other disposition of unpaid and overdue accounts receivable in connection with the collection, compromise or settlement thereof in the ordinary course of business and not as part of a financing transaction, (i) the sale of the "Revenue Participation Right" (or other comparable term) in accordance with the terms of the Royalty Financing Documents or the terms of the Other Royalty Financing Documents, (j) any disposition 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, (k) dispositions of Clinical Trial Material that, in the good faith determination of Borrower, is no longer used or useful in the conduct of the business of Borrower and its Subsidiaries, (l) the sale, transfer or other disposition of a de minimis number of shares of the Equity Interests of a Non-U.S. Subsidiary in order to qualify members of the governing body of such Subsidiary if required by applicable Law, (m) to the extent constituting a Disposition, Liens permitted by Section 8.01 and Investments permitted by Section 8.02 and (n) the unwinding of Swap Contracts permitted by Section 8.03(d).

"Disqualified Capital Stock" means any Equity Interest which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, prior to the one hundred and eighty-first (181st) day after the Maturity Date, (b) requires the payment of any cash dividends at any time prior to the one hundred and eighty-first (181st) day after the Maturity Date, (c) contains any repurchase obligation which may come into effect prior to payment in full of all Obligations, or (d) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interests referred to in clause (a), (b) or (c) above, in each case at any time prior to the one hundred and eighty-first (181st) day after the Maturity Date.

"Dollar" and "$" mean lawful money of the United States.

"Domain Names" means all domain names and URLs that are registered and/or owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to.

"Earn Out Obligations" means, with respect to an Acquisition, all obligations of the Borrower or any Subsidiary to make earn out or other contingency payments (including purchase price adjustments, non-competition and consulting agreements, other indemnity obligations, royalty payments and sale, or development and other milestone payments) pursuant to the documentation relating to such Acquisition. For purposes of determining the aggregate consideration paid for an Acquisition at the time of such Acquisition, the amount of any Earn Out Obligations shall be deemed to be the maximum amount of the earn-out payments in respect thereof as specified in the documents relating to such Acquisition.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assets" means long-term assets that are used or useful in the same or a similar line of business as the Borrower and its Subsidiaries were engaged in on the Closing Date (or any reasonable extension or expansions thereof).

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 12.06 (subject to such consents, if any, as may be required under Section 12.06(b)(iii)).

"English Subsidiary" means (a) BioCryst UK Limited and (b) any other Subsidiary that is organized under the laws of England from time to time.

"Environmental Laws" means any and all federal, state, local, foreign and other applicable statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member, membership or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination, but excluding, for the avoidance of doubt, any Convertible Bond Indebtedness to the extent that the same have not yet been converted into shares of common capital stock of the Borrower.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan, (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA, (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan, (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Sections 4041 or 4041A of ERISA, (e) the institution by the PBGC of proceedings to terminate a Pension Plan, (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Internal Revenue Code or Sections 303, 304 and 305 of ERISA, or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" has the meaning set forth in Section 9.01.

"Examiner" means an examiner appointed under Section 509 of the Companies Act.

"Excluded Business Interruption Proceeds" means (a) cash proceeds of business interruption insurance not in excess of $[***] in any fiscal year (the "Annual Business Interruption Cap") and (b) any cash proceeds of business interruption insurance in excess of the Annual Business Interruption Cap in any fiscal year which are actually applied to operating expenses or to rebuild or replace the property or remedy the event or occurrence giving rise to the business interruption event in respect of which such business interruption insurance proceeds are being paid.

"Excluded Prepayment Amount" has the meaning provided in Section 2.03(b)(vi).

"Excluded Property" means, with respect to any Loan Party, including any Person that becomes a Loan Party after the Closing Date as contemplated by Section 7.12, (a) any property which, subject to the terms of Section 8.09, is subject to a Lien of the type described in Section 8.01(i) pursuant to documents which prohibit such Loan Party from granting any other Liens in such property, (b) any United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark applications under applicable federal law; provided, that, upon submission and acceptance by the United States Patent and Trademark Office of a statement of use or an amendment to allege use pursuant to 15 U.S.C. Section 1060(a) (or any successor provision), such intent-to-use trademark application shall no longer constitute "Excluded Property" and shall be considered Collateral, (c) any permit, lease, license, contract or other agreement of a Loan Party if the grant of a security interest in such permit, lease, license, contract or other agreement in the manner contemplated by the Collateral Documents, under the terms thereof or under applicable Law, is prohibited and would result in the termination thereof or give the other parties thereto the right to terminate, accelerate or otherwise alter such Loan Party's rights, titles and interests thereunder (including upon the giving of notice or the lapse of time or both); provided, that, (x) any such limitation described in this clause (c) on the security interests granted under the Collateral Documents shall only apply to the extent that any such prohibition would not be rendered ineffective pursuant to the Uniform Commercial Code or any other applicable Law or principles of equity and (y) in the event of the termination or elimination of any such prohibition or the requirement for any consent contained in any applicable Law, permit, lease, license, contract or other agreement, to the extent sufficient to permit any such item to become Collateral, a security interest in such permit, lease, license, contract or other agreement shall be automatically and simultaneously granted under the applicable Collateral Document and such permit, lease, license, contract or other agreement shall no longer constitute "Excluded Property" and shall be considered Collateral, (d) 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), provided that, upon the termination or expiration of such prohibition or termination of, or payment in full of the "Secured Obligations" under the JPR Indenture, the equity interests in JPR Royalty Sub shall automatically be subject to the security interest granted in favor of Agent hereunder and shall become part of the "Collateral", (e) the HSBC Cash Collateral Accounts and (f) the Equity Interests of any Non-U.S. Subsidiary (other than any Irish Subsidiary and any English Subsidiary) to the extent not required to be pledged to secure the Obligations pursuant to Section 7.14(a).

"Excluded Subsidiary" means (a) subject to Section 7.21(c), JPR Royalty Sub, (b) any Immaterial Non-U.S. Subsidiary, (c) MDCP, (d) any Non-U.S. Regulatory Approval Subsidiaries, (e) any Non-U.S. Subsidiary (other than any English Subsidiary and any Irish Subsidiary), the grant or perfection of a security interest in the assets of such Non-U.S. Subsidiary in support of, or the guaranteeing of, the Obligations would result in material adverse tax consequences to the Borrower and its Subsidiaries (as reasonably determined by the Borrower with the consent of the Administrative Agent) and (f) any Non-U.S. Subsidiary (other than any English Subsidiary and any Irish Subsidiary) with respect to which it is reasonably agreed by the Borrower and the Administrative Agent that the cost or other consequences of providing a guarantee of the Obligations shall outweigh the benefits to be obtained by the Lenders therefrom as a result of capital maintenance rules, corporate benefit requirements or similar Laws of the jurisdiction of organization of such Non-U.S. Subsidiary.

"Exempt Immaterial Subsidiary" means at any time, an Exempt Subsidiary that (a) as of the last day of the fiscal quarter of the Borrower most recently ended for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b), did not have (together with its Subsidiaries, on a consolidated basis) assets in excess of (i) [***]% of the consolidated total assets of the Borrower and its Subsidiaries at the end of such fiscal quarter for any one Exempt Immaterial Subsidiary and (ii) [***]% of the consolidated total assets of the Borrower and its Subsidiaries at the end of such fiscal quarter for all Exempt Immaterial Subsidiaries in the aggregate and (b) for the period of four fiscal quarters most recently ended for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b), did not have (together with its Subsidiaries, on a consolidated basis) Consolidated Revenues (without giving effect to proviso in the definition thereof) attributable to such Exempt Subsidiary for such period in excess of (i) [***]% of Consolidated Revenues for such period for any one Exempt Immaterial Subsidiary and (ii) [***]% of Consolidated Revenues for such period for all Exempt Immaterial Subsidiaries in the aggregate..

"Exempt Subsidiary" means any of the following: (a) BioCryst UK, Ltd., BioCryst Deutschland GmbH and BioCryst France SAS and (b) any other Non U.S. Subsidiary that is formed after the Closing Date (but, for the avoidance of doubt, excluding any Non-U.S. Subsidiary that is acquired after the Closing Date) and organized under the laws of France, Germany, Ireland, [***], Japan, [***] or United Kingdom.

"Existing Indebtedness" means all Indebtedness for borrowed money of the Borrower and its Subsidiaries in existence immediately prior to the Term A Borrowing Date, including the MidCap Indebtedness.

"Extraordinary Receipts" means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including (1) tax refunds, (2) pension plan reversions, (3) indemnity payments (other than to the extent such indemnity payments are (i) immediately payable to a Person that is not an Affiliate of the Borrower or any of its Subsidiaries or (ii) received by the Borrower or any of its Subsidiaries as reimbursement for (A) actual losses or costs incurred by the Borrower or any of its Subsidiaries or (B) any payment previously made, in each case by the Company and its Subsidiaries in connection with any such indemnity payments), and (4) proceeds of judgments, settlements or other consideration of any kind in connection with any cause of action (other than to the extent (i) an amount equal to such proceeds of judgments, settlements or causes of action or such proceeds of judgments, settlements or causes of action have already been paid or are immediately payable to a Person that is not the Borrower or any of its Subsidiaries or Affiliates in accordance with requirements of law, settlements of the underlying events related thereto or with contractual obligations entered into in the ordinary course of business in effect prior to such judgment, settlement or cause or action or (ii) such proceeds of judgments, settlements or causes of action are received by the Borrower or any of its Subsidiaries as reimbursement for (A) actual losses or (B) any out-of-pocket costs, in each case incurred or made by the Borrower and its Subsidiaries prior to the receipt thereof directly related to the event resulting from the subject judgment, settlement or cause of action); provided, that Extraordinary Receipts shall in any event not include (x) proceeds described in Section 2.03(b)(i) hereof, (y) proceeds of purchase price adjustments in connection with any Permitted Acquisition and (z) proceeds of issuances of common equity or other Equity Interests (other than Disqualified Capital Stock).

"Facility" means the Term A Facility, the Term B Facility or the Term C Facility, as the context may require.

"Facility Termination Date" means the date as of which all of the following shall have occurred: (a) all of the Commitments have terminated and (b) all Obligations have been paid in full in cash (other than contingent indemnification obligations for which no claim has been asserted).

"Facilities" means, at any time, a collective reference to the facilities (including any laboratory) and real properties owned, leased or operated by any Loan Party or any Subsidiary.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue Code as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations thereunder, official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any treaty, law, regulation or intergovernmental agreements entered into (which facilitates the implementation of any law or regulation) thereunder.

"FDA" means the United States Food and Drug Administration or any successor entity thereto.

"FDCA" means the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. Section 301 et seq. and all regulations promulgated thereunder.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that, if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day.

"Flood Hazard Property" means any real property subject to a Mortgage that is in an area designated by the Federal Emergency Management Agency as having special flood or mudslide hazards.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"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 and/or similar extensions of credit in the ordinary course of its activities.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, consistently applied and as in effect from time to time.

"Government Account Debtor" means the United States government or a political subdivision thereof, or any state, county or municipality or department, agency or instrumentality thereof, that is responsible for payment of an Account under any Government Reimbursement Program, or any agent, administrator, intermediary or carrier for the foregoing.

"Government Account Debtor Account" means a Deposit Account in the name of a Loan Party that receives all incoming payments from Government Account Debtors and other account debtors of the Loan Parties, which Deposit Account shall be subject to the requirements of Section 7.16(b)(ii) hereof.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Government Reimbursement Program" means (a) Medicare, (b) Medicaid, (c) the Federal Employees Health Benefit Program under 5 U.S.C. §§ 8902 et seq., (d) TRICARE, (e) CHAMPVA, or (f) if applicable within the context of this Agreement, any agent, administrator, administrative contractor, intermediary or carrier for any of the foregoing.

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien) or (c) any direct or indirect liability, contingent or not, of that Person for (i) any obligations for undrawn letters of credit for the account of that Person or (ii) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means (a) each Subsidiary of the Borrower identified as a "Guarantor" on the signature pages hereto and (b) each other Person that joins as a Guarantor (i) pursuant to Section 7.12 (and "Guarantor" shall mean, as the context may require, each of them individually) or (ii) subject to the Administrative Agent's prior written consent, at the written election of the Borrower, in each case of the foregoing clauses (a) and (b), together with their successors and permitted assigns.

"Guaranty" means the Guaranty made by the Guarantors in favor of the Secured Parties pursuant to Article IV.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Healthcare Laws" means all applicable Laws relating to the procurement, testing, development, clinical and non-clinical evaluation or investigation, product approval, manufacture, production, distribution, dispensing, importation, exportation, use, handling, quality, reimbursement, sale, labeling, advertising, promotion, or postmarket requirements of any drug product or any ingredient or component thereof, including as applicable the FDCA and similar state or foreign laws, controlled substances laws, consumer product safety laws, Medicare, Medicaid, TRICARE, HIPAA, CLIA, the Patient Protection and Affordable Care Act (P.L. 111-1468), all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. §1320a-7b), the civil False Claims Act (31 U.S.C. §3729 et seq.) and all laws, policies, procedures, requirements and regulations pursuant to which Permits are issued, in each case, as the same may be amended from time to time.

"HHS" means the United States Department of Health and Human Services and any successor agency thereof.

"HIPAA" means (a) the Health Insurance Portability and Accountability Act of 1996; (b) the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009); and (c) any state or local laws regulating the privacy and/or security of individually identifiable information imposing a more restrictive standard, in each case as the same may be amended, modified or supplemented from time to time, any successor statutes thereto, and any and all rules or regulations promulgated from time to time thereunder.

"HSBC Cash Collateral Accounts" means, collectively, Deposit Account #[***] and Deposit Account #[***] of the Borrower established and maintained at HSBC Bank for the sole purpose of securing the Borrower's obligations under the HSBC Letter of Credit; provided that (a) no such Deposit Account shall hold an aggregate of cash and cash equivalents in excess of [***] percent ([***]%) of the aggregate face amount of the letters of credit it is securing and (b) with respect to all such Deposit Accounts, the aggregate amount deposited there in at any time does not exceed [***] Dollars ($[***]).

"HSBC Letter of Credit" means the letter of credit issued by HSBC Bank in favor of the landlord with respect to the Borrower's leased real property located at 2100 Riverchase Center, Ste. 200 / Building 200, Birmingham, AL 35244, in an aggregate face amount equal to One Million Four Hundred Thousand Dollars ($1,400,000).

"Immaterial Non-U.S. Subsidiary" means at any time a Non-U.S. Subsidiary that (a) as of the last day of the fiscal quarter of the Borrower most recently ended for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b), did not have (together with its Subsidiaries, on a consolidated basis) assets in excess of (i) [***]% of the consolidated total assets of the Borrower and its Subsidiaries at the end of such fiscal quarter for any one Immaterial Non-U.S. Subsidiary and (ii) [***]% of the consolidated total assets of the Borrower and its Subsidiaries at the end of such fiscal quarter for all Immaterial Non-U.S. Subsidiaries in the aggregate and (b) for the period of four fiscal quarters most recently ended for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b), did not have (together with its Subsidiaries, on a consolidated basis) Consolidated Revenues (without giving effect to proviso in the definition thereof) attributable to such Non-U.S. Subsidiary for such period in excess of (i) [***]% of Consolidated Revenues for such period for any one Immaterial Non-U.S. Subsidiary and (ii) [***]% of Consolidated Revenues for such period for all Immaterial Non-U.S. Subsidiaries in the aggregate; provided, however, that in no event will any Non U.S. Subsidiary (x) that is organized under the laws of France, Germany, Ireland, [***], Japan, [***] or United Kingdom or (y) which is acquired pursuant to a Permitted Acquisition, in each case, constitute an Immaterial Non-U.S. Subsidiary.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations, whether current or long-term, for borrowed money (including the Obligations) and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all purchase money Indebtedness;

(c) the principal portion of all obligations under conditional sale or other title retention agreements relating to property purchased by such Person or any Subsidiary thereof (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business);

(d) all obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(e) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not due more than 90 days after the date on which such trade account payable was created), including, without limitation, any Earn Out Obligations that have become a liability on the balance sheet in accordance with GAAP;

(f) the Attributable Indebtedness of Capital Leases, Securitization Transactions and Synthetic Leases;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Disqualified Capital Stock in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(h) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed;

(i) the Swap Termination Value of any Swap Contract;

(j) all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (i) above of any other Person; and

(k) all Indebtedness of the types referred to in clauses (a) through (j) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person or a Subsidiary thereof is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to such Person or such Subsidiary.

For purposes hereof, the amount of any direct obligation arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments shall be the maximum amount available to be drawn thereunder.

"Indemnitee" has the meaning set forth in Section 12.04(b).

"Indirect Lender" means any Person that is not a U.S. Person and either (1) directly holds equity interests in a Lender that is treated as a partnership or disregarded entity for United States federal income tax purposes or (2) directly holds equity interests in a U.S. Person that is treated as a partnership or disregarded entity for U.S. federal income tax purposes that, directly, or indirectly through entities each of which is treated a partnership or a disregarded entity for U.S. federal income tax purposes, holds equity interests in a Lender.

"Information" has the meaning set forth in Section 12.07.

"Intercreditor Agreement" means the Intercreditor Agreement dated as of the Closing Date by and among the Administrative Agent and the Buyer, and acknowledged and agreed to by the Borrower and the Guarantors as amended, amended and restated, supplemented and otherwise modified from time to time in accordance with the terms thereof.

"Interest Period" means, with respect to any Borrowing (a) initially, the period beginning on (and including) the date of such Borrowing and ending on (and including) the next following Interest Payment Date, and (b) thereafter, the period beginning on (and including) the first day immediately following such Interest Payment Date and ending on the earlier of (and including) (i) the next following Interest Payment Date and (ii) the Maturity Date.

"Interest Payment Date" means (a) the last Business Day of each March, June, September and December, and (b) the Maturity Date.

"Interim Financial Statements" means the unaudited consolidated financial statements of the Borrower and its Subsidiaries for each of the fiscal quarters ended March 31, 2020, June 30, 2020 and September 30, 2020, including balance sheets and statements of income or operations, shareholders' equity and cash flows.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended.

"Internal Revenue Service" means the United States Internal Revenue Service, as amended.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, but giving effect to any repayments of principal in the case of Investments in the form of loans and any return of capital or return on Investment in the case of equity Investments, but in each case not in excess of the amount of the initial Investment.

"Involuntary Disposition" means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of any Loan Party or any of its Subsidiaries.

"IP Rights" means, collectively, all Confidential Information, all Copyrights, all Copyright Licenses, all Domain Names, all Permits, all Other Intellectual Property, all Other IP Agreements, all Patents, all Patent Licenses, all Proprietary Databases, all Proprietary Software, all Trademarks, all Trademark Licenses, all Trade Secrets, all Websites and all Website Agreements.

"IP Security Agreement" means notices of grant of security interest in the form required by the Security Agreement executed and delivered by a Loan Party.

"Irish All Asset Debenture" means that certain Irish law governed all asset debenture (other than Excluded Property) dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by each of the Loan Parties that is an Irish Subsidiary, in form and substance reasonably acceptable to the Administrative Agent, as amended or modified from time to time in accordance with the terms hereof, to include such other agreements, third-party assessments, certificates, notices, acknowledgments of such notices and documents that the Administrative Agent may reasonable request in connection therewith as is customary or appropriate.

"Irish Security Documents" means, collectively, the Irish All Asset Debenture and the Irish Share Charge.

"Irish Share Charge" means that certain Irish law governed share charge dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by each of the Loan Parties holding any Equity Interests in an Irish Subsidiary, in form and substance reasonably acceptable to the Administrative Agent, as amended or modified from time to time in accordance with the terms hereof.

"Irish Subsidiary" means any Subsidiary that is incorporated under the laws of Ireland.

"Joinder Agreement" means a joinder agreement substantially in the form of Exhibit E executed and delivered by a Subsidiary in accordance with the provisions of Section 7.12.

"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.

"Key Products" means, collectively, the Orladeyo Product Family and the BCX9930 Product Family.

"Key Territories" means the United States, France, Germany, [***], [***] and the United Kingdom.

"Laws" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Legal Reservations" means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Statute of Limitation 1957 and defences of set-off or counterclaim;

(c) the principle that security expressed to be fixed security may take effect as floating security; and

(d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinions delivered pursuant to this Agreement.

"Lenders" means each of the Persons identified as a "Lender" on the signature pages hereto and their successors and assigns.

"Lending Office" means, as to any Lender, the office address of such Lender and, as appropriate, account of such Lender set forth on Schedule 12.02 or such other address or account as such Lender may from time to time notify the Borrower and the Administrative Agent.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Term A Loan, a Term B Loan or a Term C Loan.

"Loan Documents" means this Agreement, each Note, each Joinder Agreement, each Collateral Document, the Intercreditor Agreement and any other agreement, instrument or document designated by its terms as a "Loan Document".

"Loan Notice" means a notice of a Borrowing of Loans pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

"Make-Whole Amount" means, on any date of determination, with respect to any amount of any Loan that is repaid or required to be repaid prior to the date as set forth in clause (a) of the definition of "Maturity Date", an amount equal to the amount, if any, by which (a) the sum of (i) one hundred two percent (102%) of the principal amount of the Loan repaid or required to be repaid plus (ii) the present value as of such date of determination (as determined by the Administrative Agent in accordance with customary practice) of all interest that would have accrued on the principal amount of the Loans repaid or required to be repaid through and including the second anniversary of the date of the Borrowing of such Loan, computed using a discount rate equal to the Three-Month Treasury Rate (provided that if a PIK Election was made for the most recently completed Interest Period, this present value computation shall be calculated assuming that the Borrower would have made the PIK Election for all of the remaining periods eligible for such PIK Election) plus one half of one percent (0.50%), exceeds (b) the principal amount of the Loan repaid or required to be repaid.

"Market Withdrawal" means a Person's removal or correction of a distributed product which involves a minor violation that would not be subject to legal action by the FDA, CMS or any other Governmental Authority or which involves no violation, e.g., normal stock rotation practices, routine equipment adjustments and repairs, etc., as that term is defined in 21 C.F.R. 7.3(j).

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the business, assets, properties, liabilities (actual or contingent), or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole, (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document to which it is a party or a material impairment in the perfection, value or priority of the Administrative Agent's security interests in the Collateral, (c) a material impairment of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party, or (d) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Material Contracts" means (i) the Organization Documents of the Loan Parties, (ii) those agreements listed on Schedule 6.22, (iii) the Royalty Financing Documents and any Other Royalty Financing Documents and (iv) after the Closing Date, any agreement of the type described in any of clauses (a) through (g) of Section 6.22.

"Material IP Rights" means IP Rights (i) with respect to each of the Key Products and (ii) any other Product material to the Loan Parties, their respective properties or the conduct or operation of their respective businesses taken as a whole.

"Material Product" means (a) each of the Key Products and (b) each other Product the loss of which could reasonably be expected, either individually or, together with its related (as determined based on the applicable drug substance) Products in the aggregate, to have a Material Adverse Effect.

"Material Required Permit" means (a) any Required Permit with respect to any Material Product in any Key Territory or Ireland and (b) any other Required Permit where, in the case of this clause (b), the loss of which, the failure to possess or maintain, or any restriction placed thereon, in each case, could reasonably be expected, either individually or in the aggregate, to result in (i) a material adverse effect on any Product Development and Commercialization Activities or (ii) a Material Adverse Effect.

"Maturity Date" means (a) December 7, 2025, or (b) if earlier, such earlier date on which the Loans are accelerated in whole pursuant to Section 9.02 hereof; provided, that, if such date is not a Business Day, the Maturity Date shall be the first Business Day immediately preceding such date.

"Maximum Rate" has the meaning set forth in Section 12.09.

"MDCP" means MDCP, LLC, a Delaware limited liability company.

"Medicaid" shall mean a medical assistance program administered by a state agency and approved by the CMS pursuant to Title XIX of the Social Security Act, (42 U.S.C. §§ 1396 et seq.) and the regulations promulgated thereunder, or any successor program.

"Medicare" means that certain federal program providing health insurance for eligible elderly and other individuals, under which physicians, hospitals, skilled nursing homes, home health care and other providers are paid for certain covered services they provide to the beneficiaries of such program, which program is more fully described in Title XVIII of the Social Security Act (42 U.S.C. §§ 1395 et seq.) and the regulations promulgated thereunder, or any successor program.

"MidCap Indebtedness" means the all Indebtedness or other obligations of the Borrower and its Subsidiaries outstanding under that certain Second Amended and Restated Credit and Security Agreement, dated as of February 5, 2019, by and among the Borrower, the Subsidiaries of the Borrower party thereto from time to time, MidCap Financial Trust, as administrative agent, and the lenders party thereto from time to time, the "Security Documents" (as defined therein) and all other agreements and documents entered into in connection therewith, in each case, as amended, modified or otherwise supplemented from time to time prior to the Term A Borrowing Date.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgages" means, individually or collectively, as the context requires, each of the mortgages, deeds of trust or deeds to secure debt that purport to grant to the Administrative Agent, for the benefit of the Secured Parties, a security interest in the fee interest and/or leasehold interests of any Loan Party in real property (other than Excluded Property).

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"NDA" means a new drug application filed with the FDA pursuant to Section 505(b) of the FDCA, along with all supplements and amendments thereto, and any similar application for marketing authorization required by any country, jurisdiction or Governmental Authority other than the United States.

"Net Cash Proceeds" means the aggregate cash or Cash Equivalents proceeds received by any Loan Party or any Subsidiary in respect of any Disposition, Debt Issuance, Involuntary Disposition or Extraordinary Receipt (other than Excluded Business Interruption Proceeds), net of (a) reasonable direct costs incurred in connection therewith (including, without limitation, legal, accounting and investment banking fees, and sales commissions), (b) Taxes paid or payable as a result thereof, (c) in the case of any Disposition, the amount necessary to retire any Indebtedness secured by a Permitted Lien (ranking senior to any Lien of the Administrative Agent) on the related property and (d) in the case of any Extraordinary Receipt, reasonable direct costs incurred in connection with the collection of such proceeds, awards or other payments; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received by any Loan Party or any Subsidiary in any Disposition, Involuntary Disposition or Extraordinary Receipt.

"Net Cash Proceeds - Licensing" means Net Cash Proceeds received by the Borrower or any Subsidiary in respect of any Non-Permitted License or Permitted License, including, without limitation, all upfront payments, royalties, milestone payments, sublicense revenues or other proceeds received in connection therewith.

"Net Cash Proceeds – Non-Permitted Royalty Financing" means Net Cash Proceeds received by the Borrower or any Subsidiary in respect of any Non-Permitted Royalty Financing.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 12.01(a) and (b) has been approved by the Required Lenders.

"Non-FDA Governmental Action" has the meaning set forth in Section 9.01(s).

"Non-Key Products" means Products of the Borrower and its Subsidiaries other than the Key Products.

"Non-Key Territories" means any jurisdiction other than the Key Territories.

"Non-Permitted License" means any exclusive or non-exclusive license or sublicense of a Key Product (or any IP Rights related to a Key Product) in any Key Territory. For the avoidance of doubt, but subject to the definition of Permitted License, Non-Permitted Licenses shall not include (i) any exclusive or non-exclusive license or sublicense of a Key Product (or any IP Rights related to a Key Product) in a Non-Key Territory and (ii) any exclusive or non-exclusive license or sublicense of a Product that is not a Key Product (or any IP Rights related to such Product that is not a Key Product) in any territory.

"Non-Permitted Royalty Financing" means the sale, transfer or financing of a right to receive any sales or revenue or other consideration with respect to a Product (or any IP Rights related a Product) other than the Royalty Financing and any Other Royalty Financing.

"Non-U.S. Regulatory Approval Subsidiary" means any Non-U.S. Subsidiary organized under the laws of any of any jurisdiction (other than France, Germany, Ireland, [***], Japan, [***] and the United Kingdom), all of the assets of which consist of a local law regulatory approval; provided, however, that in no event will any Non U.S. Subsidiary which is acquired pursuant to a Permitted Acquisition constitute a Non-U.S. Regulatory Approval Subsidiary.

"Non-U.S. Subsidiary" means any Subsidiary that is not a U.S. Subsidiary.

"Note" or "Notes" means the Term A Notes, the Term B Notes, and the Term C Notes, individually or collectively, as appropriate.

"Obligations" means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan (including any PIK Interest Payments) and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Operating Lease" means any lease of any Facility separate and distinct from the owner of the applicable Facility, and all amendments thereto and extensions thereof.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws, (b) with respect to any limited liability company, the certificate or articles of formation, incorporation or organization and operating agreement or constitutional documents, and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization, including in each case of the foregoing clauses (a) through (c) the equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction, and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Orladeyo" means the Product described in the NDA No. 214094 filed with the FDA and analogous applications in jurisdictions outside the United States and referenced by the Borrower as ORLADEYO™ (berotralstat).

"Orladeyo Product Family" means (a) Orladeyo, [***].

"Orladeyo Consolidated U.S. Net Product Sales" means, for any period, consolidated net revenues of the Loan Parties from sales of Orladeyo in the United States for the usage by patients in the United States for such period, excluding (i) the revenues of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of the income resulting from such revenues is not at the time permitted by operation of the terms of its Organization Documents or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (ii) for the avoidance of doubt, distribution income, service payments, royalty payments, license income, and all other forms of non-product sales during such period and (iii) the aggregate amount of all payments paid or required to be paid in respect of such period under the Royalty Financing Documents and, for the avoidance of doubt and without limiting the restrictions set forth in the definitions of Other Royalty Financings and Royalty Financing Restrictions, the Other Royalty Financing Documents, all as determined and reported in accordance with GAAP.

"Orladeyo Net Product Sales" means, for any period, consolidated net revenues of the Borrower and its Subsidiaries from sales of the Orladeyo Product Family in any jurisdiction for such period, all as determined and reported in accordance with GAAP.

"Other Intellectual Property" means all worldwide intellectual property rights, industrial property rights, proprietary rights and common-law rights, whether registered or unregistered, which are not otherwise included in Confidential Information, Copyrights, Copyright Licenses, Domain Names, Permits, Other IP Agreements, Patents, Patent Licenses, Trademarks and Trademark Licenses, Proprietary Databases, Proprietary Software, Websites, Website Agreements and Trade Secrets, including, without limitation, all rights to and under all new and useful algorithms, concepts, data (including all clinical data relating to a Product or Service), databases, designs, discoveries, inventions, know-how, methods, processes, protocols, show-how, software (other than commercially available, off-the-shelf software), specifications for Products and processes for Services, techniques, technology, trade dress and all improvements thereof and thereto, which is owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and which is used by the Borrower or any other Person to advertise, develop, manufacture, import, market, promote, offer for sale, sell, use, provide and/or otherwise distribute a Product or Service.

"Other IP Agreements" means any agreement, whether written or oral, providing for the grant of any right under any Confidential Information, Permits, Proprietary Database, Proprietary Software, Trade Secret and/or any other IP Rights, to the extent that the grant of any such right is not otherwise the subject of a Copyright License, Trademark License, Patent License or Website Agreement.

"Other Royalty Financings" means one or more future royalty financings through true sales by the Borrower of a synthetic royalty tied to annual net sales of (i) BCX9930 within the Key Territories, (ii) BCX9930 within the Non-Key Territories and/or (iii) the Non-Key Products, pursuant to the terms of the Other Royalty Financing Documents.

"Other Royalty Financing Documents" means the documents governing or evidencing any Other Royalty Financing, which shall, in each case, be subject to the Royalty Financing Restrictions.

"Outstanding Amount" means with respect to any Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of any Loans occurring on such date.

"Participant" has the meaning set forth in Section 12.06(h).

"Participant Register" has the meaning specified in Section 12.06(d).

"Patent License" means any agreement, whether written or oral, providing for the grant of any right under any Patent.

"Patents" means all letters patent and patent applications in the United States and all other countries (and all letters patent that issue therefrom) and all reissues, extensions, renewals, divisions and continuations (including continuations-in-part and continuing prosecution applications) thereof, for the full term thereof, together with the right to claim the priority thereto, which are owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to.

"PATRIOT Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Internal Revenue Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in Section 412, 430, 431, 432 and 436 of the Internal Revenue Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by the Borrower or any ERISA Affiliate and that is either covered by Title IV of ERISA or is subject to minimum funding standards under Section 412 of the Internal Revenue Code.

"Perfection and Due Diligence Certificate" means that certain Perfection and Due Diligence Certificate dated as of the Closing Date executed by the Loan Parties and certified to the Lenders and the Administrative Agent, as amended or modified from time to time in accordance with the terms hereof.

"Permits" means licenses, certificates, accreditations, product clearances or approvals, provider numbers or provider authorizations, marketing authorizations, other authorizations, registrations, permits, consents and approvals issued in connection with the conduct of the Borrower's or any Subsidiary's business or to comply with any applicable Laws, including those issued by any Governmental Authority or any other Person, including, without limitation, those relating to Environmental Laws.

"Permitted Acquisition" means an Investment consisting of an Acquisition by a Loan Party; provided, that: (x) the Required Lenders have consented thereto in writing or (y) (a) no Default or Event of Default shall have occurred and be continuing or would result from such Acquisition, (b) the property acquired (or the property of the Person acquired) in such Acquisition is used or useful in the same or a reasonably related line of business as the Borrower and its Subsidiaries were engaged in on the Closing Date (or any reasonable extensions or expansions thereof), (c) the Administrative Agent shall have received all items in respect of the Equity Interests or property acquired in such Acquisition required to be delivered by the terms of Section 7.12 and/or Section 7.14, (d) such Acquisition shall not be a "hostile" acquisition and shall have been approved by the Board of Directors and/or the shareholders (or equivalent) of the applicable Loan Party and the target of such Acquisition, (e) the Borrower shall have delivered to the Administrative Agent pro forma financial statements for the Borrower and its Subsidiaries after giving effect to such Acquisition for the twelve month period ending as of the most recent fiscal quarter end in a form satisfactory to the Administrative Agent, (f) the representations and warranties made by the Loan Parties in each Loan Document shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) both (i) at and as if made as of the date of execution of the definitive documentation for such Acquisition (assuming for such purposes that such Acquisition has been consummated) and (ii) at and as if made as of the date of such Acquisition (assuming for such purposes that such Acquisition has been consummated) except to the extent any such representation and warranty expressly relates to an earlier date, in which case it shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date, (g) Borrower shall have demonstrated to the reasonable satisfaction of the Administrative Agent that, after giving effect to such Acquisition on a pro forma basis, the Loan Parties are in compliance with the financial covenants set forth in Section 8.16 and, if the Term C Borrowing Date has occurred and for so long as the Borrower has not exercised the Cure Right in accordance with Section 9.04, Section 8.17, (h) the aggregate consideration (including cash and non-cash consideration, deferred purchase price and any Earn Out Obligations) paid by the Borrower and its Subsidiaries for all such Acquisitions during the term of this Agreement shall not exceed $[***] in the aggregate, and (i) Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Financial Officer of Borrower certifying that the foregoing conditions have been satisfied.

"Permitted Contingent Obligations" means (a) Guarantees resulting from endorsements for collection or deposit in the ordinary course of business; (b) Guarantees incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds and other similar obligations not to exceed [***] in the aggregate at any time outstanding; (c) Guarantees arising under indemnity agreements with title insurers; (d) Guarantees arising with respect to customary indemnification obligations in favor of purchasers in connection with Dispositions of personal property assets permitted hereunder; (e) Guarantees arising under the Loan Documents; (f) [reserved]; (g) Guarantees existing or arising in connection with any security deposit or letter of credit obtained for the sole purpose of securing a lease of real property, or in connection with ancillary bank services such as a corporate credit card facility, provided that the aggregate face amount of all such security deposits, letters of credit and ancillary bank services does not at any time exceed [***]; and (h) the HSBC Letter of Credit secured solely by Liens permitted under Section 8.01(s).

"Permitted Licenses" means, collectively, (a) the licenses set forth in Schedule 1.01, and (b) exclusive and non-exclusive licenses and sublicenses (other than any Non-Permitted License) entered into after the Closing Date for the use of IP Rights of the Borrower or any of its Subsidiaries entered into in the ordinary course of business and not interfering in any material respect with the business of any Loan Party or any of its Subsidiaries; provided, that, solely with respect to clause (b) above, with respect to each such license and sublicense, (i) no Event of Default has occurred or is continuing at the time of such license or sublicense, (ii) after giving effect thereto, the Borrower and its Subsidiaries retain sufficient rights to use or benefit from the subject IP Rights as to enable them to conduct their business in the ordinary course, (iii) such license or sublicense constitutes an arm's-length transaction, the terms of which, on their face, (x) do not provide for a sale or assignment of any IP Rights and (y) do not restrict the ability of the Borrower or any of its Subsidiaries, as applicable, to pledge, grant a Lien on, or assign or otherwise transfer any IP Rights of the Borrower or any Subsidiary (except, in the case of this clause (y) with respect to such license or sublicense, customary non-assignment provisions that restrict the assignability of such license or sublicense but do not otherwise restrict the ability of the Borrower or any Subsidiary (as applicable) to pledge, grant a Lien on or assign or otherwise transfer any other IP Rights), (iv) all upfront payments, royalties, milestone payments, sublicense revenues or other proceeds (other than upfront payments, royalties, milestone payments, sublicense revenues or other proceeds of less than $[***] in the aggregate per Permitted License) arising from the licensing agreement that are payable to a Loan Party are paid to a Deposit Account that is governed by a Deposit Account Control Agreement or solely in the case of a Deposit Account of Loan Party that is a Non-U.S Subsidiary, in which the Administrative Agent otherwise has a first-priority, perfected security interest for the benefit of the Secured Parties, (v) in the case of any exclusive license or sublicense, (A) the Borrower delivers ten (10) days' prior written notice and a brief summary of the terms of the proposed license or sublicense to the Administrative Agent and delivers to the Administrative Agent copies of the final executed licensing documents in connection with such exclusive license or sublicense promptly upon consummation thereof and (B) any such license or sublicense could not result in a legal transfer of title of the licensed or sublicensed property and (vi) such license has been approved by the Borrower's Board of Directors.

"Permitted Liens" means, at any time, Liens in respect of property of any Loan Party or any of its Subsidiaries permitted to exist at such time pursuant to the terms of Section 8.01.

"Person" means any natural person, corporation, limited liability company, trust, unincorporated organization, joint venture, association, company, partnership, Governmental Authority or any other legal entity, whether acting in an individual, fiduciary or other capacity.

"PHSA" means the Public Health Service Act, 42 U.S.C. Section 201 et seq., as amended, and all regulations promulgated thereunder.

"PIK Election" shall have the meaning set forth in Section 2.06(d).

"PIK Interest" shall have the meaning set forth Section 2.06(d).

"PIK Interest Payment" shall have the meaning set forth in Section 2.06(d).

"Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any ERISA Affiliate or any such Plan to which the Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees or otherwise has any liability.

"Pledge Agreement" means the pledge agreement dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by each of the Loan Parties, as amended or modified from time to time in accordance with the terms hereof.

"Product" means any current or future service or product researched, designed, developed, imported, exported, manufactured, licensed, marketed, advertised, sold, offered for sale, performed, distributed, promoted, tested, provided or commercialized by or on behalf of the Borrower or any Subsidiary, including any such product in development or which may be developed in connection with or that embody, in whole or in part, the IP Rights, including those products set forth on Schedule 1.01 (as updated from time to time in accordance with the terms of this Agreement), provided, that, if the Borrower shall fail to comply with its obligations under this Agreement to give notice to the Administrative Agent and update Schedule 1.01 prior to manufacturing, selling, developing, testing or marketing any new Product, any such improperly undisclosed Product shall be deemed to be included in this definition.

"Product Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in the acquisition of a product license or a product line, and/or related IP Rights acquired or licensed by a Loan Party or any of its Subsidiaries from a Person (other than a Loan Party, any Subsidiary thereof or any Affiliate thereof) to facilitate the advertisement, development, importing, manufacturing, marketing, offering for sale, promotion, sale, testing, use or distribution of such product or product line by a Loan Party or a Subsidiary.

"Product Collateral" means the "Product Collateral" as such term is defined in the Royalty Financing Agreement as in effect on the date hereof.

"Product Development and Commercialization Activities" means, with respect to any Material Product, any combination of research, development, manufacture, import, use, sale, importation, storage, labeling, marketing, promotion, supply, distribution, testing, packaging, purchasing or other commercialization activities, receipt of payment in respect of any of the foregoing, or like activities the purpose of which is to develop or commercially exploit such Material Product.

"Proprietary Databases" means any material non-public proprietary database that is owned by the Borrower or any Subsidiary or that the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and that is used by the Borrower or any other Person to manufacture, develop, import, market, promote, advertise, offer for sale, sell, use and/or otherwise distribute or provide a Product or Service.

"Proprietary Software" means any proprietary software owned, licensed or otherwise used, other than any software that is generally commercially available, off-the-shelf and/or open source including, without limitation, the object code and source code forms of such software and all associated documentation, which is owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and that is used by the Borrower or any other Person to manufacture, develop, import, market, promote, advertise, offer for sale, sell, use and/or otherwise distribute or provide a Product or Service.

"Qualified Capital Stock" of any Person means any Equity Interests of such Person that are not Disqualified Capital Stock.

"Real Property Security Documents" means with respect to the fee interest and/or leasehold interest of any Loan Party in any real property:

(a) a fully executed and notarized Mortgage encumbering the fee interest of such Loan Party in such real property;

(b) if requested by the Administrative Agent in its sole discretion, maps or plats of an as-built survey of the sites of such real property certified to the Administrative Agent and the title insurance company issuing the policies referred to in clause (c) of this definition in a manner satisfactory to each of the Administrative Agent and such title insurance company, dated a date satisfactory to each of the Administrative Agent and such title insurance company by an independent professional licensed land surveyor, which maps or plats and the surveys on which they are based shall be sufficient to delete any standard printed survey exception contained in the applicable title policy and be made in accordance with the Minimum Standard Detail Requirements for Land Title Surveys jointly established and adopted by the American Land Title Association and the National Society of Professional Surveyors, Inc. in 2016 with items 2, 3, 4, 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10, 11(a), 13, 14, 16,17, 18 and 19 on Table A thereof completed;

(c) ALTA mortgagee title insurance policies issued by a title insurance company acceptable to the Administrative Agent with respect to such real property, assuring the Administrative Agent that the Mortgage covering such real property creates a valid and enforceable first priority mortgage lien on such real property, free and clear of all defects and encumbrances except Permitted Liens, which title insurance policies shall otherwise be in form and substance satisfactory to the Administrative Agent and shall include such endorsements as are requested by the Administrative Agent;

(d) evidence as to (i) whether such real property is a Flood Hazard Property and (ii) if such real property is a Flood Hazard Property, (A) whether the community in which such real property is located is participating in the National Flood Insurance Program, (B) the applicable Loan Party's written acknowledgment of receipt of written notification from the Administrative Agent (1) as to the fact that such real property is a Flood Hazard Property and (2) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (C) copies of insurance policies or certificates of insurance of the Borrower and its Subsidiaries evidencing flood insurance satisfactory to the Administrative Agent and naming the Administrative Agent and its successors and/or assigns as sole loss payee on behalf of the Secured Parties;

(e) if requested by the Administrative Agent in its sole discretion, an environmental assessment report, as to such real property, in form and substance and from professional firms acceptable to the Administrative Agent;

(f) if requested by the Administrative Agent in its sole discretion, evidence reasonably satisfactory to the Administrative Agent that such real property, and the uses of such real property, are in compliance in all material respects with all applicable zoning laws (the evidence submitted as to which should include the zoning designation made for such real property, the permitted uses of such real property under such zoning designation and, if available, zoning requirements as to parking, lot size, ingress, egress and building setbacks);

(g) in the case of a leasehold interest of any Loan Party in such real property, (i) such Collateral Access Agreements as may be required by the Administrative Agent, and (ii) evidence that the applicable lease, a memorandum of lease with respect thereto, or other evidence of such lease in form and substance satisfactory to the Administrative Agent, has been or will be recorded in all places to the extent necessary or desirable, in the judgment of the Administrative Agent, so as to enable the Mortgage encumbering such leasehold interest to effectively create a valid and enforceable first priority lien (subject to Permitted Liens) on such leasehold interest in favor of the Administrative Agent (or such other Person as may be required or desired under local law); and

(h) if requested by the Administrative Agent in its sole discretion, an opinion of legal counsel to the Loan Party granting the Mortgage on such real property, addressed to the Administrative Agent and each Lender, in form and substance reasonably acceptable to the Administrative Agent.

"Recipient" means the Administrative Agent and any Lender.

"Register" has the meaning provided in Section 12.06(c).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, consultants, advisors, sub-advisors and representatives of such Person and of such Person's Affiliates.

"Repatriation" and "Repatriated" has the meaning provided in Section 2.03(b)(vi).

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the thirty-day notice period has been waived.

"Required Lenders" means, at any time, Lenders having Total Credit Exposures representing more than fifty percent (50%) of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

"Required Permit" means a Permit (a) issued or required under Laws applicable to the business or Facilities of the Borrower or any Subsidiary or necessary to be eligible to receive payment and compensation from and to participate in any material Third Party Payor Arrangements or any Government Reimbursement Program, or in the manufacturing, testing, developing, importing, exporting, possession, ownership, warehousing, marketing, promoting, sale, labeling, furnishing, distribution or delivery of goods or services under Laws applicable to the business or Facilities of the Borrower or any Subsidiary (including without limitation, at any point in time, all licenses, approvals and permits issued by the FDA, CMS or any other Governmental Authority necessary for the testing, development, manufacture, marketing, sale or provision of any Product or Service by the Borrower or any Subsidiary as such activities are being conducted by the Borrower or such Subsidiary with respect to such Product or Service at such time), or (b) issued by any Person from which the Borrower or any Subsidiary has, as of the Closing Date, received an accreditation.

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Financial Officer" means the chief financial officer, treasurer or assistant treasurer of the Borrower. Any document delivered hereunder that is signed by a Responsible Financial Officer of the Borrower shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of the Borrower and such Responsible Financial Officer shall be conclusively presumed to have acted on behalf of the Borrower.

"Responsible Officer" means the chief executive officer, president, chief financial officer, chief operating officer, chief legal officer, general counsel, treasurer, assistant treasurer or any senior vice president of a Loan Party or in the case of a Non-U.S. Subsidiary that is a Loan Party, any of its directors, and, solely for purposes of the delivery of certificates pursuant to Sections 5.01 or 7.12(b), the secretary or any assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means (a) any dividend or other distribution, direct or indirect, on account of any shares (or equivalent) of any class of Equity Interests of any Loan Party or any of its Subsidiaries, now or hereafter outstanding, (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares (or equivalent) of any class of Equity Interests of any Loan Party or any of its Subsidiaries, now or hereafter outstanding, (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Equity Interests of any Loan Party or any of its Subsidiaries, now or hereafter outstanding, (d) any payment made in respect of management, consulting, transaction or similar advisory fees (other than normal and reasonable compensation (including in the form of Equity Interests) and reimbursement of expenses of officers and directors in the ordinary course of business) to or for the account of any officer, director or holder (or any Affiliate of any holder) of at least 5% of the Equity Interests of any Loan Party or any of its Subsidiaries, (e) any payment made to the holders of Convertible Bond Indebtedness and (f) any payment made to any "Buyer" (or other comparable term) pursuant to the Royalty Financing Documents or the Other Royalty Financing Documents.

"Revenue Participation Right" means the "Revenue Participation Right" as such term is defined in the Royalty Financing Agreement as in effect on the date hereof.

"Royalty Financed BCX9930 Net Sales" means, for any fiscal year, consolidated net revenues of the Borrower and its Subsidiaries from sales of BCX9930 in any Key Territory for such period, including distribution income, service payments, royalty payments and license income during such fiscal year, all as determined and reported in accordance with GAAP, but excluding the revenues of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of the income resulting from such revenues is not at the time permitted by operation of the terms of its Organization Documents or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary.

"Royalty Financing" means, subject to the Royalty Financing Restrictions, that certain true sale of the Revenue Participation Right to RPI 2019 Intermediate Finance Trust, a Delaware statutory trust, on the Term A Borrowing Date pursuant to the terms of the Royalty Financing Agreement.

"Royalty Financing Agreement" means the Purchase and Sale Agreement, dated as of December 7, 2020, between the Borrower and RPI 2019 Intermediate Finance Trust, a Delaware statutory trust, as amended, supplemented or otherwise modified from time to time in accordance with the terms of the Loan Documents.

"Royalty Financing Documents" means the Royalty Financing Agreement, the Royalty Financing Side Letter, the Intercreditor Agreement and any other agreement, instrument or document entered into from time to time in connection therewith, in each case, as amended, supplemented or otherwise modified from time to time in accordance with the terms of the Loan Documents.

"Royalty Financing Restrictions" means with respect to the Royalty Financing or any Other Royalty Financing, that (i) neither the Royalty Financing nor any such Other Royalty Financing shall have or provide for any (a) payment or return minimums, (b) redemption or buy-back obligations or any financial or other covenants (except for (x) customary exceptions such as royalty payments, reporting, audits, tax treatment and withholding, diligence, confidentiality, licensing and prosecution, maintenance and defense of IP Rights and (y) in the case of the Royalty Financing Documents, restrictions on Indebtedness pursuant to Section 6.8 of the Royalty Financing Agreement as in effect on the date hereof (but, in any event, shall permit the Indebtedness and other Obligations pursuant to the Loan Documents), (c) Lien on any asset of the Borrower or any of its Subsidiaries (including on the Borrower's or such Subsidiary's IP Rights, regulatory permits, receivables or other agreements), except (i) in the case of the Royalty Financing Documents, but subject to the Intercreditor Agreement, the Back-Up Security Interest in respect of the Revenue Participation Right and the Product Collateral and (ii) in the case of any Other Royalty Financing Documents, but subject to the execution and delivery of an intercreditor agreement in form and substance acceptable to the Administrative Agent, the grant by the Borrower of a backup security interest in the synthetic royalty purchased pursuant to such Other Royalty Financing Documents upon the recharacterization of the applicable Other Royalty Financing as a secured loan, not in any other asset of the Borrower or any Subsidiary, or (d) negative pledge restricting incurrence of any Lien on any asset of the Borrower or any of its Subsidiaries or other burdensome restrictions consisting of restrictions on making Restricted Payments to any Loan Party, paying Indebtedness or other obligations owed to any Loan Party, making loans or advances to any Loan Party, transferring any of its property to any Loan Party, or either pledging its property pursuant to or acting as a Loan Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof, (ii) neither the Royalty Financing nor any such Other Royalty Financing shall be structured in a manner that adversely affects the Borrower's or any Subsidiary's receipt of proceeds of Orladeyo Net Product Sales or BCX9930 Net Product Sales, expect (x) in the case of the Royalty Financing, the sale of the Revenue Participation Right and (y) in the case of any Other Royalty Financing, the sale of the right to receive a portion of the proceeds of BCX9930 Net Product Sales, (iii) in the case of the Royalty Financing, for any fiscal quarter, the terms of the Royalty Financing Documents shall provide for a royalty participation rate not to exceed (a) the Orladeyo Direct Sales Royalty Rate (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) multiplied by aggregate Orladeyo Direct Sales (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) during such fiscal quarter, (b) the Orladeyo Indirect Revenue Sharing Rate (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) multiplied by aggregate Orladeyo Indirect Revenue (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) during such fiscal quarter, (c) eight and three-quarters percent (8.75%) of Product Partnering Revenue (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) attributable to Orladeyo (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) for such fiscal quarter, (d) one percent (1.0%) of BCX9930 Net Sales (as each such term is defined in the Royalty Financing Agreement as in effect on the date hereof) (other than Product Partnering Revenue (as each such term is defined in the Royalty Financing Agreement as in effect on the date hereof) attributable to BCX9930 (as each such term is defined in the Royalty Financing Agreement as in effect on the date hereof)) for such fiscal quarter and (e) one percent (1.0%) of BCX9930 Product Partnering Revenue (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) attributable to BCX9930 (as such term is defined in the Royalty Financing Agreement as in effect on the date hereof) for such fiscal quarter, (iv) in the case of all Other Royalty Financings of BCX9930 within the Key Territories, the royalty participation rate with respect thereto shall not exceed [***] of Royalty Financed BCX9930 Net Sales in the aggregate for all Other Royalty Financings, (v) in the case of all Other Royalty Financings, shall not have covenants and defaults that are more restrictive on the Borrower and its Subsidiaries than the covenants and defaults set forth in the Royalty Financing Documents (but, in any event, the Other Royalty Financing Documents shall not include a restriction on the incurrence or maintenance of Indebtedness) or that conflict with, or prevent Borrower and its Subsidiaries from complying with, the covenants and defaults set forth in the Royalty Financing Documents, (vi) the Borrower shall cause any successor or permitted assignee of the Buyer under the Royalty Financing Documents to become a party to the Intercreditor Agreement in accordance with the terms thereof concurrently with such succession or assignment and (vii) the Borrower shall cause any successor or permitted assignee of the purchaser or buyer under the Other Royalty Financing Documents to become a party to the intercreditor agreement contemplated by clause (c)(ii) above to which such purchaser or buyer is a party in accordance with the terms thereof concurrently with such succession or assignment.

"Royalty Financing Side Letter" means the letter agreement dated as of December 7, 2020 between the Borrower and RPI 2019 Intermediate Finance Trust, a Delaware statutory trust, as amended, supplemented or otherwise modified from time to time in accordance with the terms of the Loan Documents.

"Royalty Payment" means the "Royalty Payment" as such term is defined in the Royalty Financing Agreement as in effect on the date hereof.

"S&P" means Standard & Poor's Financial Services LLC, a subsidiary of McGraw-Hill Financial, Inc., and any successor thereto.

"Safety Notices" has the meaning set forth in Section 6.23(i).

"Sale and Leaseback Transaction" means, with respect to any Loan Party or any Subsidiary, any arrangement, directly or indirectly, with any Person whereby the Loan Party or such Subsidiary shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

"Sanction(s)" means any sanction administered or enforced by the United States government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury ("HMT") or other relevant sanctions authority.

"Scheduled Unavailability Date" has the meaning specified in Section 10.03(c).

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Parties" means, collectively, the Administrative Agent, the Lenders, the Indemnitees, each co-agent or subagent appointed by the Administrative Agent from time to time pursuant to Section 11.05 and each of the foregoing Persons successors and assigns.

"Securities Act" means the Securities Act of 1933.

"Securitization Transaction" means, with respect to any Person, any financing transaction or series of financing transactions (including factoring arrangements) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment to a special purpose subsidiary or affiliate of such Person.

"Security Agreement" means the security agreement dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by each of the Loan Parties, as amended or modified from time to time in accordance with the terms thereof.

"Services" means services provided by the Borrower or any Affiliate thereof to un-Affiliated Persons, including without limitation any sales, laboratory analysis, testing, consulting, marketing, commercialization and any other healthcare-related services.

"Small Business Act" means the Small Business Act (15 U.S. Code Chapter 14A – Aid to Small Business).

"Small Business Administration" means the U.S. Small Business Administration.

"Solvent" or "Solvency" means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature in their ordinary course, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (d) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (e) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, 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.

"Specified Products" means (a) means the molecule described in investigational new drug applications (IND) [***], [***], [***] and [***] filed with the FDA and referenced by the Borrower as "BCX4430 (galidesivir)" and (b) means the Product described in the NDA No. 206426 filed with the FDA and referenced by the Borrower as RAPIVAB™(peramivir injection), in each case, as in existence as of the Closing Date; provided that, for the avoidance of doubt, no Specified Product shall include any Key Product.

"Stockpile Sales" means (a) "Non-Commercial Sales" as defined in the Purchase and Sale Agreement dated as of March 9, 2011 between the Borrower and JPR Royalty Sub, LLC as in effect on the date hereof and entered into in connection with the JPR Indenture, but excluding, for the avoidance of doubt, any sales, transfers, leases, licenses or other dispositions of any Key Product and (b) any sales (but excluding, for the avoidance of doubt, any license, lease or other disposition) of a Product for a profit in the ordinary course of business to Governmental Authorities to supply stockpiles for use in a public health emergency.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of Voting Stock is at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower. Notwithstanding the foregoing, until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, unless expressly provided herein, Subsidiaries of the Borrower shall not include JPR Royalty Sub.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"Synthetic Lease" means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing arrangement whereby the arrangement is considered borrowed money indebtedness for tax purposes but is classified as an operating lease or does not otherwise appear on a balance sheet under GAAP.

"Taxes" has the meaning set forth in Section 3.01(a).

"Term A Availability Period" means the period commencing on and including the Closing Date and ending on the earliest of (a) June 1, 2021, (b) the date of termination of the Term A Commitments pursuant to Section 2.04 and (c) the date of termination of the Term A Commitments pursuant to Section 9.02.

"Term A Borrowing" means a borrowing consisting of simultaneous Term A Loans made by each of the Term A Lenders pursuant to Section 2.01(a).

"Term A Borrowing Date" means the date that the Term A Borrowing shall be made pursuant to Section 2.01(a).

"Term A Commitment" means, as to each Term A Lender, its obligation to make a Term A Loan to the Borrower pursuant to Section 2.01(a), in the principal amount set forth opposite such Lender's name on Schedule 2.01. The aggregate principal amount of the Term A Commitments of all of the Term A Lenders as in effect on the Closing Date is ONE HUNDRED TWENTY-FIVE MILLION DOLLARS ($125,000,000).

"Term A Draw Conditions" means the condition that the Borrower shall have delivered (on or before the date that the Term A Borrowing is requested in accordance with Section 2.02(a)) to the Administrative Agent (i) a certificate of a Responsible Financial Officer of the Borrower (in form and substance reasonably satisfactory to the Administrative Agent) certifying, and such other evidence as the Administrative Agent may request demonstrating, that the FDA has approved Borrower's NDA for the testing, manufacturing, marketing and commercial sale in the United States of Orladeyo for prophylaxis to prevent attacks of hereditary angioedema (HAE) in adults and adolescent patients 12 years and older with either (a) a final product label consistent with the draft Orladeyo label in the form attached hereto as Exhibit F or (b) such other a final product label approved by the Required Lenders in writing, in their sole discretion and (ii) evidence satisfactory to the Administrative Agent that the Loan Parties are in compliance with the requirements set forth in Section 8.16(i) immediately prior to the Term A Borrowing.

"Term A Facility" means, at any time, (a) on or prior to the Term A Borrowing Date, the aggregate amount of the Term A Commitments at such time and (b) thereafter, the aggregate principal amount of the Term A Loans of all Term A Lenders outstanding at such time.

"Term A Lender" means (a) at any time on or prior to the Term A Borrowing Date, any Lender that has a Term A Commitment at such time and (b) at any time thereafter, any Lender that holds one or more Term A Loans at such time.

"Term A Loan" means an advance made by any Term A Lender under the Term A Facility.

"Term A Note" has the meaning set forth in Section 2.08.

"Term B Availability Period" means the period commencing on and including the Term A Borrowing Date and ending on the earliest of (a) [***], (b) the date of termination of the Term B Commitments pursuant to Section 2.04 and (c) the date of termination of the Term B Commitments pursuant to Section 9.02.

"Term B Borrowing" means a borrowing consisting of simultaneous Term B Loans made by each of the Term B Lenders pursuant to Section 2.01(b).

"Term B Borrowing Date" means the date that the Term B Borrowing shall be made pursuant to Section 2.01(b).

"Term B Commitment" means, as to each Lender, its obligation to make a Term B Loan to the Borrower pursuant to Section 2.01(b), in the principal amount set forth opposite such Lender's name on Schedule 2.01. The aggregate principal amount of the Term B Commitments of all of the Lenders as in effect on the Closing Date is TWENTY-FIVE MILLION DOLLARS ($25,000,000).

"Term B Draw Conditions" means the conditions that (i) the Borrower shall have delivered (on or before the date that the Term B Borrowing is requested in accordance with Section 2.02(a)) to the Administrative Agent (a) a certificate of a Responsible Financial Officer of the Borrower (in form and substance reasonably satisfactory to the Administrative Agent) certifying, and such other evidence as the Administrative Agent may request demonstrating, that Orladeyo Consolidated U.S. Net Product Sales for any [***] period ending on or before [***] were at least $[***] and (b) evidence satisfactory to the Administrative Agent that the Loan Parties are in compliance with the requirements set forth in Section 8.16(ii) immediately prior to the Term B Borrowing, and (ii) if the date on which the Term B Borrowing is requested in accordance with Section 2.02(a) is on or prior to the Term A Borrowing Date, the Term A Borrowing shall have occurred prior to (or contemporaneously with) the Term B Borrowing.

"Term B Facility" means, at any time, (a) on or prior to the Term B Borrowing Date, the aggregate amount of the Term B Commitments at such time and (b) thereafter, the aggregate principal amount of the Term B Loans of all Term B Lenders outstanding at such time.

"Term B Lender" means (a) at any time on or prior to the Term B Borrowing Date, any Lender that has a Term B Commitment at such time and (b) at any time thereafter, any Lender that holds one or more Term B Loans at such time.

"Term B Loan" means an advance made by any Term B Lender under the Term B Facility.

"Term B Note" has the meaning set forth in Section 2.08.

"Term C Availability Period" means the period commencing on and including the Term B Borrowing Date and ending on the earliest of (a) [***], (b) the date of termination of the Term C Commitments pursuant to Section 2.04, (c) the date of termination of the Term C Commitments pursuant to Section 9.02 and (d) the repayment in full of the Term A Loans and/or the Term B Loans.

"Term C Borrowing" means a borrowing consisting of simultaneous Term C Loans made by each of the Term C Lenders pursuant to Section 2.01(c).

"Term C Borrowing Date" means the date that the Term C Borrowing shall be made pursuant to Section 2.01(c).

"Term C Commitment" means, as to each Lender, its obligation to make a Term C Loan to the Borrower pursuant to Section 2.01(c), in the principal amount set forth opposite such Lender's name on Schedule 2.01. The aggregate principal amount of the Term C Commitments of all of the Lenders as in effect on the Closing Date is FIFTY MILLION DOLLARS ($50,000,000).

"Term C Draw Conditions" means the conditions that (i) the Borrower shall have delivered (on or before the date that the Term C Borrowing is requested in accordance with Section 2.02(a)) to the Administrative Agent (a) a certificate of a Responsible Financial Officer of the Borrower (in form and substance reasonably satisfactory to the Administrative Agent) certifying, and such other evidence as the Administrative Agent may request demonstrating, that Orladeyo Consolidated U.S. Net Product Sales for any [***] period ending on or before [***] were at least $[***] and (b) evidence satisfactory to the Administrative Agent that the Loan Parties are in compliance with the requirements set forth in Section 8.16(iii) immediately prior to the Term C Borrowing, and (ii) if the date on which the Term C Borrowing is requested in accordance with Section 2.02(a) is on or prior to the Term A Borrowing Date and/or the Term B Borrowing Date, the Term A Borrowing and the Term B Borrowing shall have occurred prior to (or contemporaneously with) the Term C Borrowing.

"Term C Facility" means, at any time, (a) on or prior to the Term C Borrowing Date, the aggregate amount of the Term C Commitments at such time and (b) thereafter, the aggregate principal amount of the Term C Loans of all Term C Lenders outstanding at such time.

"Term C Lender" means (a) at any time on or prior to the Term C Borrowing Date, any Lender that has a Term C Commitment at such time and (b) at any time thereafter, any Lender that holds one or more Term C Loans at such time.

"Term C Loan" means an advance made by any Term C Lender under the Term C Facility.

"Term C Note" has the meaning set forth in Section 2.08.

"Test Date" has the meaning set forth in Section 8.17.

"Third Party" means any Person other than the Borrower, any Subsidiary thereof or any Affiliate thereof.

"Third Party Payor" means (i) a commercial medical insurance company, health maintenance organization, professional provider organization or other third party payor that reimburses providers for diagnostic laboratory services provided to individual patients, (ii) a nonprofit medical insurance company (such as the Blue Cross, Blue Shield entities), and (iii) a Government Account Debtor making payments under a Government Reimbursement Program.

"Third Party Payor Arrangement" shall mean a written agreement or arrangement with a Third Party Payor pursuant to which the Third Party Payor pays all or a portion of the charges of any Loan Party or its Subsidiaries for providing diagnostic laboratory services.

"Three-Month LIBOR" means, with respect to any Interest Period, a rate per annum equal to the lesser of (i) the greater of (x) 1.75% per annum and (y) the three-month London Interbank Offered Rate (or a comparable or successor rate which rate is approved by the Administrative Agent) for deposits in Dollars at approximately 11:00 a.m. (London, England time), as determined by the Administrative Agent from the appropriate Bloomberg screen page selected by the Administrative Agent (or any successor thereto or similar source reasonably determined by the Administrative Agent from time to time), two (2) Business Days prior to the first day of such Interest Period, adjusted for any reserve requirement and any subsequent costs arising from a change in governmental regulation, if applicable, such rate to be rounded up to the nearest 1/16 of 1% and (ii) 3.50% per annum. The Administrative Agent's determination of Three-Month LIBOR and internal records of applicable interest rates shall be determinative in the absence of manifest error. For all purposes hereunder, in no event shall Three-Month LIBOR be less than 1.75% or greater than 3.50%.

"Three-Month Treasury Rate" means, as of any date of determination, the weekly average yield as of such date of determination of actually traded United States Treasury securities adjusted to a constant maturity of three (3) months (as compiled and published in the most recent Federal Reserve Statistical Release H.15(519) that has become publicly available at least two (2) Business Days prior to such date of determination (or, if such Federal Reserve Statistical Release H.15(519) is no longer published, any publicly available source of similar market data)). For the avoidance of doubt, this calculation is based on yields on actively traded non-inflation-indexed issues adjusted to constant maturities.

"Threshold Amount" means an amount equal to [***]% of the aggregate outstanding principal amount of the Loans on any date after giving effect to any borrowings made on or before such date but without giving effect to any prepayments or repayments of Loans occurring on or before such date.

"Total Credit Exposure" means, as to any Lender at any time, the unused Commitments of such Lender and the Outstanding Amount of all Loans of such Lender at such time.

"Trademark License" means any agreement, written or oral, providing for the grant of any right to use any Trademark.

"Trademarks" means all statutory and common-law trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and the goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications to register in connection therewith, under the laws of the United States, any state thereof, the Netherlands, any political subdivision thereof or any other country or any political subdivision thereof, or otherwise, for the full term and all renewals thereof, which are owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to, and which are used by the Borrower or any other Person to manufacture, develop, import, market, promote, advertise, offer for sale, sell, use, provide and/or otherwise distribute a Product or Service.

"Trade Secrets" means any data or information that is not commonly known by or available to the public, and which (a) derives economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other Persons who can obtain economic value from its disclosure or use, (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, and (c) which are owned by the Borrower or any Subsidiary or which the Borrower or any Subsidiary is licensed, authorized or otherwise granted rights under or to.

"Transaction" means, individually or collectively as the context may indicate, (a) the payoff of all Existing Indebtedness on the Term A Borrowing Date, (b) the entering by the Borrower and the other Loan Parties of the Loan Documents to which they are a party and incurrence of the Term A Borrowing and (c) the payment of fees, costs and expenses in connection with the foregoing.

"Treasury Regulations" means the regulations, including temporary regulations, promulgated by the United States Treasury Department under the Internal Revenue Code, as such regulations may be amended from time to time (including the corresponding provisions of any future regulations).

"TRICARE" means the program administered pursuant to 10 U.S.C. Section 1071 (et. seq), Sections 1320a-7 and 1320a-7a of Title 42 of the United States Code and the regulations promulgated pursuant to such statutes.

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as in effect in the State of New York; provided, that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof or of the other Loan Documents relating to such perfection, effect of perfection or non-perfection or priority.

"United States" and "U.S." mean the United States of America.

"Unrestricted Cash" means cash or Cash Equivalents of the Loan Parties (without duplication), that (a) do not appear (or would not be required to appear) as "restricted" on a consolidated balance sheet of the Borrower as determined in accordance with GAAP, and (b) are not subject to any Lien in favor of any Person (other than rights of setoff permitted under Section 8.01(l), Liens permitted by Section 8.01(c) and Liens in favor of the Administrative Agent).

"U.S. Person" means a "United States Person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code.

"U.S. Special Resolution Regimes" has the meaning specified in Section 12.21.

"U.S. Subsidiary" means any Subsidiary that is organized under the laws of any state of the United States or the District of Columbia.

"Voting Stock" means, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

"Websites" means all websites that the Borrower or any Subsidiary shall operate, manage or control through a Domain Name, whether on an exclusive basis or a nonexclusive basis, including, without limitations, all content, elements, data, information, materials, hypertext markup language (HTML), software and code, works of authorship, textual works, visual works, aural works, audiovisual works and functionality embodied in, published or available through each such website and all IP Rights in each of the foregoing.

"Website Agreements" means all agreements between the Borrower and/or any Subsidiary and any other Person pursuant to which such Person provides any services relating to the hosting, design, operation, management or maintenance of any Website, including without limitation, all agreements with any Person providing website hosting, database management or maintenance or disaster recovery services to the Borrower and/or any Subsidiary and all agreements with any domain name registrar, as all such agreements may be amended, supplemented or otherwise modified from time to time.

"Wholly Owned Subsidiary" means any Person 100% of whose Equity Interests are at the time owned by the Borrower directly or indirectly through other Persons 100% of whose Equity Interests are at the time owned, directly or indirectly, by the Borrower.

"Withholding Agent" means any Loan Party, the Administrative Agent and any other Person required by applicable Law to withhold or deduct amounts from a payment made by or on account of any obligation of any Loan Party under any Loan Document.

"Work" means any work or subject matter that is subject to protection pursuant to Title 17 of the United States Code.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including the Loan Documents and any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto", "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all real and personal property and tangible and intangible assets and properties, including cash, securities, accounts, contract rights and IP Rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein to a merger, transfer, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

1.03 Accounting Terms.

(a) Generally. Except as otherwise specifically prescribed herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein; provided, however, that, calculations of Attributable Indebtedness under any Synthetic Lease or the implied interest component of any Synthetic Lease shall be made by the Borrower in accordance with accepted financial practice and consistent with the terms of such Synthetic Lease. Notwithstanding the foregoing, for purposes of determining compliance with any covenant contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20, on financial liabilities shall be disregarded.

(b) Changes in GAAP. Borrower will provide a written summary of material changes in GAAP and in the consistent application thereof with each annual and quarterly financial statement delivered in accordance with Section 7.01. If at any time any change in GAAP would affect the computation of any financial requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided, that, until so amended, (i) such requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative and the Lenders financial statements and other documents required under this Agreement or as requested hereunder setting forth a reconciliation between calculations of such requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained in this Agreement, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any change to GAAP occurring before or after the Closing Date as a result of ASU 2016-02, Leases (Topic 842) issued by the Financial Accounting Standards Board or any other proposals issued by the Financial Accounting Standards Board in connection therewith, in each case if such change would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) was not required to be so treated under GAAP as in effect prior to such change.

(c) Calculations. For purposes of all calculations hereunder, the principal amount of Convertible Bond Indebtedness shall be the outstanding principal (or notional) amount thereof, valued at par.

(d) Consolidation of Variable Interest Rate Entities. All references herein to consolidated financial statements of the Borrower and its Subsidiaries or to the determination of any amount for the Borrower and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the Borrower is required to consolidate pursuant to FASB ASC 810 as if such variable interest entity was a Subsidiary as defined herein.

1.04 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to United States Eastern time (daylight or standard, as applicable).

1.05 LIBOR Determinations.

The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Three-Month LIBOR" or with respect to any comparable or successor rate thereto.

ARTICLE II

THE COMMITMENTS

2.01 Commitments.

(a) Term A Borrowing. Subject to the terms and conditions set forth herein, each Term A Lender severally agrees to make a single term loan to the Borrower, in Dollars, on any Business Day during the Term A Availability Period, in an aggregate amount not to exceed such Term A Lender's Term A Commitment; provided, that, on or prior to such Business Day, the Term A Draw Conditions shall have been satisfied; provided, further, that, for the avoidance of doubt, it is understood and agreed that there shall be no more than one (1) Term A Borrowing during the term of this Agreement. The Term A Borrowing shall consist of Term A Loans made simultaneously by the Term A Lenders in accordance with their respective Term A Commitments. Term A Borrowings repaid or prepaid may not be reborrowed.

(b) Term B Borrowing. Subject to the terms and conditions set forth herein, each Term B Lender severally agrees to make a single term loan to the Borrower, in Dollars, on any Business Day during the Term B Availability Period, in an aggregate amount not to exceed such Term B Lender's Term B Commitment; provided, that, on or prior to such Business Day, the Term B Draw Conditions shall have been satisfied; provided, further, that, for the avoidance of doubt, it is understood and agreed that there shall be no more than one (1) Term B Borrowing during the term of this Agreement. The Term B Borrowing shall consist of Term B Loans made simultaneously by the Term B Lenders in accordance with their respective Term B Commitments. Term B Borrowings repaid or prepaid may not be reborrowed.

(c) Term C Borrowing. Subject to the terms and conditions set forth herein, each Term C Lender severally agrees to make a single term loan to the Borrower, in Dollars, on any Business Day during the Term C Availability Period, in an aggregate amount not to exceed such Term C Lender's Term C Commitment; provided, that, on or prior to such Business Day, the Term C Draw Conditions shall have been satisfied; provided, further, that, for the avoidance of doubt, it is understood and agreed that there shall be no more than one (1) Term C Borrowing during the term of this Agreement. The Term C Borrowing shall consist of Term C Loans made simultaneously by the Term C Lenders in accordance with their respective Term C Commitments. Term C Borrowings repaid or prepaid may not be reborrowed.

2.02 Borrowings.

(a) Each Borrowing shall be made upon the Borrower's irrevocable notice (in the form of a written Loan Notice, appropriately completed and signed by a Responsible Financial Officer of the Borrower) to the Administrative Agent, which must be given not later than 9:00 a.m. on the date at least twenty (20) Business Days (or such shorter period as the Administrative Agent may agree in its sole discretion) in advance of the requested date of the Term A Borrowing, the Term B Borrowing or the Term C Borrowing, as the case may be. Each Loan Notice shall specify (i) the requested date of the Borrowing (which shall be a Business Day) and (ii) the principal amount of Loans to be borrowed. For the avoidance of doubt, the Term A Borrowing shall be in a principal amount of $125,000,000, the Term B Borrowing shall be in a principal amount of $25,000,000 and the Term C Borrowing shall be in a principal amount of $50,000,000.

(b) Following receipt of a Loan Notice for a Facility, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage under such Facility of the applicable Loans. Each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 5.02 (and, if such Borrowing is the initial Borrowing, Section 5.01) and subject to the Term A Draw Conditions, the Term B Draw Conditions and the Term C Draw Conditions, as applicable, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent by wire transfer of such funds in accordance with instructions provided to (and acceptable to) the Administrative Agent by the Borrower.

2.03 Prepayments.

(a) Voluntary Prepayments. Subject to the payment of any prepayment or repayment premium as required under Section 2.03(d), the exit fee required under Section 2.07(b) and any other fees or amounts payable hereunder at such time, the Borrower may, upon written notice from the Borrower to the Administrative Agent, voluntarily prepay the Loans, in whole or in part; provided, that, (i) such notice must be received not later than 11:00 a.m. five (5) Business Days prior to the date of prepayment and (ii) any such prepayment shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment pursuant to this Section 2.03(a) shall be accompanied by (x) all accrued interest on the principal amount of the Loans prepaid, (y) the prepayment or repayment premium required under Section 2.03(d) and the exit fee required under Section 2.07(b) and (z) all fees, costs, expenses, indemnities and other amounts due and payable hereunder at the time of prepayment. Each such prepayment shall be applied first, to outstanding Term C Loans (if any), second, to outstanding Term B Loans (if any) and third, to outstanding Term A Loans. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(b) Mandatory Prepayments of Loans.

(i) Dispositions; Involuntary Dispositions; Etc.

(A) The Borrower shall promptly (and, in any event, within three (3) Business Days, unless the Borrower delivers written notice to the Administrative Agent of its intent to exercise the reinvestment rights pursuant to this clause (i)(A) within such three (3) Business Day period) prepay the Loans in an aggregate amount equal to 100% of the Net Cash Proceeds (other than any Net Cash Proceeds – Licensing, any Net Cash Proceeds – Non-Permitted Royalty Financing and any Net Cash Proceeds received by any Loan Party or any Subsidiary from the Royalty Financing or any Other Royalty Financing) of all Dispositions (other than any Disposition pursuant to Section 8.05(c) hereof) and Involuntary Dispositions, to the extent such Net Cash Proceeds are not (1) in the case of either Dispositions or Involuntary Dispositions, reinvested in Eligible Assets or (2) solely in the case of Involuntary Dispositions, used for the repair or restoration of the property which was the subject of the Involuntary Disposition, in each case within 270 days of the date of such Disposition or Involuntary Disposition.

(B) The Borrower shall promptly (1) (and, in any event, within one (1) Business Day) prepay the Loans in an aggregate amount equal to 100% of any Net Cash Proceeds – Licensing received by any Loan Party or any Subsidiary pursuant to a Non-Permitted License (it being understood and agreed that the payment pursuant to this clause (B)(1) shall be in addition to any other right and remedy that the Administrative Agent or any other Secured Party has as a result of an Event of Default arising from the entering into such Non-Permitted License) and (2) (and, in any event, within three (3) Business Days) prepay the Loans, in an amount equal, on a dollar-for-dollar basis, to any Net Cash Proceeds - Licensing received by any Loan Party or Subsidiary pursuant to a Permitted License which are paid to the Buyer in connection with the Royalty Financing or any buyer or purchaser under the Other Royalty Financing Documents in connection with an Other Royalty Financing, as applicable, solely to the extent such payment exceeds the amount then required to be paid pursuant to the express terms of the Royalty Financing Documents or the Other Royalty Financing Documents, as applicable.

(C) The Borrower shall promptly (and, in any event, within one (1) Business Day) prepay the Loans in an aggregate amount equal to 100% of any Net Cash Proceeds – Non-Permitted Royalty Financing received by any Loan Party or any Subsidiary (it being understood and agreed that the payment pursuant to this clause (C) shall be in addition to any other right and remedy that the Administrative Agent or any other Secured Party has as a result of an Event of Default arising from the entering into such Non-Permitted Royalty Financing).

Any prepayment pursuant to this clause (i) shall be applied as set forth in clause (iv) below.

(ii) Extraordinary Receipts. The Borrower shall promptly (and, in any event, within three (3) Business Days, unless the Borrower delivers written notice to the Administrative Agent of its intent to exercise the reinvestment rights pursuant to this clause (ii) within such three (3) Business Day period) upon the receipt by any Loan Party or any Subsidiary of the Net Cash Proceeds of any Extraordinary Receipts, prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds to the extent such Net Cash Proceeds are not reinvested in Eligible Assets within 270 days of the date of receipt of the Net Cash Proceeds of such Extraordinary Receipts. Any prepayment pursuant to this clause (ii) shall be applied as set forth in clause (iv) below.

(iii) Debt Issuance. The Borrower shall promptly (and, in any event, within one (1) Business Day) upon the receipt by any Loan Party or any Subsidiary of the Net Cash Proceeds of any Debt Issuance, prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds (it being understood and agreed that the payment pursuant to this clause (iii) shall be in addition to any other right and remedy that the Administrative Agent or any other Secured Party has as a result of an Event of Default arising from such Debt Issuance). Any prepayment pursuant to this clause (iii) shall be applied as set forth in clause (iv) below.

(iv) Application of Mandatory Prepayments. The Borrower shall provide the Administrative Agent with written notice of any payment to be made under this Section 2.03(b) at least five (5) Business Days prior to the date such payment is required to be under this Section 2.03(b). All payments under this Section 2.03(b) shall be applied (i) first to all fees, costs, expenses, indemnities and other amounts due and payable hereunder (other than as contemplated by the immediately following clause (ii)), and (ii) then proportionately (based on the relation of such amounts to the total amount of the relevant payment under this Section 2.03(b)) to the payment or prepayment (as applicable) of the following amounts of the Obligations: default interest, if any, prepayment or repayment premium required by Section 2.03(d), the exit fee required under Section 2.07(b) and accrued and unpaid interest and principal. Each such prepayment pursuant to the immediately foregoing clause (ii) shall be applied first, to outstanding Term C Loans (if any), second, to outstanding Term B Loans (if any) and third, to outstanding Term A Loans. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(v) Declined Proceeds. Each Lender may reject all or a portion of its share of any mandatory prepayment of Loans required to be made pursuant to this Section 2.03(b) (such declined amounts, the "Declined Proceeds") by providing written notice (each, a "Rejection Notice") to the Administrative Agent no later than 3:00 p.m. two (2) Business Days prior to the date of such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory repayment of Loans to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Loans. Any Declined Proceeds shall be offered to the Lenders not so declining such prepayment on a pro rata basis in accordance with the amounts of the Loans of such Lender (with such non-declining Lenders having the right to decline any prepayment with Declined Proceeds by providing written notice to the Administrative Agent no later than 3:00 p.m. one (1) Business Day prior to the date of such prepayment). If a non-declining Lender fails to deliver notice to the Administrative Agent within the time frame specified, any such non-declining Lender shall be deemed to have declined the additional proceeds. To the extent such non-declining Lenders elect to decline their share of such Declined Proceeds, any Declined Proceeds remaining thereafter shall be retained by the Borrower.

(vi) Repatriation. Notwithstanding the foregoing terms of this Section 2.03(b), to the extent any or all of the Net Cash Proceeds of any Disposition by, or receipt of the Net Cash Proceeds of any Involuntary Disposition or Extraordinary Receipts by, a Subsidiary that is a Non-U.S. Subsidiary otherwise giving rise to a prepayment pursuant to this Section 2.03(b), is prohibited by any applicable local requirements of Law from being repatriated to the Borrower or any Subsidiary that is a U.S. Subsidiary including through the repayment of intercompany Indebtedness (each, a "Repatriation"; with "Repatriated" having a correlative meaning), provided that the Borrower and its Subsidiaries shall take all commercially reasonable actions available under local Law to permit such Repatriation, or if the Repatriation of any such amount would reasonably be expected to result in material adverse tax consequences with respect to the Borrower and its Subsidiaries, taken as a whole, an amount equal to the portion of such Net Cash Proceeds so affected (such amount, the "Excluded Prepayment Amount"), will not be required to be applied to prepay Loans at the times provided in this Section 2.03(b); *provided*, that if and to the extent any such Repatriation ceases to be prohibited, restricted or delayed by applicable local requirements of Law or such Repatriation ceases, to result in material adverse tax consequences with respect to the Borrower and its Subsidiaries, taken as a whole (taking into account any foreign tax credit or benefit actually received in connection with such Repatriation), at any time following the date on which the applicable mandatory prepayment pursuant to this Section 2.03(b) was otherwise required to be made, the Borrower shall promptly pay an amount equal to such portion of the Excluded Prepayment Amount to the Lenders, which payment shall be applied in accordance with Section 2.03(b)(iv). Notwithstanding anything to the contrary contained herein or in any other Loan Document, for the avoidance of doubt, nothing in this Section 2.03(b) shall require the Borrower to cause any amounts to be repatriated to the United States.

(c) Change of Control. Upon the occurrence of a Change of Control, the Borrower shall, unless otherwise directed by the Required Lenders, prepay the Outstanding Amount of the Loans together with all accrued and unpaid interest thereon plus the prepayment or repayment premium, if any, required by Section 2.03(d) and the exit fee required under Section 2.07(b) plus all other Obligations (it being understood and agreed that the payment pursuant to this clause (c) shall be in addition to any other right and remedy that the Administrative Agent or any other Secured Party has as a result of an Event of Default arising from the occurrence of such Change of Control).

(d) Prepayment and Repayment Premiums. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if all or any portion of the Loans are repaid, prepaid, or required to be repaid or prepaid (including by acceleration), pursuant to this Section 2.03, Article IX or otherwise, then, in all cases, the Borrower shall pay to the Lenders, for their respective ratable accounts, on the date on which such repayment or prepayment is paid or required to be paid, in addition to the other Obligations so repaid, prepaid or required to be repaid or prepaid, a prepayment or repayment premium equal to: (i) with respect to any prepayment or repayment paid or required to be paid on or prior to the second anniversary of the date of the Borrowing of such Loan, an amount equal to the Make-Whole Amount with respect to such prepayment or repayment, (ii) with respect to any prepayment or repayment paid or required to be paid after the second anniversary of the date of the Borrowing of such Loan, but on or prior to the third anniversary of the date of the Borrowing of such Loan, two percent (2.00%) of the principal amount of such Loan that is prepaid or required to be prepaid, (iii) with respect to any prepayment or repayment paid or required to be paid after the third anniversary of the date of the Borrowing of such Loan, but on or prior to the fourth anniversary of the date of the Borrowing of such Loan, one percent (1.00%) of the principal amount of such Loan that is prepaid or required to be prepaid and (iv) with respect to any prepayment or repayment paid or required to be paid after the fourth anniversary of the date of the Borrowing of such Loan, zero percent (0.00%) of the principal amount of such Loan that is prepaid or required to be prepaid.

2.04 Termination of Commitments.

(a) Voluntary. The Borrower may, upon written notice to the Administrative Agent during (i) the Term B Availability Period, terminate in full the Term B Commitments or (ii) the Term C Availability Period, terminate in full the Term C Commitments; provided, that: any such notice shall be received by the Administrative Agent not later than 9:00 a.m. five (5) Business Days prior to the date of termination. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable. Upon any termination of the Term B Commitments or the Term C Commitments, the Commitments of each Appropriate Lender shall be reduced by such Lender's Applicable Percentage of such reduction amount. The Borrower may not terminate the Term A Commitments.

(b) Mandatory. The Term A Commitments will be automatically and permanently reduced to zero upon the Term A Borrowing pursuant to Section 2.01. The Term B Commitments will be automatically and permanently reduced to zero upon the Term B Borrowing pursuant to Section 2.01. The Term C Commitments will be automatically and permanently reduced to zero upon the Term C Borrowing pursuant to Section 2.01. The Term A Commitments shall be automatically and permanently reduced to zero on the date that the Term A Availability Period shall end. The Term B Commitments shall be automatically and permanently reduced to zero on the date that the Term B Availability Period shall end. The Term C Commitments shall be automatically and permanently reduced to zero on the date that the Term C Availability Period shall end.

2.05 Repayment of Loans.

The Borrower shall repay the outstanding principal amount of the Loans, together with all accrued and unpaid interest thereon, the prepayment and repayment premiums required by Section 2.03(d) (provided, for clarity, that such premiums under Section 2.03(d) shall not be due and payable as a result of a repayment made pursuant to this Section 2.05 due to the occurrence of the date set forth in clause (a) of the definition of "Maturity Date"), the exit fee required under Section 2.07(b) and all other outstanding Obligations, on the Maturity Date. Loans repaid or prepaid may not be reborrowed.

2.06 Interest; Other Amounts.

(a) Pre-Default Rate. Subject to the provisions of subsection (b) below, during any Interest Period each Loan shall bear interest during such Interest Period on the outstanding principal amount thereof either, (i) if such Interest Period (A) ends on or before the last day of the eighth (8th) full fiscal quarter ending after the Term A Borrowing Date and a Cash Pay Election is made pursuant to Section 2.06(d) for such Interest Period or (B) begins after the last day of the eighth (8th) full fiscal quarter ending after the Term A Borrowing Date, at a rate equal to the sum of (x) Three-Month LIBOR for such Interest Period plus (y) 8.25% per annum, or (ii) if such Interest Period ends on or before the last day of the eighth (8th) full fiscal quarter ending after the Term A Borrowing Date and a PIK Election is made pursuant to Section 2.06(d) for such Interest Period, at a rate equal to the sum of (x) Three-Month LIBOR for such Interest Period plus (y) 10.25%, per annum.

(b) Default Rate. Notwithstanding anything the contrary set forth in Section 2.06(a), (i) upon the occurrence of and during the continuance of any Event of Default during any Interest Period all outstanding Obligations shall bear interest during the continuance of such Event of Default at an interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws and (ii) accrued and unpaid interest (including interest on past due interest) shall be due and payable in cash on demand. The interest rate shall be recalculated and, if necessary, adjusted for each Interest Period, in each case pursuant to the terms hereof.

(c) Interest Generally. Subject to Section 2.06(b), interest on each Loan shall be due and payable in cash in arrears on each Interest Payment Date unless a PIK Election is made pursuant to Section 2.06(d) and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

(d) PIK Interest Election. For each Interest Period ending on or before the last day of the eighth (8th) full fiscal quarter ending after the Term A Borrowing Date, the Borrower hereby elects (such election, a "PIK Election") that, so long as (x) no Default or Event of Default has occurred and is continuing and (y) the Borrower has not, at least five (5) Business Days prior to the beginning of such Interest Period, provided the Administrative Agent a written election indicating that it will decline the PIK Election for such Interest Period and interest on any Loan accrued during such Interest Period shall be due and payable in cash in arrears on the applicable Interest Payment Date (a "Cash Pay Election"), interest on any Loan accrued during such Interest Period may be paid in kind ("PIK Interest") by capitalizing the entire amount of such PIK Interest with the unpaid principal amount of such Loan outstanding on the last day of such Interest Period (each, a "PIK Interest Payment"). Following each such increase in the principal amount of such Loan as a result of any PIK Interest Payment, such Loans will bear interest on such increased principal amount from and after the date of each such PIK Interest Payment and each reference to such Loan shall include such PIK Interest for all purposes of the Loan Documents.

2.07 Fees.

(a) Commitment Fee. The Borrower shall pay to the Lenders, for their respective ratable accounts, on the date of each Borrowing, a commitment fee in an amount equal to one percent (1.00%) of the principal amount of the Loans borrowed on such date. Such fee shall be fully earned when paid and shall be non-refundable for any reason whatsoever. It is understood and agreed that Athyrium, the Administrative Agent and the Lenders reserve the right to allocate, in whole or in part, to their respective Affiliates, the fees payable to such Persons hereunder in such manner as Athyrium, the Administrative Agent, the Lenders and such Affiliates shall agree in their sole discretion.

(b) Exit Fee. If all or any portion of the Loans are repaid, prepaid, or required to be repaid or prepaid (including by acceleration), pursuant to Section 2.03, Section 2.05, Article IX or otherwise, then, in all cases, the Borrower shall pay to the Lenders, for their respective ratable accounts, on the date on which such repayment or prepayment is repaid, paid or required to be repaid or prepaid, as the case may be, in addition to the other Obligations so prepaid, repaid or required to be prepaid or repaid, an exit fee in an amount equal to two percent (2.00%) of the principal amount of such Loan prepaid, repaid or required to be prepaid or repaid, as the case may be, on such date.

2.08 Evidence of Debt.

The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender in the ordinary course of business. The accounts or records maintained by each Lender shall be conclusive absent manifest error of the amount of Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender a promissory note, which shall evidence such Lender's Loans in addition to such accounts or records. Each such promissory note shall (a) in the case of the Term A Loans, be in the form of Exhibit B-1 (a "Term A Note"), (b) in the case of the Term B Loans, be in the form of Exhibit B-2 (a "Term B Note") and (c) in the case of the Term C Loans, be in the form of Exhibit B-3 (the "Term C Note"). Each Lender may attach schedules to its Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

2.09 Computation of Interest.

All computations of interest shall be made on the basis of a 360-day year and actual days elapsed. Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which such Loan or such portion is paid.

2.10 Payments Generally.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction (subject to Section 3.01) for any counterclaim, defense, recoupment or setoff. Subject to Section 9.03, all payments of principal, interest, prepayment and repayment premiums and fees on the Loans and all other Obligations payable by any Loan Party under the Loan Documents shall be due, without any presentment thereof, directly to the Lenders, at the respective Lending Offices of the Lenders; provided, that, if at the time of any such payment a Lender is a Defaulting Lender, such Defaulting Lender's *pro rata* share of such payment shall be made directly to the Administrative Agent. The Loan Parties will make such payments in Dollars, in immediately available funds not later than 2:00 p.m. on the date due, marked for attention as indicated, or in such other manner or to such other account in any United States bank as the Lenders may from time to time direct in writing. All payments received by the Lenders after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue in respect of such succeeding Business Day. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest.

(b) Obligations of Lenders are Several. The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 12.04(d) are several and not joint. The failure of any Lender to make any Loan or to make any payment under Section 12.04(d) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or to make its payment under Section 12.04(d).

(c) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds to make any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds to make any Loan in any particular place or manner.

2.11 Sharing of Payments by Lenders.

If any Lender shall, by exercising any right of setoff or otherwise, obtain payment in respect of any principal of or interest on its portion of any of the Loans or prepayment or repayment premium or exit fees in connection therewith resulting in such Lender's receiving payment of a proportion of the aggregate amount of the Loans and accrued interest thereon and prepayment or repayment premium or exit fees in connection therewith greater than its *pro rata share* thereof as provided herein, then such Lender shall (a) notify the Administrative Agent of such fact and (b) purchase for cash at face value participations in the portions of the Loans of the Other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of, accrued interest on and prepayment and repayment premiums or exit fees in connection with their respective portions of the Loans and other amounts owing them; provided, that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price shall be restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section 2.11 shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of any participation in any of its portion of the Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.12 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendment. The Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 12.01.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 12.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and sixth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that, if (x) such payment is a payment of the principal amount of any Loans in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made at a time when the conditions set forth in Section 5.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of that Defaulting Lender. Any payments, prepayments, repayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.12 (a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will cease to be a Defaulting Lender; provided, that, no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; provided, further, that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

ARTICLE III

TAXES

3.01 Taxes.

(a) All payments of principal and interest on the Loans and all other amounts payable hereunder by a Loan Party to any Recipient shall be made free and clear of and without deduction or withholding for or on account of any present or future income, excise, stamp, documentary, property or franchise taxes and other taxes, fees, duties, levies, assessments, withholding taxes or other charges of any nature whatsoever (including interest and penalties thereon), in each case, imposed by any taxing authority ("Taxes"), unless required by applicable Law. If any withholding or deduction of any Taxes from any payment by or on account of any obligation of any Loan Party hereunder is required by applicable Law (any such Taxes, excluding (w) Taxes imposed on or measured by net income, branch profits taxes and franchise taxes, in each case imposed by the jurisdiction (or any political subdivision thereof) under or in which a Recipient is organized, has its principal office or applicable lending office or otherwise conducts business or with which a Recipient has a present or former connection (other than solely as the result of entering into any of the Loan Documents or taking any action thereunder), (x) U.S. back-up withholding and other withholding Taxes imposed on amounts payable to or for the account of a Recipient with respect to an applicable interest in any Loan or Commitment pursuant to a Law in effect on the date on which such Recipient acquires such interest in the Loans or Commitment, except in each case to the extent that, pursuant to this Section 3.01, amounts with respect to such taxes were payable by such Recipient's assignor immediately before such Recipient became a party hereto, (y) Taxes that would not have been imposed but for the failure of a Recipient to provide the Borrower with any certification, form or other documentation (including without limitation an IRS Form W-9 or IRS Form W-8) establishing an exemption from such Taxes and (z) any withholding tax imposed under FATCA (all non-excluded items shall hereinafter be referred to as "Indemnified Taxes", and Taxes described in clauses (w)-(z) shall hereinafter be referred to as "Excluded Taxes"), then (i) the applicable Withholding Agent shall be entitled to make such withholding or deduction and shall pay directly to the relevant Governmental Authority the full amount required to be so withheld or deducted within the time allowed and in the minimum amount required by applicable law, (ii) the applicable Withholding Agent shall promptly forward to the Administrative Agent an official receipt or other documentation satisfactory to the Administrative Agent evidencing such payment to such Governmental Authority and (iii) the sum payable by the applicable Loan Party shall be increased by such additional amount or amounts as is necessary to ensure that the net amount actually received by the applicable Recipient will equal the full amount such Recipient would have received had no such withholding or deduction for Indemnified Taxes been required.

(b) The Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment by such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such taxes were correctly or legally imposed or asserted by the relevant Governmental Authority.

(c) Each Lender shall execute and deliver to the Borrower on or prior to the date that such Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower), one or more (as the Borrower may reasonably request) duly completed and executed copies of any forms, certificates or documents reasonably requested by the Borrower certifying as to such Lender's entitlement to any available exemption from or reduction of withholding or deduction of taxes. In addition, any Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. No Loan Party shall be required to pay additional amounts to any Lender pursuant to this Section 3.01 with respect to taxes attributable to the failure of such Lender to comply with this paragraph.

(d) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall promptly update such form or certification or promptly notify the Administrative Agent and the Borrower of its inability to do so.

(e) Each of the parties to the Agreement shall, within ten (10) days of a reasonable request by another party to the Agreement, supply to that other party

(i) such forms, documentation and other information relating to its status under FATCA as that other party reasonably requests for the purposes of that other Party's compliance with FATCA, and

(ii) such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime, such as the Common Reporting Standard.

(f) If any party determines, in its sole 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 (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 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) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. 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) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such 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) If, due to a change in Sections 871(h) or 881(c) of the Internal Revenue Code (or any successor provisions) after the date a Person becomes an Indirect Lender under this Agreement, any withholding is required to be made by a Lender or any Affiliate thereof to such Indirect Lender attributable to payments made by any Loan Party hereunder, such Loan Party shall pay to such Lender such additional amount or amounts as is necessary to ensure that the net amount actually received by any Indirect Lender will equal the full amount such Indirect Lender would have received had no such withholding or deduction been required; *provided* that in the event additional amounts are due in respect of an Indirect Lender, immediately before such Indirect Lender transfers a direct or indirect interest in a Lender to a transferee and withholding is required to be made by a Lender or any Affiliate to such transferee Indirect Lender attributable to payments made by any Loan Party hereunder, a Loan Party shall be required to pay additional amounts pursuant to this Section in an amount not exceeding the additional amounts payable prior to the transfer by the transferor Indirect Lender; *provided*, *further* that no such additional amounts shall be payable by a Loan Party to the extent such withholding could have been avoided by any Indirect Lender and each entity in the chain of ownership between such Indirect Lender and the Lender providing Internal Revenue Service Forms W-9, W-8ECI, W-8BEN, W-8BEN-E or W-8IMY (as applicable) or any successor forms thereto, to the Lender or other entity in the chain of ownership between such Indirect Lender and the Lender, as applicable.

3.02 Survival.

All of the Loan Parties' obligations under this Article III shall survive termination of the Commitments, prepayment or repayment of all Obligations hereunder and the resignation or replacement of the Administrative Agent.

ARTICLE IV

GUARANTY

4.01 The Guaranty.

Each of the Guarantors hereby jointly and severally guarantees to each Secured Party and the Administrative Agent as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations of the Borrower and any other Guarantors in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents, the obligations of each Guarantor under this Agreement and the other Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state or federal law.

4.02 Obligations Unconditional.

The obligations of the Guarantors under Section 4.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable law, irrespective of any law or regulation or other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Borrower or any other Guarantor for amounts paid under this Article IV until such time as the Obligations (other than contingent indemnification obligations for which no claim has been asserted) have been paid in full and the Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Loan Documents, or any other agreement or instrument referred to in the Loan Documents shall be done or omitted;

(c) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents including any change in the purpose of, an extension of or increase in any facility or the addition of any new facility under the Loan Documents or other document, or any other agreement or instrument referred to in the Loan Documents shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, any Secured Party as security for any of the Obligations shall fail to attach or be perfected;

(e) any of the Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor); or

(f) any insolvency or similar proceedings.

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Secured Parties exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents, or any other agreement or instrument referred to in the Loan Documents, or against any other Person under any other guarantee of, or security for, any of the Obligations.

4.03 Reinstatement.

The obligations of the Guarantors under this Article IV shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Secured Parties on demand for all reasonable costs and expenses (including, without limitation, the fees, charges and disbursements of counsel) incurred by the Secured Parties in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

4.04 Certain Additional Waivers.

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 4.02 and through the exercise of rights of contribution pursuant to Section 4.06.

4.05 Remedies.

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Secured Parties, on the other hand, the Obligations may be declared to be forthwith due and payable as provided in Section 9.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 9.02) for purposes of Section 4.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.01. The Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the Secured Parties may exercise their remedies thereunder in accordance with the terms thereof.

4.06 Rights of Contribution.

The Guarantors agree among themselves that, in connection with payments made hereunder, each Guarantor shall have contribution rights against the other Guarantors as permitted under applicable law. Such contribution rights shall be subordinate and subject in right of payment to the obligations of such Guarantors under the Loan Documents and no Guarantor shall exercise such rights of contribution until all Obligations (other than contingent indemnification obligations for which no claim has been asserted) have been paid in full and the Commitments have been terminated.

4.07 Guarantee of Payment; Continuing Guarantee.

The guarantee in this Article IV is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Obligations whenever arising.

4.08 Limitations.

The guarantee in this Article IV insofar as it is from BioCryst Ireland Limited does not apply to any liability to the extent that it would result in such guarantee constituting unlawful financial assistance within the meaning of Section 82 of the Companies Act.

4.09 Guarantor Intent

Without prejudice to generality of Section 4.02, each Guarantor expressly confirms that it intends that this Guaranty shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Loan Documents, Collateral and/or any facility or amount made available under any of the Loan Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

ARTICLE V

CONDITIONS PRECEDENT TO BORROWINGS

5.01 Conditions to Initial Borrowing.

This Agreement shall become effective upon, and the obligation of each Lender to make its portion of the Loans to be advanced on the Closing Date is subject to, satisfaction of the following conditions precedent:

(a) Loan Documents. Receipt by the Administrative Agent of executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the signing Loan Party (or, in the case of a Loan Party incorporated in Ireland, properly in the manner specified in the resolutions of the board of directors thereof) and each other party to such Loan Documents, in each case in form and substance satisfactory to the Administrative Agent and the Lenders.

(b) Opinions of Counsel. Receipt by the Administrative Agent of favorable opinions of legal counsel to the Loan Parties or in the case of BioCryst Ireland Limited, legal counsel to the Administrative Agent, addressed to the Administrative Agent and each Lender, dated as of the Closing Date, and in form and substance satisfactory to the Administrative Agent and its counsel.

(c) Financial Statements; Due Diligence. The Administrative Agent shall have received the Audited Financial Statements, the Interim Financial Statements and such other reports, statements and due diligence items as the Administrative Agent or any Lender shall request.

(d) No Material Adverse Effect. Since the date of the Audited Financial Statements, there shall not have occurred any event or condition that has had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(e) Litigation. There shall not exist any action, suit, investigation or proceeding pending or threatened in any court or before an arbitrator or Governmental Authority that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect.

(f) Organization Documents, Resolutions, Etc. Receipt by the Administrative Agent of the following, each of which shall be pdf scans, in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) copies of the Organization Documents of each Loan Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization, where applicable, and certified by a secretary or assistant secretary of such Loan Party to be true and correct as of the Closing Date;

(ii) such certificates of resolutions, shareholder resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof and each Responsible Financial Officer thereof authorized to act as a Responsible Officer or a Responsible Financial Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party; and

(iii) such documents and certifications as the Administrative Agent may require to evidence that each Loan Party is duly organized, incorporated or formed, and is validly existing, in good standing and qualified to engage in business in its state of organization or formation, including certificates of good standing or status in all applicable jurisdictions (which shall exclude, for the avoidance of doubt, Ireland).

(g) Perfection and Priority of Liens. Receipt by the Administrative Agent of the following, each of which shall be in form and substance satisfactory to the Administrative Agent:

(i) searches of Uniform Commercial Code filings in the jurisdiction of formation of each Loan Party or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions, evidence that no Liens exist other than Permitted Liens;

(ii) UCC financing statements for each appropriate jurisdiction as is necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the Collateral;

(iii) searches of ownership of, and Liens on, the IP Rights of each Loan Party in the appropriate governmental offices;

(iv) duly executed IP Security Agreements as are necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the IP Rights of the Loan Parties;

(v) [reserved];

(vi) [reserved];

(vii) [reserved];

(viii) perfection actions, including, without limitation, searches, certifications, notices and any other items required pursuant to or reasonably requested in connection with the Collateral Documents to be executed on the Closing Date; and

(ix) agreement between Irish legal counsel to the Administrative Agent and Irish legal counsel to BioCryst Ireland Limited on the wording of the short and further particulars for each security filing to be made in the Irish Companies Registration Office.

(h) [Reserved].

(i) Closing Certificate. Receipt by the Administrative Agent of a certificate signed by a Responsible Officer of the Borrower certifying, as of the Closing Date, (i) that the conditions specified in Sections 5.01(d), (e) and (k) and 5.02(a) and (b) have been satisfied, (ii) that the Borrower and its Subsidiaries (after giving effect to the Transactions and the incurrence of Indebtedness related thereto) are Solvent on a consolidated basis, (iii) that the Borrower and its Subsidiaries have no Indebtedness for borrowed money, other than Indebtedness permitted by Section 8.03, (iv) that neither the Borrower nor any Subsidiary has outstanding any Disqualified Capital Stock and (v) as true and complete an attached description of all intercompany Indebtedness of the Borrower and its Subsidiaries.

(j) Existing Indebtedness. All of the Existing Indebtedness shall be repaid in full and all security interests related thereto shall be terminated on or prior to the Closing Date, in each case, evidenced by payoff letters and lien releases reasonably satisfactory to the Administrative Agent.

(k) Governmental and Third Party Approvals. The Borrower and its Subsidiaries shall have received all material governmental, shareholder and third-party consents and approvals necessary in connection with the transactions contemplated by this Agreement, the other Loan Documents, the Royalty Financing Documents and the other transactions contemplated hereby and all applicable waiting periods shall have expired without any action being taken by any Person that could reasonably be expected to restrain, prevent or impose any material adverse conditions on the Borrower or any of its Subsidiaries or such other transactions or that could seek to threaten any of the foregoing, and no law or regulation shall be applicable which could reasonably be expected to have such effect.

(l) Corporate Structure and Capitalization. The capital and ownership structure of the Borrower on the Closing Date, on a pro forma basis after giving effect to the transactions contemplated by the Loan Documents and the Royalty Financing Documents, shall be reasonably satisfactory to the Administrative Agent.

(m) Letter of Direction. Receipt by the Administrative Agent of a satisfactory letter of direction containing funds flow information with respect to the proceeds of the Loan to be made on the Closing Date.

(n) Fees. Receipt by Athyrium and its Affiliates, the Administrative Agent and the Lenders of any fees required to be paid hereunder or under the other Loan Documents on or before the Closing Date.

(o) Costs; Expenses. The Borrower shall have paid all reasonable and documented expenses, fees and charges of the Lenders and Administrative Agent incurred in connection with the Loan Documents, including all documented expenses, fees, charges and disbursements of counsel to the Lenders and Administrative Agent and all due diligence expenses of Athyrium and its Affiliates and the Lenders, in each case, incurred on or prior to the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute their reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided, that, such estimate shall not thereafter preclude a final settling of accounts between the Borrower, the Lenders and the Administrative Agent), in each case, to the extent an invoice therefor is sent at least one (1) Business Day prior to the Closing Date.

(p) Royalty Financing Documents.

(i) The Royalty Financing Documents shall have been executed and delivered and the transactions thereunder fully consummated substantially concurrently with the execution and delivery of this Agreement.

(ii) Receipt by the Administrative Agent of the Royalty Financing Documents, each in form and substance satisfactory to Administrative Agent and the Lenders in their sole discretion.

(iii) The Borrower shall deliver a certificate of a Responsible Officer to Administrative Agent certifying that (A) Administrative Agent has received a true, correct and complete executed copy of each Royalty Financing Document, (B) the Borrower and its Subsidiaries are in compliance in all material respects with the Royalty Financing Documents to which it is a party, and such Person has not received any notice of default or termination thereunder and (C) no Royalty Financing Document has been amended or waived or modified in any manner, without the written consent of the Administrative Agent and the Lenders.

(q) [Reserved].

(r) Termination of MDCP Licenses. Receipt by the Administrative Agent of satisfactory evidence that all agreements, licenses, permits and assignments in favor of MDCP or providing MDCP any right or interest in any IP Rights of the Borrower or any Subsidiary, including without limitation that certain License and Services Agreement between the Borrower and MDCP, dated as of September 23, 2016, as amended restated or otherwise modified from time to time, have been terminated and released.

(s) Other. Receipt by the Administrative Agent and the Lenders of such other documents, instruments, agreements and information as requested by the Administrative Agent or any Lender, including, but not limited to, information regarding litigation, tax, accounting, labor, insurance, pension liabilities (actual or contingent), real estate leases, material contracts, debt agreements, property ownership, environmental matters, contingent liabilities and management of the Borrower and its Subsidiaries; such information may include, if requested by the Administrative Agent or any Lender, asset appraisal reports and written audits of accounts receivable, inventory, payables, controls and systems.

Without limiting the generality of the provisions of the last paragraph of Section 11.03, for purposes of determining compliance with the conditions specified in this Section 5.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

5.02 Conditions to all Borrowings. The obligation of each Lender to honor any Loan Notice is subject to the following conditions precedent:

(a) Representations and Warranties. The representations and warranties of the Borrower and each other Loan Party contained in Article VI or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) on and as of the date of such Borrowing, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date, and except that for purposes of this Section 5.02, the representations and warranties contained in subsections (a) and (b) of Section 6.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 7.01.

(b) No Default. No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds thereof.

(c) No Material Adverse Effect. Since the date of the Audited Financial Statements, there shall not have occurred any event or condition that has had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(d) Loan Notice. The Administrative Agent shall have received a Loan Notice in accordance with the requirements hereof.

(e) Term A Draw Conditions. With respect to the Term A Borrowing, the Term A Draw Conditions shall have been satisfied.

(f) Term B Draw Conditions. With respect to the Term B Borrowing, the Term B Draw Conditions shall have been satisfied.

(g) Term C Draw Conditions. With respect to the Term C Borrowing, the Term C Draw Conditions shall have been satisfied.

Each Loan Notice submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Section 5.02 have been satisfied as of the date of the applicable Borrowing.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Administrative Agent and the Lenders, on the Closing Date, the date of each Borrowing and each other date required by a Loan Document, that:

6.01 Existence, Qualification and Power.

Each Loan Party and each of its Subsidiaries (a) is duly organized, incorporated or formed, validly existing and (where such concept exists in the case of Non-U.S. Subsidiaries) in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite Permits, governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and to consummate the Transactions to which it is a party, and (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.02 Authorization; No Contravention.

The execution, delivery and performance by each Loan Party of each Loan Document, and Royalty Financing Document to which such Person is party have been duly authorized by all necessary corporate or other organizational action, and do not (a) contravene the terms of any of such Person's Organization Documents, (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) the JPR Indenture or the other Deal Documents (as defined in the JPR Indenture) or any indenture, credit agreement, or promissory note evidencing Indebtedness or any other material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, judgment, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject, or (c) violate any applicable Law (including, without limitation, Regulation U or Regulation X issued by the FRB).

6.03 Governmental Authorization; Other Consents.

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document other than (a) those that have already been obtained and are in full force and effect, (b) filings to perfect the Liens created by the Collateral Documents and (c) the filing of any applicable reports under securities laws.

6.04 Binding Effect.

Each Loan Document has been duly executed and delivered by each Loan Party that is party thereto. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each such Loan Party in accordance with its terms, subject to applicable Debtor Relief Laws or other Laws affecting creditors' rights generally and subject to general principles of equity and subject in the case of each Irish Subsidiary, to the Legal Reservations.

6.05 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including material liabilities for taxes, commitments and Indebtedness.

(b) The Interim Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments, and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including material liabilities for taxes, material commitments and Indebtedness.

(c) From the date of the Audited Financial Statements to and including the Closing Date, there has been no Disposition by any Loan Party or any Subsidiary, or any Involuntary Disposition, of any material part of the business or property of any Loan Party or any Subsidiary, and no purchase or other acquisition by any of them of any business or property (including any Equity Interests of any other Person) material to any Loan Party or any Subsidiary, in each case, which is not reflected in the foregoing financial statements or in the notes thereto and has not otherwise been disclosed in writing to the Lenders on or prior to the Closing Date.

(d) The financial statements delivered pursuant to Section 7.01(a) and (b) have been prepared in accordance with GAAP (except as may otherwise be permitted under Section 7.01(a) or (b), as applicable) and present fairly in all material respects (on the basis disclosed in the footnotes to such financial statements) the consolidated financial condition, results of operations and cash flows of the Borrower and its Subsidiaries as of the dates thereof and for the periods covered thereby.

(e) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

6.06 Litigation.

There are no actions, suits, proceedings, claims or disputes pending, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or (b) either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

6.07 No Default.

(a) Neither any Loan Party nor any Subsidiary is (i) in default under or with respect to any Material Contract (A) as of the Closing Date and (B) after the Closing Date in a manner that could reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities, or (ii) in default under or with respect to any other Contractual Obligation that, in the case of this clause (ii), could reasonably be expected to have a Material Adverse Effect.

(b) No Default has occurred and is continuing.

6.08 Ownership of Property; Liens.

Each Loan Party and its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business. The property of each Loan Party and its Subsidiaries is subject to no Liens, other than Permitted Liens.

6.09 Environmental Compliance.

(a) Each of the Facilities and all operations at the Facilities are in compliance in all material respects with all applicable Environmental Laws, and there is no violation in any material respect of any Environmental Law with respect to the Facilities or the Businesses, and there are no conditions relating to the Facilities or the Businesses, that could give rise to liability that, individually or in the aggregate, could reasonably be expected to exceed the Threshold Amount under any applicable Environmental Laws.

(b) None of the Facilities contains, or has previously contained, any Hazardous Materials at, on or under the Facilities in amounts or concentrations that constitute or constituted a violation in any material respect of Environmental Laws, or could reasonably be expected to give rise to liability under Environmental Laws that, individually or in the aggregate, could exceed the Threshold Amount.

(c) Neither any Loan Party nor any Subsidiary has received any written or verbal notice of, or inquiry from any Governmental Authority regarding, any violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Facilities or the Businesses that could reasonably be expected to give rise to liability that, individually or in the aggregate, could exceed the Threshold Amount, nor does any Responsible Officer of any Loan Party have knowledge or reason to believe that any such notice will be received or is being threatened.

(d) Hazardous Materials have not been transported or disposed of from the Facilities, or generated, treated, stored or disposed of at, on or under any of the Facilities or any other location, in each case by or on behalf of any Loan Party or any Subsidiary in violation in any material respect of any applicable Environmental Law, or in a manner that could reasonably be expected to give rise to liability under any applicable Environmental Law that, individually or in the aggregate, could exceed the Threshold Amount.

(e) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Loan Parties, threatened, under any Environmental Law to which any Loan Party or any Subsidiary is or will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to any Loan Party, any Subsidiary, the Facilities or the Businesses.

(f) There has been no release or threat of release of Hazardous Materials at or from the Facilities, or arising from or related to the operations (including, without limitation, disposal) of any Loan Party or any Subsidiary in connection with the Facilities or otherwise in connection with the Businesses, in violation in any material respect of Environmental Laws, or in amounts or in a manner that could give rise to liability under Environmental Laws that could reasonably be expected to, individually or in the aggregate, exceed the Threshold Amount.

6.10 Insurance.

(a) The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies that are not Affiliates of such Persons, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or its applicable Subsidiary operates. The insurance coverage of the Borrower and its Subsidiaries as in effect on the Closing Date is outlined as to carrier, policy number, expiration date, type, coverage amounts and deductibles on Schedule 6.10.

(b) The Borrower and its Subsidiaries maintain, if available, fully paid flood hazard insurance on all real property that is located in a special flood hazard area in the United States and that constitutes Collateral on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent or the Required Lenders.

6.11 Taxes.

(a) Each of the Loan Parties and their Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed by it, and have paid all federal, state and other material taxes, assessments, governmental fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP and the failure to make such payment pending such contest could not reasonably be expected to result in a Material Adverse Effect. There is no proposed tax assessment against any Loan Party or any Subsidiary that would, if made, exceed the Threshold Amount.

(b) Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement with any Person that is not a Loan Party (other than any agreement the primary purpose of which is not the sharing of taxes).

(c) As of the Closing Date, no claims or investigations are pending, or to the knowledge of any Loan Party, threatened with respect to any Taxes that could reasonably be expected to result in liabilities of a Loan Party or Subsidiary in an amount in excess of the Threshold Amount.

6.12 ERISA Compliance.

(a) Each Plan is in compliance, in both form and operation, in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has received a current favorable determination letter (or is entitled to rely on a current advisory or opinion letter issued to a volume submitter or prototype plan provider) from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Internal Revenue Code or an application for such a letter is currently pending with the Internal Revenue Service. To the knowledge of the Loan Parties, nothing has occurred that would prevent, or cause the loss of, such tax-qualified status.

(b) There are no pending or, to the knowledge of the Loan Parties, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred and none of the Borrower and any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan, (ii) the Borrower and each ERISA Affiliate has met all material and applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained, (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Internal Revenue Code) is sixty percent (60%) or higher and none of the Borrower and any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below sixty percent (60%) as of the next valuation date, (iv) none of the Borrower and any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid, (v) none of the Borrower and any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA, and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) None of the Borrower and any ERISA Affiliate has established or otherwise has any liability with respect to a "welfare plan", as such term is defined in Section 3(1) of ERISA, that either provides post-employment welfare benefits other than as required by Section 4980B of the Internal Revenue Code (or similar state law) or is a health or life insurance plan that is not fully insured by a third party insurance company.

6.13 Subsidiaries and Capitalization; Management Fees.

(a) Set forth on Schedule 6.13(a) is a complete and accurate list as of the Closing Date of each Subsidiary of any Loan Party and JPR Royalty Sub, together with (i) jurisdiction of organization, (ii) number of shares of each class of Equity Interests outstanding, (iii) number and percentage of outstanding shares of each class owned (directly or indirectly) by any Loan Party or any Subsidiary, (iv) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto and (v) identification of each Subsidiary that is an Excluded Subsidiary, a Non-U.S. Regulatory Approval Subsidiary and/or an Immaterial Non-U.S. Subsidiary.

(b) Set forth on Schedule 6.13(b) is a true and complete table showing the authorized and issued capitalization of each of the Borrower, its Subsidiaries and JPR Royalty Sub as of the Closing Date on a fully diluted basis. All issued and outstanding Equity Interests of the Borrower and each of its Subsidiaries are duly authorized and validly issued, fully paid, non-assessable, free and clear of all Liens and such Equity Interests were issued in compliance with all applicable Laws. As of the Closing Date, except as described on Schedule 6.13(b) or the Borrower's Organizational Documents, there are no outstanding commitments or other obligations of the Borrower or any Subsidiary to issue, and no rights of any Person to acquire, any shares of any Equity Interests of the Borrower or any of its Subsidiaries. There are no agreements (voting or otherwise) among the Borrower's equity holders with respect to any other aspect of the Borrower's or any Subsidiary's affairs, except as set forth on Schedule 6.13(b) or as contained in the Borrower's Organizational Documents.

(c) As of the Closing Date, no Loan Party, nor any of their respective Subsidiaries, directly or indirectly, are obligated to pay any management, consulting, transaction or similar advisory fees (other than normal and reasonable compensation (including in the form of Equity Interests) and reimbursement of expenses of officers and directors in the ordinary course of business) to or for the account of any officer, director or holder (or any Affiliate of any holder) of at least 5% of the Equity Interests of such Person.

6.14 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged and no Loan Party will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing, not more than 25% of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis) will be margin stock.

(b) No Loan Party, any Person Controlling any Loan Party, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

6.15 Disclosure.

Each Loan Party has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether written or oral) (other than forward-looking information and projections and information of a general economic nature and general information about the Loan Parties' industry) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any fact necessary to make the statements therein, in the light of the circumstances under which they were made and taken as a whole, not misleading. Each Loan Party represents, with respect to projections, estimates, budgets and other forward-looking information, only that such information was prepared in good faith based on assumptions believed to be reasonable at the time such projections were prepared.

6.16 Compliance with Laws.

Each Loan Party and each Subsidiary is in compliance with the requirements of all Laws and all judgments, orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or judgment, order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.17 Intellectual Property; Licenses, Etc.

(a) Schedule 6.17 Part (a) sets forth a complete and accurate list of the following as of the Closing Date: (i) all Copyrights and all Trademarks of any Loan Party or any Subsidiary, that are registered, or in respect of which an application for registration has been filed or recorded, with the United States Patent and Trademark Office or the United States Copyright Office or with any other Governmental Authority (or comparable organization or office established in any country or pursuant to an international treaty or similar international agreement for the filing, recordation or registration of interests in intellectual property), together with relevant identifying information with respect to such Copyrights and Trademarks, (ii) all Patents of any Loan Party or any Subsidiary that are issued, or in respect of which an application has been filed or recorded, with the United States Patent and Trademark Office or with any other Governmental Authority (or comparable organization or office established in any country or pursuant to an international treaty or similar international agreement for the filing, recordation or registration of interests in intellectual property), together with relevant identifying information with respect to such Patents, (iii) all Domain Names owned by any Loan Party or any Subsidiary or which any Loan Party or any Subsidiary is licensed, authorized or otherwise granted rights under or to, or owned by a Person on behalf of any Loan Party or any Subsidiary, together with relevant identifying information with respect to such Domain Names, (iv) each Copyright License, each Patent License and each Trademark License of any Loan Party or any Subsidiary and (v) each other Material IP Right of any Loan Party or any Subsidiary, in each case with respect to this clause (v), other than Trade Secrets.

(b) All Material IP Rights (other than Material IP Rights that are not material or are no longer used or useful in any material respect in the business of the Borrower or any of its Subsidiaries) are in full force and effect, and have not expired, lapsed or been forfeited, cancelled or abandoned. Each of the Borrower and the Subsidiaries, have, since taking title to the Material IP Rights, performed all acts and have paid all required annuities, fees, costs, expenses and taxes to maintain the Material IP Rights in full force and effect in each of the Key Territories, as applicable, or have caused others to do the same. All documents filed or recorded with a patent office or other relevant intellectual property registry for registration, recordation or issuance of Material IP Rights in each of the Key Territories have been duly and properly filed and recorded. None of the Material IP Rights have been or are subject to any pending or outstanding injunction, directive, order, judgment, or other disposition of dispute that adversely restricts, or when any such pending dispute is concluded may adversely restrict, the use, transfer, registration, licensing or other exploitation of any such Material IP Rights in any of the Key Territories, or otherwise adversely affects, or may adversely affect, the scope, validity, use, right to use, registrability, or enforceability of such Material IP Rights in any of the Key Territories. No action or proceeding is pending that could reasonably be expected to result in any of the foregoing.

(c) The Borrower or a Subsidiary owns or has a valid license or other valid right to use all Material IP Rights, free and clear of any and all Liens other than Permitted Liens. To the extent any of the Material IP Rights were authored, developed, conceived or created, in whole or in part, for or on behalf of the Borrower or a Subsidiary by any Person, then the Borrower or the Subsidiary or their predecessors in interest, as applicable, has entered into a written agreement with such Person in which such Person has assigned all right, title and interest in and to such Material IP Rights to the Borrower or such Subsidiary, or their predecessors in interest, including the right to sue for and collect past damages, as applicable. Except as otherwise indicated on Schedule 6.17 Part (b), each of the Borrower and each Subsidiary is the sole and exclusive owner of all right, title and interest in and to all such Material IP Rights that are owned by it.

(d) Neither the Borrower nor any Subsidiary has made any assignment or agreement in conflict with the security interest in any of the Material IP Rights of the Borrower or any Subsidiary hereunder and no license agreement with respect to any of the Material IP Rights conflicts with the security interest granted to the Administrative Agent, on behalf of the Lenders, pursuant to the terms of the Collateral Documents. Except as described in Schedule 6.17 Part (c), and except for software that is commercially available to the public, no Loan Party is a party to, nor is bound by, any inbound license or other similar agreement, the failure, breach or termination of which could reasonably be expected to cause a Material Adverse Effect, or that prohibits or otherwise restricts the Loan Parties from granting a security interest in the applicable Loan Party's interest in such license or agreement or any other property.

(e) To the Loan Parties' knowledge, no Person is infringing, misappropriating, violating, or diluting any Material IP Rights (i) as of the Closing Date and (ii) after the Closing Date in a manner that could reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities, and as of the Closing Date, no Loan Party has given notice to any third party alleging that such third party is infringing, misappropriating, violating, or diluting, any Material IP Rights.

(f) With respect to each Copyright License, Trademark License and Patent License listed on Schedule 6.17 Part (a)(iv) that comprise Material IP Rights, such agreement (i) is in full force and effect and is binding upon and enforceable against the Borrower and the Subsidiaries party thereto and all other parties thereto in accordance with its terms, (ii) has not been amended or otherwise modified and (iii) has not suffered a default or breach thereunder, in each case of the foregoing clauses (i), (ii) and (iii), (A) as of the Closing Date, and (B) after the Closing Date, except as could not reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities. To the Loan Parties' knowledge, neither the Borrower nor any of the Subsidiaries has taken any action that would permit any other Person party to any such license agreement to have, and no such Person otherwise has, any defenses, counterclaims or rights of setoff thereunder (1) as of the Closing Date and (2) after the Closing Date, that could reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities.

(g) Except as set forth on Schedule 6.17 Part (d), (i) no written claim, and no other claim known to the Borrower or any Subsidiary has been made that alleges that the Material IP Rights, or the conduct or operation of its business of the Borrower or the Subsidiaries, including the development, manufacture, use, sale, provision or other commercialization of any Product or Service, infringes, misappropriates, violates, or dilutes any intellectual property or proprietary or other rights of that third party, in each case, (A) as of the Closing Date and (B) after the Closing Date that could be reasonably expected to result in a material adverse effect on any Product Development and Commercialization Activities and (ii) there is no basis for such a claim known to the Borrower or any Subsidiary.

(h) The Borrower and the Subsidiaries have used commercially reasonable efforts and precautions to protect their interests in, and the value and confidentiality of their respective Confidential Information and Trade Secrets, including any source code for Proprietary Software.

(i) Except as set forth on Schedule 6.17 Part (f):

(A) as of the Closing Date the consummation of the transactions contemplated hereby and, except as otherwise permitted by Section 7.18(b), the exercise by the Administrative Agent or the Lenders of any right or remedy set forth in the Loan Documents will not constitute a breach or violation of, or otherwise affect the enforceability or approval of, (i) any licenses associated with Material IP Rights or (ii) any Material Required Permits; and

(B) at any time after the Closing Date, except with respect to Excluded Property, the consummation of the transactions contemplated hereby and, except as otherwise permitted by Section 7.18(b), the exercise by the Administrative Agent or the Lenders of any right or remedy set forth in the Loan Documents will not constitute a breach or violation of, or otherwise affect the enforceability or approval of, (i) any licenses associated with IP Rights or (ii) any Required Permits.

6.18 Solvency.

The Borrower is Solvent on an individual basis, and the Borrower and its Subsidiaries are Solvent on a consolidated basis.

6.19 Perfection of Security Interests in the Collateral.

The Collateral Documents create valid security interests in, and Liens on, the Collateral purported to be covered thereby, which security interests and Liens will be, upon the timely and proper filings, deliveries, notations and other actions contemplated in the Collateral Documents, perfected security interests and Liens (to the extent that such security interests and Liens can be perfected by such filings, deliveries, notations and other actions contemplated in the Collateral Documents), prior to all other Liens other than Permitted Liens.

6.20 Business Locations.

Set forth on Schedule 6.20(a) is a list of all real property that is owned or leased by the Loan Parties as of the Closing Date (with (x) a description of each real property that is Excluded Property, (y) a designation of whether such real property is owned or leases and (z) if any Loan Party maintains books and records at such real property). Set forth on Schedule 6.20(b) is the tax payer identification number and organizational identification number of each Loan Party as of the Closing Date. The exact legal name and jurisdiction of organization of (a) the Borrower is as set forth on Schedule 6.20(b) and (b) each Guarantor is (i) as set forth on Schedule 6.20(b) or (ii) as set forth on Schedule 1 to the Joinder Agreement pursuant to which such Guarantor became a party hereto. Except as set forth on Schedule 6.20(c), no Loan Party has during the five years preceding the Closing Date (i) changed its legal name, (ii) changed its jurisdiction of organization, or (iii) been party to a merger, amalgamation, consolidation or such other structural change.

6.21 Sanctions Concerns; Anti-Corruption Laws; PATRIOT Act.

(a) Sanctions Concerns. No Loan Party, nor any Subsidiary, nor JPR Royalty Sub, nor, to the knowledge of the Loan Parties and their Subsidiaries, any director, officer, employee, agent, Affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by, any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

(b) Anti-Corruption Laws. The Loan Parties, their Subsidiaries and JPR Royalty Sub have conducted their business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other applicable jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Laws.

(c) PATRIOT Act. To the extent applicable, each of the Loan Parties, their Subsidiaries and JPR Royalty Sub is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the PATRIOT Act.

6.22 Material Contracts.

Except for the Organization Documents of the Loan Parties and the other agreements set forth on Schedule 6.22 as of the Closing Date there are no (a) employment agreements covering the management of the Borrower or any Subsidiary, (b) collective bargaining agreements or other labor agreements covering any employees of the Borrower or any Subsidiary, (c) agreements for managerial, consulting or similar services to which the Borrower or any Subsidiary is a party or by which it is bound, (d) agreements regarding the Borrower or any Subsidiary, its assets or operations or any investment therein to which any of its equity holders is a party or by which it is bound, (e) real estate leases, licenses of IP Rights or other lease or license agreements to which the Borrower or any Subsidiary is a party, either as lessor or lessee, or as licensor or licensee (other than licenses arising from the purchase of "off the shelf" products), (f) customer or supply agreements to which the Borrower or any Subsidiary is a party, in each case with respect to the preceding clauses (a), (c), (d), (e) and (f) solely to the extent the breach, default or the termination of such agreement, lease or license could reasonably be expected to result in a material adverse effect on Product Development and Commercialization Activities or (g) any other agreements or instruments to which the Borrower or any Subsidiary is a party, and the breach, nonperformance or cancellation of which, or the failure of which to renew, could reasonably be expected to have a Material Adverse Effect. Schedule 6.22 sets forth, with respect to each real estate lease agreement to which the Borrower or any Subsidiary is a party as of the Closing Date, the address of the subject property and the annual rental (or, where applicable, a general description of the method of computing the annual rental). The consummation of the transactions contemplated by the Loan Documents will not give rise to a right of termination in favor of any party to any Material Contract. Each Material Contract (a) is in full force and effect and is binding upon and enforceable against the Borrower and its Subsidiaries party thereto and, to the knowledge of any Loan Party, all other parties thereto in accordance with its terms, and (b) is not currently subject to any material breach or default by the Borrower or any Subsidiary or, to the knowledge of any Loan Party, any other party thereto. None of the Borrower nor any of its Subsidiaries has taken or failed to take any action that would permit any other Person party to any Material Contract to have, and, to the knowledge of any Loan Party, no such Person otherwise has, any defenses, counterclaims or rights of setoff thereunder (1) as of the Closing Date and (2) after the Closing Date that could reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities. As of the Closing Date, none of the Material Contracts are non-assignable by their terms (other than those certain agreements separately noted in Schedule 6.22 as being non-assignable) or as a matter of law, or prevent the granting of a security interest therein.

6.23 Regulatory Compliance.

Except for the matters disclosed on Schedule 6.23:

(a) The Borrower and its Subsidiaries have obtained all Material Required Permits, or have contracted with third parties holding Material Required Permits to obtain any and all rights, in each case necessary for the conduct of the Businesses or for compliance with all applicable Laws and all such Material Required Permits or rights thereto are in full force and effect.

(b) The Borrower and its Subsidiaries have not received any written communication from any Governmental Authority regarding, and there are no facts or circumstances that are likely to give rise to, (A) any material adverse change in any Material Required Permit, or any failure to materially comply with any Laws or any term or requirement of any Material Required Permit, (B) any revocation, withdrawal, suspension, hold, cancellation, material limitation, termination or material modification of any Material Required Permit or (C) any pending or threatened enforcement action seeking to seize any Product, enjoin manufacture or distribution, or halt the receipt, processing, or production of products, components, or raw materials due to alleged nonconformance with cGMPs or the requirements associated with any Material Required Permit.

(c) None of the officers, directors, employees, shareholders, agents, or Affiliates of the Borrower or any Subsidiary or, to the Loan Parties' knowledge, any other Person involved in the development of (including seeking regulatory approval for) any Product or Service, has been convicted of any crime or engaged in any conduct for which debarment is authorized by 21 U.S.C. Section 335a or disqualification as a clinical investigator under 21 C.F.R. § 312.70 or any similar applicable Laws, and neither the Borrower nor any Subsidiary nor any of its officers, employees or, to knowledge of any Loan Party, agents or contractors has engaged in any conduct that would reasonably be expected to result in debarment or disqualification as a clinical investigator.

(d) None of the officers, directors, employees, shareholders, agents, or Affiliates of the Borrower or any Subsidiary or, to the Loan Parties' knowledge, any consultant or independent contractor engaged by the Loan Parties, has made an untrue statement of material fact or fraudulent statement to the FDA, CMS or any other Governmental Authority or failed to disclose a material fact required to be disclosed to the FDA, CMS or any other Governmental Authority, committed an act, made a statement, or failed to make a statement, in each case that could reasonably be expected to provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities," set forth in 56 Fed. Reg. 46191 (September 10, 1991) or for any other Government Authority to invoke a similar policy or Law.

(e) All applications, notifications, submissions, information, claims, reports and statistics and other data and conclusions derived therefrom, utilized as the basis for or submitted in connection with any and all requests for a Material Required Permit from the FDA, CMS or any other Governmental Authority relating to the Borrower or any Subsidiary, their business operations, Products and Services, when submitted to the FDA, CMS or any other Governmental Authority, were true, complete and correct in all material respects as of the date of submission, and any necessary or required updates, changes, corrections or modifications to such applications, submissions, information and data have been properly and timely submitted to the FDA, CMS or any other Governmental Authority. The Material Required Permits issued by the FDA, CMS or any other Governmental Authority for the Products and Services are valid and supported by proper research, design, testing, analysis and disclosure.

(f) All preclinical and clinical trials that have been conducted and/or are being conducted by or on behalf of the Borrower and its Subsidiaries, including those trials whose results and data have been submitted to any Governmental Authority, including the FDA and its counterparts worldwide, are being or have been conducted in compliance in all material respects with the required experimental protocols, procedures and controls and otherwise in compliance with applicable Laws, including cGLP and cGCP, the Animal Welfare Act, all applicable similar Laws in other jurisdictions, and all Laws relating to the protection of human subjects. Neither the Borrower nor any Subsidiary has received any written notice that the FDA, any other Governmental Authority, or any institutional review board has recommended, initiated, or threatened to initiate any action to suspend or terminate any clinical trial sponsored by the Borrower or its Subsidiaries, including a full or partial clinical hold, or to otherwise restrict the preclinical research on or clinical study of any Product.

(g) Neither the Borrower nor any Subsidiary nor any of its officers and employees has received any written notice that any Governmental Authority, including without limitation the FDA, the Office of the Inspector General of HHS or the United States Department of Justice has commenced recommended or threatened to initiate any action against the Borrower or a Subsidiary or their respective officers, directors, employees, shareholders or agents and Affiliates, or to the knowledge of the Loan Parties, their licensees, manufacturers and contractors, seeking to enjoin from conducting business at any facility owned or used by any of them (including the Facilities) or for any material civil penalty, injunction, seizure or criminal action.

(h) All manufacturing operations relating to the Products conducted by or on behalf of the Borrower and its Subsidiaries have been and are being conducted in compliance with applicable provisions of cGMP as required by 21 U.S.C. § 351(a)(2)(B) and as set forth in 21 C.F.R. Parts 210 and 211 and applicable guidance documents, as amended from time to time. Neither the Borrower nor any Subsidiary nor to the Loan Parties' knowledge, any third party conducting services on behalf of the Borrower or its Subsidiaries, has received from the FDA a Warning Letter, Form FDA-483, Untitled Letter, other written correspondence or written notice setting forth allegedly objectionable observations or alleged violations of Laws enforced by the FDA, or any comparable correspondence from any state or local authority with regard to any Product, Service or Facilities, or the manufacture, testing, processing, packaging, supply, promotion, labeling, commercialization, import, export, sale, distribution, or holding of any Product or Service, or any comparable correspondence from any foreign counterpart of the FDA, or any comparable correspondence from any foreign counterpart of any state or local authority.

(i) Neither the Borrower nor any Subsidiary (A) has initiated in any recalls, field notifications, Market Withdrawals, warnings, "Dear Doctor" letters, investigator notices, safety alerts, "serious adverse event" reports or other notice of action, including as a result of any Risk Evaluation and Mitigation Strategy proposed by the FDA, relating to an alleged material safety issue or regulatory compliance issue relating to the Products or Services issued by the Borrower or any Subsidiary, any clinical investigator, and/or other third party ("Safety Notices"), (B) has knowledge of any complaints with respect to the Products, Services or Facilities which, if true, could reasonably be expected to result in a liability in excess of the Threshold Amount, and (C) has knowledge of any facts that would be reasonably likely to result in (1) a material Safety Notice with respect to the Products or Services, or (2) a termination or suspension of developing and testing of any of the Products or Services.

(j) All Products, Services, Facilities and Material Required Permits in relation thereto in existence as of the Closing Date are listed on Schedule 1.01 and the Borrower has delivered to the Lenders on or prior to the Closing Date copies of all Material Required Permits relating to such Products, Services or Facilities issued or outstanding as of the Closing Date.

(k) Each Product is not adulterated or misbranded in any material respect within the meaning of the FDCA.

(l) Each Product is not an article prohibited from introduction into interstate commerce under any provisions of the FDCA.

(m) With respect to each Product and Service, (a) each such Product and Service has been and shall be tested, developed, manufactured, handled, packaged, stored, supplied, imported, owned, warehoused, marketed, commercialized, promoted, sold, labeled, furnished, distributed, marketed and provided in accordance in all material respects with all applicable Permits and Laws, (b) all material reports, notices, or other submissions required to be submitted to Governmental Authority under applicable Law have been timely submitted, and (c) all records required to be maintained under applicable Law have been and are being lawfully maintained in all material respects.

(n) Without limiting the generality of Section 6.23(a) and (b) above, with respect to any Product or Service being researched, developed, tested, manufactured, handled, labeled, packaged, stored, supplied, promoted, distributed, marketed, commercialized, imported, exported, sold, or provided by or on behalf of the Borrower and its Subsidiaries, the Borrower and its Subsidiaries, and the applicable third parties, have received, and such Product or Service shall be the subject of, all Material Required Permits necessary in connection with the research, development, testing, manufacture, handling, labeling, packaging, storage, supply, promotion, distribution, marketing, commercialization, import, export, sale, or provision of such Product or Service as such activities are being conducted by or on behalf of the Borrower or such Subsidiary, and, neither the Borrower nor any Subsidiary nor to the Loan Parties' knowledge, any third party, has received any notice from any applicable Government Authority, specifically including the FDA, that such Government Authority is conducting an investigation or review of (A) the Borrower and its Subsidiaries' or any applicable third party's manufacturing, operations, facilities and processes for such Product or Service which have disclosed any material deficiencies or violations of Laws or the Material Required Permits related to the manufacture or processes related to such Product or Service, or (B) that any such Material Required Permit has been revoked or withdrawn, nor has any such Governmental Authority issued any order or recommendation to restrict or enjoin the development, testing or manufacturing of such Product or Service by the Borrower and its Subsidiaries.

(o) Without limiting the generality of Section 6.23(a) and (b) above, with respect to any Product or Service marketed, sold, commercialized or provided by or on behalf of the Borrower or any of its Subsidiaries, the Borrower and its Subsidiaries, and the applicable third parties, shall have received, and such Product or Service shall be the subject of, all Material Required Permits necessary in connection with the marketing, sale, commercialization or provision of such Product or Service as currently being marketed, sold or commercialized by or on behalf of the Borrower and its Subsidiaries, and, neither the Borrower nor any Subsidiary nor to the Loan Parties' knowledge, any third party, has received any notice from any applicable Governmental Authority, specifically including the FDA, that such Governmental Authority is conducting an investigation or review of any such Material Required Permit or that any such Material Required Permit has been revoked or withdrawn, nor has any such Governmental Authority issued any order or recommendation to restrict or enjoin the marketing, sale, commercialization or provision of such Product or Service or that such Product or Service be withdrawn from the marketplace.

(p) Each of the Facilities is duly registered or licensed under the applicable Laws of the jurisdiction where the Facility is located. The Facilities and the services provided at such Facilities are qualified for participation in the Government Reimbursement Programs, and each Loan Party and each of their Subsidiaries is entitled to reimbursement under the Government Reimbursement Programs for services rendered at such Facilities to qualified beneficiaries. To the knowledge of any Loan Party, all Persons providing professional health care services for or on behalf of any Loan Party (either as an employee or independent contractor) are appropriately licensed in every jurisdiction in which they hold themselves out as professional health care providers.

(q) Each Loan Party and each of their respective Subsidiaries has received and maintain accreditation in good standing and without impairment by all applicable Accrediting Organizations, to the extent required by Law (including any equivalent regulation) or the terms of any Operating Lease pertaining to any Facility. No Loan Party nor any of its respective Subsidiaries has received any notice or communication from any Accrediting Organization that a Facility is (i) subject to or is required to file a plan of correction with respect to any accreditation survey, or (ii) in danger of losing its accreditation due to a failure to comply with a plan of correction.

(r) Any Operating Lease has been approved by all necessary Governmental Authorities. Under applicable Laws in the jurisdiction in which each Facility is located, the reimbursement rate of the applicable Loan Party under any applicable Governmental Reimbursement Program is not affected by the rental rates under the Operating Lease. The rentals provided for under the Operating Lease comply with all applicable Laws and do not exceed the sums permitted to be paid under applicable Laws.

(s) No Loan Party, nor any of its respective Subsidiaries, nor any of their respective officers, nor, to the knowledge of any Loan Party, any of their respective employees, agents or contractors, have engaged in any activity which is not in compliance in all material respects with any applicable Healthcare Laws. To the knowledge of each Loan Party and its respective Subsidiary, there are no pending and there have been no threatened investigations, subpoenas, civil investigative demands, actions, suits or proceedings by any Governmental Authority with respect to any alleged violation by Loan Party or Subsidiary of any Healthcare Laws, except to the extent that any such investigations, subpoenas, civil investigative demands, actions, suits or proceedings could not reasonably be expected, either individually or in the aggregate, to have a material adverse effect on any Product Development and Commercialization Activities and could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect.

(t) Each Loan Party and each of their respective Subsidiaries has timely filed or caused to be timely filed all material cost reports required by any Government Reimbursement Program to have been filed or made with respect to the operations of the Loan Parties. No Loan Party nor any of their Subsidiaries (i) has retained a material overpayment received from, or failed to refund any material amount due to any Government Reimbursement Program in violation of any applicable Laws, or (ii) has received, except to the extent the same has been promptly reported to the Lenders, written notice of, or has knowledge of, any material overpayment or refund due to any Third Party Payor.

(u) No Loan Party nor any of its Subsidiaries nor any of their respective officers, directors, or employees nor, to the knowledge of any Loan Party, any owner, partner, agent, or other Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. § 420.201) in any Loan Party or any Subsidiary of any Loan Party, has (i) been has been excluded, debarred, suspended or been otherwise determined to be, or identified as, ineligible to participate in any healthcare or contracting program of any Governmental Authority, including without limitation, under 42 U.S.C. §§ 1320a-7 or 1320a-7a; (ii) (ii) is the subject of any investigation or review regarding their participation in any such program, (iii) has been convicted of any crime relating to any such program but not yet excluded, debarred, suspended or otherwise declared ineligible, or (iv) engaged in any activities which are prohibited, or are cause for civil penalties, or grounds for mandatory or permissive exclusion, debarment or suspension pursuant to any of these authorities.

(v) Each Loan Party and each of their respective Subsidiaries is in compliance in all material respects with HIPAA to the extent applicable.

(w) [Reserved].

(x) No Loan Party nor any of their Subsidiaries, nor any officer, director, partner, agent or managing employee of any Loan Party or any Subsidiary of any Loan Party, is a party to or bound by any individual integrity agreement, corporate integrity agreement, corporate compliance agreement, deferred prosecution agreement, or other formal or informal agreement with any Governmental Authority concerning compliance with Healthcare Laws or the requirements of any Material Required Permit.

6.24 Labor Matters.

There are no existing or, to the knowledge of the Loan Parties, threatened strikes, lockouts or other labor disputes involving the Borrower or any Subsidiary that singly or in the aggregate could reasonably be expected to have a Material Adverse Effect. Hours worked by and payment made to employees of the Borrower and its Subsidiaries are not in violation in any material respect of the Fair Labor Standards Act or any other applicable law, rule or regulation dealing with such matters.

6.25 Affected Financial Institution.

No Loan Party or any of their Subsidiaries is an Affected Financial Institution.

6.26 Ranking of Loans.

The Indebtedness represented by the Loans and the other Obligations under the applicable Loan Documents of each Loan Party is intended to constitute senior secured Indebtedness, and accordingly is, and shall be, at all times while the Loans and the other Obligations remain outstanding or the Lenders have any outstanding Commitments hereunder, *pari passu* or senior in right of payment with all Indebtedness (if any) of such Loan Party.

6.27 Consummation of the Royalty Financing.

The transactions contemplated by the Royalty Financing Documents have been or concurrently with the Term A Borrowing will be consummated in all material respects pursuant to the provisions of the Royalty Financing Documents, true and complete copies of which have been delivered to Administrative Agent, and in all material respects in compliance with all applicable Law.

6.28 Regulation H.

No real property subject to a Mortgage is a Flood Hazard Property unless the Administrative Agent shall have received the following: (a) the applicable Loan Party's written acknowledgment of receipt of written notification from the Administrative Agent (i) as to the fact that such Mortgaged Property is a Flood Hazard Property and (ii) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program, (b) copies of insurance policies or certificates of insurance of the applicable Loan Party evidencing flood insurance reasonably satisfactory to the Administrative Agent and naming the Administrative Agent as loss payee on behalf of the Lenders and (c) such other flood hazard determination forms, notices and confirmations thereof as requested by the Administrative Agent. All flood hazard insurance policies required hereunder have been obtained and remain in full force and effect, and the premiums thereon have been paid in full.

6.29 Data Privacy.

In connection with its collection, storage, transfer (including without limitation, any transfer across national borders) and/or use of any personally identifiable information from any individuals, including, any customers, prospective customers, employees and/or other third parties, each Loan Party is and has been in compliance with all applicable laws in all relevant jurisdictions, the Loan Parties' privacy policies, and the requirements of any contract or codes of conduct to which the each Loan Party is a party, except as could not reasonably be expected to result in liability, individually or in the aggregate, in excess of the Threshold Amount. Each Loan Party is and has been in compliance with all laws relating to data loss, theft and breach of security notification obligations, except as could not reasonably be expected to result in liability, individually or in the aggregate, in excess of the Threshold Amount.

6.30 Centre of Main Interests and Establishments.

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "Regulation"), BioCryst Ireland Limited's 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 Regulations) in any other jurisdiction.

6.31 JPR Royalty Sub.

(a) (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) none of the Borrower and its Subsidiaries Guarantees or is otherwise liable for any of the Indebtedness or other obligations of JPR Royalty Sub.

(b) (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 the Borrower and its Subsidiaries (other than the pledge by the 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 the Borrower is (x) such membership interests and no other assets of the 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.

6.32 Royalty and Other Payments.

As of the Closing Date, except as set forth on Schedule 6.32, neither the Borrower, nor any of its Subsidiaries, is obligated to pay any royalty, milestone payment, deferred payment or any other contingent payment in respect of any Key Product (except pursuant to the Royalty Financing).

6.33 Non-Competes.

As of the Closing Date, neither the Borrower, nor any of its Subsidiaries, nor, to the Borrower's knowledge, any of their respective directors, officers or employees, is subject to a non-compete agreement that will, or could reasonably be expected to, materially interfere with any of the Product Commercialization and Development Activities, including the development, commercialization or marketing of any Key Product.

ARTICLE VII

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitments hereunder, or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification obligations for which no claim has been asserted), each Loan Party shall and shall cause each Subsidiary to:

7.01 Financial Statements; Lender Calls.

(a) Deliver to the Administrative Agent and each Lender, as soon as available, and in any event within one hundred twenty (120) days after the end of each fiscal year of the Borrower (or, if earlier, when required to be filed with a Governmental Authority), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by an unqualified report and opinion of an independent certified public accountant of nationally recognized standing acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (except as may be required as a result of (I) any breach or anticipated breach of any of the financial covenants in Section 8.16 or Section 8.17 or (II) the impending maturity of the Loans or the impending expiration of the Commitments solely in the case of the audit delivered with respect to the fiscal year immediately prior to the fiscal year during which such maturity or expiration is scheduled hereunder to occur); and

(b) Deliver to the Administrative Agent and each Lender, as soon as available, and in any event within forty-five (45) days after the end of each fiscal quarter of each fiscal year of the Borrower, including the final fiscal quarter of each fiscal year (or, if earlier, when required to be filed with a Governmental Authority), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Financial Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

(c) Upon the request of the Administrative Agent, Borrower shall conduct quarterly conference calls that the Lenders may attend to discuss the financial condition and results of operations of Borrower and its subsidiaries for the most recently ended measurement period for which financial statements have been delivered pursuant to Section 7.01(a) and Section 7.01(b), at a date and time to be determined by Administrative Agent, in consultation with the Borrower, and with reasonable advance notice to the Borrower and Lenders.

7.02 Certificates; Other Information.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Sections 7.01(a) and (b) (i) a duly completed Compliance Certificate signed by a Responsible Financial Officer of the Borrower, certifying compliance with the covenant set forth in Section 8.16 and, if the Term C Borrowing Date shall have occurred and for so long as the Borrower has not exercised the Cure Right in accordance with Section 9.04, Section 8.17, and (ii) a written summary, such as the summary included within the financial statements delivered pursuant to Section 7.01(a), describing how any changes in GAAP during such period directly and materially impacted such financial statements;

(b) as soon as practicable, and in any event not later than sixty (60) days after the commencement of each fiscal year of the Borrower, an annual business plan and budget of the Borrower and its Subsidiaries for the then current fiscal year containing, among other things, projections for each quarter of such fiscal year, in form and substance reasonably satisfactory to the Administrative Agent;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the equity holders of any Loan Party, and copies of any annual, regular, periodic and special reports and registration statements which a Loan Party may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) concurrently with the delivery of the financial statements referred to in Sections 7.01(a) and (b), solely to the extent written notice to the Administrative Agent of such event was not previously provided, including in connection with any mandatory prepayment of the Loans pursuant to Section 2.03(b), a certificate of a Responsible Financial Officer of the Borrower containing information regarding (w) the acquisition or establishment of any Deposit Account by any Loan Party or any Government Account Debtor Account by any Loan Party, (x) all Dispositions, Involuntary Dispositions, Acquisitions and Extraordinary Receipts that occurred during the period covered by such financial statements in an amount greater than $[***], (y) the amount of all Debt Issuances that occurred during the period covered by such financial statements and (z) any Material Contracts entered into (together with copies of such Material Contracts) during the period covered by such financial statements;

(e) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the Board of Directors (or the audit committee of the Board of Directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them;

(f) promptly after the furnishing thereof, copies of any notice of default or any material statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 7.01 or any other clause of this Section 7.02;

(g) promptly, and in any event within five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, (i) copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof and (ii) copies of any material written correspondence or any other material written communication from the FDA, CMS or any other similar regulatory body;

(h) within [***] following the occurrence of any facts, events or circumstances known to any Loan Party or any Subsidiary, whether threatened, existing or pending, that would make any of the representations and warranties contained in Section 6.23 untrue, incomplete or incorrect in any material respect (together with such supporting data and information as shall be necessary to fully explain to the Lenders the scope and nature of the fact, event or circumstance), and shall provide to the Lenders within five (5) Business Days of any Lender's request, such additional information as any Lender shall reasonably request regarding such disclosure;

(i) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request;

(j) concurrently with the delivery of the financial statements referred to in Sections 7.01(a) and (b), a certificate of a Responsible Officer of the Borrower (i) listing (A) all applications by any Loan Party, if any, for Copyrights, Patents or Trademarks made since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), (B) all issuances of registrations or letters on existing applications by any Loan Party for Copyrights, Patents and Trademarks received since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), (C) all Trademark Licenses, Copyright Licenses and Patent Licenses entered into by any Loan Party since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), (D) such supplements to Schedule 6.17 as are necessary to cause such schedule to be true and complete as of the date of such certificate and (ii) with respect to any insurance coverage of any Loan Party or any Subsidiary that was renewed, replaced or modified during the period covered by such financial statements, such updated information with respect to such insurance coverage as is required to be included on Schedule 6.10;

(k) (i) concurrently with the delivery of the financial statements referred to in Sections 7.01(a) and (b), the Borrower shall give written notice to the Lenders of the manufacturing, sale, development, testing or marketing of any new Product for which an investigational new drug application or similar application has been filed with the FDA or other Government Authority, as applicable. or new Service, or the opening of any new Facility, in each case by the Borrower or any Subsidiary during such period to which such financial statements relate (which notice shall include a brief description of such Product, Service or Facility) along with a copy of an updated Schedule 1.01 and, (ii) at the request of the Administrative Agent, the Borrower shall provide to the Administrative Agent and the Lenders copies of all Material Required Permits relating to such new Product, Service or Facility and/or the Borrower's or the applicable Subsidiary's manufacture, sale, development, testing or marketing thereof (if applicable) issued or outstanding as of such date;

(l) concurrently with the delivery thereof to the Buyer pursuant to the Royalty Financing Documents or any buyer or purchaser pursuant to the Other Royalty Financing Documents, as applicable, and solely to the extent such information is not otherwise required to be furnished to the Administrative Agent or Lenders pursuant to Section 7.01 or any other clause of this Section 7.02, a copy of (i) any report, notice or other information delivered to the Buyer pursuant to Section 6.1 or 6.2(b) of the Royalty Financing Agreement and (ii) any other report, notice or other information delivered pursuant to any Royalty Financing Document or Other Royalty Financing Document, as applicable; and

(m) promptly, and in any event within [***] after (i) receipt or delivery thereof by any Loan Party or any Subsidiary, copy of any notice of default or termination delivered under the Royalty Financing Documents or Other Royalty Financing Documents and (ii) any Loan Party becomes aware thereof, notice of the occurrence of any default under the Royalty Financing Documents or Other Royalty Financing Documents.

Documents required to be delivered pursuant to Section 7.01(a) or (b) or Section 7.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 12.02, or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent, including if filed with the SEC through EDGAR); provided, that: (x) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower, and shall continue to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) other than with respect the financial statements required to be delivered pursuant to Section 7.01(a) or (b), the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery by a Lender, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that certain of the Lenders may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that if requested by the Administrative Agent it will, following the receipt of such request, (x) in good faith, identify that portion of the materials and/or information provided by, or to be provided by, or on behalf of the Borrower hereunder that does not constitute material non-public information with respect to the Borrower or its Affiliates or their respective securities (the "Public Borrower Materials") and (y) clearly and conspicuously mark all Public Borrower Materials "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof (it being understood that by marking Public Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, any Affiliate thereof and the Lenders to treat such Public Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Public Borrower Materials constitute Information, they shall be treated as set forth in Section 12.07)).

7.03 Notices.

(a) Promptly (and in any event, within [***]) notify the Administrative Agent and each Lender of the occurrence of any Default.

(b) Promptly (and in any event, within [***]) notify the Administrative Agent and each Lender of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) Promptly (and in any event, within [***]) notify the Administrative Agent and each Lender of the occurrence of any ERISA Event.

(d) As soon as reasonably practicable, but in any event no later than the day on which the delivery of the financial statements referred to in Sections 7.01(a) and (b) are delivered or required to be delivered, notify the Administrative Agent and each Lender of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary.

(e) Promptly (and in any event, within [***]) notify the Administrative Agent and each Lender of any litigation, arbitration or governmental investigation or proceeding not previously disclosed by a Loan Party which has been instituted or, to the knowledge of the Loan Parties, is threatened against the Borrower or any Subsidiary or to which any of the properties of any thereof is subject which could reasonably be expected to result in losses and/or expenses in excess of the Threshold Amount.

(f) (i) Promptly (and in any event, within [***] following receipt by, or delivery by, a Loan Party, Subsidiary or JPR Royalty Sub, as the case may be), copies of (A) any notice alleging any breach of any Material Contract, in each case, by any party thereto and (B) any termination of (or notice of such termination with respect to) any Material Contract and (ii) concurrently with the delivery of the next financial statements referred to in Sections 7.01(a) and (b) which are delivered following receipt by, or delivery by, a Loan Party, as the case may be, copies of (A) any material written notice or material written correspondence relating to, or involving, the Material Contracts, (B) any new Material Contract entered into and (C) any amendment of any Material Contract, the JPR Indenture or any other Deal Document (as defined in the JPR Indenture).

(g) Promptly (and in any event within [***]) notify the Administrative Agent and each Lender of any return, recovery, dispute or claim related to any Product, Service or inventory that involves more than $[***].

(h) Promptly (and in any event, within [***] of the occurrence of or any Loan Party learning of, as applicable) notify the Administrative Agent and each Lender of (i) any Governmental Authority, including but not limited to the FDA or CMS, is conducting or has conducted (A) an investigation of any of the Facilities of any Loan Party or any Subsidiary thereof, processes for any Product and/or in the development or provision of Services, which investigation has disclosed any material deficiencies or violations of Laws and/or the Material Required Permits (including cGMP compliance) related to such Facilities, Products or Services or (B) an investigation or review of any Material Required Permit (other than routine reviews in the ordinary course of business associated with the renewal of a Required Permit, routine pre-approval inspections and similar FDA visits and which could not reasonably be expected to result in a Material Adverse Effect), (ii) development, testing, manufacturing, marketing, sale and/or provision of any Product or Services that is material to the businesses operated by the Borrower and its Subsidiaries should cease, be suspended, or be interrupted, or the FDA or any institutional review board (or ethics committee) should provide written notice recommending or requiring any such cessation, suspension, or interruption, (iii) if a Product or Service that is material to the businesses operated by the Borrower and its Subsidiaries has been approved for marketing and sale, any marketing or sales of such Product or Service should cease or be interrupted or such Product or Service should be withdrawn from the marketplace, or the FDA, CMS or any other Governmental Authority should provide written notice threatening, recommending or initiating any such cessation, interruption, or withdrawal, (iv) any Material Required Permit has been revoked or withdrawn, (v) adverse clinical test results with respect to any Product or Service have occurred, (vi) any Market Withdrawals or other forms of retrieval from the marketplace of any Product or Service from any market (other than discrete batches or lots that are not material in quantity or amount and are not made in conjunction with a larger recall) have been conducted (or requested by the FDA, CMS or any other Governmental Authority), (vii) the occurrence of any violation of any applicable Laws by the Borrower or any of the other Subsidiaries in the development or provision of Products or Services, and record keeping and reporting to the FDA, CMS or any other Governmental Authority that could reasonably be expected to require or lead to an investigation, corrective action or enforcement, regulatory or administrative action, (viii) all fines or penalties imposed by any Governmental Authority under any Healthcare Law against any Loan Party or any of its Subsidiaries, or (ix) any significant failures in the manufacturing of any Product such that the amount of such Product successfully manufactured in accordance with all specifications thereof and the required payments to be made by or to the applicable Loan Party or Subsidiary therefor in any month shall decrease significantly with respect to the quantities of such Product and payments produced in the prior month (each event described in the foregoing clauses (i) through (viii), a "Regulatory Reporting Event").

(i) Promptly (and in any event, within [***] of the occurrence of or any Loan Party learning of, as applicable) notify the Administrative Agent and each Lender of (x) any holder of the Indebtedness under the JPR Indenture and the other Deal Documents 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 proceeding under any Debtor Relief Law relating to JPR Royalty Sub or to all or any material part of its property that is instituted.

Each notice pursuant to this Section 7.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the applicable Loan Party has taken and proposes to take with respect thereto. Each notice pursuant to Section 7.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached. With respect to any Regulatory Reporting Event, the Loan Parties shall provide to the Administrative Agent and the Lenders such further information (including copies of such documentation) as the Administrative Agent or any Lender shall reasonably request with respect to such Regulatory Reporting Event.

7.04 Payment of Obligations.

Pay and discharge, prior to delinquency, all of its obligations and liabilities, including: (a) all federal, state and other material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the applicable Loan Party or Subsidiary and the failure to make such payment pending such contest could not reasonably be expected to result in a Material Adverse Effect and (b) all lawful claims which, if unpaid, would by law become a Lien upon its property (other than a Permitted Lien).

7.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 8.04 or Section 8.05.

(b) Preserve, renew and maintain in full force and effect its good standing under (i) the Laws of the jurisdiction of its organization, and (ii) except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect, each other jurisdiction where it conducts its Business (in each case where such concept exists in such jurisdiction in the case of Non-U.S. Subsidiaries).

(c) Take all reasonable action to maintain all rights, privileges, permits, licenses and franchises the failure of which to maintain could reasonably be expected to result in a Material Adverse Effect.

7.06 Maintenance of Properties.

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear and impact of casualty event excepted.

(b) Make all necessary repairs thereto and renewals and replacements thereof, except where the failure to do so could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect.

(c) Use the standard of care typical in the industry in the operation and maintenance of its Facilities.

7.07 Maintenance of Insurance.

(a) Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

(b) Without limiting the foregoing, (i) maintain, if available, fully paid flood hazard insurance on all real property that is located in a special flood hazard area and that constitutes Collateral, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent, (ii) furnish to the Administrative Agent evidence of the renewal (and payment of renewal premiums therefor) of all such policies prior to the expiration or lapse thereof, and (iii) furnish to the Administrative Agent prompt written notice of any redesignation of any such improved real property into or out of a special flood hazard area.

(c) Cause the Administrative Agent and its successors and/or assigns to be named as lender's loss payee or mortgagee as its interest may appear, and/or additional insured with respect to any such insurance providing liability coverage or coverage in respect of any Collateral, and cause each provider of any such insurance to agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days (or such lesser amount as the Administrative Agent may agree to in its sole discretion) prior written notice before any such policy or policies shall be altered or canceled.

(d) Promptly notify the Administrative Agent of any real property subject to a Mortgage that is, or becomes, a Flood Hazard Property.

7.08 Compliance with Laws.

Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted, or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

7.09 Books and Records.

(a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Loan Party or such Subsidiary, as the case may be.

(b) Maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

7.10 Inspection Rights.

Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be desired, upon reasonable advance notice to the Borrower; provided, however, so long as no Event of Default exists, the Borrower shall only be required to reimburse the Administrative Agent (but not any Lender) for one such visit and inspection in any fiscal year; provided, further, however, when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours, as often as desired and without advance notice.

7.11 Use of Proceeds.

Use the proceeds of the Loans (i) refinance the existing Indebtedness of the Borrower, (ii) to support the launch activities and commercialization efforts for Orladeyo, (iii) to fund research and development and (iv) for other general corporate purposes, provided, that, in no event shall the proceeds of the Loans be used in contravention of any Law or of any Loan Document.

7.12 Additional Subsidiaries.

Within thirty (30) days after the acquisition or formation of any Subsidiary (including, without limitation, upon the formation of any Subsidiary that is a Delaware Divided LLC) (it being understood that any Excluded Subsidiary ceasing to be an Excluded Subsidiary but remaining a Subsidiary shall be deemed to be the acquisition of a Subsidiary for purposes of this Section):

(a) notify the Administrative Agent thereof in writing, together with the (i) jurisdiction of organization, (ii) number of shares of each class of Equity Interests outstanding, (iii) number and percentage of outstanding shares of each class owned (directly or indirectly) by the Borrower or any Subsidiary and (iv) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto; and

(b) cause such Person (other than any Excluded Subsidiary) to (i) to become a Guarantor by executing and delivering to the Administrative Agent a Joinder Agreement or such other documents as the Administrative Agent shall reasonably request for such purpose, and (ii) deliver to the Administrative Agent documents of the types referred to in Sections 5.01(f)-(h) (or, in the case of any Non-U.S. Subsidiary, comparable security documents, including local law equity pledge or similar agreements) in order to grant Liens to the Administrative Agent for the benefit of the Secured Parties in all assets of, and the Equity Interests in, such Subsidiary constituting Collateral and favorable opinions of counsel to such Persons (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (i) or (ii), as applicable), all in form, content and scope reasonably satisfactory to the Administrative Agent; provided that an Exempt Immaterial Subsidiary shall not be required to deliver any Collateral Documents (other than an equity pledge or similar agreement granting Liens to the Administrative Agent for the benefit of the Secured Parties in the Equity Interests in such Exempt Immaterial Subsidiary) governed by the laws of the jurisdiction in which such Exempt Immaterial Subsidiary is organized until such Exempt Immaterial Subsidiary ceases to constitute an Exempt Immaterial Subsidiary.

7.13 ERISA Compliance. Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan, both in form and operation, in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state law, (b) cause each Plan that is qualified under Section 401(a) of the Internal Revenue Code to maintain such qualification, and (c) make all required contributions to any Plan subject to Section 412, Section 430 or Section 431 of the Internal Revenue Code.

7.14 Pledged Assets.

(a) Equity Interests. To secure the Obligations, cause (i) 100% of the issued and outstanding Equity Interests of each U.S. Subsidiary (including, without limitation, each U.S. Subsidiary that is a Delaware Divided LLC) directly owned by any Loan Party and (ii) 65% (or such greater percentage that, (A) could not reasonably be expected to cause the undistributed earnings of such Non-U.S. Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Non-U.S. Subsidiary's United States parent and (B) could not reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) in each Non-U.S. Subsidiary directly owned by any Loan Party, in each case, to be subject at all times to a first priority, perfected Lien in favor of the Administrative Agent, for the benefit of the Secured Parties, pursuant to the terms and conditions of the Collateral Documents. In connection with the foregoing, the Borrower shall cause to be delivered to Administrative Agent opinions of counsel requested by the Administrative Agent and any filings and deliveries necessary to perfect the security interests in such Equity Interests, all in form and substance satisfactory to the Administrative Agent.

(b) Other Property. Cause all property (other than Excluded Property) of each Loan Party (including each Loan Party that is a Delaware Divided LLC) to be subject at all times to first priority, perfected and, in the case of real property (whether leased or owned), title insured Liens in favor of the Administrative Agent to secure the Obligations pursuant to the Collateral Documents or, with respect to any such property acquired subsequent to the Closing Date, such other additional security documents, including Real Property Security Documents, as the Administrative Agent shall request (subject to Permitted Liens), and in connection with the foregoing, deliver to the Administrative Agent such other documentation as the Administrative Agent may request, including filings and deliveries necessary to perfect such Liens, Organization Documents, resolutions, Real Property Security Documents and favorable opinions of counsel to such Persons and the Lenders, all in form, content and scope reasonably satisfactory to the Administrative Agent.

7.15 Compliance with Material Contracts.

Comply with each Material Contract of such Person, except where the failure to so comply could not reasonably be expected, either individually or in the aggregate, to have a material adverse effect on any Product Development and Commercialization Activities.

7.16 Deposit Accounts.

(a) [Reserved].

(b) (i) Cause all Deposit Accounts of the Loan Parties (other than (A) deposit accounts established solely as payroll purposes, (B) the Government Account Debtor Account, (C) the HSBC Cash Collateral Accounts and (D) other Deposit Accounts holding less than $[***] in the aggregate at any time for all such Deposit Accounts under this clause (D)) at all times to be subject to Deposit Account Control Agreements in form and substance satisfactory to the Administrative Agent or solely in the case of a Loan Party that is a Non-U.S. Subsidiary, to be subject to a first priority, perfected security interest in favor of the Administrative Agent for the benefit of the Secured Parties, and (ii) cause all payments owing by a Government Account Debtor to a Loan Party to be deposited into the Government Account Debtor Account, which account shall (x) be subject to irrevocable standing instructions causing all funds therein to be transferred via an automatic immediate intrabank transfer by the close of each Business Day to a Deposit Account subject to a Deposit Account Control Agreement or solely in the case of a Loan Party that is a Non-U.S. Subsidiary, to a Deposit Account subject to a first priority, perfected security interest in favor of the Administrative Agent for the benefit of the Secured Parties, and (y) not be used for any purpose other than receiving funds from Government Account Debtors and other account debtors of the Loan Parties.

7.17 Regulatory Compliance.

(a) Without limiting the generality of Section 7.08, in connection with the research, development, testing, manufacture, handling, labeling, packaging, storage, supply, promotion, distribution, marketing, commercialization, marketing, commercialization, import, export, sale or provision of each and any Product or Service by the Borrower or any Subsidiary, or the operation of any Facility, the Borrower or such Subsidiary shall comply with all Required Permits at all times issued by any Government Authority, specifically including the FDA and CMS, with respect to such research, development, testing, manufacture, handling, labeling, packaging, storage, supply, promotion, distribution, marketing, commercialization, import, export, sales or provision of such Product or Service by the Borrower or such Subsidiary, in each case, except where the failure to do any of the foregoing (x) could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect and (y) could not reasonably be expected, either individually or in the aggregate, to have a material adverse effect on any Product Development and Commercialization Activities.

(b) The Borrower and each Subsidiary shall (i) take all necessary action to timely renew and maintain all Material Required Permits, accreditations and qualifications which are necessary or material to the conduct of its business, or to receive payment for all applicable Services, (ii) be and remain in compliance with all Third Party Arrangements and Healthcare Laws and all requirements for participation in, and for licensure required to provide the goods or services that are reimbursable under, all Third Party Payor Arrangements and Government Reimbursement Programs; and (iii) use commercially reasonable efforts to cause all Persons providing professional health care services for or on behalf of any Loan Party or Subsidiary (either as an employee or independent contractor) to comply with all applicable material Healthcare Laws in the performance of their duties, and to maintain in full force and effect all professional licenses required to perform such duties.

(c) All preclinical and clinical trials that have been conducted and/or are being conducted by or on behalf of the Borrower and its Subsidiaries, including those trials whose results and data have been submitted to any Governmental Authority, including the FDA and its counterparts worldwide, are being or have been conducted in compliance in all material respects with the required experimental protocols, procedures and controls and otherwise in compliance with applicable Laws, including cGLP and cGCP, the Animal Welfare Act, and all applicable similar Laws in other jurisdictions.

(d) Each Loan Party and each of their respective Subsidiaries shall maintain a corporate and health care regulatory compliance program ("RCP") which addresses the requirements of all applicable Healthcare Laws and includes the following components: (i) standards of conduct and policies and procedures for compliance with Healthcare Laws; (ii) a specific officer within high-level personnel identified as having overall responsibility for compliance with such standards of conduct and policies and procedures; (iii) training and education programs which effectively communicate the compliance standards and procedures to employees and agents, including Healthcare Laws; (iv) auditing and monitoring systems and reasonable steps for achieving compliance with such standards of conduct and policies and procedures including publicizing a reporting system to allow employees and other agents to anonymously report criminal or suspect conduct and potential compliance problems; (v) disciplinary guidelines and consistent enforcement of compliance policies including discipline of individuals responsible for the failure to detect violations of the RCP; and (vi) mechanisms to promptly respond to detected violations of the RCP. Each Loan Party and each of their respective Subsidiaries shall modify such RCPs from time to time, as may be necessary to ensure continuing compliance with all material applicable Healthcare Laws. Upon request, the Lenders (and/or their consultants) shall be permitted to review such RCPs.

(e) Borrower shall provide to Lenders upon request, an accurate, complete and current list of all Third Party Payor Arrangements and participation agreements with Government Account Debtors with respect to the business of the Loan Parties.

(f) Borrower shall promptly furnish or cause to be furnished to the Lenders copies of (i) all reports of investigational/inspectional observations issued to and received by the Loan Parties or any of their Subsidiaries, and issued by any Governmental Authority relating to such Person's business, (ii) copies of all establishment investigation/inspection reports issued to and received by Loan Parties or any of their Subsidiaries and issued by any Governmental Authority, (iii) copies of all warning and untitled letters, subpoenas, civil investigative demands, as well as other material documents received by Loan Parties or any of their Subsidiaries from the FDA, CMS, HHS, the United States Department of Justice, or any other Governmental Authority relating to or arising out of the conduct applicable to the business of the Loan Parties or any of their Subsidiaries that asserts past or ongoing lack of compliance with any applicable Laws and Healthcare Laws, (iv) copies of any written recommendation from any Governmental Authority in any Key Territory, Ireland, Japan or the European Union (or any agency thereof) or the competent authority of a European Union member state, that any Loan Party or any of its respective Subsidiaries, or any obligor to which any Loan Party or any of its respective Subsidiaries provides Products or Services, should have its licensure, provider or supplier number, or accreditation suspended, revoked, or limited in any way, or any penalties or sanctions imposed and (v) notice of any material investigation or material audit or similar proceeding by the FDA, CMS, any other Governmental Authority in any Key Territory, Ireland, Japan or the European Union (or any agency thereof) or the competent authority of a European Union member state.

(g) Each Loan Party and each of their respective Subsidiaries will at all times be in compliance in all material respects with HIPAA to the extent applicable.

(h) [Reserved].

(i) Cause all Facilities to operate in material compliance with applicable Laws except to the extent that any non-compliance could not reasonably be expected, either individually or in the aggregate, to result in (x) a material adverse effect on any Product Development and Commercialization Activities and (y) a Material Adverse Effect.

(j) If any Facility is currently accredited by an Accrediting Organization, each Loan Party and each of their respective Subsidiaries will (i) maintain such accreditation in good standing and without limitation or impairment, (ii) promptly submit to the Accrediting Organization a plan of correction for any deficiencies listed on any accreditation survey report, and (iii) cure all such deficiencies within such time frame as is necessary to preserve and maintain in good standing and without limitation or impairment such accreditation, in each case, except to the extent that the failure to do so could not reasonably be expected, either individually or in the aggregate, to result in (x) a material adverse effect on any Product Development and Commercialization Activities and (y) a Material Adverse Effect.

(k) Borrower shall provide the Administrative Agent (i) prior written notice of any material change to the terms of its normal billing payment and reimbursement policies and procedures with respect thereto (including, without limitation, the amount and timing of finance charges, fees and write-offs) and (ii) within a reasonable time written notice of any change in a Government Reimbursement Program that materially impacts the Borrower's normal billing payment policies and procedures or expected reimbursement amounts, together with a description of the expected impacts.

(l) The Loan Parties shall maintain in full force and effect, and free from restrictions, probations, conditions or known conflicts which would materially impair the use or operation of any Facility for its current use, except to the extent that the failure to do so could not reasonably be expected, either individually or in the aggregate, to result in (x) a material adverse effect on any Product Development and Commercialization Activities and (y) a Material Adverse Effect.

7.18 Intellectual Property; Consent of Licensors.

(a) (i) Maintain in full force and effect or pursue the prosecution of, as the case may be, and pay all costs and expenses relating to, all Material IP Rights owned or controlled by such Loan Party or its respective Subsidiaries, except for any such Material IP Rights that are no longer used or useful in any material respect in the business of the Borrower and its Subsidiaries, taken as a whole; (ii) notify the Administrative Agent, promptly after learning thereof, of any material infringement, misappropriation or other violation by any Person of its Material IP Rights; (iii) use commercially reasonable efforts to pursue, enforce, and maintain in full force and effect legal protection for all Material IP Rights, including Patents, developed or controlled by such Loan Party or any of its respective Subsidiaries, except for any such Material IP Rights that are no longer used or useful in any material respect in the business of the Borrower and its Subsidiaries, taken as a whole; and (iv) notify the Administrative Agent, promptly after learning thereof, of any claim by any Person that the conduct of the Businesses infringes any Material IP Rights of that Person and, if requested by the Administrative Agent, use commercially reasonable efforts to resolve such claim, in each case of this clause (iv), other than with respect to Material IP Rights that are obsolete or no longer used or useful in the conduct of the business of Borrower and its Subsidiaries, taken as a whole, or the cost of maintaining any such Material IP Rights that are immaterial would outweigh the benefit to Borrower and its Subsidiaries of so maintaining.

(b) Promptly after entering into or becoming bound by any material license or similar material agreement (other than (i) over-the-counter software that is commercially available to the public and (ii) any license agreement relating to IP Rights that are not Material IP Rights) after the Closing Date, the Loan Parties shall (i) provide written notice to the Administrative Agent of the material terms of such license or similar agreement and (ii) in good faith take such commercially reasonable actions (which commercially reasonable actions, for the avoidance of doubt, shall not include payment of any fees or other amounts or making any material concessions with respect to the terms of such license or agreement by such Loan Party) as the Administrative Agent or Required Lenders may reasonably request to obtain the consent of, or waiver by, any Person whose consent or waiver is necessary for the Administrative Agent to be granted and perfect a valid security interest in such license or agreement and to fully exercise its rights under any of the Loan Documents in the event of a disposition or liquidation of the rights, assets or property that is the subject of such license or agreement; provided, that, the failure to obtain any such consent or waiver shall not by itself constitute a Default.

7.19 Anti-Corruption Laws. Conduct its business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such Laws.

7.20 Post-Closing Obligations. Within the time periods set forth therefor on Schedule 7.20 (or such longer periods of time as may be agreed to by the Administrative Agent in its sole discretion), deliver to the Administrative Agent such documents, instruments, certificates or agreements as are listed on Schedule 7.20 or take such actions as are described on Schedule 7.20, in each case in form and substance reasonably satisfactory to the Administrative Agent.

7.21 JPR Royalty Sub - Indenture.

(a) Until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, the 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, without limitation, any amendments or modifications thereof) and not otherwise prohibited pursuant to the terms of the Loan Documents, perform (i) [reserved], (ii) 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 (iii) 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 perform any of the foregoing activities described in clauses (a)(i), (ii) and (iii) could reasonably be expected to result in a Material Adverse Effect.

(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 7.21 by the 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, without limitation, 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 Administrative Agent or any Lender or that could reasonably be expected to result in a Material Adverse Effect, (C) allow its Organization Documents to be modified in a manner (1) that is adverse to the Administrative Agent or any Lender in any material respect, (2) that could reasonably be expected to result in a Material Adverse Effect or (3) that would have the effect of eliminating or modifying any of the "special purpose entity" restrictions set forth in such Organization Documents, (D) violate the "special purpose entity" restrictions set forth in such Organization documents in any material respect, (E) merge or consolidate with any other Person, (F) own any assets other than the Purchased Assets (as defined in the JPR Indenture), (G) create, incur, assume or suffer to exist any Indebtedness (other than the Indebtedness under the JPR Indenture) and (H) 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 Loan Party or any Subsidiary shall, 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 Loan Party or Subsidiary to JPR Royalty Sub or (C) Guarantee or otherwise become liable for any Indebtedness or other liability of JPR Royalty Sub (other than the pledge by the 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 the Borrower is (I) such membership interests and no other assets of the 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, the Borrower shall, within [***] or, if not then permitted pursuant to the JPR Indenture or other Deal Documents, within [***] of such first date thereafter as may be permitted under the JPR Indenture and such other Deal Documents, and at its election, either (a) dissolve JPR Royalty Sub and liquidate its assets into the Borrower or (b) take such actions required by Administrative Agent to cause JPR Royalty Sub to become a Guarantor under the Loan Documents pursuant to Section 7.12 with respect to newly formed or acquired Subsidiaries.

7.22 Restrictions on Cash. Without limiting the restrictions set forth in Sections 7.21 or 8.18, respectively, the Loan Parties shall ensure that the total amount of cash and Cash Equivalents held by all Subsidiaries of the Borrower that are not Loan Parties does not, as of the end of each fiscal quarter, exceed $[***] in the aggregate.

7.23 People with Significant Control Regime. Each of the Loan Parties shall within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 from any company incorporated in the United Kingdom whose shares are the subject of Collateral Documents and promptly provide the Administrative Agent with a copy of that notice.

ARTICLE VIII

NEGATIVE COVENANTS

So long as any Lender shall have any Commitments hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification obligations for which no claim has been asserted), no Loan Party shall, nor shall it permit any Subsidiary to, directly or indirectly:

8.01 Liens.

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens existing on the date hereof and listed on Schedule 8.01;

(c) Liens (other than Liens imposed under ERISA) for taxes, assessments or governmental charges or levies not yet delinquent or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided, that, such Liens secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established; provided further, that, such Liens do not have priority over any of the Administrative Agent's Liens on the Collateral and the aggregate amount secured by all such Liens does not at any time exceed the Threshold Amount;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, indemnity and performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not materially interfere with the ordinary conduct of the business of the applicable Person;

(h) Liens securing judgments, decrees or attachments (or appeal or other surety bonds relating to such judgments) not constituting an Event of Default under Section 9.01(h);

(i) Liens securing Indebtedness permitted under Section 8.03(e); provided, that: (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (ii) the Indebtedness secured thereby does not exceed the cost (negotiated on an arm's length basis) of the property being acquired on the date of acquisition and (iii) such Liens attach to such property concurrently with or within ninety (90) days after the acquisition thereof;

(j) licenses, sublicenses, leases or subleases (other than relating to intellectual property) granted to others in the ordinary course of business not interfering in any material respect with the business of any Loan Party or any of its Subsidiaries;

(k) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement;

(l) normal and customary banker's liens and rights of setoff upon deposits of cash in favor of banks or other depository institutions;

(m) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;

(n) Liens of sellers of goods to the Borrower and any of its Subsidiaries arising under Article 2 of the Uniform Commercial Code or similar provisions of applicable 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;

(o) Permitted Licenses;

(p) solely with respect to the Borrower, the pledge 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);

(q) [reserved];

(r) Liens granted in the ordinary course of business on the unearned portion of insurance premiums securing the financing of insurance premiums permitted by Section 8.03(h);

(s) Liens in favor of HSBC Bank on the HSBC Cash Collateral Accounts to the extent securing obligations of Borrower permitted pursuant to clause (h) of the definition of Permitted Contingent Obligations;

(t) cash collateral securing letters of credit permitted under clause (g) of the definition of "Permitted Contingent Obligations"; provided that the aggregate amount of such cash collateral shall not exceed [***] percent ([***]%) of the face amount of the letter of credit it is securing; and

(u) other Liens securing obligations (other than obligations constituting Capital Leases, letters of credit or debt for borrowed money) in an aggregate principal amount outstanding at any time not to exceed the Threshold Amount.

8.02 Investments.

Make any Investments, except:

(a) Investments held by a Loan Party or a Subsidiary in the form of cash or Cash Equivalents;

(b) Investments existing on date hereof and set forth in Schedule 8.02;

(c) Investments in any Person that is a Loan Party prior to giving effect to such Investment;

(d) Investments by any Subsidiary of the Borrower that is not a Loan Party in any other Subsidiary of the Borrower that is not a Loan Party;

(e) (x) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, (y) Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and (z) 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;

(f) Permitted Acquisitions;

(g) other Investments not exceeding the Threshold Amount in the aggregate at any one time outstanding; provided, that, no Investment otherwise permitted by this clause (g) shall be permitted to be made if any Default has occurred and is continuing or would result therefrom; provided, further, that any Investment by a Loan Party in a Non-U.S. Subsidiary that is not a Loan Party in reliance on this clause (g) shall be limited to cash and Cash Equivalents;

(h) Investments of cash and Cash Equivalents by Loan Parties in Non-U.S. Subsidiaries that are not Loan Parties, but solely to the extent that the aggregate amount of such Investments does not exceed $[***] at any time outstanding;

(i) [reserved];

(j) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of any Loan Party; and

(k) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of the Borrower pursuant to employee stock purchase plans or agreements approved by the Borrower's board of directors, in an aggregate amount for all such Investments made in reliance of this clause (k) not to exceed $[***] at any one time outstanding; provided, that, no Investment otherwise permitted by this clause (k) shall be permitted to be made if any Default has occurred and is continuing or would result therefrom.

8.03 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness of the Borrower and its Subsidiaries existing on the date hereof and described on Schedule 8.03 and renewals, refinancings and extensions thereof; provided that no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing except by an amount equal to unpaid accrued interest and premium thereon and fees, commissions and expenses (including upfront fees and original issue discount) reasonably incurred, in connection with such refinancing;

(c) intercompany Indebtedness permitted under Section 8.02 (other than by reference to this Section 8.03 (or any sub-clause hereof));

(d) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Swap Contract, provided, that, such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view";

(e) purchase money Indebtedness (including obligations in respect of Capital Leases or Synthetic Leases) hereafter incurred by the Borrower or any of its Subsidiaries to finance the purchase of fixed assets, and renewals, refinancings and extensions thereof, provided, that, (i) no Default or Event of Default has occurred and is continuing both immediately prior to and after giving effect thereto, (ii) the total of all such Indebtedness for all such Persons taken together shall not exceed an aggregate principal amount of $[***] at any one time outstanding, (iii) such Indebtedness when incurred shall not exceed the purchase price of the asset(s) financed, and (iv) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing except by an amount equal to unpaid accrued interest and premium thereon plus other amounts owing or paid related to such Indebtedness, and fees, commissions and expenses (including upfront fees and original issue discount) reasonably incurred, in connection with such refinancing;

(f) other unsecured Indebtedness hereafter incurred by the Borrower or any of its Subsidiaries in an aggregate amount not to exceed $[***] at any one time outstanding;

(g) Permitted Contingent Obligations;

(h) Indebtedness incurred in the ordinary course of business not to exceed $[***] in the aggregate at any time outstanding owed to any Person providing property, casualty, liability, or other insurance to the Loan Parties, including to finance insurance premiums, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the policy year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such policy year;

(i) Convertible Bond Indebtedness; and

(j) Attributable Indebtedness in respect of Capital Leases incurred pursuant to automobile leases entered into in the ordinary course of business as part of employee compensation for employees based in Europe; provided that the aggregate amount of such Attributable Indebtedness incurred pursuant to this clause (j) shall not exceed $[***] at any one time outstanding.

8.04 Fundamental Changes.

Merge, dissolve, liquidate, consolidate, with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person (including, in each case, pursuant to a Delaware LLC Division); provided, that, notwithstanding the foregoing provisions of this Section 8.04 but subject to the terms of Sections 7.12 and 7.14, (a) the Borrower may merge or consolidate with any of its direct Subsidiaries, provided that the Borrower shall be the continuing or surviving entity, (b) any Loan Party (other than the Borrower) may merge or consolidate with any other Loan Party, (c) any Subsidiary that is not a Loan Party may be merged or consolidated with or into any Loan Party, provided that such Loan Party shall be the continuing or surviving entity, (d) any Subsidiary that is not a Loan Party may be merged or consolidated with or into any other direct Subsidiary of it that is not a Loan Party and (e) any Subsidiary that is not a Loan Party may dissolve, liquidate or wind up its affairs at any time provided that such dissolution, liquidation or winding up could not reasonably be expected to have a Material Adverse Effect and all of its assets and business are transferred to a Loan Party prior to or concurrently with such dissolution, liquidation or winding up; provided, that, in the case of (a) through (d) above, the merging parties are organized in the same jurisdiction (it being understood that for this purpose, States of the United States shall be deemed to be the same jurisdiction as each other).

8.05 Dispositions.

Make any Disposition, except, so long as no Default or Event of Default shall have occurred and be continuing both immediately prior to and after giving effect to such Disposition, (a) Permitted Licenses and dispositions of Inventory and Clinical Trial Material to licensees in connection with, and pursuant to reasonable and customary terms of, a Permitted License (provided that such dispositions shall be limited to Inventory and Clinical Trial Material related to the Product that is the subject of such Permitted License), (b) other Dispositions to the extent, in the case of this clause (b), (i) the consideration paid in connection therewith shall be cash or Cash Equivalents paid contemporaneous with consummation of the transaction and shall be in an amount not less than the fair market value of the property disposed of, (ii) such Disposition does not involve the sale, lease, license, transfer or other disposition of the Equity Interests in any Subsidiary, any Products and/or any IP Rights, and (iii) the aggregate fair market value of all of the assets sold or otherwise disposed of in such Disposition together with the aggregate fair market value of all assets sold or otherwise disposed of by the Borrower and its Subsidiaries in all such transactions does not exceed $[***] per fiscal year of the Borrower, and (c) asset sales of the Specified Products to any Person that is not an Affiliate of any Loan Party, Subsidiary or Affiliate of a Loan Party or Subsidiary (excluding, for the avoidance of doubt, the Disposition of any Equity Interests of a Subsidiary), to the extent, in the case of this clause (c), that, the consideration paid in connection therewith shall be cash paid contemporaneously with the consummation of the transaction and shall be in an amount not less than the fair market value of the property disposed; provided, however, that this clause (c) shall not include any Disposition in the form of a separate license, sale, transfer or financing of a right to receive any sales or revenue with respect to a Specified Product (or any IP Rights related to a Specified Product); provided further that, for the avoidance of doubt, the foregoing proviso shall not restrict any Permitted License or Other Royalty Financing otherwise separately permitted pursuant to the terms of this Agreement.

8.06 Restricted Payments.

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) (i) each Subsidiary may make Restricted Payments to any Loan Party and (ii) each Subsidiary that is not a Loan Party may make Restricted Payments to another Subsidiary that is not a Loan Party;

(b) the Borrower and each Subsidiary may declare and make dividend payments or other distributions payable solely in the Qualified Capital Stock of such Person;

(c) the Borrower may make (i) any payment of cash in lieu of a fractional share in accordance with the terms of any indenture governing Convertible Bond Indebtedness and (ii) subject to any subordination provisions applicable thereto, regularly scheduled interest payments as and when due in accordance with the terms of any indenture governing Convertible Bond Indebtedness;

(d) (i) the Borrower may make cashless repurchases of its Equity Interests deemed to occur upon exercise of stock options or warrants of such Equity Interests to represent a portion of the exercise price of such options or warrants and (ii) to the extent constituting a Restricted Payment, the Borrower may acquire (or withhold) its Equity Interests pursuant to any employee stock option or similar plan in satisfaction of withholding or similar taxes payable by any present or former officer, employee, director or member of management and the Borrower may make deemed repurchases in connection with the exercise of stock options; and

(e) (i) the Borrower may (x) make the Royalty Payment on a quarterly basis to the Buyer pursuant to Section 6.2(a) of the Royalty Financing Agreement and (y) make any other payments to the Buyer required to be made under the Royalty Financing Documents as in effect on the date hereof and (ii) subject to the Royalty Financing Restrictions, the Borrower may pay any revenue participation payment owing to the purchaser or buyer under any Other Royalty Financing Document pursuant to any comparable section in such Other Royalty Financing Document.

8.07 Change in Nature of Business.

Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the Closing Date or any business substantially related or incidental thereto.

8.08 Transactions with Affiliates and Insiders.

Enter into or permit to exist any transaction or series of transactions, with any officer, director or Affiliate of a Loan Party or a Subsidiary other than (a) advances of working capital to any Loan Party, (b) [reserved], (c) intercompany transactions expressly permitted by Section 8.02, Section 8.03, Section 8.04, Section 8.05 or Section 8.06 (in each case, other than by reference to this Section 8.08 (or any sub-clause hereof)), (d) normal and reasonable compensation and reimbursement of expenses of officers and directors in the ordinary course of business (e) except as otherwise specifically limited in this Agreement, other transactions which are entered into in the ordinary course of such Person's business on terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arm's-length transaction with a Person other than an officer, director or Affiliate and (f) transactions solely between or among Loan Parties.

8.09 Burdensome Agreements.

Enter into, or permit to exist, any Contractual Obligation that (a) encumbers or restricts the ability of any such Person to (i) make Restricted Payments to any Loan Party, (ii) pay any Indebtedness or other obligations owed to any Loan Party, (iii) make loans or advances to any Loan Party, (iv) transfer any of its property to any Loan Party, (v) pledge its property pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof or (vi) act as a Loan Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except (in respect of any of the matters referred to in clauses (i) through (v) above) for (1) this Agreement and the other Loan Documents, (2) any document or instrument governing Indebtedness incurred pursuant to Section 8.03(e), provided, that, any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (3) customary provisions restricting assignment of any agreement entered into by the Borrower or any Subsidiary in the ordinary course of business, or (4) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 8.05 pending the consummation of such sale s or (b) requires the grant of any security for any obligation if such property is given as security for the Obligations.

8.10 Use of Proceeds.

Use the proceeds of any Loan, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

8.11 Prepayment of Other Indebtedness.

Make (or give any notice with respect thereto) any voluntary or optional payment or prepayment or voluntary or optional redemption or acquisition for value of (including without limitation, by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due), refund, refinance or exchange of any Indebtedness of any Loan Party or any Subsidiary that is (or is required to be) (a) subordinated in right of payment to the Obligations, (b) unsecured Indebtedness or (c) Indebtedness secured by Liens which are junior to the Liens securing the Obligations, in the case of each of the foregoing clauses (a) through (c) except for (i) any settlement or conversion of Convertible Bond Indebtedness solely with or into common stock of the Borrower and (ii) any payment of cash in lieu of a fractional share in accordance with the terms of any indenture governing Convertible Bond Indebtedness in connection with the settlement or conversion of Convertible Bond Indebtedness permitted by clause (i) above of this Section 8.11.

8.12 Organization Documents; Fiscal Year; Legal Name, Jurisdiction of Formation and Form of Entity; Certain Amendments.

(a) Amend, modify or change its Organization Documents in a manner materially adverse to the Lenders.

(b) Change its fiscal year.

(c) Without providing five (5) days prior written notice to the Administrative Agent and otherwise taking any steps that in the Administrative Agent's reasonable discretion would be necessary, appropriate or convenient in order to perfect and maintain perfection of the security interests granted under the Security Documents, change its name, jurisdiction of organization or form of organization.

(d) Amend, supplement, waive or otherwise modify (or permit the amendment, supplement, waiver or modification), or enter into any forbearance from exercising any rights with respect to, (i) any Material Contract (other than any Royalty Financing Document or Other Royalty Financing Document) if such amendment, supplement, waiver, other modification or forbearance could reasonably be expected to result in a material adverse effect on any Product Development and Commercialization Activities, (ii) any document or other agreement evidencing Indebtedness in excess of the Threshold Amount in a manner materially adverse to the Administrative Agent or any Lender or (iii) any Royalty Financing Document or Other Royalty Financing Document, in each case, in a manner adverse to the Administrative Agent or any Lender.

Each Loan Party shall, prior to entering into any amendment, supplement, waiver or other modification of, or forbearance with respect to, any Royalty Financing Document, Other Royalty Financing Document, other Material Contract or any document or other agreement evidencing Indebtedness in excess of the Threshold Amount to the extent such amendment, supplement, waiver, modification or forbearance is not permitted by this Section 8.12, deliver to Administrative Agent reasonably in advance of the execution thereof, any final or execution form copy of amendments, supplements, waivers or other modifications to such documents, and, if approval of Administrative Agent is required by the terms of this Section 8.12 prior to the taking of any such action, the Loan Parties agree not to take, nor permit any of its Subsidiaries to take, any such action with respect to any such documents without obtaining such approval from Administrative Agent.

8.13 Ownership of Subsidiaries.

Notwithstanding any other provisions of this Agreement to the contrary, (a) permit any Person (other than any Loan Party or any Wholly-Owned Subsidiary of the Borrower) to own any Equity Interests of any Subsidiary of any Loan Party, except to qualify directors where required by applicable law or to satisfy other requirements of applicable law with respect to the ownership of Equity Interests of Non-U.S. Subsidiaries, (b) permit any Loan Party or any Subsidiary to issue or have outstanding any shares of Disqualified Capital Stock or (c) create, incur, assume or suffer to exist any Lien (other than Liens permitted under Section 8.01(a)) on any Equity Interests of any Subsidiary of any Loan Party.

8.14 Sale Leasebacks.

Enter into any Sale and Leaseback Transaction.

8.15 Sanctions; Anti-Corruption Laws.

(a) Directly or indirectly, use the proceeds of any Loan, or lend, contribute or otherwise make available such proceeds of any Loan to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transactions hereunder, whether as a Lender, Administrative Agent or otherwise) of Sanctions.

(b) Directly or indirectly, use the proceeds of any Loan for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions.

8.16 Minimum Liquidity.

Permit the amount of Unrestricted Cash of the Loan Parties held in Deposit Accounts for which the Administrative Agent shall have received a Deposit Account Control Agreement at any time to be less than:

(i) if only the Term A Borrowing has occurred: $15,000,000;

(ii) if the Term B Borrowing has occurred but the Term C Loan Borrowing has not occurred: $20,000,000;

(iii) if the Term C Borrowing has occurred (and the Cure Right has not been exercised pursuant to Section 9.04): $15,000,000; and

(iv) if the Cure Right has been exercised pursuant to Section 9.04: $20,000,000.

8.17 Minimum Orladeyo Consolidated U.S. Net Product Sales.

As of the last day of each fiscal quarter of the Borrower (a "Test Date") beginning with the first Test Date occurring immediately after the Term C Borrowing Date, permit Orladeyo Consolidated U.S. Net Product Sales for the four-fiscal quarter period ending on such Test Date to be less than the amount set forth in the table below:

Test Date ending after Term C Loan Borrowing Date:	Minimum Orladeyo Consolidated U.S. Net Product Sales
First Test Date	$[***]
Second Test Date:	$[***]
Third Test Date:	$[***]
Fourth Test Date and each Test Date thereafter:	$[***]

8.18 MDCP.

(a) Permit MDCP to (a) conduct any business operations, (b) have any cash or other assets (including any licenses or permits) or any liabilities (other than de minimis assets or liabilities as required by applicable Law), (c) own any Equity Interests of any Loan Party or any other Subsidiary of any Loan Party or (d) operate any part of the business of any Loan Party or any other Subsidiary.

(b) Directly or indirectly, (A) make any Investment in MDCP or (B) sell, transfer, license, lease or dispose of any asset or property of such Loan Party or Subsidiary to MDCP.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

9.01 Events of Default.

Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan (including any prepayment or repayment premium or exit fee due in connection with such principal amount), or (ii) within three Business Days after the same becomes due, any interest on any Loan, any fee due hereunder or any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 7.01, 7.02, 7.03, 7.05 (solely as to any Loan Party), 7.10, 7.11, 7.12, 7.14, 7.16, 7.17, 7.18(b), 7.19, 7.20, 7.21 or 7.22 or Article VIII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the earlier to occur of the date on which (i) a Responsible Officer of any Loan Party becomes aware of such failure or (ii) written notice thereof shall have been given to any Loan Party by the Administrative Agent or any Lender; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary (A) fails to make any payment beyond any applicable grace period (whether by scheduled maturity, required repayment or prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder, Indebtedness under Swap Contracts and Indebtedness under the JPR Indenture) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to 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 Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Borrower or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any of its Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, Examiner or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, Examiner or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any of its Subsidiaries becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or is declared to be unable to pay its debts under applicable Law, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate amount exceeding $[***] (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order or (B) such judgment or order shall not have been vacated or discharged or stayed or bonded pending appeal within thirty (30) calendar days from entry thereof; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(k) Material Adverse Effect. There occurs any circumstance or circumstances that has had, either individually or in the aggregate, or could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; or

(l) Change of Control. There occurs any Change of Control; or

(m) Invalidity of Subordination Provisions. Any subordination provision in any document or instrument governing Indebtedness that is purported to be subordinated to the Obligations or any subordination provision in any subordination agreement that relates to any Indebtedness that is to be subordinated to the Obligations, or any subordination provision in any guaranty by any Loan Party of any such Indebtedness, shall cease to be in full force and effect, or any Person (including any holder of any such Indebtedness) shall contest in any manner the validity, binding nature or enforceability of any such provision; or

(n) Injunction. Any court order enjoins, restrains, or prevents any Loan Party from conducting any material part of its business for a period of thirty (30) consecutive days during which a stay of enforcement of such court order, by reason of a pending appeal or otherwise, is not in effect; or

(o) Regulatory Matters. If any of the following occurs: (i) the FDA, CMS, EMA, DEA, or any other Governmental Authority issues a letter or other written communication asserting that any approved Product lacks a Material Required Permit or does not comply with applicable Law, in each such case described in this clause (o), that causes such Loan Party or its applicable Subsidiary to discontinue, materially adversely alter or suspend manufacturing, or cease distribution of any of its Material Products, or causes a delay in the manufacture or offering of any of its Material Products, that could reasonably be expected, either individually or in the aggregate, to result in a material adverse effect on any Product Development and Commercialization Activities; (ii) any involuntary or voluntary recall of any Material Product that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; or (iii) any Loan Party or any Subsidiary enters into a settlement agreement with the FDA, CMS, EMA, DEA, or any other Governmental Authority that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect.; or

(p) [Reserved].

(q) Third Party Payor Arrangements. If any of the following occurs: a Loan Party or any officer, director, chief operating officer, chief financial officer, treasurer, secretary or senior vice president of a Loan Party (A) shall have been found guilty of an act of fraud or been convicted of a felony crime that relates to any services provided by any Loan Party to a Third Party Payor or in connection with a Third Party Payor Arrangement or (B) shall have been indicted for a felony crime relating to any services provided by any Loan Party to a Third Party Payor or in connection with a Third Party Payor Arrangement; or

(r) Overpayment. If any Loan Party is found to have been overpaid by a Government Account Debtor by more than the Threshold Amount during any period covered by an audit conducted by such Government Account Debtor, and such Loan Party has not within thirty (30) days after its receipt of knowledge of such overpayment either (i) repaid or reserved for such overpayment in a manner reasonably acceptable to the Required Lenders or (ii) notified the applicable Government Account Debtor or Governmental Authority and requested a repayment schedule for such overpayment; or

(s) Material Products. If any of the following occurs: (i) the FDA shall revoke, withdraw, suspend, cancel, materially adversely limit, terminate or materially adversely modify any approved Required Permit related to any Material Product; (ii) any Governmental Authority (other than the FDA) shall revoke, withdraw, suspend, cancel, materially limit, terminate or materially modify any approved Required Permit related to any Material Product (in each case, a "Non-FDA Governmental Action") and, in any such case, Consolidated Revenues shall decrease by greater than [***], as assessed as at the end of each of the four fiscal quarters immediately following such Non-FDA Governmental Action by comparing Consolidated Revenues for the four fiscal quarter period most recently ended prior to such Non-FDA Governmental Action for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b) as against Consolidated Revenues for the four fiscal quarter period ending on the applicable date of assessment; or (iii) any Safety Notice is issued or initiated in connection with any Material Product after approval by the FDA or any other Governmental Authority and Consolidated Revenues shall decrease by greater than [***], as assessed as at the end of each of the four fiscal quarters immediately following the issuance or initiation of such Safety Notice by comparing Consolidated Revenues for the four fiscal quarter period most recently ended prior to the issuance or initiation of such Safety Notice for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b) as against Consolidated Revenues for the four fiscal quarter period ending on the applicable date of assessment;

(t) Royalty Financing and Other Royalty Financings. (i) The Borrower or any Subsidiary fails to pay within [***] after the same becomes due any amount owing under any Royalty Financing Document or any Other Royalty Financing Document, unless the amount of such payment is otherwise being disputed in good faith by the Borrower or such Subsidiary, in accordance with the terms of such Royalty Financing Document or Other Royalty Financing Documents, as applicable or (ii) any other material breach or default under any Royalty Financing Document or any Other Royalty Financing Document occurs and continues unremedied for more than thirty (30) days; or

(u) Public Securities Exchange. The Borrower's equity fails to remain registered with the SEC in good standing; or

(v) Delisting. The Borrower fails to maintain at least one class of common shares of the Borrower which is subject to price quotations on a national stock exchange in the United States (such as NASDAQ, NYSE, AMEX or any successor thereto); or

(w) Non-Permitted License and Non-Permitted Royalty Financing. The Borrower or any Subsidiary enters into a Non-Permitted License or a Non-Permitted Royalty Financing.

9.02 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders may take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligations shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, prepayment and repayment premiums thereto (if any) and exit fees and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties; and

(c) exercise on behalf of itself and the Lenders all rights and remedies available to the Administrative Agent and/or the Lenders under the Loan Documents;

provided, however, that upon the occurrence of an Event of Default under Section 9.01(f) or (g), the obligation of each Lender to make any Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest, prepayment and repayment premiums, exit fees and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

Upon the acceleration (including automatic acceleration triggered by any insolvency proceeding pursuant to Section 9.01(f)), all outstanding Notes, accrued and unpaid interest, the prepayment and repayment premiums required by Section 2.03(d), the exit fee required by Section 2.07(b) and the other Obligations become immediately due and payable. If the Obligations are accelerated for any reason, the prepayment and repayment premiums required by Section 2.03(d) and the exit fee required by Section 2.07(b) will also be due and payable as though such Obligations were voluntarily prepaid and any discount on the Loans shall be deemed earned in full and, in each case, shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof. Any prepayment or repayment premium required by Section 2.03(d) or the exit fee required by Section 2.07(b) payable pursuant to the preceding sentence shall be presumed to be the liquidated damages sustained by each Lender as the result of the early termination and the Loan Parties agree that it is reasonable under the circumstances currently existing. The prepayment and repayment premiums required by Section 2.03(d) and the exit fee required by Section 2.07(b) shall also be payable, and any discount on the Loans shall be deemed earned in full, in each case, in the event that the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER AND THE OTHER LOAN PARTIES EXPRESSLY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT OR REPAYMENT PREMIUM, EXIT FEE AND ANY DISCOUNT ON THE LOANS IN CONNECTION WITH ANY SUCH ACCELERATION. The Borrower and the other Loan Parties expressly agree that (i) the prepayment and repayment premiums required by Section 2.03(d), the exit fee required by Section 2.07(b) and discount on the Loans provided for herein, are reasonable and are the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (ii) the prepayment and repayment premiums required by Section 2.03(d), the exit fee required by Section 2.07(b) and discount on the Loans, shall be payable notwithstanding the then prevailing market rates at the time payment is made, (iii) there has been a course of conduct between the Lenders and the Borrower and the other Loan Parties giving specific consideration in this transaction for such agreement to pay the prepayment and repayment premiums required by Section 2.03(d), the exit fee required by Section 2.07(b) and discount on the Loans, (iv) the Borrower and the other Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this paragraph and (v) the prepayment premium required by Section 2.03(d), the exit fee required by Section 2.07(b) and any discount on the Loans represent a good faith, reasonable estimate and calculation of the lost profits or damages of the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Lenders or profits lost by the Lenders as a result of any early termination. The Borrower and the other Loan Parties expressly acknowledge that their agreement to pay the prepayment and repayment premiums required by Section 2.03(d) and the exit fee required by Section 2.07(b), as herein described and discount on the Loans to the Lenders as herein described, is a material inducement to the Lenders to make the Loans hereunder.

9.03 Application of Funds.

After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02), any amounts received by any Lender or the Administrative Agent on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Articles III and X) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, prepayment and repayment premiums and exit fees) payable to the Secured Parties (other than the Administrative Agent) (including fees, charges and disbursements of counsel to the respective Secured Parties (other than the Administrative Agent)) arising under the Loan Documents and amounts payable under Articles III and X, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on and prepayment and repayment premiums and the exit fee with respect to the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third held by them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

9.04 Cure Right. Notwithstanding anything to the contrary contained herein, in the event the Loan Parties fail to comply with the minimum Orladeyo Consolidated U.S. Net Product Sales requirement set forth in Section 8.17 as of any Test Date, the Borrower shall have a one-time right (the "Cure Right"), to repay in full the entire amount of the Term C Loans outstanding at such time together with all accrued and unpaid interest thereon plus the prepayment or repayment premium required by Section 2.03(d) and the exit fee required under Section 2.07(b) plus any other fees or amounts payable hereunder at such time. The exercise of the Cure Right shall be subject to the following conditions: (a) the Borrower shall have delivered to the Administrative Agent irrevocable written notice of the Borrower's intent to exercise the Cure Right with respect to such Test Date not later than 9:00 a.m. on the date at least five (5) Business Days in advance the Borrower making the Cure Right payment and (b) such Cure Right payment shall be made by the Borrower no later than thirty (30) days after such Test Date. Following the exercise of the Cure Right and the repayment in full pursuant to this Section 9.04, no Default or Event of Default under Section 9.01(b) for the failure to perform the covenant contained in Section 8.17 shall be deemed to have existed for so long as, on a pro forma basis, the Loan Parties are in compliance with the financial covenant set forth in Section 8.16(iv).

ARTICLE X

INCREASED COSTS AND INABILITY TO DETERMINE RATES

10.01 Increased Costs, Etc.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, loan principal, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender any other condition, cost or expense (other than Taxes) affecting this Agreement; and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), then, upon written demand of such Lender, the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in clause (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided, that, the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

10.02 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 10.01 or requires the Borrower to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 or if any Lender gives a notice pursuant to Section 10.04, then at the request of the Borrower such Lender shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 10.01, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 10.04, as applicable, and (ii) in each case, would not subject such Lender, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 10.01, or if the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different Lending Office in accordance with Section 10.02(a), the Borrower may replace such Lender in accordance with Section 12.13.

10.03 Inability to Determine Rates.

(a) If prior to the commencement of any Interest Period:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (1) adequate and reasonable means do not exist for ascertaining Three-Month LIBOR for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that Three-Month LIBOR for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by as promptly as practicable thereafter. In the event of any such determination, until the Administrative Agent has advised the Borrower that the circumstances giving rise to such notice no longer exist, Three-Month LIBOR shall be determined by the Administrative Agent solely by reference to clause (ii) of the definition of Three-Month LIBOR.

(b) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, but without limiting Section 10.03(a) above, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Administrative Agent and the Borrower may amend this Agreement to replace Three-Month LIBOR with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all Lenders and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders accept such amendment. No replacement of Three-Month LIBOR with a Benchmark Replacement pursuant to this Section 10.03 will occur prior to the applicable Benchmark Transition Start Date.

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

(d) Notices: Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or Lenders pursuant to this Section 10.03, 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 hereto, except, in each case, as expressly required pursuant to this Section 10.03.

(e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, Three-Month LIBOR shall be determined by the Administrative Agent solely by reference to clause (ii) of the definition of Three-Month LIBOR during such Benchmark Unavailability Period.

(f) Certain Defined Terms. As used in this Section 10.03:

"Benchmark Replacement" means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by the Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to Three-Month LIBOR for U.S. dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than 1.75% per annum, the Benchmark Replacement will be deemed to be 1.75% per annum for the purposes of this Agreement.

"Benchmark Replacement Adjustment" means, with respect to any replacement of Three-Month LIBOR with an Unadjusted Benchmark Replacement for each applicable Interest Period, 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 Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of Three-Month LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) 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 Three-Month LIBOR with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Interest Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

"Benchmark Replacement Date" means the earlier to occur of the following events with respect to Three-Month LIBOR:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of Three-Month LIBOR permanently or indefinitely ceases to provide Three-Month LIBOR; or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein.

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to Three-Month LIBOR:

(1) a public statement or publication of information by or on behalf of the administrator of Three-Month LIBOR announcing that such administrator has ceased or will cease to provide Three-Month LIBOR, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide Three-Month LIBOR;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of Three-Month LIBOR, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for Three-Month LIBOR, a resolution authority with jurisdiction over the administrator for Three-Month LIBOR or a court or an entity with similar insolvency or resolution authority over the administrator for Three-Month LIBOR, which states that the administrator of Three-Month LIBOR has ceased or will cease to provide Three-Month LIBOR permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide Three-Month LIBOR; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of Three-Month LIBOR announcing that Three-Month LIBOR is no longer representative.

"Benchmark Transition Start Date" means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Administrative Agent or the Required Lenders, as applicable, by notice to the Borrower, the Administrative Agent (in the case of such notice by the Required Lenders) and the Lenders.

"Benchmark Unavailability Period" means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to Three-Month LIBOR and solely to the extent that Three-Month LIBOR has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced Three-Month LIBOR for all purposes hereunder in accordance with this Section 10.03 and (y) ending at the time that a Benchmark Replacement has replaced Three-Month LIBOR for all purposes hereunder pursuant to this Section 10.03.

"Early Opt-in Election" means the occurrence of:

(1) (i) a determination by the Administrative Agent or (ii) a notification by the Required Lenders to the Administrative Agent (with a copy to the Borrower) that the Required Lenders have determined that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in this Section 10.03 are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace Three-Month LIBOR, and

(2) (i) the election by the Administrative Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrower and the Lenders or by the Required Lenders of written notice of such election to the Administrative Agent.

"Federal Reserve Bank of New York's Website" means the website of the Federal Reserve Bank of New York at http://www.newyorkfed.org, or any successor source.

"Relevant Governmental Body" means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"SOFR" with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York's Website.

"Term SOFR" means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Unadjusted Benchmark Replacement" means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

10.04 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to make or maintain any Loan whose interest is determined by reference to Three-Month LIBOR, or to determine or charge interest rates based upon Three-Month LIBOR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (a) any obligation of such Lender to make or maintain or charge interest with respect to any such Loan whose interest is determined by reference to Three-Month LIBOR shall be suspended, and (b) the interest rate on the Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to clause (y) in the definition of Three-Month LIBOR, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice by the Administrative Agent and the Borrower, all Loans of such Lender the interest rate on which is determined by reference to clause (y) in the definition of Three-Month LIBOR shall be determined by the Administrative Agent without reference to clause (y) in the definition of Three-Month LIBOR, until such Lender notifies the Administrative Agent and the Borrower that the circumstance giving rise to such determination no longer exist.

10.05 Survival. All of the Borrower's obligations under this Article X shall survive termination of the Commitments, prepayment or repayment of all Obligations hereunder and resignation of the Administrative Agent.

ARTICLE XI

ADMINISTRATIVE AGENT

11.01 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Athyrium Opportunities III Co-Invest 1 LP, a Delaware limited partnership, to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions, powers and discretion as are incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any other Loan Party shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such actions, powers and discretion as are incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 11.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article XI and Article XII, as though such co-agents, sub-agents and attorneys-in-fact were the "Administrative Agent" under the Loan Documents as if set forth in full herein with respect thereto. The Administrative Agent is hereby authorized to enter into the Intercreditor Agreement and any other intercreditor agreement or subordination agreement contemplated by the terms of this Agreement, and each Lender agrees to be bound by the terms of the Intercreditor Agreement and such other intercreditor agreement or subordination agreement and directs the Administrative Agent to enter into the Intercreditor Agreement and such other intercreditor agreement or subordination agreement, in each case, on behalf of the Secured Parties and agrees that the Administrative Agent may take such actions on its behalf as is contemplated by the terms of the Intercreditor Agreement or such other intercreditor agreement or subordination agreement.

11.02 Rights as a Lender.

The Person serving as the Administrative 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 Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

11.03 Exculpatory Provisions.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided, that, the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may affect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 12.01 and Section 9.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower or a Lender.

The Administrative 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, (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 Article V or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

11.04 Reliance by Administrative Agent.

The Administrative 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 Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

11.05 Delegation of Duties.

The Administrative 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 Administrative Agent. The Administrative 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 Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

11.06 Resignation of Administrative Agent.

The Administrative Agent may resign as Administrative Agent at any time by giving thirty (30) days advance notice thereof to the Lenders and the Borrower and, thereafter, the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. Upon any such resignation, the Required Lenders shall have the right, subject to the approval of the Borrower (so long as no Event of Default has occurred and is continuing; such approval not to be unreasonably withheld), to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, been approved (so long as no Event of Default has occurred and is continuing) by the Borrower or have accepted such appointment within thirty (30) days after the Administrative Agent's giving of notice of resignation, then the Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent reasonably acceptable to the Borrower (so long as no Default or Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all rights, powers, privileges and duties of the retiring Administrative Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Section 11.06 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent. If no successor has accepted appointment as Administrative Agent by the date which is thirty (30) days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Required Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. In the event that a new Administrative Agent is appointed and such Administrative Agent is not an Affiliate of the holders of a majority in interest of the Loans, then the Borrower shall agree to pay to such Administrative Agent the fees and expenses (such fees to be payable annually in advance) that such Administrative Agent may reasonably request in connection with its appointment and service.

11.07 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their 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. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their 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.

11.08 Administrative Agent May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 12.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 12.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

11.09 Collateral and Guaranty Matters.

The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any Collateral granted to or held by the Administrative Agent under any Loan Document (i) upon payment in full of all Obligations (other than contingent indemnification obligations for which no claim has been asserted) under the Loan Documents and the termination of all unused Commitments, (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other Disposition permitted hereunder or any Involuntary Disposition, or (iii) as approved in accordance with Section 12.01;

(b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 8.01(i); and

(c) to release any Guarantor from its obligations under the Guaranty (i) if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents or (ii) upon payment in full of all Obligations (other than contingent indemnification obligations for which no claim has been asserted) under the Loan Documents and the termination of all unused Commitments.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty, pursuant to this Section 11.09. At any time that a Loan Party desires the Administrative Agent to take any action pursuant to this Section 11.09, such Loan Party shall deliver a certificate signed by a Responsible Officer of such Loan Party stating that the action is permitted pursuant to this Section 11.09 and the terms of this Agreement.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

ARTICLE XII

MISCELLANEOUS

12.01 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, further, that:

(a) no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of a Lender (or reinstate any Commitment terminated pursuant to Section 9.02) without the written consent of such Lender whose Commitment is being extended or increased (it being understood and agreed that a waiver of any condition precedent set forth in Section 5.02 or of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal (excluding mandatory repayments and prepayments), interest, prepayment or repayment premiums, the exit fee, fees or other amounts due to the Lenders (or any of them) or any scheduled or mandatory reduction of the Commitments hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment or whose Commitments are to be reduced;

(iii) reduce the principal of, the rate of interest specified herein on or the prepayment or repayment premiums or exit fees specified herein for any Loan, or any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment of principal, interest, fees or other amounts; provided, however, that, only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(iv) change any provision of this Section 12.01(a), Section 2.11, the definition of "Required Lenders," change the waterfall set forth in Section 9.03 or otherwise or have the effect of changing the priority or pro rata treatment of any payments (including voluntary and mandatory repayments and prepayments), Liens, proceeds of Collateral or reductions in Commitments (including as a result in whole or in part of allowing the issuance or incurrence, pursuant to this Agreement or otherwise, of new loans or other Indebtedness having any priority over any of the Obligations in respect of payments, Liens, Collateral or proceeds of Collateral, in exchange for any Obligations or otherwise), in each case, without the written consent of each Lender directly affected thereby;

(v) release all or substantially all of the Collateral without the written consent of each Lender directly affected thereby, except to the extent the release of the Collateral is expressly permitted by Section 11.09 (in which case such release may be made by the Administrative Agent acting alone);

(vi) release the Borrower or, except in connection with a merger, amalgamation or consolidation permitted under Section 8.04, all or substantially all of the Guarantors without the written consent of each Lender directly affected thereby, except to the extent the release of any Guarantor is permitted pursuant to Section 11.09 (in which case such release may be made by the Administrative Agent acting alone);

(vii) advance the date fixed for, or increase, any scheduled installment of principal due to any of the Lenders under any Loan Document, in each case, without the written consent of each Lender directly affected thereby;

it being agreed that (X) all Lenders shall be deemed to be directly and adversely affected by an amendment, waiver or supplement described in the preceding clause (iv), (v), (vi) or (vii) and (Y) notwithstanding anything to the contrary in the preceding clause (X), only those Lenders that have not been provided a reasonable opportunity, as determined in the good faith judgment of Administrative Agent, to receive the most-favorable treatment under or in connection with the applicable amendment, waiver or supplement described in the preceding clause (iv), (v), (vi) or (vii) (other than the right to receive customary administrative agency, arranging, underwriting and other similar fees) that is provided to any other Person, including the opportunity to participate on a pro rata basis on the same terms in any new loans or other Indebtedness permitted to be issued as a result of such amendment, waiver or supplement, shall be deemed to be directly and adversely affected by such amendment, waiver or supplement; and

(b) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; provided, however, that, notwithstanding anything to the contrary herein, (i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender, (ii) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (iii) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

Notwithstanding anything to the contrary contained herein, (i) the Administrative Agent and the Borrower may make amendments contemplated by Section 10.03, (ii) the Borrowers and the Administrative Agent may, without the input or consent of any other Lender, make technical, administrative or operational amendments to the Loan Documents as are advisable in their good faith judgment in connection with (A) the addition of Non-U.S. Subsidiaries as Loan Parties and (B) the inclusion of the assets of such Non-U.S. Subsidiaries as Collateral, (iii) if the Administrative Agent and the Borrower have jointly identified an obvious error or any error or omission of a technical or immaterial nature, in each case, in any provision of the Loan Documents (including, for the avoidance of doubt, any exhibit, schedule or annex thereto), then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document.

12.02 Notices and Other Communications; Facsimile Copies.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or any other Loan Party or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such person on Schedule 12.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number of its Lending Office (whether specified on Schedule 12.02 or separately specified to the Borrower and the Administrative Agent).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided, that, the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided, that, approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided, that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) Change of Address, Etc. Each of the Borrower, other Loan Parties, the Lenders and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(d) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Loan Notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

12.03 No Waiver; Cumulative Remedies; Enforcement.

No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 11.01 for the benefit of all the Secured Parties; provided, however, that, the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from exercising setoff rights in accordance with Section 12.08 (subject to the terms of Section 2.11), or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that, if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 11.01 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.11, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

12.04 Expenses; Indemnity; and Damage Waiver.

(a) Costs and Expenses. The Loan Parties shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, each Lender and their respective Affiliates (including the reasonable fees, charges and disbursements of counsel to the Administrative Agent or any Lender), in connection with (A) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and (B) any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) or the administration of this Agreement and the other Loan Documents and (ii) all out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender) in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Loan Parties. The Loan Parties shall indemnify the Administrative Agent (and any sub-agent thereof) and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) arising out of, in connection with, or as a result of (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, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any 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 a Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided, that, such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses 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 Indemnitee, if the Borrower or other Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Clauses (a) and (b) of this Section 12.04 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall (and shall cause each Subsidiary to) not assert, and the Borrower hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(d) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to the Administrative Agent (or any sub-agent thereof) or any Related Party thereof, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's *pro rata* share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further, that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), or against any Related Party thereof acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this subsection (d) are subject to the provisions of Section 2.10(b).

(e) Payments. All amounts due under this Section shall be payable not later than five (5) Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 12.02(d) shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Commitments and the repayment, prepayment, satisfaction or discharge of all the other Obligations.

12.05 Marshalling; Payments Set Aside.

None of the Administrative Agent or the Lenders shall be under any obligation to marshal any assets in favor of any Loan Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

12.06 Successors and Assigns; Transfers.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that the Borrower and the other Loan Parties may not assign or otherwise transfer any of their respective rights or obligations hereunder or thereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of clause (b) of this Section, (ii) by way of participation in accordance with the provisions of clause (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of clause (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in clause (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitments under any Facility and the Loans at the time owing to it (in each case with respect to any Facility)); provided, that, any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment with respect to any Facility and/or the Loans with respect to any Facility at the time owing to it or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in clause (b)(i)(A) of this Section, the aggregate amount of the applicable Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans with respect to any Facility of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $[***] unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all of the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by clause (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided, that, the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any unfunded Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) any Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption. The assignee, if it is not a Lender, shall deliver to the Administrative Agent such information, including notice information, as the Administrative Agent shall reasonably require.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B) or (C) to a natural Person.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 10.01 and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Notwithstanding anything to the contrary in any Loan Document, the entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, a Defaulting Lender (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person) or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitments and/or Loans owing to it); provided, that, (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 such obligations and (iii) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 12.04(d) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided, that, such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (vi) of Section 12.01(a) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Section 3.01 (subject to the requirements and limitations therein (it being understood that the documentation required under Section 3.01(f) shall be delivered to the participating Lender)) and Section 10.01 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided, that, such Participant (A) agrees to be subject to the provisions of Sections 10.02 and 12.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Section 3.01 or 10.01, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 12.02 with respect to any Participant. To the fullest extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.08 as though it were a Lender; provided, that, such Participant agrees to be subject to Section 2.11 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided, that, no Lender shall have any 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 or other obligation is in registered form under Section 5f.103-1(c) of the Treasury Regulations. Notwithstanding anything to the contrary in any Loan Document, the entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided, that, no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

12.07 Treatment of Certain Information; Confidentiality.

Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) as may be reasonably necessary in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any Participant, assignee or transferee (or its Related Parties) of, or any prospective Participant, assignee or transferee (or its Related Parties) of, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to a Loan Party and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower, (i) to the members of its investment committee (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential) or (j) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Loan Parties.

For purposes of this Section, "Information" means all information received from a Loan Party or any Subsidiary relating to the Loan Parties or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis, provided, that, in the case of information received from a Loan Party or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

12.08 Set-off.

If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender different from the branch office or Affiliate holding such deposit or obligated on such indebtedness; provided, that, in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.12 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided, that, the failure to give such notice shall not affect the validity of such setoff and application.

12.09 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary repayments or prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

12.10 Counterparts; Integration; Effectiveness.

This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to Athyrium or its Affiliates, the Lenders or Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 5.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by fax transmission or e-mail transmission (e.g., "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Agreement or such other Loan Documents or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

12.11 Survival of Representations and Warranties.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof and shall continue in full force and effect as long as any Loan or other Obligation hereunder shall remain unpaid or unsatisfied and until all of the Commitments have been terminated in accordance with the terms hereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied and until all of the Commitments have been terminated in accordance with the terms hereof.

12.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 12.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

12.13 Replacement of Lenders.

If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 10.02 or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon written notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 10.01) and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided, that:

(a) such Lender shall have received payment of an amount equal to one hundred percent (100%) of (x) the outstanding principal of its Loans, accrued interest thereon and all other amounts payable to it hereunder and under the other Loan Documents (other than repayment or prepayment premiums or the exit fee) from the assignee (to the extent of such outstanding principal and accrued interest) or the Borrower (in the case of all other amounts) and (y) the repayment or prepayment premium required by Section 2.03(d) and the exit fee required under Section 2.07(b) in each case, from the Borrower, as if such assignment was a prepayment of one hundred percent (100%) of the outstanding principal amount of such assignor's Loans on the effective date of such assignment;

(b) such assignment does not conflict with applicable Laws;

(c) in the case of any such assignment resulting from a claim for compensation under Section 10.01 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) in the case of any such assignment resulting from a Non-Consenting Lender's failure to consent to a proposed change, waiver, discharge or termination with respect to any Loan Document, the applicable replacement bank, financial institution or Fund consents to the proposed change, waiver, discharge or termination; provided, that, the failure by any Defaulting Lender or any Non-Consenting Lender to execute and deliver an Assignment and Assumption shall not impair the validity of the removal of such Defaulting Lender or Non-Consenting Lender and the mandatory assignment of such Defaulting Lender or Non-Consenting Lender's outstanding Loans pursuant to this Section 12.13 shall nevertheless be effective without the execution by such Defaulting Lender or Non-Consenting Lender of an Assignment and Assumption.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

12.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. This Agreement and the other Loan Documents (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, THE law OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT (AND IT WILL NOT PERMIT ANY LOAN PARTY TO) COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY OTHER FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK AND ANY UNITED STATES DISTRICT COURT IN THE STATE OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF LOCATED IN NEW YORK COUNTY, NEW YORK, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS 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 APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR THEIR RESPECTIVE PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER AND EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

12.15 Waiver of Right to Trial by Jury. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12.16 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Loan Parties in respect of any sum due to any party hereto or any holder of the Obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than the currency in which such sum is stated to be due hereunder (the "Agreement Currency"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Loan Parties agree, as a separate obligation and notwithstanding any such judgment, to jointly and severally indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section 12.16 shall survive the termination of this Agreement, the termination of the Commitments and the payment of all other amounts owing hereunder.

12.17 Electronic Execution of Assignments and Certain Other Documents.

This Agreement and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a "Communication"), including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on each of the Loan Parties to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of each of the Loan Parties enforceable against such in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent and each of the Lenders of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Lenders may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of the such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party without further verification and (b) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by such manually executed counterpart. For purposes hereof, "Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

12.18 USA PATRIOT Act.

Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the PATRIOT Act. Each of the Loan Parties agrees to, promptly following a request by the Administrative Agent or any Lender, provide all such other documentation and information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

12.19 No Advisory or Fiduciary Relationship.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a)(i) the arranging and other services regarding this Agreement provided by the Administrative Agent, Athyrium and its Affiliates, and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, Athyrium and its Affiliates and the Lenders on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b)(i) the Administrative Agent, Athyrium and its Affiliates and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not and will not be acting as an advisor, agent or fiduciary, for the Borrower or any of its Affiliates or any other Person and (ii) neither the Administrative Agent nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, Athyrium and its Affiliates and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, Athyrium or its Affiliates nor any Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that they may have against the Administrative Agent, Athyrium or its Affiliates or any Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

12.20 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and (b) the effects of any Bail-In Action on any such liability, including, if applicable: (i) a reduction in full or in part or cancellation of any such liability; (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

12.21 Publicity. The Loan Parties will not directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of the Administrative Agent or any Lender or any of their Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except as required by applicable Law, subpoena or judicial or similar order, in which case the Loan Parties shall endeavor to give the Administrative Agent prior written notice of such publication or other disclosure. Each Lender and each Loan Party hereby authorizes each Lender to publish the name of such Lender and each Loan Party, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone", comparable advertisement or press release which such Lender elects to submit for publication. In addition, each Lender and each Loan Party agrees that each Lender may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, such authorization shall be subject to such Lender providing the Loan Parties and the other Lenders with an opportunity to review and confer with such Lender regarding, and approve, the contents of any such tombstone, advertisement or information, as applicable, prior to its initial submission for publication, but subsequent publications of the same tombstone, advertisement or information shall not require any Loan Party's approval.

12.22 Conflicts. Notwithstanding anything to the contrary contained herein or in any other Loan Document, in the event of any conflict or inconsistency between this Agreement and any other Loan Document, the terms of this Agreement shall govern and control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER: BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Anthony Doyle
Name: Anthony Doyle
Title: Chief Financial Officer

GUARANTOR:

BIOCRYST IRELAND LIMITED
incorporated under the laws of Ireland

By: /s/ Alane Barnes
Name: Alane Barnes
Title: Director

In the presence of:

Witness signature: /s/ Matthew W. Barnes

Name: Matthew W. Barnes

Address: [***]

Occupation: Attorney

ADMINISTRATIVE AGENT: ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP, as Administrative Agent

By: ATHYRIUM OPPORTUNITIES ASSOCIATES CO-INVEST LLC, its General Partner

By: /s/ Rashida Adams
Name: Rashida Adams
Title: Authorized Signatory

LENDER: ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES CO-INVEST LLC, its General Partner

By: /s/ Rashida Adams
Name: Rashida Adams
Title: Authorized Signatory

Subsidiaries of the Registrant

Subsidiary	Jurisdiction of Incorporation
JPR Royalty Sub, LLC	Delaware
BioCryst US Sales Co., LLC	Delaware
BioCryst UK Limited	England and Wales
BioCryst Ireland Limited	Ireland
BioCryst Pharma Deutschland GmbH	Germany
BioCryst France SAS	France

Exhibit 23

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

- Registration Statements (Form S-8 Nos. 333-231108, 333-239078 and 333-245024) pertaining to the BioCryst Pharmaceuticals, Inc. Inducement Equity Incentive Plan;
- Registration Statements (Form S-3 Nos. 333-145638, 333-153084, 333-217859 and 333-237820) of BioCryst Pharmaceuticals, Inc.;
- Registration Statements (Form S-8 Nos. 333-120345, 333-39484, 333-30751 and 333-136703) pertaining to the BioCryst Pharmaceuticals, Inc. 1991 Stock Option Plan, as amended and restated;
- Registration Statements (Form S-8 Nos. 333-90582 and 333-239077) pertaining to the BioCryst Pharmaceuticals, Inc. Employee Stock Purchase Plan, as amended and restated;
- Registration Statement (Form S-8 No. 333-145627) pertaining to the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan, as amended and restated, and the Employment Letter Agreement dated April 2, 2007 between BioCryst Pharmaceuticals, Inc. and David McCullough;
- Registration Statements (Form S-8 Nos. 333-176096, 333-211529, 333-218360, 333-228296, 333-231942 and 333-239076) pertaining to the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan, as amended and restated;
- Registration Statements (Form S-8 Nos. 333-152570, 333-167830, 333-187193 and 333-195869) pertaining to the BioCryst Pharmaceuticals, Inc. Stock Incentive Plan and the Employee Stock Purchase Plan, each as amended and restated

of our reports dated March 1, 2021, with respect to the consolidated financial statements of BioCryst Pharmaceuticals, Inc. and the effectiveness of internal control over financial reporting of BioCryst Pharmaceuticals, Inc. included in this Annual Report (Form 10-K) of BioCryst Pharmaceuticals, Inc. for the year ended December 31, 2020.

/s/ Ernst & Young LLP

Raleigh, North Carolina
March 1, 2021

Exhibit 31.1

CERTIFICATIONS

I, Jon P. Stonehouse, certify that:

1. I have reviewed this annual report on Form 10-K 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):

   e. 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

   f. 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: March 1, 2021

/s/ Jon P. Stonehouse
Jon P. Stonehouse
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATIONS

I, Anthony Doyle, certify that:

1. I have reviewed this annual report on Form 10-K 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):

   e. 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

   f. 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: March 1, 2021

/s/ Anthony Doyle
Anthony Doyle
Chief Financial Officer
(Principal 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 Annual Report of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-K for the period ending December 31, 2020 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.

Date: March 1, 2021

/s/ Jon P. Stonehouse
Jon P. Stonehouse
Chief Executive Officer
(Principal Executive Officer)

This certification is furnished with this Report on Form 10-K pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by such Act, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.

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 Annual Report of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-K for the period ending December 31, 2020 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.

Date: March 1, 2021

/s/ Anthony Doyle
Anthony Doyle
Chief Financial Officer
(Principal Financial Officer)

This certification is furnished with this Report on Form 10-K pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by such Act, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.