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

FORM 10-Q

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended March 31, 2011

Commission File Number 000-23186

BIOCRYST PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

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

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

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 o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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

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

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

The number of shares of Common Stock, par value $.01, of the Registrant outstanding as of April 22, 2011 was 45,097,997

BIOCRYST PHARMACEUTICALS, INC.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

BIOCRYST PHARMACEUTICALS, INC.
BALANCE SHEETS
March 31, 2011(Consolidated) and December 31, 2010
(In thousands, except per share data)

	2011 (Unaudited)	2010 (Note 1)
Assets		
Cash and cash equivalents	$ 31,342	$ 13,622
Restricted cash	625	625
Marketable securities	37,129	40,323
Receivables from collaborations	26,062	30,227
Interest reserve	3,000	—
Inventories	898	898
Prepaid expenses and other current assets	676	1,005
Deferred collaboration expense	719	719
Total current assets	100,451	87,419
Marketable securities	7,153	11,771
Furniture and equipment, net	1,734	1,929
Deferred collaboration expense	7,498	8,328
Other assets	5,930	—
Total assets	$ 122,766	$ 109,447
Liabilities and Stockholders' Equity		
Accounts payable	$ 6,254	$ 8,201
Accrued expenses	11,997	16,487
Accrued vacation	714	585
Interest payable	257	—
Deferred rent	52	52
Deferred collaboration revenue	2,497	2,497
Total current liabilities	21,771	27,822
Deferred rent	164	178
Deferred collaboration revenue	15,320	15,944
Foreign currency derivative	1,342	—
Non-recourse notes payable	30,000	—
Commitments and contingencies		
Stockholders' equity:		
Preferred stock: shares authorized — 5,000 Series B Junior Participating Preferred Stock, $.001 par value; shares authorized — 95; shares issued and outstanding — none	—	—
Common stock, $.01 par value: shares authorized — 95,000; shares issued and outstanding — 45,098 in 2011 and 44,959 in 2010	451	449
Additional paid-in capital	363,235	361,520
Accumulated other comprehensive income	82	106
Accumulated deficit	(309,599)	(296,572)
Total stockholders' equity	54,169	65,503
Total liabilities and stockholders' equity	$ 122,766	$ 109,447

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.
STATEMENTS OF OPERATIONS
Three Months Ended March 31, 2011(Consolidated) and 2010
(In thousands, except per share data)
(Unaudited)

	2011	2010
Revenues		
Product sales	$ —	$ 325
Royalties	—	711
Collaborative and other research and development	5,435	25,035
Total revenues	5,435	26,071
Expenses		
Cost of products sold	—	86
Research and development	12,932	24,917
General and administrative	4,002	3,797
Total expenses	16,934	28,800
Loss from operations	(11,499)	(2,729)
Interest and other income	102	134
Interest expense	(288)	—
Loss on foreign currency derivative	(1,342)	—
Net loss	$ (13,027)	$ (2,595)
Basic and diluted net loss per common share	$ (0.29)	$ (0.06)
Weighted average shares outstanding	44,987	43,925

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.
STATEMENTS OF CASH FLOWS
Three Months Ended March 31, 2011(Consolidated) and 2010
(In thousands)
(Unaudited)

	2011	2010
Operating activities		
Net loss	$ (13,027)	$ (2,595)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	225	391
Stock-based compensation expense	1,467	1,406
Amortization of debt issuance costs	31	—
Change in fair value of foreign currency derivative	1,342	—
Changes in operating assets and liabilities:		
Receivables from collaborations	4,165	7,095
Inventories	—	5,437
Prepaid expenses and other current assets	329	(219)
Deferred collaboration expense	830	93
Accounts payable and accrued expenses	(6,309)	(16,159)
Interest payable	257	—
Interest reserve	(3,000)	—
Deferred rent	(13)	(13)
Deferred collaboration revenue	(624)	(624)
Net cash used in operating activities	**(14,327)**	**(5,188)**
Investing activities		
Acquisitions of furniture and equipment	(30)	(83)
Purchases of marketable securities	(4,491)	(18,123)
Sales and maturities of marketable securities	12,280	1,797
Net cash provided by (used in) investing activities	**7,759**	**(16,409)**
Financing activities		
Exercise of stock options	140	177
Employee stock purchase plan sales	170	173
Purchases of treasury stock	(61)	(2)
Issuance of non-recourse notes payable	30,000	—
Debt issuance costs	(4,061)	—
Payment of foreign currency derivative collateral	(1,900)	—
Net cash provided by financing activities	**24,288**	**348**
Increase (decrease) in cash and cash equivalents	17,720	(21,249)
Cash and cash equivalents at beginning of period	13,622	41,125
Cash and cash equivalents at end of period	**$ 31,342**	**$ 19,876**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.
NOTES TO CONSOLDIATED FINANCIAL STATEMENTS (Unaudited)

Note 1 — Significant Accounting Policies

The Company

BioCryst Pharmaceuticals, Inc. (the "Company") is a biotechnology company that designs, optimizes and develops novel drugs that block key enzymes involved in therapeutic areas of interest to us. Areas of interest for the Company are determined primarily by the scientific discoveries and the potential advantages that its experienced drug discovery group develops in the laboratory along with the potential commercial opportunity of these discoveries. 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-based drug design.

Basis of Presentation

Beginning in March 2011, the consolidated financial statements include the accounts of the Company and its wholly-owned subsidiary, JPR Royalty Sub LLC ("Royalty Sub"). Royalty Sub was formed in connection with a $30.0 million financing transaction the Company completed on March 9, 2011. See Note 5 for a further description of this transaction. All intercompany transactions and balances have been eliminated.

The consolidated balance sheet as of March 31, 2011, the consolidated statement of operations and the consolidated statement of cash flows for the three months ended March 31, 2011, and the statement of operations and the statement of cash flows for the three months ended March 31, 2010 have been prepared by the Company in accordance with accounting principles generally accepted in the United States and have not been audited. Such financial statements reflect all adjustments that are, in management's opinion, necessary to present fairly, in all material respects, the Company's financial position, results of operations, and cash flows. There were no adjustments other than normal recurring adjustments.

These financial statements should be read in conjunction with the financial statements for the year ended December 31, 2010 and the notes thereto included in the Company's 2010 Annual Report on Form 10-K. Interim operating results are not necessarily indicative of operating results for the full year. The balance sheet as of December 31, 2010 has been derived from the audited financial statements included in the Company's most recent Annual Report on Form 10-K.

Cash and Cash Equivalents

The Company generally considers cash equivalents to be all cash held in commercial checking accounts, money market accounts or investments in debt instruments with maturities of three months or less at the time of purchase.

Restricted Cash

The Company is required to maintain $0.6 million in an interest bearing money market account to serve as collateral for a corporate card program.

Marketable Securities

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 credit exposure. 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 that 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 marketable securities as available-for-sale. Unrealized gains and losses on securities available-for-sale are recognized in other comprehensive income, 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 securities available-for-sale 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. At March 31, 2011, the Company believes that the costs of its securities are recoverable in all material respects.

The following table summarizes the fair value of the Company's securities by type at March 31, 2011. The estimated fair value of the Company's securities was based on independent quoted market prices and represents the highest priority of Level 1 in the fair value hierarchy as defined in generally accepted accounting principles. Amounts are in thousands.

	Amortized Cost	Accrued Interest	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
U.S. Treasury securities	$ 5,503	$ 5	$ 16	$ —	$ 5,524
Obligations of U.S. government agencies	8,589	37	9	—	8,635
Corporate debt securities	11,698	52	42	—	11,792
Commercial paper	12,632	4	4	(2)	12,638
Asset backed securities	668	—	—	—	668
Certificates of deposit	1,000	1	2	—	1,003
Municipal obligations	3,990	21	14	(3)	4,022
Total marketable securities	$ 44,080	$ 120	$ 87	$ (5)	$ 44,282

The following table summarizes the scheduled maturity for the Company's securities available-for-sale at March 31, 2011. Amounts are in thousands.

	2011
Maturing in one year or less	$ 37,129
Maturing after one year through two years	5,651
Maturing after two years	1,502
Total marketable securities	$ 44,282

Receivables from Collaborations

Receivables are recorded for amounts due to the Company related to reimbursable research and development costs. These receivables are evaluated to determine if any reserve or allowance should be established at each reporting date. At March 31, 2011, the Company had the following receivables from collaborations. Amounts are in thousands.

	Billed	Unbilled	Total
U.S. Department of Health and Human Services	$ 9,196	$ 16,703	$ 25,899
Other	163	—	163
Total	$ 9,359	$ 16,703	$ 26,062

Included in receivables from the U.S. Department of Health and Human Services ("HHS") is $8.1 million related to indirect cost rate adjustments for calendar years 2007, 2008, 2009, and 2010. These adjustments are calculated as the difference between the actual indirect costs incurred against the contract during a calendar year and the indirect costs that are invoiced at a provisional billing rate during the calendar year. Because these adjustment amounts represent actual costs incurred in performance of the contract and the costs are allowable, reasonable, and allocable to the contract, the Company has recorded revenue accordingly. The Company's calculations of its indirect cost rates are subject to an audit by the federal government. The Company does not receive payment for these indirect cost rate adjustments until those audits have been completed.

The audits for the years 2007, 2008 and 2009 were conducted in 2010 and no material amounts in excess of what the Company had accrued at the balance sheet date were determined to be disallowed. As discussed in Note 3, on February 24, 2011, HHS awarded the Company a $55.0 million contract modification, intended to fund completion of the Phase 3 development of i.v. peramivir. In connection with negotiation of this contract modification, the Company made the business decision to settle on final indirect cost rates for years 2007, 2008 and 2009 and agreed to a reduction of approximately $1.1 million in amounts previously billed to HHS related to indirect cost rates. Accordingly, the Company reduced collaborative and other research and development revenues and receivables from collaborations by approximately $1.1 million at December 31, 2010. The Company anticipates receiving payment of $4.8 million for the indirect cost rate adjustments for the years 2007, 2008 and 2009 in the second quarter of 2011.

Patents and Licenses

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

Accrued Expenses

The Company records all expenses in the period incurred. In addition to recording expenses for invoices received, the Company estimates the cost of services provided by third parties or materials purchased for which no invoices have been received as of the balance sheet dates. Accrued expenses as of March 31, 2011 consisted primarily of development and clinical trial expenses payable to contract research organizations ("CROs") in connection with the Company's research and development programs.

Accumulated Other Comprehensive Income (Loss)

Accumulated other comprehensive income is comprised of unrealized gains and losses on securities available-for-sale and is disclosed as a separate component of stockholders' equity. The Company had approximately $0.1 million of unrealized gains on its securities available-for-sale that are included in accumulated other comprehensive income at March 31, 2011.

Other comprehensive loss for the periods ended March 31, 2011 and 2010 appear in the following table. Amounts are in thousands.

	Three Months	
	2011	2010
Net loss	$ (13,027)	$ (2,595)
Unrealized gain on securities available-for-sale	82	102
Other comprehensive loss	$ (12,945)	$ (2,493)

Revenue Recognition

The Company recognizes revenues from collaborative and other research and development arrangements and product sales.

Collaborative and Other Research and Development Arrangements

Revenue from license fees, royalty payments, event 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. Fees received under licensing agreements that are related to future performance are deferred and recognized over an estimated period determined by management based on the terms of the agreement and the products licensed. In the event a license agreement contains multiple deliverables, the Company evaluates whether the deliverables are separate or combined units of accounting. Revisions to revenue or profit estimates as a result of changes in the estimated revenue period are recognized prospectively.

Under certain of our license agreements, the Company receives royalty payments based upon our licensees' net sales of covered products. Generally, under these agreements, the Company receives royalty reports from our licensees approximately one quarter in arrears, that is, generally in the second month of the quarter after the licensee has sold the royalty-bearing product. The Company recognizes royalty revenues when it can reliably estimate such amounts and collectability is reasonably assured.

Royalty revenue paid by Shionogi & Co., Ltd. ("Shionogi") on their product sales is subject to returns. Peramivir is a newly introduced product and there is no historical experience that can be used to reasonably estimate product returns. Therefore, the Company defers recognition of royalty revenue when paid by Shionogi until the earlier of (1) a right of return no longer exists or (2) it has developed sufficient historical experience to estimate product returns.

Reimbursements received for direct out-of-pocket expenses related to research and development costs are recorded as revenue in the income statement rather than as a reduction in expenses. Event payments are recognized as revenue upon the achievement of specified events if (1) the event is substantive in nature and the achievement of the event was not reasonably assured at the inception of the agreement and (2) the fees are non-refundable and non-creditable. Any event payments received prior to satisfying these criteria are recorded as deferred revenue. Under the Company's contract with HHS, revenue is recognized as reimbursable direct and indirect costs are incurred.

Product Sales

Sales are recognized when there is persuasive evidence that an arrangement exists, title has passed, the price was fixed and determinable, and collectability is reasonably assured. Product sales are recognized net of estimated allowances, discounts, sales returns, chargebacks and rebates. Product sales recognized during 2010 were not subject to a contractual right of return.

The Company recorded the following revenues from collaborations for the periods ended March 31, 2011 and 2010. Amounts are in thousands.

	2011	2010
Product sales:		
NT Pharma, Co., Ltd. (Hong Kong)	$ —	$ 250
Other	—	75
Total product sales	—	325
Royalties:		
Shionogi & Co., Ltd. (Japan)	—	711
Total royalties	—	711
Collaborative and other research and development revenues:		
U.S. Department of Health and Human Services	4,665	10,689
Shionogi & Co., Ltd. (Japan)	293	13,079
Mundipharma International Holdings Limited (United Kingdom)	391	642
Green Cross Corporation (Korea)	—	625
Grants (United States)	86	—
Total collaborative and other research and development revenues	5,435	25,035
Total revenues	$ 5,435	$ 26,071

The Company has no foreign assets.

In the first quarter of 2010, the Company recorded royalty revenue of approximately $0.7 million related to sales of RAPIACTA® in Japan, and the royalties were paid to the Company by Shionogi in the second quarter of 2010. RAPIACTA® received accelerated approval in Japan in January 2010 so it could be made available as a treatment option during the H1N1 pandemic. At the time of approval, RAPIACTA® stability testing was ongoing and as a result, the product sold during early 2010 had a short shelf life. During the fourth quarter of 2010, in response to requests from customers to return RAPIACTA® due to the shelf life reaching expiration, Shionogi chose to accept returns for substantially all of the $0.7 million of product shipped early in 2010 and submitted the returns to the Company for credit. Accordingly, the Company reversed the $0.7 million of royalty revenue recorded in the first quarter of 2010. See Note 3, *Collaborative Agreements*, for a further discussion of the Company's relationship with Shionogi.

Research and Development Expenses

The Company's 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 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 the Company to pay fees related to sublicense agreements or maintenance fees. Generally, 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.

At March 31, 2011, the Company had deferred collaboration expenses of approximately $8.2 million. Approximately $2.5 million of these deferred expenses were sub-license payments, paid to the Company's academic partners upon receipt of consideration from various commercial partners. These deferred expenses would not have been incurred without receipt of such payments from the Company's commercial partners and are being expensed in proportion to the related revenue being recognized. The Company believes that this accounting treatment appropriately matches expenses with the associated revenue.

The remaining $5.7 million of the deferred expenses relates to consideration provided to AECOM and IRL (collectively, the "Licensors") in May 2010 for modifications made to the existing licensing agreement. Under the terms of the amendment, the Company issued consideration

in the form of common stock and cash to the Licensors in exchange for a reduction in the percentage of certain future payments the Company receives from third-party sub-licensees that must be paid to the Licensors (see Note 3 for further information). Amortization of this deferred expense began in May 2010 and will end in September 2027, which is the expiration date for the last-to-expire patent covered by the agreement. The Company believes that this accounting treatment is reasonable and consistent with its collaboration accounting policies.

Interest Expense and Deferred Financing Costs

Interest expense for the three months ended March 31, 2011 was $288,000. Costs directly associated with the issuance of the non-recourse PhaRMA Notes (defined in Note 5) have been capitalized and are included in other non-current assets on the consolidated balance. These costs are being amortized to interest expense over the term of the PhaRMA Notes using the effective interest rate. Amortization of deferred financing costs included in interest expense was $31,000 for the three months ended March 31, 2011.

Currency Hedge Agreement

In connection with the issuance by Royalty Sub of the PhaRMA Notes, the Company entered into a Currency Hedge Agreement (defined in Note 5) to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. The Currency Hedge Agreement will not qualify for hedge accounting treatment and therefore mark to market adjustments will be recognized in earnings. In conjunction with establishing the Currency Hedge Agreement in March 2011, the Company was required to transfer $1.9 million to the counterparty, consisting of $0.4 million in margin funds and a collateral call of $1.5 million, reflecting the value of the initial mark to market adjustment at that time. Cumulative mark to market adjustments for the three months ended March 31, 2011 resulted in a $1.3 million loss associated with the Currency Hedge Agreement. Mark to market adjustments are determined by quoted prices in markets that are not actively traded and for which significant inputs are observable directly or indirectly, representing the Level 2 in the fair value hierarchy as defined by generally accepted accounting principles.

Restructuring Activities

During the fourth quarter of 2010, the Company announced a restructuring plan to consolidate core facilitates and outsource non-core activities. In connection with this plan, the Company estimates it will recognize approximately $0.3 million in one-time termination benefits, of which $0.1 million were paid in the three months ended March 31, 2011. Future costs under this plan are not expected to be material.

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.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires the Company to make estimates and assumptions that affect the amounts reported in the financial statements. Actual results could differ from those estimates.

Recent Accounting Pronouncements

The Accounting Standards Codification (“ASC”) includes guidance in ASC 605-25 related to the allocation of arrangement consideration to these multiple elements for purposes of revenue recognition when delivery of separate units of account occurs in different reporting periods. This guidance recently was modified by the final consensus reached on EITF 08-1 that was codified by ASU 2009-13. This change increases the likelihood that deliverables within an arrangement will be treated as separate units of accounting, ultimately leading to less revenue deferral for many arrangements. The change also modifies the manner in which transaction consideration is allocated to separately identified deliverables. This guidance is effective prospectively for fiscal years beginning on or after June 15, 2010. Early adoption is permitted. The Company adopted this guidance effective January 1, 2011 and does not believe ASU 2009-13 will have a material impact on its financial statements.

At the March 2010 meeting, the FASB ratified Emerging Issues Task Force, or EITF, Issue No. 08-9, “Milestone Method of Revenue Recognition” (Issue 08-9). The Accounting Standards Update resulting from Issue 08-9 amends ASC 605-28. The Task Force concluded that the milestone method is a valid application of the proportional performance model when applied to research or development arrangements. Accordingly, the consensus states that an entity can make an accounting policy election to recognize a payment that is contingent upon the achievement of a substantive milestone in its entirety in the period in which the milestone is achieved. The milestone method is not required and is not the only acceptable method of revenue recognition for milestone payments. This guidance is effective prospectively for fiscal years beginning on or after June 15, 2010. Early adoption is permitted. The Company adopted this guidance effective January 1, 2011 and does not believe it will have an impact on its financial statements until the achievement, if any, of prospective milestones.

Note 2 — Stock-Based Compensation

As of March 31, 2011, the Company had two stock-based employee compensation plans, the Stock Incentive Plan (“Incentive Plan”), which was amended and restated in March 2010 and approved by the Company’s stockholders in May 2010, and the Employee Stock Purchase Plan (“ESPP”), which was also amended and restated in March 2010 and approved by the Company’s stockholders in May 2010. In addition,

during 2007, the Company made an inducement grant outside of the Incentive Plan and ESPP to recruit a new employee to a key position within the Company. Stock-based compensation expense of $1.5 million ($1.4 million of expense related to the Incentive Plan, $0.05 million of expense related to the ESPP, and $0.05million of expense related to the inducement grant) was recognized during the first three months of 2011, while $1.4 million ($1.3 million of expense related to the Incentive Plan, $0.05 million of expense related to the ESPP, and $0.05 million of expense related to the inducement grant) was recognized during the first three months of 2010.

There was approximately $9.1 million of total unrecognized compensation cost related to non-vested stock option awards and restricted stock awards granted by the Company as of March 31, 2011. That cost is expected to be recognized as follows: $2.6 million in 2011, $2.8 million in 2012, $2.4 million in 2013, $1.2 million in 2014 and $0.1 million in 2015.

Stock Incentive Plan

The Company grants stock option awards and restricted stock 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. Stock option awards granted to employees generally vest 25% after one year and monthly thereafter on a pro rata basis over the next three years until fully vested after four years. 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 December 31, 2010	1,858,044	6,801,542	$ 6.66
Stock option awards granted	(1,257,018)	1,257,018	4.19
Stock option awards exercised	—	(108,294)	1.51
Stock option awards cancelled	175,724	(175,724)	6.81
Balance March 31, 2011	776,750	7,774,542	$ 6.63

For stock option awards granted under the Incentive Plan during the first three months of 2011 and 2010, 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 per share of these awards granted during the first three months of 2011 and 2010 was $2.80 and $4.63, 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 summarizes the key assumptions used by the Company to value the stock option awards granted during the first three months of 2011 and 2010. 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 an average of the implied volatility on the Company's publicly traded stock options, the volatility over the most recent period corresponding with the expected life, and the Company's long-term reversion volatility. The Company has assumed no expected dividend yield, as dividends have never been paid to stock or option holders and will not be paid for the foreseeable future. The weighted average risk-free interest rate is the implied yield currently available on zero-coupon government issues with a remaining term equal to the expected term.

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

	2011	2010
Expected Life in Years	5.5	5.5
Expected Volatility	80.1%	89.3%
Expected Dividend Yield	0.0%	0.0%
Risk-Free Interest Rate	2.2%	2.4%

During 2007, the Company granted 50,000 restricted stock awards under the Incentive Plan with a grant date fair value of $11.81 per share. During the first quarter of 2009, 25,000 of these restricted stock awards vested. The remainder of these restricted stock awards vested during the first quarter of 2011.

Employee Stock Purchase Plan

The Company has reserved a total of 825,000 shares of common stock to be purchased under the ESPP, of which 181,538 shares remain available for purchase at March 31, 2011. 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 3,000 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 $25,000 or more in any one calendar year. The Company issued 48,627 shares during the first three months of 2011 under the ESPP. 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.

Stock Inducement Grant

In March 2007, the Company's Board of Directors approved a stock inducement grant of 110,000 stock option awards and 10,000 restricted stock awards to recruit a new employee to a key position within the Company. The stock option awards were granted in April 2007 with an exercise price equal to the market price of the Company's stock at the date of grant. The awards vest 25% after one year and monthly thereafter on a pro rata basis over the next three years until fully vested after four years. The stock option awards have contractual terms of 10 years. The vesting exercise provisions of both the stock option awards and the restricted stock awards granted under the inducement grant 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 respective agreements. The weighted average grant date fair value of these stock option awards was $5.25 per share. The exercise price of the stock option awards and the grant date fair value per share of the restricted stock awards granted under the inducement grant was $8.20. As of March 31, 2011, 9,790 shares granted under the restricted stock awards have vested.

Note 3 — Collaborative Agreements

U.S. Department of Health and Human Services ("HHS"). In January 2007, the Company was awarded a four-year contract from HHS to develop its influenza neuraminidase inhibitor, peramivir, for the treatment of seasonal and life-threatening influenza. The contract commits $102.6 million to support manufacturing, process validation, clinical studies, and other product approval requirements for peramivir. The contract with HHS is defined as a cost-plus-fixed-fee contract. 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 peramivir plus a fixed fee, or profit. 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 contract is terminable by the government at any time for breach or without cause.

In September 2009, HHS and the Company executed a contract modification that awarded an additional $77.2 million to the Company to complete Phase 3 development of intravenous ("i.v.") peramivir, bringing the total award from HHS for the development of peramivir to $179.9 million. The modification also extended the contract term by 12 months to five years. On February 24, 2011, HHS and the Company executed a $55.0 million contract modification, intended to fund completion of the Phase 3 development of i.v. peramivir for the treatment of patients hospitalized with influenza. This contract modification brings the total award from HHS to $234.8 million and extends the contract term by 24 months through December 31, 2013, providing funding through completion of Phase 3 and the filing of a new drug application ("NDA") to seek regulatory approval for i.v. peramivir in the U.S.

Shionogi & Co., Ltd. ("Shionogi"). In March 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 in exchange for a $14.0 million up-front payment. The license provides for potential future regulatory milestone event payments (up to $21.0 million) and commercial event milestone payments (up to $95.0 million) in addition to double digit (between 10 and 20% range) royalty payments on product sales of peramivir. Generally, all payments under the agreement are nonrefundable and non-creditable, but they are subject to audit. Shionogi will be responsible for all development, regulatory, and marketing costs in Japan. The term of the agreement is from February 28, 2007 until terminated by either party in accordance with the license agreement. Either party may terminate in the event of an uncured breach. Shionogi has the right of without cause termination. In the event of termination all license and rights granted to Shionogi shall terminate and shall revert back to the Company. The Company developed peramivir under a license from UAB and will owe sublicense payments to UAB on the upfront payment and any future event 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 and to provide rights for Shionogi to perform a Phase 3 clinical trial in Hong Kong.

The Company deferred the $14.0 million up-front payment that was initially received from Shionogi. This deferred revenue began to be amortized to revenue in April 2007 and will continue through December 2018. In December 2007, the Company received a $7.0 million milestone payment from Shionogi for its initiation of a Phase 2 clinical trial with i.v. peramivir. In November 2009, the Company received a second $7.0 million milestone payment from Shionogi for its filing of a New Drug Application ("NDA") in Japan to seek regulatory approval for i.v. peramivir.

In January 2010, Shionogi received marketing and manufacturing approval for i.v. peramivir in Japan, and the Company received a third and final regulatory milestone payment of $7.0 million in January 2010 as a result of this approval. Shionogi has commercially launched peramivir under the commercial name RAPIACTA® in Japan.

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 $0.3 million. The agreement also provides for relatively insignificant future milestone payments. 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. Both parties have the right to terminate 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 the Company. The Company deferred the up-front payment that was received from Green Cross. This deferred revenue began to be amortized to revenue in August 2006 and continued through November 2009.

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 forodesine, a purine nucleoside phosphorylase ("PNP") inhibitor, for use in oncology. Under the terms of the agreement, Mundipharma obtained rights to forodesine in markets across Europe, Asia, and Australasia in exchange for a $10.0 million up-front payment. In addition, Mundipharma contributed $10.0 million of the documented out-of-pocket development costs incurred by the Company in respect of the current and planned trials as of the effective date of the agreement, and Mundipharma will conduct additional clinical trials at their own cost up to a maximum of $15.0 million. The license provides for possibility of future event payments totaling $155.0 million for achieving specified development, regulatory and commercial events (including certain sales level amounts following a product's launch) for certain indications. In addition, the agreement provides that the Company will receive royalties (ranging from single digits to mid teens) based on a percentage of net product sales, which varies depending upon when certain indications receive NDA approval in a major market country and can vary by country depending on the patent coverage or sales of generic compounds in a particular country. Generally, all payments under the agreement are nonrefundable and non-creditable, but they are subject to audit. The Company licensed forodesine and other PNP inhibitors from AECOM and IRL and will owe sublicense payments to these third parties on the upfront payment, event payments, and royalties received by the Company from Mundipharma.

For five years, Mundipharma will have a right of first negotiation on existing backup PNP inhibitors the Company develops through Phase IIb in oncology, but any new PNP inhibitors will be exempt from this agreement and the Company will retain all rights to such compounds. The Company retained the rights to forodesine in the U.S. and Mundipharma is obligated by the terms of the agreement to use commercially reasonable efforts to develop the licensed product in the territory specified by the agreement. The agreement will continue for the commercial life of the licensed products, but may be terminated by either party following an uncured material breach by the other party or in the event the pre-existing third party license with AECOM and IRL expires. It may be terminated by Mundipharma upon 60 days written notice without cause or under certain other conditions as specified in the agreement and all rights, data, materials, products and other information would be transferred back to the Company at no cost. In the event the Company terminates the agreement for material default or insolvency, the Company could have to pay Mundipharma 50% of the costs of any independent data owned by Mundipharma in accordance with the terms of the agreement.

The Company deferred the $10.0 million up-front payment that was received from Mundipharma in February 2006. This deferred revenue began to be amortized to revenue in February 2006 and will end in October 2017, which is the date of expiration for the last-to-expire patent covered by the agreement. The costs reimbursed by Mundipharma for the current and planned trials of forodesine were recorded as revenue when the expense was incurred up to the $10.0 million limit stipulated in the agreement.

The Company is currently in dispute with Mundipharma regarding the contractual obligations of the parties with respect to certain costs related to the manufacturing and development of forodesine. The Company does not believe that it is responsible for any of the disputed amounts. The Company is engaged in ongoing discussion to resolve this dispute. The maximum potential exposure to the Company is estimated to be approximately €1,665,110 (or approximately $2.3 million based on the exchange rate on March 31, 2011). No amounts have been accrued as of March 31, 2011.

The Company is exploring the interest level of potential partners as a possible path forward for the future development of forodesine in the U.S. Absent a U.S. partner, the Company does not plan to conduct additional studies of forodesine or file a NDA with the FDA. The Company shared this information with Mundipharma, along with its decision not to continue further development of forodesine in the U.S. Mundipharma has expressed disappointment regarding the development of forodesine and this outcome. On February 21, 2011, the Company received a letter from Mundipharma's legal counsel notifying it that they intended to utilize the dispute resolution provisions of the Company's agreement with them, which includes meetings of senior management and the later possibility of arbitration. No amounts have been accrued regarding this matter.

AECOM and IRL. In June 2000, the Company licensed a series of potent PNP inhibitors from the Licensors. The license agreement was amended in July 2002, April 2005, December 2009, and May 2010. The lead drug candidates from this collaboration are forodesine and BCX4208. The Company has obtained worldwide exclusive rights to develop and ultimately distribute these, or any other, drug candidates that might arise from research on these PNP 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. The Company has agreed to use commercially reasonable efforts to develop these drugs. This license agreement may be terminated by the Company at any time by giving 60 days advance notice or in the event of material uncured breach by the Licensors.

The Company agreed 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 of these inhibitors, single digit royalties on net sales of any resulting product made by the Company, and to share approximately one quarter of future payments received from third-party sublicensees of the licensed PNP inhibitors, if any. The Company also agreed to pay annual license fees ranging from $0.2 million to $0.5 million, creditable against actual royalties and other payments due to the Licensors.

In May 2010, the Company and the Licensors agreed to further amend the terms of the license agreement. Under the terms of the amendment, the Licensors agreed to accept a reduction of one-half in the percentage of future payments received from third-party sublicensees of the licensed PNP inhibitors that must be paid to the Licensors. This reduction does not apply to (i) any milestone payments the Company may receive in the future under its license agreement dated February 1, 2006 with Mundipharma and (ii) royalties received from sublicensees of the Company in connection with the sale of licensed products, for which the original payment rate will remain in effect. The rate of royalty payments to the Licensors based on net sales of any resulting product made by the Company remains unchanged.

In consideration for the modifications to the license agreement, the Company issued to the Licensors shares of the Company's common stock with an aggregate value of approximately $5.9 million and paid the Licensors approximately $90,000 in cash. Additionally, at the Company's sole option and subject to certain agreed upon conditions, any future non-royalty payments due to be paid by the Company to the Licensors under the license agreement may be made either in cash, in shares of the Company's common stock, or in a combination of cash and shares.

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 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 have initial 25-year terms, 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 each party shall cease using the other party's 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 agreements, or commercializes products related to these programs, the Company will owe sublicense fees or royalties on amounts it receives.

Emory University ("Emory"). In June 2000, the Company licensed intellectual property from Emory related to the hepatitis C polymerase target associated with hepatitis C viral infections. Under the original terms of the agreement, the research investigators from Emory provided the Company with materials and technical insight into the target. The Company has agreed to pay Emory single digit royalties on sales of any resulting product and to share in future payments received from other third party partners, if any. The Company can terminate this agreement at any time by giving 90 days advance notice. Upon termination, the Company would cease using the licensed technology.

Note 4 — Income Taxes

The Company has incurred net losses since inception and, consequently, has not recorded any U.S. federal and state income taxes. 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.

As of December 31, 2010, the Company had net federal operating loss carryforwards of $201.2 million, net state operating loss carryforwards of $243.4 million, and research and development credit carryforwards of $34.1 million, all of which expire at various dates from 2011 through 2029.

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 concluded at December 31, 2010 that it had one uncertain tax position pertaining to its research and development credit carryforwards. The Company has not yet conducted an in-depth study of its research and development credits. This study could result in an increase or decrease to the Company's research and development credits. Until studies are conducted of the Company's research and development credits, no amounts are being recorded as unrecognized tax benefits, separate from the valuation allowance against deferred tax assets. Any future changes to the Company's unrecognized tax benefits would be offset by an adjustment to the valuation allowance and there would be no impact on the Company's financial statements.

Utilization of the Company's net operating loss carryforwards could be subject to a substantial annual limitation due to ownership change limitations described in Section 382 of the Internal Revenue Code and similar state provisions. The Company has performed a Section 382 change in control study and has determined there have been no changes in control that would limit the use of the Company's net operating losses through December 31, 2010.

Tax years 2006-2009 remain open to examination by the major taxing jurisdictions to which the Company is subject. Additionally, years prior to 2006 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 have no provisions or accruals for interest and penalties since the Company's inception.

Note 5 — Royalty Monetization

Overview

On March 9, 2011, the Company completed a $30.0 million financing transaction to monetize certain future royalty and milestone payments under its license agreement with Shionogi (the "Shionogi Agreement"), pursuant to which Shionogi licensed from the Company the rights to market peramivir in Japan and, if approved for commercial sale, Taiwan. The Company received net proceeds of approximately $23.0 million from the transaction after transaction costs of $4.0 million and the establishment of a $3.0 million interest reserve account by Royalty Sub, which will be available to help cover any interest shortfalls through September 1, 2013.

As part of the transaction, the Company entered into a purchase and sale agreement dated as of March 9, 2011 with 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 will be paid by Shionogi in Japanese yen and milestone payments will paid in U.S. dollars. The Company's collaboration with Shionogi remains unchanged as a result of the transaction.

Non-Recourse Notes Payable

On March 9, 2011, Royalty Sub completed a private placement to institutional investors of $30.0 million in aggregate principal amount of its PhaRMA Senior Secured 14.0% Notes due 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. Payments may also be made from the interest reserve account and certain other accounts established in accordance with the Indenture. Principal on the PhaRMA Notes is required to be paid in full by the final legal maturity date of December 1, 2020, unless the PhaRMA Notes are repaid, redeemed or repurchased earlier. The PhaRMA Notes are redeemable by Royalty Sub beginning March 9, 2012 as described below. The PhaRMA Notes bear interest at 14% per annum, payable annually in arrears on September 1st of each year, beginning on September 1, 2011 (the "Payment Date"). 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.

If the amounts available for payment on any Payment Date are insufficient to pay all of the interest due on a Payment Date, unless sufficient capital is contributed to Royalty Sub by the Company as permitted under the Indenture or the interest reserve account is available to make such payment, the shortfall in interest will accrue interest at the interest rate applicable to the PhaRMA Notes compounded annually. If such shortfall (and interest thereon) is not paid in full on or prior to the next succeeding Payment Date, an "Event of Default" as described in the Indenture will occur.

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.

Prior to March 9, 2012, the PhaRMA Notes will not be redeemable by Royalty Sub. Thereafter, the PhaRMA Notes will be redeemable at the option of Royalty Sub at any time at a redemption price equal to the percentage of the outstanding principal balance of the PhaRMA Notes being redeemed specified below for the period in which the redemption occurs, plus accrued and unpaid interest through the redemption date on the PhaRMA Notes being redeemed:

Payment Dates (Between Indicated Dates)	Redemption Percentage
From and including March 9, 2012 to and including March 8, 2013	107.00%
From and including March 9, 2013 to and including March 8, 2014	103.50%
From and including March 9, 2014 and thereafter	100.00%

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 has the right to purchase dollars and sell yen at a rate of 100 yen per dollar for which the Company may be required to pay a premium in each year from 2014 through 2020, provided the Currency Hedge Agreement remains in effect. A payment of $2.0 million will be

required if, on May 18 of the relevant year, the US dollar is worth 100 yen or less as determined in accordance with the Currency Hedge Agreement.

In conjunction with establishing the Currency Hedge Agreement in March 2011, the Company was required to transfer $1.9 million to the counterparty, consisting of $0.4 million in margin funds and a collateral call of $1.5 million, reflecting the value of the initial mark to market adjustment at that time. Cumulative mark to market adjustments for the three months ended March 31, 2011 resulted in a $1.3 million loss associated with the Currency Hedge Agreement. The Company will not be required at any time to post collateral exceeding the maximum premium payments remaining payable under the Currency Hedge Agreement. Subject to certain obligations the Company has in connection with the PhaRMA Notes, the Company has the right to terminate the Currency Hedge Agreement with respect to the 2016 through 2020 period by giving notice to the counterparty prior to May 18, 2014 and payment of a $2.0 million termination fee.

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

This Quarterly Report on Form 10-Q contains forward-looking statements, including statements regarding future results, performance, or achievements of the Company. Such statements are only predictions and the actual events or results may differ materially from the results discussed in the forward-looking statements. Factors that could cause or contribute to such differences include those discussed below as well as those discussed in other filings made by the Company with the Securities and Exchange Commission, including the Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K. See "Information Regarding Forward-Looking Statements."

Recent Corporate Highlights

Peramivir

Collaborative Agreements.

HHS. In January 2007, the U.S. Department of Health and Human Services ("HHS") awarded us a $102.6 million, four-year contract for the advanced development of peramivir for the treatment of influenza. During 2009, peramivir clinical development shifted to focus on intravenous delivery and the treatment of hospitalized patients. To support this focus, a September 2009 contract modification was awarded to extend the i.v. peramivir program by 12 months and to increase funding by $77.2 million.

In October 2010, HHS contacted us informally regarding our proposal. During those informal communications, HHS indicated that we should explore certain changes to our currently ongoing Phase 3 i.v. peramivir study for the treatment of hospitalized patients with serious influenza, including potentially increasing the size of the study. The necessity for a second pivotal study in acute, uncomplicated outpatient populations was discussed by HHS and the U.S. Food and Drug Administration ("FDA") and was deemed unnecessary for a label indication for acute, complicated hospitalized patients. We previously disclosed that we had submitted a proposal for a second contract modification to HHS for additional funding toward completion of the modified Phase 3 development of i.v. peramivir. This proposal included an additional outpatient efficacy study. We also previously disclosed that HHS had approved start-up activities for the Phase 3 program under the existing contract. HHS indicated that it plans to reimburse authorized start-up costs as well as termination costs related to this outpatient efficacy study. In light of these communications by HHS, we did not move forward with the outpatient study.

On January 13, 2011, we announced that, based on those recent discussions between HHS and the FDA, we had submitted a revised contract proposal to HHS seeking additional funding to enable completion of the Phase 3 development plan for i.v. peramivir. In the revised contract proposal, we identified changes to the design of our ongoing 301 study that could increase the likelihood of a positive clinical outcome.

On February 24, 2011, we announced that HHS had awarded us a $55.0 million contract modification, intended to fund completion of the Phase 3 development of i.v. peramivir for the treatment of patients hospitalized with influenza. This contract modification brings the total award from HHS to $234.8 million and extends the contract term by 24 months through December 31, 2013, providing funding through completion of Phase 3 and the filing of an NDA to seek regulatory approval for i.v. peramivir in the U.S. Through March 31, 2011, approximately $162.3 million has been recognized as revenue under the contract with HHS to support activities related to the i.v. peramivir development program.

This contract modification supports implementation of our proposed changes to study 301. The modifications to the study include:

- Changing the primary efficacy analysis of the study to focus on a subset of approximately 160 patients not treated with neuraminidase inhibitors as SOC, in order to provide the greatest opportunity to demonstrate a statistically significant peramivir treatment effect.
- Increasing the total study target enrollment to 600 subjects from the current target of 445 subjects.
- Adding at least 45 more clinical site locations in additional countries.

These changes are expected to increase the amount of time required to complete enrollment in this ongoing study. The actual time to reach completion of enrollment will depend on the prevalence and severity of influenza, as well as the ability of the more than 265 investigator sites to successfully enroll patients.

Under the defined scope of work in the contract with HHS for the development of peramivir, a process was undertaken to validate a U.S.-based manufacturer and the related method for producing commercial batches of peramivir active pharmaceutical ingredient ("API"). As a required outcome of this validation process, large quantities of peramivir API were produced. In accordance with our accounting practices, we recorded all costs associated with this validation process as research and development expenses in our Statements of Operations. Simultaneously, revenue from the HHS contract was also recorded in our Statement of Operations. HHS subsequently reimbursed us for these costs and upon reimbursement from HHS, the associated peramivir API became property of the U.S. government.

Under the terms of the contract, if we determine the amount of peramivir API produced under the contract is in excess of what is necessary to complete the contract, we can acquire any excess peramivir API at cost to use for our own purposes. We believe that as a result of the manufacturing campaign described above, more peramivir API has been produced than is required to support U.S. regulatory approval. Therefore, we determined that there was an excess of up to $5.0 million of peramivir API manufactured under this validation process. HHS is reviewing our estimate calculation, but has acknowledged that at least half of the amount in our estimate is indeed excess to the requirements of the HHS contract. We are evaluating whether any of the excess peramivir API will be needed by us to support other contracts, partners, or activities, and if so, the acquisition process to obtain the excess peramivir API from HHS. Acquisition of a portion or all of the excess peramivir API from HHS will impact our financial statements.

In January 2006, the Company received FDA Fast Track designation for peramivir. In September 2009, we received a Request for Proposal ("RFP") from HHS for the supply of i.v. peramivir for the treatment of critically ill influenza patients. In October 2009, the FDA granted an Emergency Use Authorization ("EUA") for i.v. peramivir, which expired in June 2010 with the expiration of the declared emergency. As a result, peramivir is now only available in the U.S. through clinical trials. On November 4, 2009 we received an initial order for 10,000 courses of i.v. peramivir (600 mg once-daily for five days) for an aggregate purchase price of $22.5 million. We shipped the entire order from existing i.v. peramivir inventory to HHS on November 4, 2009.

Under the Indefinite Delivery Indefinite Quantity contract issued to us on November 3, 2009, the minimum and maximum quantities of i.v. peramivir that may be ordered by HHS are 1,000 and 40,000 treatment courses, at the same unit price as the first order. We are also required to maintain the ability to manufacture additional courses for treatment or prophylaxis, dependent on the volume and size of anti-viral orders received from HHS. Based on the RFP, we initiated manufacture of approximately 130,000 courses of i.v. peramivir at a cost of approximately $10.0 million, so that we would have additional inventory available in advance of potential orders. In addition, we have sufficient quantities of API of i.v. peramivir available to produce up to 350,000 additional courses. Separate from the RFP process, we have donated and transferred to HHS an initial supply sufficient for 1,200 courses of i.v. peramivir 600 mg once-daily for five days.

Shionogi. Effective February 28, 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 & Co., Ltd. ("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 and to provide rights for Shionogi to perform a Phase 3 clinical trial in Hong Kong.

In January 2010, Shionogi received marketing and manufacturing approval for i.v. peramivir in Japan, and we received a third and final regulatory milestone payment of $7.0 million that month as a result of this approval. We may receive future commercial event milestone payments of up to $95.0 million from Shionogi. Shionogi has commercially launched peramivir under the commercial name RAPIACTA® in Japan. In October 2010, we announced that Shionogi had received approval of an additional indication for use of i.v. peramivir to treat children and infants with influenza in Japan.

On March 9, 2011, we announced that JPR Royalty Sub LLC, our newly created wholly-owned subsidiary (the "Royalty Sub"), had completed a private placement to institutional investors of $30 million in aggregate principal amount of its PhaRMA Senior Secured 14.0% Notes due 2020 (the "PhaRMA Notes"). This private placement was exempt from registration under the Securities Act of 1933, as amended (the "Securities Act"). The PhaRMA Notes, which are obligations of Royalty Sub, are secured by (i) Royalty Sub's rights to receive royalty payments from Shionogi in respect of commercial sales of RAPIACTA® in Japan and, if approved for commercial sale, Taiwan (the "Territory"), as well as future milestone payments payable by Shionogi under the Shionogi Agreement (as defined below) and all of Royalty Sub's other assets, and (ii) a pledge by us of our equity interest in Royalty Sub.

In connection with the issuance of the PhaRMA Notes by Royalty Sub, we entered into a purchase and sale agreement (the "Purchase and Sale Agreement") dated as of March 9, 2011, between us and Royalty Sub. Under the terms of the Purchase and Sale Agreement, we transferred to Royalty Sub, among other things, (i) our 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 us in connection with the transaction. Of the $30.0 million in gross proceeds from the sale of the PhaRMA Notes by Royalty Sub, $3.0 million was used to fund an interest reserve account, and after fees and financing expenses in connection with the transaction the net proceeds to us were approximately $23.0 million. We and Royalty Sub have agreed to certain covenants in the Purchase and Sale Agreement that are intended to preserve the value of the assets purchased from us by Royalty Sub. The Purchase and Sale Agreement includes customary representations, warranties and covenants by us and customary indemnification and other provisions typical for asset sale agreements in structured financing transactions for pharmaceutical royalty payments.

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 (the "Trustee"). Principal and interest on the PhaRMA Notes issued by Royalty Sub are payable from, and are secured by, the rights to royalty and milestone payments under the Shionogi Agreement transferred by us to Royalty Sub and payments, if any, made to Royalty Sub under the Currency Hedge Agreement. Payments may also be made from the interest reserve

account and certain other accounts established in accordance with the Indenture. Principal on the PhaRMA Notes is required to be paid in full by the final legal maturity date of December 1, 2020, unless the PhaRMA Notes are repaid, redeemed or repurchased earlier. The PhaRMA Notes are redeemable by Royalty Sub beginning March 9, 2012 as described below. The PhaRMA Notes bear interest at the rate of 14% per annum, payable annually in arrears on September 1st of each year, beginning on September 1, 2011 (each, a "Payment Date").

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 us, except to the extent of our pledge of our equity interests in Royalty Sub in support of the PhaRMA Notes.

Various accounts have been established in accordance with the Indenture, including, among others, the interest reserve account as well as a collections account into which royalty and milestone payments under the Shionogi Agreement will be made. In addition, 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.

On each Payment Date in respect of the PhaRMA Notes, funds will be applied by the Trustee in the order of priority set forth below:

- first, to Royalty Sub for the payment of all taxes owed by Royalty Sub, if any;
- second, to the payment of certain expenses of Royalty Sub not previously paid or reimbursed;
- third, to the Trustee for distribution to the holders, all interest due and payable on the PhaRMA Notes, including any accrued and unpaid interest due on prior Payment Dates, and any accrued and unpaid interest on such unpaid interest, compounded annually, taking into account any amounts paid from the interest reserve account and capital account on such Payment Date;
- fourth, as long as no event of default has occurred and is continuing, on the September 1, 2014 Payment Date, the September 1, 2015 Payment Date or the September 1, 2016 Payment Date, to the interest reserve account, the amount (if any) set forth in a written direction to the Trustee from Royalty Sub; provided, that such application of funds, together with any such prior application of funds, shall not exceed $2.1 million in the aggregate;
- fifth, to the Trustee for distribution to the holders of the PhaRMA Notes, principal payments on the PhaRMA Notes (without premium or penalty), allocated pro rata among the holders of the PhaRMA Notes, until the outstanding principal balance of such PhaRMA Notes has been paid in full;
- sixth, after the PhaRMA Notes have been paid in full, to the Trustee for the payment of principal of, and interest on, subordinated notes, if any, issued by Royalty Sub as permitted by the Indenture for the PhaRMA Notes in certain circumstances;
- seventh, after the PhaRMA Notes have been paid in full, to the ratable payment of all other obligations under the Indenture for the PhaRMA Notes until all such amounts are paid in full; and
- eighth, after the PhaRMA Notes and all amounts owing under the Indenture have been paid in full, to Royalty Sub, all remaining amounts.

If the amounts available for payment on any Payment Date are insufficient to pay all of the interest due on a Payment Date, unless sufficient capital is contributed to Royalty Sub by us as permitted under the Indenture or the interest reserve account is available to make such payment, the shortfall in interest will accrue interest at the interest rate applicable to the PhaRMA Notes compounded annually. If such shortfall (and interest thereon) is not paid in full on or prior to the next succeeding Payment Date, an "Event of Default" under the Indenture will occur. Events of Default under the Indenture include, but are not limited to, the following:

- failure to pay interest on the PhaRMA Notes due on any Payment Date (other than the final legal maturity date or any redemption date) in full on or prior to the next succeeding Payment Date, together with any additional accrued and unpaid interest on any interest not paid on the Payment Date on which it was originally due;
- failure to pay principal and premium, if any, and accrued and unpaid interest on the PhaRMA Notes on the final legal maturity date, or failure to pay the redemption price when required on any redemption date;
- failure to pay any other amount due and payable under the Indenture and the continuance of such default for a period of 30 or more days after written notice thereof is given to Royalty Sub by the Trustee;
- failure by Royalty Sub to comply with certain covenants set forth in the Indenture or the PhaRMA Notes, provided, that, if the consequences of the failure can be cured, such failure continues for a period of 30 days or more after written notice of the failure has been given to Royalty Sub by the Trustee at the direction of holders of a majority of the outstanding principal balance of PhaRMA Notes, and, except in respect of a covenant, obligation, condition or provision already qualified in respect of Material Adverse Change (as defined in the Indenture), such failure is a Material Adverse Change;
- Royalty Sub becomes subject to a Voluntary Bankruptcy or an Involuntary Bankruptcy (each as defined in the Indenture);
- any judgment or order for the payment of money in excess of $1.0 million (not paid or covered by insurance) shall be rendered against Royalty Sub and either (i) enforcement proceedings have been commenced by any creditor upon such judgment or order or (ii) there is any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;
- Royalty Sub is classified as a corporation or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes;
- Royalty Sub becomes an investment company required to be registered under the Investment Company Act of 1940, as amended;
- we shall have failed to perform any of our covenants under the Purchase and Sale Agreement and such failure is a Material Adverse Change; or

- the Trustee shall fail to have a first-priority perfected security interest in any of the collateral securing the PhaRMA Notes or in any of the equity in Royalty Sub pledged by us.

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, the above-described 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.

Prior to March 9, 2012, the PhaRMA Notes will not be redeemable by Royalty Sub. Thereafter, the PhaRMA Notes will be redeemable at the option of Royalty Sub at any time at a redemption price equal to the percentage of the outstanding principal balance of the PhaRMA Notes being redeemed specified below for the period in which the redemption occurs, plus accrued and unpaid interest through the redemption date on the PhaRMA Notes being redeemed:

Payment Dates (between indicated dates)	Redemption Percentage
From and including March 9, 2012 to and including March 8, 2013	107.00%
From and including March 9, 2013 to and including March 8, 2014	103.50%
From and including March 9, 2014 and thereafter	100.00%

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 have the right to purchase dollars and sell yen at a rate of 100 yen per dollar for which we may be required to pay a premium in each year from 2014 through 2020, provided the Currency Hedge Agreement remains in effect. A payment of $2.0 million will be required if, on May 18 of the relevant year, the US dollar is worth 100 yen or less as determined in accordance with the Currency Hedge Agreement. In conjunction with establishing the Currency Hedge Agreement, we will be required to post collateral to the counterparty, which may cause us to experience additional quarterly volatility in our earnings as a result. We will not be required at any time to post collateral exceeding the maximum premium payments remaining payable under the Currency Hedge Agreement. In establishing the hedge, we provided initial funds of approximately $2.0 million to support our potential hedge obligations. Subject to certain obligations we have in connection with the PhaRMA Notes, we have the right to terminate the Currency Hedge Agreement with respect to the 2016 through 2020 period by giving notice to the counterparty prior to May 18, 2014 and payment of a $2.0 million termination fee.

Green Cross. On August 16, 2010, we announced that our partner Green Cross Corporation (“Green Cross”) had received marketing and manufacturing approval from the Korean Food & Drug Administration for i.v. peramivir 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. Green Cross intends to launch peramivir under the commercial name PeramiFlu® in Korea.

Other Collaborations. In addition to Shionogi and Green Cross, we have arrangements with several companies outside the U.S. to represent us and peramivir primarily for stockpiling purposes.

Clinical Trials. In July 2007, we initiated a Phase 2 clinical trial of i.v. peramivir to compare the efficacy and safety of i.v. peramivir to orally administered oseltamivir in patients who require hospitalization due to acute influenza. The primary objective of the study was to evaluate time to clinical stability, which is a composite endpoint comprised of normalization of temperature, oxygen saturation, respiratory rate, systolic blood pressure and heart rate. This type of endpoint has previously been used in pneumonia studies, but not in influenza. Secondary objectives of the study included evaluation of viral shedding, mortality, clinical relapse and time to resumption of usual activities. We presented the results at the XI International Symposium on Respiratory Viral Infection held in Bangkok, Thailand in February 2009, with additional analyses (as noted above) presented at the 48th Annual IDSA meeting on October 22, 2010.

In September 2009, we announced that we were initiating two Phase 3 studies of i.v. peramivir for the treatment of hospitalized patients with serious influenza. The combined enrollment target for these studies was approximately 700 patients, and approximately 300 study locations are targeted to participate in these studies globally. These studies are intended to support U.S. regulatory approval of i.v. peramivir as a treatment for influenza.

On January 13, 2011, we announced top-line results from our completed 303 study. This study was an open-label, randomized trial of the anti-viral activity, safety and tolerability of i.v. peramivir administered either as a once-daily infusion of 600 mg or a twice-daily infusion of 300 mg to adult and adolescent subjects hospitalized with confirmed or suspected influenza infection. Treatment was planned for 5 days with an extension to 10 days in patients who needed additional treatment.

The study enrolled 234 patients aged 14 to 92 years during the 2009-2010 H1N1 pandemic of whom 200 patients (85%) had a duration of illness of more than 48 hours. Peramivir was administered to 230 patients; 170 patients (74%) had received prior treatment with oseltamivir. At study entry 158 patients (69%) needed supplemental oxygen and 39 patients (17%) were in intensive care. The median duration of peramivir treatment was five days (range, 1-11 days). The ITTI population consisted of 127 patients with influenza confirmed by RT-PCR, viral culture, or serology.

The primary endpoint of the study was the change in influenza virus titer in nasopharyngeal samples, measured by TCID50. Forty-four patients had a positive baseline culture, 20 for the 300 mg twice-daily group and 24 for the 600 mg once-daily group. Similar reductions in

log10 TCID50 viral titer were observed over the first 48 hours in the two treatment groups, -1.66 (95% CI -2.32, -0.61) for 300 mg peramivir twice-daily and -1.47 (95% CI -1.89, -0.75) for peramivir 600 mg once-daily.

Both dose regimens of i.v. peramivir were generally safe and well-tolerated. The frequency and severity of adverse events was similar in the two groups, and was consistent with the profile of influenza patients hospitalized during the 2009-2010 pandemic. SAEs were reported in 20 percent of patients. Of the total SAEs reported, one case of elevated liver enzymes was attributed to the study drug and all other SAEs were attributed to other factors. The most common SAEs reported were respiratory failure, acute respiratory distress syndrome, septic shock and acute renal failure. Overall mortality within 28 days of initial peramivir treatment was 8.7 percent; no deaths were attributed to study drug. No safety signals were identified.

The analysis of the combined ITTI population showed median time to resolution of fever was 25.3 hours; time to clinical resolution, 92.0 hours; time to alleviation of symptoms, 145 hours; and time to resumption of usual activities, 26.8 days. Further analyses of the data are ongoing, and we will submit detailed analyses for presentation at an upcoming medical meeting.

Our 301 study is an ongoing, multicenter, randomized, double-blind, controlled study to evaluate the efficacy and safety of 600 mg i.v. peramivir administered once-daily for five days in addition to SOC, compared to SOC alone, in adults and adolescents who are hospitalized due to serious influenza. The modification to our contract with HHS announced on February 24, 2011 provides for the following changes to study 301:

- Changing the primary efficacy analysis of the study to focus on a subset of approximately 160 patients not treated with neuraminidase inhibitors as SOC, in order to provide the greatest opportunity to demonstrate a statistically significant peramivir treatment effect.
- Increasing the total study target enrollment to 600 subjects from the current target of 445 subjects.
- Adding at least 45 more clinical site locations in geographical regions where neuraminidase inhibitors are not widely used, possibly including sites in India and China.

These changes are expected to increase the amount of time required to complete enrollment in this ongoing study. The actual time to reach completion of enrollment will depend on the prevalence and severity of influenza, as well as the ability of the more than 265 investigator sites to successfully enroll patients.

Data related to i.v. peramivir was presented at the 50th Annual Interscience Conference on Antimicrobial Agents and Chemotherapy (“ICAAC”) Meeting on September 15, 2010. The first poster presentation concluded that there is no evidence of a pharmacokinetic interaction between i.v. peramivir (600 mg) with oral oseltamivir (75 mg) or oral rimantadine (100 mg) when administered simultaneously in hospitalized patients with influenza. The second poster presentation concluded that i.v. peramivir administered at two single doses (600 mg and 1200 mg) was not associated with QTc prolongation or other repolarization abnormalities, and that peramivir was generally safe and well-tolerated.

Additional data related to i.v. peramivir was presented at the 48th Annual Infectious Diseases Society of America (“IDSA”) meeting on October 22, 2010. The first poster presentation concluded that peramivir and oseltamivir treatment resulted in similar clinical outcomes in patients hospitalized with influenza in the overall study population (N=137). However, in the sub-group of influenza B infected patients (N=32), peramivir treatment resulted in significantly faster reduction of viral replication and showed a trend to more rapid normalization of clinical outcomes compared to oral oseltamivir treatment. This presentation concluded that the resumption of normal activities four days earlier in the peramivir-treated subjects may be a clinically meaningful outcome, that these findings may reflect superior anti-viral activity of peramivir compared to oseltamivir against influenza B, and that the findings should be further investigated. The second poster presentation described the effects of influenza infection on lymphocyte and neutrophil populations, and concluded that in placebo- or oseltamivir-controlled trials, peramivir had no apparent effects on leukocyte counts or risk of neutropenia in patients with influenza. Results were drawn from an analysis of data from five randomized Phase 2 and Phase 3 clinical trials which included over 2,200 influenza patients treated with peramivir or a control.

In July 2009, Shionogi announced positive results in two Phase 3 clinical trials of i.v. peramivir. The studies were sponsored by Shionogi and conducted during the 2008-2009 influenza season. Shionogi and Green Cross co-conducted the portion of the studies in Korea. Doses of i.v. peramivir of 300 mg and 600 mg, administered in single and multiple doses, were found to be generally safe and well-tolerated in these trials. Shionogi presented the data at the 2009 ICAAC / IDSA annual meeting in San Francisco, California.

Shionogi previously completed a Phase 2 study of i.v. peramivir administered via a single dose infusion in the outpatient setting for treatment of seasonal influenza. Shionogi presented the data at the 2008 ICAAC / IDSA annual meeting in Washington, D.C.

BCX4208

In September 2009, we announced the initiation of a clinical study of BCX4208 for the treatment of gout, which is caused by elevated levels of uric acid in blood. We believe that BCX4208 is a good candidate to control gout because data from a prior Phase 2 clinical trial of BCX4208 for psoriasis indicated a dose related reduction in uric acid that was sustained for the duration of drug exposure. Our gout clinical trial was a Phase 2, randomized, double-blind, placebo-controlled study to evaluate the efficacy and safety of orally administered BCX4208 in subjects with gout. The trial contained two parts: part one, which was a parallel-group study of multiple doses of BCX4208 randomized against a placebo and part two, which was a sequential-group study of escalating doses of BCX4208, randomized against placebo.

On April 28, 2010 we announced positive top-line results from a planned interim analysis of part one of this clinical study. The study's primary endpoint was the change in sUA concentration after 21 days of treatment compared to baseline concentration prior to treatment. Part one of the study randomized 60 gout patients with sUA concentrations greater than or equal to 8 mg/dL to placebo or to one of three different doses of BCX4208, a PNP inhibitor, administered once-daily for 21 days. All three doses of BCX4208 demonstrated a statistically significant reduction in sUA levels compared to placebo at day 22. BCX4208 doses of 40 mg, 80 mg and 120 mg per day showed median reductions in sUA levels of 2.7, 3.3 and 3.4 mg/dL, respectively.

The median reductions of sUA concentrations for these three doses ranged from 32.2% to 34.6% of baseline level. BCX4208 also demonstrated a statistically significant difference in the proportion of subjects with sUA levels less than 6 mg/dL, compared to subjects treated with placebo, on day 22. Among patients with a baseline sUA concentration below 10 mg/dL, up to 63% showed sUA levels below 6 mg/dL on day 22.

BCX4208 was generally safe and well-tolerated at the doses evaluated in part one of this study. Reductions in peripheral blood lymphocytes were observed in patients treated with BCX4208. The protocol included stopping rules for total lymphocyte counts and CD4+ cell counts below certain thresholds; no subjects were discontinued for these reasons, and all 60 subjects completed the first part of this study. Overall, the frequency of adverse events in each of the BCX4208 treatment groups was comparable to that observed in the placebo group. All patients received prophylactic medicine for gout flares; the incidence of gout flares observed was low.

We announced on August 5, 2010 that we achieved positive top-line results in part two of this clinical study, after completion of dose cohorts at 160 mg and 240 mg per day. The primary endpoint of part two of this study was the change in sUA concentration at day 22, following 21 days of once-daily treatment, compared to baseline sUA concentration prior to treatment. Data was evaluated using least square means ("LSM") and an analysis of covariance ("ANCOVA") model with factors for treatment and baseline sUA.

All doses of BCX4208 evaluated met the primary endpoint of the study, including both doses studied in part two. BCX4208 doses of 160 mg and 240 mg per day showed LSM reductions in sUA levels of 3.6 and 4.5 mg/dL at day 22 ($p<0.001$ for both doses), compared to placebo change of -0.02 mg/dL. The LSM reduction of sUA concentration percent change from baseline level was 35.7% for the 160 mg dose and 46.0% for the 240 mg dose ($p<0.001$ for both doses). BCX4208 also demonstrated a statistically significant difference in the proportion of subjects with sUA levels less than 6 mg/dL, compared to subjects treated with placebo, on day 22. The proportion of subjects achieving sUA levels less than 6 mg/dL was 47% for the 160 mg dose and 77% for the 240 mg dose, compared to 0% in the placebo group.

Part two of the study was designed to sequentially evaluate the safety and efficacy of up to three higher doses (160 mg, 240 mg and 320 mg once-daily) of BCX4208, and included various stopping criteria related to both safety and efficacy. Enrollment in the study was closed after the 240 mg treatment group achieved two efficacy stopping criteria: greater than 4 mg/dL reduction in sUA from baseline, and greater than 60% of patients achieving sUA concentration below 6 mg/dL.

BCX4208 was generally safe and well-tolerated at all doses evaluated in this study. Reductions in peripheral blood lymphocytes were observed in patients treated with BCX4208. The protocol included individual subject stopping criteria for CD4+ cell counts below certain thresholds; no subjects were discontinued for this reason. Overall, the frequency of adverse events in each of the BCX4208 treatment groups was comparable to that observed in the placebo group. Additional studies designed to evaluate longer-term exposure are needed to further define the safety and tolerability profile of BCX4208.

Detailed results from this clinical study were presented at the American College of Rheumatology meeting in Atlanta, Georgia on November 8, 2010. The poster concluded that BCX4208 doses administered at 40, 80, 120, 160 and 240 mg once-daily monotherapy rapidly and significantly reduced sUA in patients with gout. BCX4208 was generally safe and well-tolerated at all doses evaluated in the study.

Additionally, on June 1, 2010, we announced that we were initiating a Phase 2 study of BCX4208 alone and in combination with allopurinol in patients with gout. On September 16, 2010, we announced positive top-line results from this randomized, double-blind, multi-center, placebo-controlled Phase 2 study. The study was designed to evaluate the urate-lowering activity and safety of several doses of BCX4208 alone and in combination with selected doses of allopurinol administered once-daily.

The study utilized a factorial design. The primary endpoint was change in sUA after 21 days of treatment compared to baseline concentration prior to treatment. Eighty-seven gout patients with sUA concentrations greater than or equal to 8 mg/dL were randomized to receive BCX4208 at daily doses of 20 mg, 40 mg and 80 mg administered orally as monotherapy or in combination with allopurinol at daily doses of 100 mg, 200 mg and 300 mg administered orally. A dose-response was demonstrated for both BCX4208 and allopurinol, and the combination of BCX4208 and allopurinol was shown to be superior to either drug alone in sUA reduction. In five of these nine combination groups, 80% or more of the patients achieved a sUA concentration of less than 6 mg/dL. Combinations of lower doses of BCX4208 with allopurinol showed additive or synergistic effects in sUA reduction. The doses of BCX4208 alone and in combination with allopurinol were generally safe and well-tolerated. Consistent with prior BCX4208 clinical studies, reductions in peripheral blood lymphocytes were observed in patients treated with BCX4208. The protocol included stopping rules for CD4+ cell counts below certain thresholds; no subjects were discontinued for this reason.

On December 22, 2010, we announced the initiation of a Phase 2b study of BCX4208 as add-on therapy in gout patients who have not responded to allopurinol therapy alone. This randomized, double-blind, dose-response 250-patient study is designed to evaluate the safety and efficacy of BCX4208 in combination with allopurinol in gout patients who have failed to reach the sUA objective of <6 mg/dL following treatment with allopurinol 300 mg alone. The primary endpoint of the study is the proportion of subjects with sUA <6 mg/dL at day 85. The study utilizes a parallel-group design, evaluating BCX4208 at doses of 5 mg, 10 mg, 20 mg, 40 mg and placebo administered once-daily for 12 weeks, in combination with allopurinol's standard dose of 300 mg.

We also plan to initiate a long-term safety study of BCX4208 in 2011.

Forodesine

On September 15, 2010, we announced preliminary top-line results from our pivotal multinational, open-label, single-arm trial evaluating 200 mg once-daily oral forodesine in the treatment of relapsed or refractory CTCL. The study's primary endpoint was objective response rate, defined as complete or partial cutaneous response that is sustained for at least 28 days, in patients with later stage (stage IIB, III and IVA) disease who had previously received at least three systemic therapies for their disease. Eleven of 101 (11% (95% confidence interval: 6-19%)) later stage patients enrolled achieved a partial cutaneous response, while no patients achieved a complete response. Of the remaining later stage patients, 56 (55%) had stable disease as their best response, 30 (30%) had progressive disease, with a median time to progression of 353 days, and four (4%) were not evaluable. The median number of prior systemic therapies was four (range 3-15) among patients with later stage disease. Oral forodesine was generally safe and well-tolerated in this study, and was administered daily for up to 839 days.

Eligible patients were those with CTCL of stages IB through IVA whose disease was persistent, progressive or recurrent during or after treatment with at least three systemic therapies, one of which must have been oral bexarotene. A total of 144 patients with CTCL, with a median duration of illness of 52.5 months, were enrolled. The most common adverse events reported were peripheral edema, fatigue, insomnia, diarrhea, headache and nausea.

Also on September 15, 2010, we announced interim results from our exploratory Phase 2 study to investigate the efficacy and safety of forodesine as monotherapy for CLL. In this open-label, single-arm, multi-center study, forodesine was administered orally at 200 mg twice-daily for 28-day cycles in 25 previously treated CLL patients. The primary endpoint of the study was overall response rate. Consistent with results of previous clinical trials, forodesine was generally safe and well-tolerated in this study.

On December 4, 2010, we presented new data from this study that confirmed forodesine's clinical activity in the treatment of CLL at the 52nd Annual American Society of Hematology Meeting & Exposition held in Orlando, Florida. An analysis conducted after all patients were followed through ≥6 months showed that six of 23 response-evaluable patients demonstrated a partial response to forodesine, resulting in a response rate of 26 percent. Forodesine 200 mg orally-administered twice-daily was generally safe and well-tolerated in this study. The pattern, frequencies and severity distribution of adverse events were generally consistent with CLL-associated poor bone marrow function and immunodeficiency, prior therapies and co-morbidities.

We are exploring the interest level of potential partners as a possible path forward for the future development of forodesine in the U.S. Absent a U.S. partner, we do not plan to conduct additional studies of forodesine or file an NDA with the FDA. To date, we have not found an interested partner. We have shared this information with Mundipharma International Holdings Limited ("Mundipharma"), along with our decision not to continue further development of forodesine in the U.S. Mundipharma has expressed disappointment regarding the development of forodesine and this outcome. On February 21, 2011, we received a letter from Mundipharma's legal counsel notifying us that they intended to utilize the dispute resolution provisions of our agreement with them, which includes meetings of senior management and the later possibility of arbitration.

Results of Operations (three months ended March 31, 2011 compared to the three months ended March 31, 2010)

For the three months ended March 31, 2011, total revenues decreased to $5.4 million compared to $26.1 million for the three months ended March 31, 2010. This $20.7 million decrease was driven primarily by the recognition during the three months ended March 31, 2010 of a $7.0 million milestone payment from Shionogi related to its achievement in obtaining marketing and manufacturing approval of i.v. peramivir in Japan and the sale of $6.4 million of peramivir API to collaborators Shionogi and Green Cross. Also contributing to the decrease in revenue from the prior year is a $6.0 million decrease in revenue from the contract with HHS for the continued development of i.v. peramivir, primarily resulting from realignment or completion of various clinical studies, plus the impact of a change in estimate discussed below.

The decrease in revenue from the contract with HHS also reflects the impact of a change in estimate relating to a final cost reconciliation of a completed clinical study performed by a contract research organization ("CRO") providing services on behalf of the Company. At the end of 2010, the Company estimated expenses related to this clinical study and the associated revenue the Company expected to receive from HHS, based on per patient cost experience from the initial recruitment in the study. Cost estimates used during the pendency of the study considered the ongoing influenza pandemic and the estimated costs of enrolling much sicker patients than originally expected. This resulted in a higher per patient cost than what was realized. Revisions to the estimated costs were based on the final cost reconciliation provided by the CRO in late March 2011 and resulted in a $3.0 million reduction of peramivir R&D expenses and a $3.6 million reduction to collaboration revenue during the three months ended March 31, 2011. The impact on net income in the quarter was $0.6 million, or $0.01 per share.

In the first quarter of 2010, the Company recorded royalty revenue of approximately $0.7 million related to sales of RAPIACTA® in Japan and the royalties were paid to the Company by Shionogi in the second quarter of 2010. RAPIACTA® received accelerated approval in Japan in January 2010 so it could be made available as a treatment option during the H1N1 pandemic. At the time of approval, RAPIACTA® stability testing was ongoing and as a result, the product sold during early 2010 had a short shelf life. During the fourth quarter of 2010, in response to requests from customers to return RAPIACTA® due to the shelf life reaching expiration, Shionogi chose to accept returns for substantially all of the $0.7 million of product shipped early in 2010 and submitted the returns to the Company for credit. Accordingly, the Company reversed the $0.7 million of royalty revenue recorded in the first quarter of 2010.

Research and development (R&D) expenses decreased to $12.9 million for the first quarter of 2011 from $24.9 million in the same quarter of last year. This decrease was driven by lower development costs of $6.0 million associated with our peramivir development program and $2.0 million associated with our forodesine clinical programs, partially offset by higher development costs of $1.7 million associated with the BCX4208 program for the treatment of gout. Additionally, R&D costs during the three months ended March 31, 2010 included $6.3 million of manufacturing costs associated with peramivir API production for Shionogi and Green Cross.

General and administrative (G&A) expenses remained consistent at $4.0 million for the first quarter of 2011 compared to $3.8 million in the same quarter as last year.

During the three months ended March 31, 2011, the Company recognized a $1.3 million mark to market loss on its Currency Hedge Agreement. In connection with the issuance by Royalty Sub of the PhaRMA Notes on March 9, 2011, the Company entered into a foreign currency hedge arrangement to hedge certain risks associated with changes in the value of the Japanese yen relative to the U.S. dollar. The currency hedge does not qualify for hedge accounting treatment and therefore mark to market adjustments will be recognized in earnings.

During the three months ended March 31, 2011, the Company incurred $0.3 million in interest expense related to the non-recourse notes payable issued on March 9, 2011 in conjunction with the financing transaction to monetize certain future royalty and milestone payments.

The Company's net loss for the three months ended March 31, 2011 was $13.0 million, or $0.29 per share, compared to a net loss of $2.5 million, or $0.06 per share for the three months ended March 31, 2010.

Liquidity and Capital Resources

Cash expenditures have exceeded revenues since our inception. Our operations have principally been funded through public offerings and private placements of equity and cash from collaborative and other research and development agreements, including government contracts. On February 24, 2011, we announced that HHS had awarded us a $55.0 million contract modification intended to fund completion of the Phase 3 development of i.v. peramivir and on March 9, 2011, we completed a $30.0 million financing transaction to monetize certain future royalty and milestone payments. See *Recent Corporate Highlights, Peramivir* above for further discussion and details regarding the implication of these transactions.

We have attempted to contain costs and reduce cash flow requirements by renting 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 in general and specifically related to our clinical trial activity. We also expect to incur substantial expenses related to the filing, prosecution, maintenance, defense and enforcement of patent and other intellectual property claims and additional regulatory costs as our clinical products 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. Our policy is to place our cash, cash equivalents and investments with high credit quality financial institutions, commercial companies, and government agencies in order to limit the amount of credit exposure. We have not realized any significant losses from our investments.

At December 31, 2010, we had long-term operating lease obligations, which provide for annual aggregate minimum payments of $0.9 million in 2011, 2012 and 2013.These obligations include the future rental of our operating facilities.

We plan to finance our needs principally from the following:

- payments under our contract with HHS;
- our existing capital resources;
- payments under collaborative and licensing agreements with corporate partners; and
- lease or loan financing and future public or private financing.

As of March 31, 2011, we held cash, cash equivalents and securities of $76.2 million, an increase of $9.9 million as compared to December 31, 2010, primarily resulting from net proceeds from the $23.0 million financing transaction to monetize certain future royalty and milestone payments and cash received from collaborations offset by monthly cash burn from operations. We expect that our cash use in 2011 will be approximately $35.0 million. Our cash use will vary depending on clinical outcomes and could vary significantly from our expectations depending on the timing of our expenses and the related reimbursement from our collaborators.

As our clinical programs continue to progress and patient enrollment increases, 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 drug candidates will consume significant capital resources and will increase our expenses. Our expenses, revenues and burn rate could vary significantly depending on many factors, including our ability to raise additional capital, the development progress of our collaborative agreements for our drug candidates, the amount and timing of funding we receive from HHS for peramivir, the amount of funding or assistance, if any, we receive from other governmental agencies or other new partnerships with third parties for the development of our drug candidates, the progress and results of our current and proposed clinical trials for our most advanced drug products, the progress made in the manufacturing of our lead products and the progression of our other programs.

With the funds available at March 31, 2011 and future amounts that are expected to be received from HHS and our other collaborators, we believe that our resources are sufficient to fund our operations for at least the next 24 months. However, this is a forward looking statement, and there may be changes that would consume available resources significantly before such time.

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

- our ability to perform under the contract with HHS and receive reimbursement;

- 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 drug candidates or a decision to build or expand internal development and commercial capabilities;
- successful commercialization of marketed products by either us or a partner;
- the scope and results of preclinical studies and clinical trials to identify and evaluate drug candidates;
- our ability to engage sites and enroll subjects in our clinical trials;
- the scope of manufacturing of our drug candidates to support our preclinical research and clinical trials;
- increases in personnel and related costs to support the development of our drug candidates;
- the scope of manufacturing of our drug substance and drug products required for future NDA filings;
- competitive and technological advances;
- the time and costs involved in obtaining regulatory approvals; 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 product candidates and we may seek to raise capital at any time we deem market conditions to be favorable. Additional funding, whether through additional sales of securities or collaborative or other arrangements with corporate partners or from other sources, including governmental agencies in general and from the HHS contract 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.

Off-Balance Sheet Arrangements

As of March 31, 2011, we are not involved in any unconsolidated entities or off-balance sheet arrangements.

Contractual Obligations

Our contractual obligations as of December 31, 2010 are described in our Annual Report on Form 10-K for the year ended December 31, 2010. Material changes to our contractual obligations have resulted from the $30.0 million financing transaction to monetize certain future royalty and milestone payments under the Shionogi Agreement completed on March 9, 2011 as noted below.

Debt Service Obligations of Royalty Sub

Royalty Sub issued $30.0 million in aggregate principal amount of its PhaRMA Notes. Principal and interest on the PhaRMA Notes are payable from, and are secured by, the rights to royalty and milestone payments under the Shionogi Agreement and payments, if any, made to Royalty Sub under the Currency Hedge Agreement. Payments may also be made from the interest reserve account. Principal on the PhaRMA Notes is required to be paid in full by the final legal maturity date of December 1, 2020, unless the PhaRMA Notes are repaid, redeemed or repurchased earlier. The PhaRMA Notes bear interest at the rate of 14% per annum, payable annually in arrears on September 1st of each year, beginning on September 1, 2011. Principal and interest payments on the

PhaRMA Notes are obligations solely of Royalty Sub and are without recourse to any other person, including us, except to the extent of our pledge of our equity interests in Royalty Sub in support of the PhaRMA Notes.

Foreign Currency Hedge Obligations of the Company

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 may be required to pay a premium in the amount of $2.0 million in each year beginning in May 2014 and, provided the Currency Hedge Agreement remains in effect, continuing through May 2020. Such payment will be required if, in May of the relevant year, the spot rate of exchange for Japanese yen-U.S. dollars (determined in accordance with the Currency Hedge Agreement) is such that the U.S. dollar is worth 100 yen or less. Additionally, the Company may be required to post cash for mark to market risk or pay significant premiums or a termination fee under the foreign Currency Hedge Agreement t entered into by it in connection with the issuance by Royalty Sub of the PhaRMA Notes. In conjunction with establishing the hedge in March 2011, the Company was required to post cash collateral of $1.5 million reflecting the value of the initial mark to market adjustment at that time, plus $0.4 million in margin funds.

Critical Accounting Policies

We have established various accounting policies that govern the application of accounting principles generally accepted in the United States, which were utilized in the preparation of our 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 to our financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2010, and Note 1 to our financial statements included in Part I, Item I of this report, we believe that the following accounting policies are the most critical to aid you in fully understanding and evaluating our reported financial results and affect the more significant judgments and estimates that we use in the preparation of our financial statements.

Revenue Recognition

The Company recognizes revenues from collaborative and other research and development arrangements and product sales.

Collaborative and Other Research and Development Arrangements

Revenue from license fees, royalty payments, event 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. Fees received under licensing agreements that are related to future performance are deferred and recognized over an estimated period determined by management based on the terms of the agreement and the products licensed. In the event a license agreement contains multiple deliverables, the Company evaluates whether the deliverables are separate or combined units of accounting. Revisions to revenue or profit estimates as a result of changes in the estimated revenue period are recognized prospectively.

Under certain of our license agreements, the Company receives royalty payments based upon our licensees' net sales of covered products. Generally, under these agreements, the Company receives royalty reports from our licensees approximately one quarter in arrears, that is, generally in the second month of the quarter after the licensee has sold the royalty-bearing product. The Company recognizes royalty revenues when it can reliably estimate such amounts and collectability is reasonably assured.

Royalty revenue paid by Shionogi on their product sales is subject to returns. Peramivir is a newly introduced product and there is no historical experience that can be used to reasonably estimate product returns. Therefore, the Company defers recognition of royalty revenue when paid by Shionogi until the earlier of (1) a right of return no longer exists or (2) it has developed sufficient historical experience to estimate product returns.

Reimbursements received for direct out-of-pocket expenses related to research and development costs are recorded as revenue in the income statement rather than as a reduction in expenses. Event payments are recognized as revenue upon the achievement of specified events if (1) the event is substantive in nature and the achievement of the event was not reasonably assured at the inception of the agreement and (2) the fees are non-refundable and non-creditable. Any event payments received prior to satisfying these criteria are recorded as deferred revenue. Under the Company's contract with HHS, revenue is recognized as reimbursable direct and indirect costs are incurred.

Product Sales

Sales are recognized when there is persuasive evidence that an arrangement exists, title has passed, the price was fixed and determinable, and collectability is reasonably assured. Product sales are recognized net of estimated allowances, discounts, sales returns, chargebacks and rebates. Product sales recognized during 2010 were not subject to a contractual right of return.

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 the University of Alabama at Birmingham ("UAB"), which require fees related to sublicense agreements or maintenance fees. Generally, 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.

At March 31, 2011, we had deferred collaboration expenses of approximately $8.2 million. Approximately $2.5 million of these deferred expenses were sub-license payments, paid to our academic partners upon receipt of consideration from various commercial partners. These deferred expenses would not have been incurred without receipt of such payments 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.

The remaining $5.7 million of the deferred expenses relates to consideration provided to Licensors in May 2010 for modifications made to the existing licensing agreement. Under the terms of the amendment, we issued consideration in the form of common stock and cash to the Licensors in exchange for a reduction in the percentage of certain future payments we receive from third-party sub-licensees that must be paid to the Licensors. Amortization of this deferred expense began in May 2010 and will end in September 2027, which is the expiration date for the last-to-expire patent covered by the agreement. We believe that this accounting treatment is reasonable and consistent with our collaboration accounting policies.

We group our R&D expenses into two major categories: direct external expenses and all other R&D expenses. Direct external expenses consist of costs of outside parties to conduct laboratory studies, to develop manufacturing processes and manufacture the product candidate, to conduct and manage clinical trials and similar costs related to our clinical and preclinical studies. These costs are accumulated and tracked by program. All other R&D expenses consist of costs to compensate personnel, to purchase lab supplies and services, to maintain our facility, equipment and overhead and similar costs of our research and development efforts. These costs apply to work on our clinical and preclinical candidates as well as our discovery research efforts. These costs have not been charged directly to each program historically because the number of product candidates and projects in research and development may vary from period to period and because we utilize internal resources across multiple projects at the same time.

The following table summarizes our R&D expenses for the periods indicated. Amounts are in thousands.

	Three Months Ended March 31,	
	2011	2010
Direct external R&D expenses by program:		
PNP Inhibitor (forodesine)	$ 529	$ 2,501
Neuraminidase Inhibitor (peramivir)	2,639	15,061
PNP Inhibitor (BCX4208)	3,218	1,530
Other	582	75
Indirect R&D expenses:		
Compensation and fringe benefits	3,238	3,245
Professional services	554	173
Travel	146	105
Overhead allocation	2,026	2,227
Total R&D expenses	$ 12,932	$ 24,917

At this time, due to the risks inherent in the clinical trial process and given the stages of our various product development programs, we are unable to estimate with any certainty the costs we will incur in the continued development of our drug candidates for potential commercialization. While we are currently focused on advancing each of our development programs, our future R&D expenses will depend on the determinations we make as to the scientific and clinical success of each drug candidate, as well as ongoing assessments as to each drug candidate's commercial potential. As such, we are unable to predict how we will allocate available resources among our product development programs in the future. In addition, we cannot forecast with any degree of certainty the development progress of our existing partnerships for

our drug candidates, which drug candidates will be subject to future collaborations, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements.

The successful development of our drug candidates is uncertain and subject to a number of risks. We cannot be certain that any of our drug candidates will prove to be safe and effective or will meet all of the applicable regulatory requirements needed to receive and maintain marketing approval. Data from preclinical studies and clinical trials are susceptible to varying interpretations that could delay, limit or prevent regulatory clearance. We, the FDA, or other regulatory authorities may suspend clinical trials at any time if we or they believe that the subjects participating in such trials are being exposed to unacceptable risks or if such regulatory agencies find deficiencies in the conduct of the trials or other problems with our products under development. Delays or rejections may be encountered based on additional governmental regulation, legislation, administrative action or changes in FDA or other regulatory policy during development or the review process. Other risks associated with our product development programs are described in Risk Factors in Part II, Item 1A of this Quarterly Report on Form 10-Q, as updated from time to time in our subsequent periodic reports and current reports filed with the SEC. Due to these uncertainties, accurate and meaningful estimates of the ultimate cost to bring a product to market, the timing of completion of any of our product development programs and the period in which material net cash inflows from any of our product development programs will commence are unavailable.

Stock-Based Compensation

All grants of stock option awards and restricted stock awards, are recognized in our income statement 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 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.

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. The Currency Hedge Agreement will not qualify for hedge accounting treatment and therefore mark to market adjustments will be recognized in earnings. In conjunction with establishing the Currency Hedge Agreement in March 2011, the Company was required to transfer $1.9 million to the counterparty, consisting of $0.4 million in margin funds and a collateral call of $1.5 million, reflecting the value of the initial mark to market adjustment at that time. Cumulative mark to market adjustments for the three months ended March 31, 2011 resulted in a $1.3 million loss associated with the Currency Hedge Agreement. Mark to market adjustments are determined by quoted prices in markets that are not actively traded and for which significant inputs are observable directly or indirectly, representing the Level 2 in the fair value hierarchy as defined by generally accepted accounting principles.

Information Regarding Forward-Looking Statements

This filing contains 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. All statements other than statements of historical facts contained in this filing, 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 “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as well as any amendments we make to those sections in filings with the SEC. These forward-looking statements include, but are not limited to, statements about:

- the initiation, timing, progress and results of our preclinical testing, clinical trials, and other research and development efforts;
- the potential funding from our contract with HHS for the development of peramivir;
- the potential for a stockpiling order or profit from any order for peramivir;
- the potential use of peramivir as a treatment for H1N1 flu (or other strains of flu);
- the further preclinical or clinical development and commercialization of our product candidates, including peramivir, forodesine and other PNP inhibitor and hepatitis C development programs;
- the implementation of our business model, strategic plans for our business, product candidates and technology;
- our ability to establish and maintain collaborations;
- plans, programs, progress and potential success of our collaborations, including Mundipharma for forodesine and Shionogi and Green Cross for peramivir;

- Royalty Sub's ability to service its payment obligations in respect of the PhaRMA Notes, and our ability to benefit from our equity interest in Royalty Sub;
- the foreign currency hedge agreement entered into by us in connection with the issuance by Royalty Sub of the PhaRMA Notes;
- the scope of protection we are able to establish and maintain for intellectual property rights covering our product candidates and technology;
- our ability to operate our business without infringing the intellectual property rights of others;
- estimates of our expenses, future revenues, capital requirements and our needs for additional financing;
- the timing or likelihood of regulatory filings and approvals;
- our financial performance; and
- competitive companies, technologies and our industry.

These statements relate to future events or to our future financial performance and involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by these forward-looking statements. Factors that may cause actual results to differ materially from current expectations include, among other things, those listed under "Risk Factors." Any forward-looking statement reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, industry and future growth. Except as required by law, we assume no obligation to update or revise these forward-looking statements for any reason, even if new information becomes available in the future.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Interest Rate Risk

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. Our policy is to place our cash, cash equivalents and investments 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. 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. We have not realized any significant losses from our investments.

As of March 31, 2011, the aggregate fair value of our non-recourse PhaRMA Notes was estimated at $30.0 million, which approximates the carrying value since the negotiated terms and conditions at the time of closing on March 9, 2011 were consistent with current market rates. The notes bear interest at a fixed rate of 14% per annum and therefore are subject to interest rate risk because the fixed interest rate may exceed current interest rates.

Foreign Currency Risk

In connection with the issuance by Royalty Sub of the PhaRMA Notes, we 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, we are required to post collateral based on our potential obligations under the Currency Hedge Agreement as determined by periodic mark to market adjustments. Provided the Currency Hedge Agreement remains in effect, we may be required to pay a premium in the amount of $2.0 million in each year beginning in May 2014 and continuing through May 2020. Such payment will be required if, in May of the relevant year, the spot rate of exchange for Japanese yen-U.S. dollars (determined in accordance with the Currency Hedge Agreement) is such that the U.S. dollar is worth 100 yen or less.

Item 4. Controls and Procedures

We maintain a set of disclosure controls and procedures that are designed to ensure that information relating to BioCryst Pharmaceuticals, Inc. required to be disclosed in our periodic filings under the Exchange Act is recorded, processed, summarized and reported in a timely manner under the Exchange Act. We carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of March 31, 2011, the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports filed or submitted by it under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and include controls and procedures designed to ensure that information required to be disclosed by the Company in such reports is

accumulated and communicated to the Company's management, including the Chief Executive Officer and Chief Financial Officer of the Company, as appropriate to allow timely decisions regarding required disclosure.

There have been no changes in our internal control over financial reporting that occurred during the quarter ended March 31, 2011 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1A. Risk Factors

Risk factors relating to our business and to the royalty monetization transaction executed on March 9, 2011 are described in our Annual Report on Form 10-K for the year ended December 31, 2010. There have been no material changes to these Risk Factors during the three month period ended March 31, 2011.

Item 6. Exhibits

See the Exhibit Index attached to this quarterly report and incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on this 6th day of May, 2011.

BIOCRYST PHARMACEUTICALS, INC.

/s/ Jon P. Stonehouse
Jon P. Stonehouse
President and Chief Executive Officer

/s/ Stuart Grant
Stuart Grant
Chief Financial Officer

/s/ Robert S. Lowrey
Robert S. Lowrey
Controller and Principal Accounting Officer

INDEX TO EXHIBITS

Number	Description
3.1	Third Restated Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed December 22, 2006.
3.2	Certificate of Amendment to the Third Restated Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed July 24, 2007.
3.3	Certificate of 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.
3.4	Amended and Restated Bylaws of Registrant effective October 29, 2008. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed November 4, 2008.
4.1	Rights Agreement, dated as of June 17, 2002, by and between the Company and American Stock Transfer & Trust Company, as Rights Agent, which includes the Certificate of Designation for the Series B Junior Participating Preferred Stock as Exhibit A and the form of Rights Certificate as Exhibit B. Incorporated by reference to Exhibit 4.1 to the Company's Form 8-A filed June 17, 2002.
4.2	Amendment to Rights Agreement, dated as of August 5, 2007. Incorporated by reference to Exhibit 4.2 of the Company's Form 10-Q filed August 9, 2007.
(4.3)	Indenture, dated as of March 9, 2011 by and between JPR Royalty Sub LLC and U.S. Bank National Association, as trustee.
(10.1)	Purchase and Sale Agreement, dated as of March 9, 2011 between BioCryst Pharmaceuticals, Inc. and JPR Royalty Sub LLC.
(10.2)	Pledge and Security Agreement, dated as of March 9, 2011 between BioCryst Pharmaceuticals, Inc. and U.S. Bank National Association, as trustee.
(10.3)	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.
(31.1)	Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
(31.2)	Certification of the Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
(32.1)	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
(32.2)	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

( ) Filed herewith.

Exhibit 4.3

INDENTURE

dated as of March 9, 2011

by and between

JPR ROYALTY SUB LLC,
a Delaware limited liability company,
as issuer of the Notes described herein,

and

U.S. BANK NATIONAL ASSOCIATION,
a national banking association,
as initial trustee of the Notes described herein

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INDENTURE

This INDENTURE, dated as of March 9, 2011, is by and between JPR ROYALTY SUB LLC, a Delaware limited liability company, as issuer of the Notes described herein, and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as initial trustee of the Notes described herein.

GRANTING CLAUSE

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Notes by the Noteholders, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure (i) the prompt payment of the principal of, Premium (if any) and interest on, and all other amounts due with respect to, the Notes from time to time Outstanding hereunder, (ii) the payment of any fees, expenses or other amounts that the Issuer is obligated to pay under or in respect of the Notes, this Indenture or any other Transaction Document to which the Issuer is a party, (iii) the payment and performance of all the obligations of the Issuer in respect of any amendment, modification, extension, renewal or refinancing of the Notes and (iv) the performance and observance by the Issuer of all the agreements, covenants and provisions expressed or implied herein and in the Notes for the benefit of the Noteholders (collectively, the "Secured Obligations") and for the uses and purposes and subject to the terms and provisions hereof, the Issuer does hereby grant, bargain, sell, assign, transfer, convey, mortgage, pledge and confirm unto the Trustee, its successors and assigns, for the security and benefit of the Trustee and the Noteholders from time to time, a security interest in all right, title and interest of the Issuer in, to and under the following described property, rights and privileges (such property, rights and privileges, including all other property, rights and privileges hereafter specifically subjected to the lien of this Indenture or any indenture supplemental hereto, being the "Collateral" and, collectively, including all other property hereafter specifically subjected to the lien of this Indenture or any indenture supplemental hereto, are included within and defined as the "Indenture Estate"):

(1) the Purchased Assets;

(2) the Deal Documents and other agreements to which the Issuer is a party, including those relating to the rights of the Issuer in respect of the sale, transfer, conveyance, assignment, contribution, grant and servicing of the Purchased Assets;

(3) (A) all Accounts established under this Indenture at any time (other than the Escrow Account), (B) all amounts from time to time credited to such Accounts (other than the Escrow Account), (C) all cash, financial assets and other investment property, instruments, documents, chattel paper, general intangibles, accounts and other property from time to time credited to such Accounts (other than the Escrow Account) or representing investments and reinvestments of amounts credited to such Accounts (other than the Escrow Account) and (D) all interest, principal payments, dividends and other distributions payable on or with respect to, and all proceeds of, (i) all property so credited or representing such investments and reinvestments and (ii) such Accounts (other than the Escrow Account);

(4) all of the Issuer's rents, issues, profits, revenues and other income of the property subjected or required to be subjected to the lien of this Indenture;

(5) all other property and assets of the Issuer with respect to which a security interest can be created under Article 9 of the UCC, including all goods, deposit accounts (other than the Escrow Account), investment property, financial assets, letter-of-credit rights, supporting obligations, commercial tort claims, accounts, contract rights, general intangibles and all other cash;

(6) all rights of the Issuer (contractual and otherwise) constituting, arising under, connected with or in any way related to any or all of the foregoing property;

(7) all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data processing software (owned by the Issuer) that at any time evidence or contain information relating to any of the foregoing property or are otherwise necessary or helpful in the collection thereof or realization thereupon;

(8) all documents of title, policies and certificates of insurance, securities, chattel paper and other documents or instruments evidencing or pertaining to any of the foregoing property of the Issuer; and

(9) all proceeds and products of any and all of the foregoing property;

BUT SUBJECT TO all of the terms and conditions of this Indenture.

HABENDUM CLAUSE

TO HAVE AND TO HOLD all and singular the aforesaid property unto the Trustee, its successors and assigns, in trust for the benefit and security of the Noteholders from time to time of each class of the Notes, without any priority of any one class of Notes over any other class of Notes by reason of difference in time of issuance or otherwise, except as expressly provided herein, and for the uses and purposes and subject to the terms and provisions set forth in this Indenture.

PROVIDED, HOWEVER, that, notwithstanding any of the foregoing provisions or anything to the contrary herein, so long as no Event of Default shall have occurred and be continuing, the Issuer shall have the right, to the exclusion of the Trustee and the Noteholders, to exercise in the Issuer's name all rights and powers of the Issuer under the Purchase and Sale Agreement and any other agreement (including any other Deal Documents) to which the Issuer is or may be a party or third party beneficiary (including the Counterparty License Agreement), except as otherwise set forth in any such agreement, and SUBJECT TO all of the terms and conditions of this Indenture.

It is hereby further agreed that any and all property described or referred to in the Granting Clause that is hereafter acquired by the Issuer shall ipso facto, and without any other conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the Security Interest herein granted as fully and completely as though specifically described

herein, but nothing contained in this paragraph shall be deemed to modify or change the obligations of the Issuer contained in the foregoing paragraphs.

The Issuer does hereby ratify and confirm this Indenture and the other Deal Documents to which it is a party and, subject to the other terms of this Indenture, does hereby agree that it will not take or omit to take any action, the taking or omission of which might result in an alteration or impairment of the assignment hereunder or of any of the rights created by any thereof.

It is expressly agreed that anything herein contained to the contrary notwithstanding, the Issuer shall remain liable under the Deal Documents and any other contracts and agreements included in the Collateral to the extent set forth therein and shall remain obligated to perform all of the duties and obligations of the Issuer thereunder to the same extent as if this Indenture had not been executed in accordance with and pursuant to the terms and provisions thereof, the exercise by the Trustee of any of its rights hereunder shall not release the Issuer from any of its duties or obligations under any such Deal Documents or other contracts or agreements included in the Collateral, and, prior to the foreclosure of the lien of this Indenture under Section 4.3, the Trustee and the Noteholders shall have no obligation or liability under any thereof by reason of or arising out of this Indenture or the assignment hereunder, nor shall the Trustee or the Noteholders be required or obligated in any manner to perform or fulfill any obligations or duties of the Issuer under or pursuant to any Deal Document or any other contract or agreement included in the Collateral or, except as herein expressly provided, to make any payment, make any inquiry as to the nature or sufficiency of any payment received by it, present or file any claim or take any action to collect or enforce any claim for payment assigned hereunder or the payment of any amounts that may have been assigned to it or to which it may be entitled at any time or times; provided, however, that, in exercising any right of the Issuer under any Deal Document or any other contract or agreement included in the Collateral, the Trustee and the Noteholders shall be bound by, and shall comply with, the provisions thereof applicable to the Issuer in respect of the exercise of such right and the confidentiality provisions set forth therein to the extent permitted by Applicable Law.

IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto as follows:

ARTICLE I
GENERAL

Section 1.1 Rules of Construction and Defined Terms. The rules of construction set forth in Annex A shall apply to this Indenture and are hereby incorporated by reference into this Indenture as if set forth fully in this Indenture. Capitalized terms used but not otherwise defined in this Indenture shall have the respective meanings given to such terms in Annex A, which is hereby incorporated by reference into this Indenture as if set forth fully in this Indenture. Not all terms defined in Annex A are used in this Indenture.

Section 1.2 Compliance Certificates and Opinions. Upon any application or request by the Issuer to the Trustee to take any action under any provision of this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate stating that, in the opinion of the signer thereof in his or her capacity as such, all conditions precedent, if any, provided for in this

Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent, if any, have been complied with, except that, in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no Officer's Certificate or Opinion of Counsel need be furnished.

Every Officer's Certificate or Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 5.3) or any indenture supplemental hereto shall include:

(a) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions in this Indenture relating thereto;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of each such individual in his or her capacity as such, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Section 1.3 Acts of Noteholders.

(a) Any direction, consent, waiver or other action provided by this Indenture in respect of the Notes of any class to be given or taken by Noteholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Noteholders in person or by an agent or proxy duly appointed in writing, and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee or to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Noteholders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose under this Indenture and conclusive in favor of the Trustee or the Issuer, if made in the manner provided in this Section 1.3(a).

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction authorized to take acknowledgments of deeds or administer oaths that the Person executing such instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or such other officer and, where such execution is by an officer of a corporation or association, trustee of a trust or member of a partnership, on behalf of such corporation, association, trust or partnership, such certificate or affidavit shall also constitute sufficient proof of his or her authority. The fact and date of the execution of any such

instrument or writing, or the authority of the Person executing the same, may also be proved in any other reasonable manner that the Trustee deems sufficient.

(c) In determining whether the Noteholders have given any direction, consent, request, demand, authorization, notice, waiver or other Act (a "Direction") under this Indenture, Notes owned by the Issuer, any Equityholder or any Affiliate of any such Person shall be disregarded and deemed not to be Outstanding for purposes of any such determination. In determining whether the Trustee shall be protected in relying upon any such Direction, only Notes that a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Notwithstanding the foregoing, if any such Person owns 100% of the Notes of any class Outstanding, such Notes shall not be so disregarded as aforesaid.

(d) Notwithstanding the definition of "Record Date", the Issuer may, at its option, by delivery of Officer's Certificate(s) to the Trustee, set a record date other than the Record Date to determine the Noteholders in respect of the Notes of any class entitled to give any Direction in respect of such Notes. Such record date shall be the record date specified in such Officer's Certificate, which shall be a date not more than 30 days prior to the first solicitation of Noteholders in connection therewith. If such a record date is fixed, such Direction may be given before or after such record date, but only the Noteholders of the applicable class at the close of business on such record date shall be deemed to be Noteholders for the purposes of determining whether Noteholders of the requisite proportion of Outstanding Notes of such class have authorized, agreed or consented to such Direction, and for that purpose the Outstanding Notes of such class shall be computed as of such record date; provided, that no such Direction by the Noteholders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than one year after the record date.

(e) Any Direction or other action by the Noteholder of any Note shall bind the Noteholder of every Note issued upon the transfer thereof, in exchange therefor or in lieu thereof, whether or not notation of such action is made upon such Note, and any Direction or other action by the Beneficial Holder of any Beneficial Interest in any Note shall bind any transferee of such Beneficial Interest.

ARTICLE II
THE NOTES

Section 2.1 Amount of Notes; Terms; Form; Execution and Delivery.

(a) The Outstanding Principal Balance of any class of Notes that may be authenticated and delivered from time to time under this Indenture shall not exceed, with respect to the Original Class A Notes, the initial Outstanding Principal Balance for the Original Class A Notes set forth in the definition thereof or, with respect to any class (or sub-class) of Subordinated Notes or any class of Refinancing Notes, the Outstanding Principal Balance authorized in the Resolution and set forth in an indenture supplemental hereto establishing such Subordinated Notes or Refinancing Notes; provided, that (i) any Refinancing Notes shall be issued in accordance with Section 2.15 and (ii) any Subordinated Notes shall be issued in accordance with Section 2.16.

(b) There shall be issued, authenticated and delivered on the Closing Date and on the date of issuance of any Subordinated Notes or any Refinancing Notes to each of the Noteholders Notes in the principal amounts and maturities and bearing the interest rates, in each case in registered form and, in the case of the Original Class A Notes, substantially in the form set forth in Exhibit A or, in the case of any Subordinated Notes or any Refinancing Notes, substantially in the form set forth in any indenture supplemental hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements typewritten, printed, lithographed or engraved thereon, as may, consistently herewith, be prescribed by the Trustee. The Trustee shall authenticate Notes and make Notes available for delivery only upon the written order of the Issuer signed by a Responsible Officer of the Issuer. Such order shall specify the aggregate principal amount of Notes to be authenticated, the date of issue, whether they are to be issued as Global Notes or Definitive Notes and delivery instructions.

Definitive Notes of each class shall be typewritten, printed, lithographed or engraved or produced by any combination of these methods, as determined by the Trustee. Any Notes offered and sold to Institutional Accredited Investors that are not QIBs that are not offered and sold in offshore transactions in reliance on Regulation S shall be issued initially in the form of Definitive Notes.

Any Notes offered and sold to QIBs or sold in reliance on Rule 144A shall be issued initially in the form of one or more permanent Global Notes in registered form, substantially in the form set forth in the applicable Exhibit to this Indenture or in any indenture supplemental hereto (each, a "144A Global Note"), registered in the name of the nominee of DTC, deposited with the Trustee, as custodian for DTC, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of each 144A Global Note may from time to time be increased or decreased by adjustments made on the books and records of the Registrar, as hereinafter provided.

Any Notes offered and sold to Institutional Accredited Investors in offshore transactions in reliance on Regulation S shall be issued initially in the form of one or more temporary global Notes in registered form substantially in the form set forth in the applicable Exhibit to this Indenture or in any indenture supplemental hereto (each, a "Temporary Regulation S Global Note"), registered in the name of the nominee of DTC, deposited with the Trustee, as custodian for DTC, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. At any time following the applicable Regulation S Global Note Exchange Date, upon receipt by the Trustee and the Issuer of a certificate substantially in the form of Exhibit F, executed by Euroclear or Clearstream, as the case may be, together with copies of certificates from Euroclear or Clearstream, as the case may be, certifying that it has received certification of non-U.S. beneficial ownership of a Temporary Regulation S Global Note (or portion thereof) with respect to any Notes to be exchanged, one or more permanent Global Notes for such Notes in registered form substantially in the form set forth in the applicable Exhibit to this Indenture or in any indenture supplemental hereto (each, a "Permanent Regulation S Global Note" and, together with each Temporary Regulation S Global Note, the "Regulation S Global Notes") duly executed by the Issuer and authenticated by the Trustee as hereinafter provided shall be deposited with the Trustee, as custodian for DTC, and the Registrar shall reflect on its books and records the date

and a decrease in the principal amount of the Temporary Regulation S Global Note of such class in an amount equal to the principal amount of such Temporary Regulation S Global Note exchanged. Until the Regulation S Global Note Exchange Date with respect to any Temporary Regulation S Global Note, Beneficial Interests in such Temporary Regulation S Global Note may be held only through Agent Members acting for and on behalf of Euroclear and Clearstream.

Notes, if so provided herein or in any indenture supplemental hereto, shall be issued in the form of permanent certificated Notes in registered form in substantially the form set forth in this Section 2.1(b) (collectively with any definitive, fully registered Notes issued pursuant to Section 2.5(d) or Section 2.10(b), the "Definitive Notes").

(c) Interest shall accrue on any class of Fixed Rate Notes from the date of issuance of such Fixed Rate Notes and shall be computed for each Interest Accrual Period on the basis of a 360-day year consisting of twelve 30-day months on the Outstanding Principal Balance of such Notes. Interest shall accrue on any class of Floating Rate Notes from the date of issuance of such Floating Rate Notes and shall be computed for each Interest Accrual Period on the basis of a 360-day year and the actual number of days elapsed in such Interest Accrual Period on the Outstanding Principal Balance of such Notes. If any interest payment is not made when due on a Payment Date, the unpaid portion of such interest payment will accrue interest at the rate then applicable to the Notes, compounded annually, until paid in full.

(d) On the date of any Refinancing, the Issuer shall issue and deliver, as provided in Section 2.15, an aggregate principal amount of Refinancing Notes having the maturities and bearing the interest rates and such other terms authorized by one or more Resolutions and set forth in any indenture supplemental hereto providing for the issuance of such Refinancing Notes or specified in the form of such Refinancing Notes, in each case in accordance with Section 2.15.

(e) On the date of any Subordinated Note Issuance, the Issuer shall issue and deliver, as provided in Section 2.16, an aggregate principal amount of Subordinated Notes having the maturities and bearing the interest rates and such other terms authorized by one or more Resolutions and set forth in any indenture supplemental hereto providing for the issuance of such Subordinated Notes or specified in the form of such Subordinated Notes, in each case in accordance with Section 2.16.

(f) The Notes shall be executed on behalf of the Issuer by the manual or facsimile signature of a Responsible Officer of the Issuer or any individual authorized to do so by a Responsible Officer of the Issuer.

(g) Each Note bearing the manual or facsimile signature of any individual who at the time such Note was executed was authorized to execute such Note by a Responsible Officer of the Issuer shall bind the Issuer, notwithstanding that any such individual has ceased to hold such authority thereafter but prior to the authentication and delivery of such Notes or any payment thereon.

(h) At any time and from time to time after the execution of any Notes, the Issuer may deliver such Notes to the Trustee for authentication and, subject to the provisions of

Section 2.1(i), the Trustee shall authenticate such Notes by manual signature upon receipt by it of a written order of the Issuer. The Notes shall be authenticated on behalf of the Trustee by any Responsible Officer of the Trustee.

(i) No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless it shall have been executed on behalf of the Issuer as provided in Section 2.1(f) and authenticated by or on behalf of the Trustee as provided in Section 2.1(h). Such signatures shall be conclusive evidence that such Note has been duly executed and authenticated under this Indenture. Each Note shall be dated the date of its authentication.

Section 2.2Restrictive Legends. Each Note (and all Notes issued in exchange therefor or upon registration of transfer or substitution thereof) shall bear the following legend on the face thereof (the "Legend"):

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), THE SECURITIES LAWS OF ANY STATE OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION, NOR IS SUCH REGISTRATION CONTEMPLATED. NEITHER THIS NOTE NOR ANY INTEREST HEREIN MAY BE ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED, SOLD OR OFFERED FOR SALE OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION UNDER THE SECURITIES ACT OR AN EXEMPTION FROM SUCH REGISTRATION THEREUNDER AND ANY OTHER APPLICABLE SECURITIES LAW REGISTRATION REQUIREMENTS. EACH PERSON WHO ACQUIRES OR ACCEPTS THIS NOTE OR AN INTEREST HEREIN BY SUCH ACQUISITION OR ACCEPTANCE (1) REPRESENTS THAT (A) IT IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) AND, IF SUBSEQUENT TO THE INITIAL ACQUISITION HEREOF, IS PURCHASING THIS NOTE IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (B) IT IS AN INSTITUTIONAL ACCREDITED INVESTOR AS DEFINED IN SUBPARAGRAPH (a) (1), (2), (3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT (AN "INSTITUTIONAL ACCREDITED INVESTOR"), HAS SUFFICIENT KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS TO BE CAPABLE OF EVALUATING THE MERITS AND RISKS OF THE PURCHASE OF THIS NOTE AND IS ABLE AND PREPARED TO BEAR THE ECONOMIC RISK OF INVESTING IN AND HOLDING THIS NOTE OR (C) IT IS AN INSTITUTIONAL ACCREDITED INVESTOR THAT IS NOT A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR AN INTEREST HEREIN, EXCEPT (A) TO BIOCRYST PHARMACEUTICALS, INC. (THE "SELLER"), THE ISSUER OR ANY OF THEIR RESPECTIVE SUBSIDIARIES, (B) FOR SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE

SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER, TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A UNDER THE SECURITIES ACT OR (C) TO AN INSTITUTIONAL ACCREDITED INVESTOR THAT IS PURCHASING THIS NOTE OR AN INTEREST HEREIN, AS THE CASE MAY BE, FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL ACCREDITED INVESTOR FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS NOTE OR AN INTEREST HEREIN IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED, THAT THE ISSUER AND THE TRUSTEE SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (2)(C) OF THIS PARAGRAPH TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THE TERMS “OFFSHORE TRANSACTION” AND “U.S. PERSON” HAVE THE RESPECTIVE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT. THE INDENTURE REFERRED TO HEREINAFTER CONTAINS A PROVISION REQUIRING THE REGISTRAR APPOINTED THEREUNDER TO REFUSE TO REGISTER ANY TRANSFER OF THIS NOTE IN VIOLATION OF THE FOREGOING RESTRICTIONS.

BY ITS PURCHASE AND ACCEPTANCE OF THIS NOTE, EACH PURCHASER WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (I) NO PLAN ASSETS WILL BE USED TO PURCHASE THIS NOTE OR (II) PLAN ASSETS WILL BE USED TO PURCHASE THIS NOTE BUT (A) THE PURCHASE, HOLDING AND DISPOSITION OF THIS NOTE WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OR THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), BY REASON OF THE APPLICATION OF ONE OR MORE STATUTORY OR ADMINISTRATIVE EXEMPTIONS OR OTHERWISE AND WILL NOT CONSTITUTE A VIOLATION OF SIMILAR LAWS OR (B) SUCH ASSETS ARE NOT CONSIDERED PLAN ASSETS BY REASON OF BEING HELD IN A SEPARATE ACCOUNT OF AN INSURANCE COMPANY, UNDER WHICH AMOUNTS PAYABLE OR CREDITED TO THE PLAN AND TO ANY PARTICIPANT OR BENEFICIARY OF THE PLAN ARE NOT AFFECTED BY THE INVESTMENT PERFORMANCE OF THE SEPARATE ACCOUNT. “PLAN ASSETS” HAS THE MEANING GIVEN TO IT BY SECTION 3(42) OF ERISA AND REGULATIONS OF THE DEPARTMENT OF LABOR, BUT ALSO INCLUDES ASSETS OF AN EMPLOYEE BENEFIT PLAN (WITHIN THE MEANING OF SECTION 3(3) OF ERISA) SUBJECT TO

LAWS OR REGULATIONS THAT ARE SUBSTANTIALLY SIMILAR TO SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE.

THIS NOTE MAY NOT BE RESOLD OR TRANSFERRED EXCEPT AS SET FORTH IN THE INDENTURE REFERRED TO HEREINAFTER, AND, IN ADDITION, EACH PERSON WHO ACQUIRES OR ACCEPTS THIS NOTE OR AN INTEREST HEREIN BY SUCH ACQUISITION OR ACCEPTANCE AGREES THAT IT SHALL CAUSE ANY PROPOSED TRANSFEREE TO EXECUTE A CONFIDENTIALITY AGREEMENT IN THE FORM ATTACHED AS EXHIBIT B TO SUCH INDENTURE AND DELIVER SUCH CONFIDENTIALITY AGREEMENT TO THE REGISTRAR (AS DEFINED IN SUCH INDENTURE) AND FURTHER AGREES TO OTHERWISE COMPLY WITH THE TRANSFER RESTRICTIONS SET FORTH IN SUCH INDENTURE, INCLUDING SECTION 2.11 THEREOF, AND FURTHER ACKNOWLEDGES AND AGREES TO THE PROVISIONS SET FORTH IN SECTION 2.5 OF SUCH INDENTURE.

THIS NOTE WAS ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR UNITED STATES FEDERAL INCOME TAX PURPOSES. UPON REQUEST TO THE ISSUER, THE ISSUER WILL PROMPTLY CAUSE TO BE MADE AVAILABLE, TO THE HOLDER OF THIS NOTE, INFORMATION REGARDING THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY OF, AND THE AMOUNT OF OID IN RESPECT OF, THIS NOTE.

BY ITS ACQUISITION HEREOF, THE HOLDER ACKNOWLEDGES THAT THIS NOTE (OR ANY BENEFICIAL INTEREST THEREIN) MAY NOT BE EXCHANGED OR TRANSFERRED IF, IMMEDIATELY AFTER SUCH EXCHANGE OR TRANSFER, THERE WOULD BE MORE THAN 95 NOTEHOLDERS (IN THE CASE OF NOTES THAT ARE DEFINITIVE NOTES) OR BENEFICIAL HOLDERS (IN THE CASE OF NOTES THAT ARE GLOBAL NOTES), TAKEN TOGETHER IN THE AGGREGATE, AND ANY SUCH PURPORTED EXCHANGE OR TRANSFER SHALL BE VOID AB INITIO.

Each Global Note shall also bear the following legend on the face thereof:

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR

VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF CEDE & CO. OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN SECTION 2.11 OF THE INDENTURE REFERRED TO HEREINAFTER.

Each Temporary Regulation S Global Note shall also bear the following legend on the face thereof:

THIS NOTE IS A TEMPORARY REGULATION S GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREINAFTER AND IS SUBJECT TO RESTRICTIONS ON THE TRANSFER AND EXCHANGE THEREOF AND ON THE PAYMENT OF INTEREST THEREON AS SPECIFIED IN THE INDENTURE REFERRED TO HEREINAFTER.

Section 2.3 Registrar, Paying Agent and Calculation Agent.

(a) With respect to each class of Notes, there shall at all times be maintained an office or agency in the location set forth in Section 12.5 where the Notes of such class may be presented or surrendered for registration of transfer or for exchange (including any additional registrar, each, a "Registrar") and for payment thereof (including any additional paying agent, each, a "Paying Agent") and where notices and demands to or upon the Issuer in respect of such Notes may be served. The Trustee shall be the initial Paying Agent and Registrar, and the Issuer shall not be permitted to act as a Paying Agent or a Registrar. The Issuer shall cause each Registrar to keep a register of such class of Notes for which it is acting as Registrar and of their transfer and exchange (the "Register"). Written notice of the location of each such other office or agency and of any change of location thereof shall be given by the Trustee to the Issuer and the Noteholders of such class of Notes. In the event that no such office or agency shall be maintained or no such notice of location or of change of location shall be given, presentations and demands may be made and notices may be served at the Corporate Trust Office.

(b) The Trustee shall act as the Calculation Agent hereunder. To the extent not otherwise specifically provided herein, the Trustee shall furnish to the Calculation Agent, and the Calculation Agent shall furnish to the Trustee, upon written request such information and copies of such documents as the Trustee or the Calculation Agent may have and as are necessary for the Calculation Agent and the Trustee to perform their respective duties under Article III or otherwise.

(c) Each Authorized Agent shall be a bank, trust company or corporation organized and doing business under the laws of the U.S., any state or territory thereof or of the

District of Columbia, with a combined capital and surplus of at least $75,000,000 (or having a combined capital and surplus in excess of $5,000,000 and the obligations of which, whether now in existence or hereafter incurred, are fully and unconditionally Guaranteed by a bank, trust company or corporation organized and doing business under the laws of the U.S., any state or territory thereof or of the District of Columbia and having a combined capital and surplus of at least $75,000,000) and shall be authorized under the laws of the U.S., any state or territory thereof or the District of Columbia to exercise corporate trust powers, subject to supervision by federal or state authorities (such requirements, the "Eligibility Requirements"). Each Registrar other than the Trustee shall furnish to the Trustee, at least five Business Days prior to each Payment Date, and at such other times as the Trustee may request in writing, a copy of the Register maintained by such Registrar.

(d) Any Person into which any Authorized Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, consolidation or conversion to which any Authorized Agent shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of any Authorized Agent (including the administration of the fiduciary relationship contemplated by this Indenture), shall be the successor of such Authorized Agent hereunder, if such successor is otherwise eligible under this Section 2.3, without the execution or filing of any paper or any further act on the part of the parties hereto or such Authorized Agent or such successor Person.

(e) Any Authorized Agent may at any time resign by giving written notice of resignation to the Trustee and the Issuer. The Issuer may, and at the request of the Trustee shall, at any time terminate the agency of any Authorized Agent by giving written notice of termination to such Authorized Agent and to the Trustee. Upon the resignation or termination of an Authorized Agent or if at any time any such Authorized Agent shall cease to be eligible under this Section 2.3 (when, in either case, no other Authorized Agent performing the functions of such Authorized Agent shall have been appointed by the Trustee), the Issuer shall promptly appoint one or more qualified successor Authorized Agents, reasonably satisfactory to the Trustee, to perform the functions of the Authorized Agent that has resigned or whose agency has been terminated or who shall have ceased to be eligible under this Section 2.3. The Issuer shall give written notice of any such appointment made by it to the Trustee, and in each case the Trustee shall mail notice of such appointment to all Noteholders of the related class of Notes as their names and addresses appear on the Register for such class of Notes.

(f) The Issuer agrees to pay, or cause to be paid, from time to time to each Authorized Agent reasonable compensation for its services and to reimburse it for its reasonable expenses to be agreed to pursuant to separate agreements with each such Authorized Agent.

Section 2.4 Paying Agent to Hold Money in Trust. The Trustee shall require each Paying Agent other than the Trustee to agree in writing that all moneys deposited with any Paying Agent for the purpose of any payment on the Notes shall be deposited and held in trust for the benefit of the Noteholders entitled to such payment, subject to the provisions of this Section 2.4. Moneys so deposited and held in trust shall constitute a separate trust fund for the benefit of the Noteholders with respect to which such money was deposited.

The Trustee may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, direct any Paying Agent to pay to the Trustee all sums held in trust by such Paying Agent, and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Section 2.5 Method of Payment.

(a) On each Payment Date, the Trustee shall, or shall instruct a Paying Agent to, pay, subject to Section 3.7, to the extent of the Available Collections Amount for such Payment Date and any funds withdrawn from the Interest Reserve Account or the Capital Account by the Trustee pursuant to Section 3.8, to the Noteholders all interest, principal and Premium, if any, on each class of Notes in the amounts determined by the Calculation Agent pursuant to Section 3.5; provided, that payment on a Temporary Regulation S Global Note shall be made to the Noteholder thereof only in conformity with Section 2.5(c) and payment on any Note may be deferred as provided in Section 2.5(d). Each payment on any Payment Date other than the final payment with respect to any class of Notes shall be made by the Trustee or Paying Agent to the Noteholders as of the Record Date for such Payment Date. The final payment with respect to any class of Notes, however, shall be made only upon presentation and surrender of such Note by the Noteholder or its agent at an office or agency of the Trustee or Paying Agent in New York City.

(b) Subject to Section 2.5(d), at such time, if any, as the Notes of any class are issued in the form of Definitive Notes, payments on a Payment Date shall be made by the Trustee or the Paying Agent by check mailed to each Noteholder of a Definitive Note on the applicable Record Date at its address appearing on the Register maintained with respect to such class of Notes. Alternatively, upon application in writing to the Trustee, not later than the applicable Record Date, by a Noteholder holding Definitive Notes with an Outstanding Principal Balance of at least $5,000,000, subject to Section 2.5(d), any such payments shall be made by wire transfer to an account designated by such Noteholder at a financial institution in New York City; provided, that, in each case, the final payment for any class of Notes shall be made only upon presentation and surrender of the Definitive Notes of such class by the Noteholder or its agent at an office or agency of the Trustee or Paying Agent in New York City. Payments in respect of the Notes represented by a Global Note (including principal, Premium, if any, and interest) shall be made by wire transfer of immediately available funds to the account specified by DTC at a financial institution in New York City.

(c) The beneficial owner of a Temporary Regulation S Global Note may arrange to receive payments through Euroclear or Clearstream on such Temporary Regulation S Global Note only after delivery by such beneficial owner to Euroclear or Clearstream, as the case may be, of a written certification substantially in the form of Exhibit G and upon delivery by Euroclear or Clearstream, as the case may be, to the Paying Agent of a certification or certifications substantially in the form of Exhibit H. No interest shall be paid to any beneficial owner and no interest shall be paid to Euroclear or Clearstream on such beneficial owner's interest in a Temporary Regulation S Global Note unless Euroclear or Clearstream, as the case may be, has provided such a certification to the Paying Agent with respect to such interest.

(d) Not later than five Business Days prior to each Payment Date or any other date on which a Distribution Report is to be distributed to Noteholders and Beneficial Holders pursuant to Section 2.13(a), the Registrar shall use commercially reasonable efforts to (i) prepare a list (the "Approved Holder List") of each Noteholder and Beneficial Holder as of the Record Date related to such Payment Date that has executed and delivered to the Registrar a Confidentiality Agreement, (ii) obtain from DTC a list (the "DTC List") of the Agent Members holding Beneficial Interests in the Notes as of such Record Date, (iii) obtain from each such Agent Member as of such Record Date the corresponding Beneficial Holders of the Beneficial Interests held by each such Agent Member set forth on the DTC List as of such Record Date and prepare a list thereof and of the Beneficial Interests owned by each such Beneficial Holder (the "Actual Beneficial Holder List"), (iv) prepare a list (the "Escrow List"), if necessary, that identifies any differences between (x) the Noteholders and Beneficial Holders listed on the Approved Holder List and (y)(A) the Noteholders of Definitive Notes set forth in the Register and (B) the Beneficial Holders listed on the Actual Beneficial Holder List (or those Beneficial Holders that the Registrar actually knows have not executed and delivered to the Registrar Confidentiality Agreements), in each case as of such Record Date, and (v) provide the Approved Holder List, the DTC List, the Actual Beneficial Holder List and any Escrow List to the Issuer, the Servicer and the Trustee. Each Noteholder, Agent Member and Beneficial Holder hereby agrees, acknowledges and consents that (I) with respect to a Noteholder of any Notes (other than DTC or its nominee) that as of such Record Date has not executed and delivered to the Registrar a Confidentiality Agreement and, therefore, is listed on the Escrow List, the Trustee promptly (but in no event less than three Business Days prior to the applicable Payment Date) shall use commercially reasonable efforts to notify such Noteholder of such failure and, on the applicable Payment Date, if so instructed in writing by the Issuer, cause any principal payment with respect to the Outstanding Principal Balance or any payment of Premium, if any, or Interest Amount on such Notes to be paid directly to the Escrow Account and (II) with respect to a Beneficial Holder of any Beneficial Interest in a Note that as of such Record Date has not executed and delivered to the Registrar a Confidentiality Agreement and, therefore, is listed on the Escrow List, the Trustee promptly (but in no event less than three Business Days prior to the applicable Payment Date) shall use commercially reasonable efforts to cause the Beneficial Interest of such Beneficial Holder to be transferred into the name of the Trustee (including the Trustee acting as an Agent Member with respect to such Beneficial Interests) and shall use commercially reasonable efforts to cause any payment of principal, Premium, if any, or interest on such Notes or Beneficial Interests received on such Payment Date, if so instructed in writing by the Issuer, to be deposited into the Escrow Account upon receipt thereof. If so deposited into the Escrow Account, upon receipt by the Trustee and the Issuer of written notice from the Registrar that the applicable Noteholder or Beneficial Holder has executed and delivered to the Registrar a Confidentiality Agreement, the Trustee will distribute such amounts, without interest, from the Escrow Account to the Trustee for distribution to each such Noteholder or Beneficial Holder, but prior to the receipt thereof the Trustee shall be authorized to treat such purported Noteholder or Beneficial Holder as not being a Noteholder or Beneficial Holder, as the case may be, for purposes of this Indenture. If any purported Noteholder or Beneficial Holder has not executed and delivered to the Registrar a Confidentiality Agreement, the Issuer may, at its option, by delivery of an Officer's Certificate to the Trustee, authorize the Trustee to remove any Notes held by such purported Noteholder or Beneficial Holder from the book-entry systems of DTC, Clearstream and Euroclear and instead have such Notes be issued in definitive form until such time as receipt

by the Trustee and the Issuer of written notice from the Registrar that such purported Noteholder or Beneficial Holder has executed and delivered to the Registrar a Confidentiality Agreement. The Trustee shall so remove such Notes immediately upon receipt of such Officer's Certificate.

(e) To the extent that the full Interest Amount due on the Class A Notes is not paid in full on any Payment Date and funds are deposited into the Collection Account or the Capital Account following such Payment Date but prior to the third Business Day prior to the immediately succeeding Calculation Date, at the written direction of the Issuer (and, in the case of the Capital Account, the Equityholder), only to the extent of dollars on deposit in the Collection Account and, if directed by the Issuer and the Equityholder, the Capital Account, notwithstanding anything to the contrary in this Indenture, the Trustee shall use such funds (subject to the requirement in Section 3.8 that such a withdrawal shall be made from the Capital Account only once) to pay to the Noteholders of record the overdue Interest Amount; provided, that all Expenses with respect to such preceding Payment Date contemplated by Section 3.7(a)(ii) and all Expenses for which the Issuer has previously submitted supporting documentation pursuant to and as contemplated by Section 3.7(c), in each case, shall have been paid. With each such payment, the Trustee shall furnish a brief statement to Noteholders eligible to receive Distribution Reports in accordance with this Indenture indicating the aggregate amount of funds received and the balance of the unpaid Interest Amount (together with Additional Interest thereon) to which the payment is being applied. Subject to Section 2.5(d), any such payment shall be made to the Noteholders of record as of the third Business Day preceding the date of each such payment. Any funds that are deposited on or after the third Business Day prior to the immediately succeeding Calculation Date shall be held in the Collection Account or the Capital Account, as applicable, and applied in accordance with this Indenture on the next succeeding Payment Date.

(f) The payment of any Interest Amount in respect of a class of Notes on a particular Payment Date shall be deemed allocated first to any unpaid Interest Amount due prior to such Payment Date (together with Additional Interest thereon) and second to any Interest Amount due on such Payment Date.

Section 2.6 Minimum Denominations. Each class of Notes shall be issued in minimum denominations of $250,000 or integral multiples of $1,000 in excess thereof.

Section 2.7 Transfer and Exchange; Cancellation. The Notes are issuable only in fully registered form without coupons. A Noteholder or a Beneficial Holder may transfer a Note or a Beneficial Interest therein only by written application to the Registrar stating the name of the proposed transferee and otherwise complying with the terms of this Indenture, including the requirement for the execution and delivery of a Confidentiality Agreement by such proposed transferee to the Registrar relating to such transfer as set forth in Section 2.11(j). No such transfer shall be effected until, and such proposed transferee shall succeed to the rights of a Noteholder or a Beneficial Holder only upon, final acceptance and registration of the transfer by the Registrar and confirmation by the Registrar pursuant to Section 2.11(j) that such Noteholder or such Beneficial Holder has executed and delivered an appropriate Confidentiality Agreement to the Registrar.

Prior to the due presentment for registration of transfer of a Note and satisfaction of the requirements specified in the last sentence of the preceding paragraph, the Issuer and the Trustee may deem and treat the applicable registered Noteholder as the absolute owner and holder of such Note for the purpose of receiving payment of all amounts payable with respect to such Note and for all other purposes and shall not be affected by any notice to the contrary. The Registrar (if different from the Trustee) shall promptly notify the Trustee in writing and the Trustee shall promptly notify the Issuer of each request for a registration of transfer of a Note by furnishing the Issuer a copy of such request.

Furthermore, any Noteholder of a Global Note shall, by acceptance of such Global Note, agree that, subject to Section 2.10(b) and Section 2.11, transfers of Beneficial Interests in such Global Note may be effected only through a book-entry system maintained by the Noteholder of such Global Note (or its agent) and that ownership of a Beneficial Interest in such Global Note shall be required to be reflected in a book-entry system. When Notes are presented to the Registrar with a request to register the transfer or to exchange them for an equal principal amount of Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements for such transactions are met (including, in the case of a transfer, that such Notes are duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee and Registrar duly executed by the Noteholder thereof or by an attorney who is authorized in writing to act on behalf of the Noteholder). To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Notes at the Registrar's request. Except as set forth in Section 2.8 and Section 2.9, no service charge shall be made for any registration of transfer or exchange or redemption of the Notes.

The Registrar shall not be required to exchange or register the transfer of any Notes as above provided during the 15-day period preceding the Final Legal Maturity Date of any such Notes or during a 15-day period preceding the first mailing of any notice of Redemption or Refinancing of Notes to be redeemed or refinanced. The Registrar shall not be required to exchange or register the transfer of any Notes that have been selected, called or are being called for Redemption or Refinancing except, in the case of any Notes where written notice has been given that such Notes are to be redeemed in part, the portion thereof not so to be redeemed.

Any Person (including the Issuer) at any time may deliver Notes to the Trustee for cancellation. The Trustee and no one else shall cancel and destroy in accordance with its customary practices in effect from time to time (subject to the record retention requirements of the Exchange Act) any such Notes, together with any other Notes surrendered to it for registration of transfer, exchange or payment. The Issuer may not issue new Notes (other than Refinancing Notes issued in connection with any Refinancing) to replace Notes it (or any other Person) has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.8 Mutilated, Destroyed, Lost or Stolen Notes. If any Note shall become mutilated, destroyed, lost or stolen, the Issuer shall, upon the written request of the Noteholder thereof and presentation of the Note or satisfactory evidence of destruction, loss or theft thereof to the Trustee or Registrar and a confirmation by the Registrar to the Trustee that such Noteholder (or Beneficial Holder of the Beneficial Interest therein) has executed and delivered to the Registrar a Confidentiality Agreement, issue, and the Trustee shall authenticate and the

Trustee or Registrar shall deliver in exchange therefor or in replacement thereof, a new Note, payable to such Noteholder in the same principal amount, of the same maturity, with the same payment schedule, bearing the same interest rate and dated the date of its authentication. If the Note being replaced has become mutilated, such Note shall be surrendered to the Trustee or the Registrar and forwarded to the Issuer by the Trustee or such Registrar. If the Note being replaced has been destroyed, lost or stolen, the Noteholder thereof shall furnish to the Issuer, the Trustee and the Registrar (a) such security or indemnity as may be required by the Issuer, the Trustee and the Registrar to save each of them harmless (an unsecured indemnity from any QIB being satisfactory security or indemnity) and (b) evidence satisfactory to the Issuer, the Trustee and the Registrar of the destruction, loss or theft of such Note and of the ownership thereof (an affidavit from any QIB being satisfactory evidence). The Noteholders will be required to pay any Tax or other governmental charge imposed in connection with such exchange or replacement and any other expenses (including the reasonable fees and expenses of the Trustee and the Registrar) connected therewith.

Section 2.9 Payments of Transfer Taxes. Upon the transfer of any Note or Notes pursuant to Section 2.7, the Issuer or the Trustee may require from the party requesting such new Note or Notes payment of a sum to reimburse the Issuer or the Trustee for, or to provide funds for the payment of, any transfer Tax or similar governmental charge payable in connection therewith.

Section 2.10 Book-Entry Provisions.

(a) Global Notes shall (i) be registered in the name of DTC or a nominee of DTC, (ii) be delivered to the Trustee as custodian for DTC and (iii) bear the Legend. In accordance with the requirements of DTC, the Issuer will cause the Trustee to authenticate an additional Global Note or additional Global Notes in the appropriate principal amount such that no Global Note may exceed an aggregate principal amount of $500,000,000 at any time.

Members of, or participants in, DTC ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC, or the Trustee as its custodian, or under such Global Note, and DTC may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the absolute owner of such Global Note for all purposes whatsoever.

Whenever notice or other communication to the Noteholders of any class of Global Notes is required under this Indenture, unless and until Definitive Notes shall have been issued pursuant to Section 2.10(b), the Trustee shall give all such notices and communications specified herein to be given to Noteholders of such class of Global Notes to DTC and/or the Agent Members, and shall make available additional copies as requested by such Agent Members, subject to the limitations on distribution contained in Section 2.13.

Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices governing the exercise of the rights of a Noteholder under any Global Note. Neither the Issuer nor the Trustee shall be liable for any delay by DTC in

identifying the Agent Members in respect of the Global Notes, and the Issuer and the Trustee may conclusively rely on, and shall be fully protected in relying on, instructions from DTC for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of any Global Notes to be issued).

(b) Transfers of a Global Note shall be limited to transfers of such Global Note in whole, but not in part, to DTC, its successors or their respective nominees. Interests of Agent Members in a Global Note may be transferred in accordance with the rules and procedures of DTC and the provisions of Section 2.11. Except as set forth in Section 2.5(d) and Section 2.11(a), Definitive Notes shall be issued to the individual Agent Members or Beneficial Holders or their nominees in exchange for their Beneficial Interests in a Global Note with respect to any class of Notes only if (i) the Issuer advises the Trustee in writing that DTC is no longer willing or able to properly discharge its responsibilities as depositary with respect to such class of Notes and the Trustee or the Issuer is unable to appoint a qualified successor within 90 days of such notice or (ii) during the occurrence of an Event of Default with respect to such class of Notes, any Noteholder requests that all or a portion of a Global Note be exchanged for a Definitive Note. Upon the occurrence of any event described in the immediately preceding sentence, the Trustee shall notify all affected Noteholders of such class, through DTC, of the occurrence of such event and of the availability of Definitive Notes of such class; provided, however, that in no event shall the Temporary Regulation S Global Note be exchanged for Definitive Notes prior to the later of (x) the Regulation S Global Note Exchange Date and (y) the date of receipt by the Issuer of any certificates determined by it to be required pursuant to Rule 903 or 904 under the Securities Act. Upon surrender to the Trustee of the Global Notes of such class held by DTC, accompanied by registration instructions from DTC for registration of Definitive Notes, the Issuer shall issue and the Trustee shall authenticate and deliver the Definitive Notes of such class to the Agent Members and Beneficial Holders of such class or their nominees in accordance with the instructions of DTC.

None of the Issuer, the Registrar, the Paying Agent or the Trustee shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be fully protected in relying on, such registration instructions. Upon the issuance of Definitive Notes of such class, subject to Section 2.5(d), the Trustee shall recognize the Persons in whose name the Definitive Notes are registered in the Register as Noteholders hereunder. Neither the Issuer nor the Trustee shall be liable if the Trustee or the Issuer is unable to locate a qualified successor to DTC.

Definitive Notes of any class will be freely transferable and exchangeable for Definitive Notes of the same class at the office of the Trustee or the office of the Registrar upon compliance with the requirements set forth in this Indenture. In the case of a transfer of only part of a holding of Definitive Notes, a new Definitive Note shall be issued to the transferee in respect of the part transferred and a new Definitive Note in respect of the balance of the holding not transferred shall be issued to the transferor and may be obtained at the office of the applicable Registrar.

(c) Any Beneficial Interest in one of the Global Notes as to any class that is transferred to a Person who takes delivery in the form of an interest in another Global Note will, upon transfer, cease to be an interest in such Global Note and become an interest in such other Global Note and, accordingly, will thereafter be subject to all transfer restrictions, if any, and

other procedures applicable to Beneficial Interests in such other Global Note for as long as it remains such an interest.

(d) Any Definitive Note delivered in exchange for an interest in a Global Note pursuant to Section 2.5(d) or Section 2.10(b) shall bear the Legend applicable to a Global Note.

Section 2.11 Special Transfer Provisions.

(a) The following provisions shall apply with respect to any proposed transfer of a Beneficial Interest in a 144A Global Note or a Permanent Regulation S Global Note or a proposed transfer of a Definitive Note to any Institutional Accredited Investor that is not a QIB (excluding Non-U.S. Persons):

(i) The Registrar shall register the transfer of any Definitive Note if the proposed transferee has delivered to the Registrar (A) a certificate substantially in the form of Exhibit J (such certificate also to be delivered to the Issuer), (B) if requested by the Issuer or the Trustee, an Opinion of Counsel acceptable to the Issuer that such transfer is in compliance with the Securities Act and (C) a Confidentiality Agreement duly executed by such transferee.

(ii) If the proposed transferor is an Agent Member holding a Beneficial Interest in a 144A Global Note or a Permanent Regulation S Global Note, upon receipt by the Registrar of (A) the documents required by Section 2.11(a)(i), including the Confidentiality Agreement, and (B) instructions given in accordance with DTC's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the 144A Global Note or the Permanent Regulation S Global Note, as the case may be, in an amount equal to the principal amount of the Beneficial Interest in the Global Note to be transferred, and the Issuer shall execute, and the Trustee shall authenticate and deliver, one or more Definitive Notes of like tenor and amount.

(b) The following provisions shall apply with respect to any proposed transfer of a Beneficial Interest in a 144A Global Note or a Permanent Regulation S Global Note or a proposed transfer of a Definitive Note to a QIB (excluding Non-U.S. Persons):

(i) If the Note to be transferred consists of (A) Definitive Notes, the Registrar shall reflect the transfer on its books and records if such transfer is being made by a proposed transferor who has delivered such Note and checked the box provided for on the form of Note stating, or has otherwise advised the Issuer and the Registrar in writing, that the sale has been made in compliance with the provisions of Rule 144A to a transferee who has signed the certification provided for on the form of Note stating, or has otherwise advised the Issuer and the Registrar in writing, that (w) it is purchasing the Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account are QIBs within the meaning of Rule 144A, (x) it is or such QIBs are aware that the sale to it or them is being made in reliance on Rule 144A and acknowledge that it has or they have received such information regarding the Issuer as it has or they have requested pursuant to Rule 144A or has or have

determined not to request such information, (y) it is or such QIBs are aware that the transferor is relying upon the foregoing representations in order to claim the exemption from registration provided by Rule 144A and (z) it has and all such QIBs have duly executed and delivered to the Registrar a Confidentiality Agreement or (B) a Beneficial Interest in a 144A Global Note, the transfer of such Beneficial Interest may be effected only through the book-entry system maintained by DTC and to the extent provided in the agreement with DTC, and, in each case, each transferee has delivered to the Registrar a Confidentiality Agreement duly executed by such transferee.

(ii) If the proposed transferee is an Agent Member, and the Note to be transferred is a Definitive Note, upon receipt by the Registrar of the documents referred to in Section 2.11(b)(i), including the Confidentiality Agreement, and instructions given in accordance with DTC's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and an increase in the principal amount at maturity of the 144A Global Note in an amount equal to the principal amount at maturity of the Definitive Note to be transferred, and the Trustee shall cancel the Definitive Note so transferred (upon written direction from the Registrar if different from the Trustee).

(iii) If the proposed transferee is an Agent Member, and the Note to be transferred is represented by a Beneficial Interest in a Permanent Regulation S Global Note, upon receipt by the Registrar of the documents referred to in Section 2.11(b)(i), including the Confidentiality Agreement, and instructions given in accordance with DTC's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Permanent Regulation S Global Note in an amount equal to the principal amount of the Beneficial Interest in the Permanent Regulation S Global Note to be transferred, and the Registrar shall reflect on its books and records an increase in the principal amount of the 144A Global Note in an amount equal to such transferred amount.

(c) With respect to any proposed transfer of a Beneficial Interest in a Temporary Regulation S Global Note to an Institutional Accredited Investor, the Registrar shall reflect on its books and records the transfer of such Beneficial Interest (A) if the proposed transferee is a Non-U.S. Person, the proposed transferor has delivered to the Registrar a certificate substantially in the form of Exhibit I (such certificate also to be delivered to the Issuer) and the proposed transferee has duly executed and delivered to the Registrar a Confidentiality Agreement (in which case the transferee will receive a corresponding Beneficial Interest in the Temporary Regulation S Global Note) or (B) if the proposed transferee is a QIB and the proposed transferor has checked the box provided for on the form of Note stating, or has otherwise advised the Issuer and the Registrar in writing, that the sale has been made in compliance with the provisions of Rule 144A to a transferee who has signed the certification provided for on the form of Note stating, or has otherwise advised the Issuer and the Registrar in writing, that (w) it is purchasing the Note (or the Beneficial Interest therein) for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account are QIBs within the meaning of Rule 144A, (x) it is or such QIBs are aware that the sale to it or them is being made in reliance on Rule 144A and acknowledge that it has or they have received such information regarding the Issuer as it has or they have requested pursuant to Rule 144A or has or have determined not to request such information, (y) it is or such QIBs are aware that the

transferor is relying upon the foregoing representations in order to claim the exemption from registration provided by Rule 144A and (z) it has and all such QIBs have duly executed and delivered to the Registrar a Confidentiality Agreement (in which case the Registrar shall reflect on its books and records the date and an increase in the principal amount of the 144A Global Note of the relevant class, in an amount equal to the principal amount of the Temporary Regulation S Global Note (or the Beneficial Interest therein) of such class to be transferred, and the Trustee shall decrease the amount of the Temporary Regulation S Global Note of such class (upon written direction from the Registrar if different from the Trustee)).

(d) Except as set forth in Section 2.11(c), the following provisions shall apply with respect to any transfer of a Note (or a Beneficial Interest therein) to a Non-U.S. Person:

(i) Except as set forth in Section 2.11(c), prior to the applicable Regulation S Global Note Exchange Date, the Registrar shall not register or reflect on its books and records any proposed transfer of a Note (or a Beneficial Interest therein) to a Non-U.S. Person.

(ii) The Registrar shall register or reflect on its books and records, as the case may be, any proposed transfer of a Note (or a Beneficial Interest therein) to any Non-U.S. Person that is an Institutional Accredited Investor if the Note to be transferred is a Definitive Note or a Beneficial Interest in a 144A Global Note, upon receipt of a certificate substantially in the form of Exhibit I from the proposed transferor and a Confidentiality Agreement duly executed and delivered to the Registrar by such Non-U.S. Person that is an Institutional Accredited Investor.

(iii) (A) If the proposed transferor is an Agent Member holding a Beneficial Interest in a 144A Global Note, upon receipt by the Registrar of (x) the documents, if any, required by Section 2.11(d)(ii) and (y) instructions in accordance with DTC's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the 144A Global Note in an amount equal to the principal amount of the Beneficial Interest in such 144A Global Note to be transferred, and (B) if the proposed transferee is an Agent Member, upon receipt by the Registrar of instructions given in accordance with DTC's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and an increase in the principal amount of the Permanent Regulation S Global Note of the relevant class in an amount equal to the principal amount of the Beneficial Interest in such 144A Global Note or any Definitive Notes issued in exchange for such Beneficial Interest in such 144A Global Note to be transferred, and the Trustee shall cancel the Definitive Note, if any, so transferred or decrease the amount of the 144A Global Note (upon written direction from the Registrar if different from the Trustee).

(e) With respect to any proposed transfer of any Note (or a Beneficial Interest therein), the Registrar shall reflect the transfer of such Note or Beneficial Interest on its books and records (along with any appropriate increase or decrease in the principal amount at maturity of any Global Note upon receipt by the Registrar of instructions given in accordance with DTC's and the Registrar's procedures) if the proposed transferee has duly executed and delivered to the Registrar a Confidentiality Agreement.

(f) Upon the transfer, exchange or replacement of Notes bearing the Legend, the Registrar shall deliver only Notes that bear the Legend.

(g) By its acceptance of any Note bearing the Legend, each Noteholder of such Note acknowledges the restrictions on transfer of such Note set forth in this Indenture and in the Legend and agrees that it will transfer such Note (or the Beneficial Interest therein) only as provided in this Indenture and in accordance with the Legend. The Registrar shall not register or reflect on its books and records a transfer of any Note (or any Beneficial Interest therein) unless such transfer complies with the restrictions on transfer of such Note set forth in this Indenture and in accordance with the Legend. In connection with any transfer of Notes (or Beneficial Interests therein), each Noteholder (or Beneficial Holder) agrees by its acceptance of the Notes (or Beneficial Interests therein) to furnish the Trustee the certifications and legal opinions (if requested and required pursuant hereto) described herein to confirm that such transfer is being made pursuant to an exemption from, or a transaction not subject to, the registration requirements of the Securities Act; provided, that the Trustee shall not be required to determine (but may rely on a determination made by the Issuer with respect to) the sufficiency of any such legal opinions.

(h) The Notes shall be issued pursuant to an exemption from registration under the Securities Act. The Issuer agrees that it will not at any time (i) apply to list, list or list upon notice of issuance, (ii) consent to or authorize an application for the listing or the listing of, or (iii) enable or authorize the trading of, the Notes on an established securities market, including (w) a national securities exchange registered under the Exchange Act or exempted from registration because of the limited volume of transactions, (x) a foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the Exchange Act applicable to exchanges described in Section 2.11(h)(iii)(w), (y) a regional or local exchange or (z) an over-the-counter market or interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise, as the term "established securities market" and the terms in this Section 2.11(h) are defined for purposes of Section 7704 of the Code.

(i) The Trustee shall retain copies of all letters, notices and other written communications received pursuant to Section 2.10 or this Section 2.11. The Issuer shall have the right to inspect and make copies of all such letters, notices, Confidentiality Agreements or other written communications at any reasonable time upon the giving of reasonable written notice to the Trustee.

(j) Each Noteholder, Agent Member and Beneficial Holder agrees, by acceptance of any Note or any Beneficial Interest therein, that it will not take any action to transfer any Note (or any Beneficial Interest therein) to a proposed transferee without causing such proposed transferee to execute and deliver to the Registrar an appropriate Confidentiality Agreement relating to such transfer as set forth in this Section 2.11. After the Closing Date with respect to the Original Class A Notes (or the date of issuance with respect to any Subordinated Notes or any Refinancing Notes), forms of Confidentiality Agreements will be available to Noteholders, Agent Members and Beneficial Holders and proposed transferees of the Notes (or the Beneficial Interests therein) from the Registrar, initially at the Corporate Trust Office. Each

such Confidentiality Agreement shall be delivered to the Registrar promptly upon execution by the parties thereto and the Registrar shall record the receipt of such Confidentiality Agreement. The Registrar shall promptly, but in any event no later than two Business Days after receipt of any such executed Confidentiality Agreement, furnish a copy of such executed Confidentiality Agreement to the Trustee, the Issuer and the Servicer and shall maintain a list of proposed transferees (including Noteholders and Beneficial Holders) who have furnished such executed Confidentiality Agreements, whether or not such proposed transferees purchase any Notes (or any Beneficial Interests therein), and make such list available for inspection at the request of the Trustee, the Issuer or the Servicer.

(k) Notwithstanding any other provision contained in this Indenture to the contrary, any Noteholder or Beneficial Holder may assign a security interest in, or pledge, all or any portion of the Notes (or any interest therein) held by it to a lender or a trustee or collateral agent (or other similar representative) under any indenture, loan agreement or similar agreement to which such Noteholder or Beneficial Holder is party in support of any obligations of such Noteholder or Beneficial Holder to a holder or holders of securities or other obligations issued by such Noteholder or Beneficial Holder; provided, that no such assignment or pledge shall release the assigning or pledging Noteholder or Beneficial Holder from its obligations hereunder; provided, further, that any assignee or pledgee shall be required to execute and deliver to the Registrar an appropriate Confidentiality Agreement as a condition of such assignment or pledge.

Section 2.12 Temporary Definitive Notes. Pending the preparation of Definitive Notes of any class, the Issuer may execute and the Trustee may authenticate and deliver temporary Definitive Notes of such class that are printed, lithographed, typewritten or otherwise produced, in any denomination, containing substantially the same terms and provisions as are set forth in the applicable Exhibit or in any indenture supplemental hereto, except for such appropriate insertions, omissions, substitutions and other variations relating to their temporary nature as a Responsible Officer of the Issuer executing such temporary Definitive Notes may determine, as evidenced by his or her execution of such temporary Definitive Notes.

If temporary Definitive Notes of any class are issued, the Issuer shall cause such Definitive Notes of such class to be prepared without unreasonable delay. After the preparation of Definitive Notes of such class, the temporary Definitive Notes shall be exchangeable for Definitive Notes upon surrender of such temporary Definitive Notes at the Corporate Trust Office, without charge to the Noteholder thereof. Upon surrender for cancellation of any one or more temporary Definitive Notes of any class, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange therefor Definitive Notes of like class, in authorized denominations and in the same aggregate principal amounts. Until so exchanged, such temporary Definitive Notes shall in all respects be entitled to the same benefits under this Indenture as Definitive Notes.

Section 2.13 Statements to Noteholders.

(a) On each Payment Date and any other date for distribution of any payments with respect to any class of Notes then Outstanding, the Trustee shall deliver a report, covering the information set forth in Exhibit D and prepared by the Servicer, giving effect to such payments (each, a "Distribution Report"), to (i) each Noteholder and Beneficial Holder included

on the Approved Holder List, (ii) the Issuer, (iii) the Calculation Agent and (iv) the Equityholders, and to no other Person. Each Noteholder and Beneficial Holder shall be entitled to receive a Distribution Report only if such Noteholder or Beneficial Holder has executed and delivered to the Registrar a Confidentiality Agreement.

(b) Each Distribution Report provided to each Noteholder and Beneficial Holder by the Trustee for each Payment Date pursuant to Section 2.13(a), commencing September 1, 2011, shall be accompanied by (i) a statement prepared by the Servicer setting forth an analysis of the Collection Account activity for the period commencing on the day next following the preceding Calculation Date and ending on the Calculation Date relating to such Payment Date and which shall set forth, among other things, the aggregate amount payable or paid to the Seller pursuant to Section 3.4 and (ii) the information with respect to collections and payments, if any, that the Issuer shall have provided to the Trustee pursuant to Section 5.3 (or the Servicer shall have provided to the Trustee pursuant to Section 3.1 of the Servicing Agreement) during the Interest Accrual Period then ended (including any reports produced by Counterparty pursuant to Section 9.3(f) of the Counterparty License Agreement, documentation evidencing the receipt and calculation of any Currency Hedge Payments and documentation evidencing the exchange of yen to dollars pursuant to Section 3.12 or pursuant to the Currency Hedge Agreement (including the rate of exchange and calculation of the amounts payable in respect of such exchange)), all of which information shall be treated confidentially pursuant to the terms of the Confidentiality Agreement. Notwithstanding the foregoing, the Trustee shall distribute, within five Business Days of the Trustee's receipt from the Servicer, any reports that the Servicer indicates in writing were produced by Counterparty pursuant to Section 9.3(f) of the Counterparty License Agreement to each Noteholder and Beneficial Holder included on the Approved Holder List.

(c) After the end of each calendar year but not later than the latest date permitted by law, the Trustee shall (or shall instruct any Paying Agent to) furnish to each Person who at any time during such calendar year was a Noteholder of any class of Notes a statement (for example, a Form 1099 or any other means required by law) prepared by the Trustee containing the sum of the amounts determined pursuant to the information covered by Exhibit D with respect to the class of Notes for such calendar year or, in the event such Person was a Noteholder of any class of Notes during only a portion of such calendar year, for the applicable portion of such calendar year, and such other items as are readily available to the Trustee and that a Noteholder shall reasonably request as necessary for the purpose of such Noteholder's preparation of its U.S. federal income or other tax returns. So long as any of the Notes are registered in the name of DTC or its nominee, such report and such other items will be prepared on the basis of such information supplied to the Trustee by DTC and the Agent Members and will be delivered by the Trustee to DTC and by DTC to the applicable Beneficial Holders in the manner described above. In the event that any such information has been provided by any Paying Agent directly to such Person through other tax-related reports or otherwise, the Trustee in its capacity as Paying Agent shall not be obligated to comply with such request for information.

(d) At such time, if any, as the Notes of any class are issued in the form of Definitive Notes, the Trustee shall prepare and deliver the information described in Section 2.13(c) to each Noteholder of a Definitive Note of such class for the relevant period of registered ownership of such Definitive Note as appears on the books and records of the Trustee, subject to

confirmation that each such Noteholder has executed and delivered to the Registrar a Confidentiality Agreement.

(e) The Trustee shall be at liberty to sanction any method of giving notice to the Noteholders of any class if, in its opinion, such method is reasonable, having regard to the number and identity of the Noteholders of such class and/or to market practice then prevailing, is in the best interests of the Noteholders of such class, and any such notice shall be deemed to have been given on such date as the Trustee may approve; provided, that notice of such method is given to the Noteholders of such class in such manner as the Trustee shall require.

Section 2.14 Identification Numbers. The Issuer in issuing the Notes may use CUSIP, CINS, ISIN, private placement or other identification numbers (if then generally in use), and, if so, the Trustee shall use such CUSIP, CINS, ISIN, private placement or other identification numbers, as the case may be, in notices of redemption or exchange as a convenience to Noteholders; provided, that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption or exchange and that reliance may be placed only on the other identification numbers printed on the Notes; provided, further, that failure to use CUSIP, CINS, ISIN, private placement or other identification numbers in any notice of redemption or exchange shall not affect the validity or sufficiency of such notice.

Section 2.15 Refinancing Notes.

(a) Subject to Section 2.15(b), Section 2.15(c) and Section 2.15(d), the Issuer may issue Refinancing Notes pursuant to this Indenture solely for the purpose of refinancing all, but not part, of the Outstanding Principal Balance of any class of Notes (including a refinancing of Refinancing Notes). Each refinancing of any class of Notes with the proceeds of an offering of Refinancing Notes (a "Refinancing") shall be authorized pursuant to one or more Resolutions. Each Refinancing Note shall be designated generally as a Note for all purposes under this Indenture, with such further designations added or incorporated in such title as specified in the related Resolution and set forth in any indenture supplemental hereto providing for the issuance of such Notes or specified in the form of such Notes, as the case may be. The Refinancing Notes shall be issued on the Redemption Date on which the Redemption in whole of the class of Notes being refinanced is to occur as provided in Section 3.10 and shall rank equal in priority relative to the class of Notes being refinanced.

(b) A Refinancing of any class of Notes shall be effected as a Redemption pursuant to Section 3.9, provided that a Refinancing of the Original Class A Notes shall be effected as an Optional Redemption pursuant to Section 3.9(b). On the date of any Refinancing, the Issuer shall issue and sell an aggregate principal amount of Refinancing Notes (when added to the Available Collections Amount and any funds in the Interest Reserve Account, the Redemption Account or the Capital Account used or to be used in connection with such Refinancing) resulting in proceeds in an amount sufficient to pay in full the applicable Redemption Price of the Notes being refinanced in whole thereby plus the Refinancing Expenses relating thereto. The proceeds of each sale of Refinancing Notes shall be used to the extent necessary to make the deposit required by Section 3.10 and to pay such Refinancing Expenses. Subject to Section 3.10(b), once a notice of a Redemption in respect of any Refinancing is

published in accordance with Section 3.10(a), each class of Notes to which such notice applies shall become due and payable on the Redemption Date stated in such notice at their Redemption Price.

(c) Each Refinancing Note shall contain such terms as may be established in or pursuant to the related Resolution (subject to Section 2.1) and set forth in any indenture supplemental hereto providing for the issuance of such Notes or specified in the form of such Notes to the extent permitted below. Prior to the issuance of any Refinancing Notes, any or all of the following, as applicable, with respect to the related issue of Refinancing Notes shall have been determined by the Issuer and set forth in such Resolution and in any indenture supplemental hereto providing for the issuance of such Notes or specified in the form of such Notes, as the case may be:

(i) the class of Notes to be refinanced by such Refinancing Notes;

(ii) the aggregate principal amount of each class of Refinancing Notes that may be issued in respect of such Refinancing;

(iii) the proposed date of such Refinancing;

(iv) the Final Legal Maturity Date of each class of such Refinancing Notes;

(v) the rate at which such Refinancing Notes shall bear interest or the method by which such rate shall be determined;

(vi) the denomination or denominations in which any class of such Refinancing Notes shall be issuable;

(vii) whether such Refinancing Notes will be subject to redemption pursuant to Section 3.9(c);

(viii) whether any such Refinancing Notes are to be issuable initially in temporary or permanent global form and, if so, whether beneficial owners of interests in any such permanent global Refinancing Note may exchange such interests for Refinancing Notes of such class and of like tenor and of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 2.7, and the circumstances under which and the place or places where any such exchanges may be made and the identity of any initial depositary therefor; and

(ix) any other terms, conditions, rights and preferences (or limitations on such rights and preferences) relating to the class of Refinancing Notes (which terms shall comply with Applicable Law and not violate any restrictions of this Indenture).

(d) If any of the terms of any issue of Refinancing Notes are established by action taken pursuant to one or more Resolutions, such Resolutions shall be delivered to the Trustee setting forth the terms of such Refinancing Notes.

Section 2.16 Subordinated Notes.

(a) Subject to Section 2.16(b), Section 2.16(c) and Section 2.16(d), the Issuer may issue Subordinated Notes pursuant to this Indenture (each, a "Subordinated Note Issuance") for any purpose, including, at the option of the Issuer, for the purpose of funding a redemption of the Class A Notes, in whole or in part. Each Subordinated Note Issuance shall be authorized pursuant to one or more Resolutions. Each Subordinated Note shall be designated generally as a Note for all purposes under this Indenture. Each Subordinated Note shall have such further designations added or incorporated in such title as specified in the related Resolution and set forth in any indenture supplemental hereto providing for the issuance of such Notes or specified in the form of such Notes, as the case may be. There are no limitations on the use of proceeds from the issuance of any such Subordinated Notes, including making dividends or distributions to the Equityholders and redeeming the Class A Notes in whole or in part. If the proceeds of any Subordinated Notes are being used to redeem the Class A Notes, in whole or in part, such Subordinated Notes shall be issued on the Redemption Date on which the Optional Redemption of the Class A Notes being refinanced is to occur as provided in Section 3.10.

(b) If the proceeds of any Subordinated Notes are being used to redeem any Class A Notes, such redemption shall be effected as an Optional Redemption pursuant to Section 3.9(b). On the date of any such Optional Redemption, the Issuer shall issue and sell an aggregate principal amount of Subordinated Notes in an amount not less than the amount sufficient to pay in full the applicable Redemption Price of the Notes being redeemed thereby plus the Transaction Expenses relating thereto. The proceeds of each sale of such Subordinated Notes shall be used to make the deposit required by Section 3.10, to the extent applicable, to pay such Transaction Expenses and/or for such other purposes, if any, as shall be specified in the Resolution authorizing the issuance of such Subordinated Notes. Subject to Section 3.10(b), once a notice of Redemption in respect of any Subordinated Note Issuance is published in accordance with Section 3.10(a), each class of Notes to which such notice applies shall become due and payable on the Redemption Date stated in such notice at their Redemption Price.

(c) Each Subordinated Note shall contain such terms as may be established in or pursuant to the related Resolution (subject to Section 2.1) and set forth in any indenture supplemental hereto providing for the issuance of such Notes or specified in the form of such Notes to the extent permitted herein, shall rank in priority relative to any other classes (or sub-classes) of Subordinated Notes as specified in such Resolution and set forth in an indenture supplemental hereto and, in any event, shall be subordinate to the Class A Notes to the extent provided in this Indenture. Prior to the issuance of any such Subordinated Notes, any or all of the following, as applicable, with respect to the related Subordinated Note Issuance shall have been determined by the Issuer and set forth in such Resolution and in any indenture supplemental hereto or specified in the form of such Subordinated Notes, as the case may be, with respect to the such Subordinated Notes to be issued:

(i) the aggregate principal amount of any such Subordinated Notes that may be issued;

(ii) the proposed date of such Subordinated Note Issuance;

(iii) the Final Legal Maturity Date of any such Subordinated Notes;

(iv) whether any such Subordinated Notes are to have the benefit of any reserve account and, if so, the amount and terms thereof;

(v) the rate at which such Subordinated Notes shall bear interest or the method by which such rate shall be determined;

(vi) the denomination or denominations in which such Subordinated Notes shall be issuable;

(vii) whether such Subordinated Notes will be subject to redemption pursuant to Section 3.9(c);

(viii) whether any such Subordinated Notes are to be issuable initially in temporary or permanent global form and, if so, whether beneficial owners of interests in any such permanent global Subordinated Note may exchange such interests for Subordinated Notes of like tenor and of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 2.7, and the circumstances under which and the place or places where any such exchanges may be made and the identity of any initial depositary therefor;

(ix) the ranking in priority of such Subordinated Notes relative to any other classes (or sub-classes) of Subordinated Notes;

(x) the use of proceeds of such Subordinated Note Issuance; and

(xi) any other terms, conditions, rights and preferences (or limitations on such rights and preferences) relating to such Subordinated Notes (which terms shall comply with Applicable Law and not violate any restrictions of this Indenture).

(d) If any of the terms of any issue of Subordinated Notes are established by action taken pursuant to one or more Resolutions, such Resolutions shall be delivered to the Trustee setting forth the terms of such Subordinated Notes.

(e) Any Subordinated Notes shall be subordinated to the Class A Notes pursuant to the priority of payment provisions under this Indenture, and no payments of principal, interest or Premium, if any, may be made on such Subordinated Notes from the Available Collections Amount until the Class A Notes have been paid in full. In addition, while any Class A Notes are Outstanding, Subordinated Notes may only be redeemed by the Issuer with proceeds from Refinancing Notes in respect of such Subordinated Notes or capital contributions from the Equityholders.

Section 2.17 Limitation on Number of Holders of Notes. The Issuer shall not issue, and the Registrar shall not issue or exchange or register the transfer of, any Note if, immediately after such issuance, exchange or transfer, there would be more than 95 Noteholders (in the case of Notes that are Definitive Notes) or Beneficial Holders (in the case of Notes that are Global Notes), taken together in the aggregate, and any purported issuance, exchange or transfer in

violation of this Section 2.17 shall be void ab initio and result in the purported Noteholder or Beneficial Holder not being treated as a Noteholder or Beneficial Holder, as the case may be, for purposes of this Indenture. The Issuer shall (i) immediately notify the Registrar if the Issuer has actual knowledge that there are more than 95 Noteholders and Beneficial Holders, taken together in the aggregate (an "Excess Holder Event"), and (ii) furnish to the Registrar such additional information available to it as the Registrar may reasonably request from time to time to permit the Registrar to prepare the Approved Holder Lists, the DTC Lists, the Actual Beneficial Holder Lists and the Escrow Lists (collectively, the "Holder Lists") pursuant to Section 2.5(d). In determining whether an Excess Holder Event has occurred, or for any other purpose under this Indenture, the Registrar may assume without further inquiry that the only Noteholders and Beneficial Holders that it must take into consideration are those named in the most recently updated Holder Lists maintained by the Registrar. For the avoidance of doubt, neither the Trustee nor the Registrar is required to inquire into or update the Holder Lists except as required by Section 2.5(d).

ARTICLE III
ACCOUNTS; PRIORITY OF PAYMENTS

Section 3.1 Establishment of Accounts.

(a) Pursuant to the terms of the Servicing Agreement, the Issuer will cause the Servicer, acting on behalf of the Issuer, to establish and maintain with the Operating Bank on its books and records in the name of the Issuer, subject to the Liens established under this Indenture, (i) a collection account (the "Collection Account"), (ii) a redemption account (the "Redemption Account"), (iii) a capital contribution account (the "Capital Account"), (iv) an escrow account (the "Escrow Account"), (v) an interest reserve account (the "Interest Reserve Account") and (vi) any additional accounts the establishment of which is set forth in a Resolution delivered by the Issuer to the Servicer and the Trustee, in each case at such time as is set forth in this Section 3.1 or in such Resolution. Each Account (other than the Escrow Account) shall be established and maintained as an Eligible Account so as to create, perfect and establish the priority of the Liens established under this Indenture in such Account (other than the Escrow Account) and all cash, Eligible Investments and other property from time to time deposited therein and otherwise to effectuate the Liens under this Indenture.

(b) The Trustee as the Operating Bank shall have sole dominion and control over the Accounts (other than the Escrow Account) (including, among other things, the sole power to direct withdrawals or transfers from such Accounts and to direct the investment and reinvestment of funds in such Accounts, subject to Section 3.2). The Trustee as the Operating Bank shall make withdrawals and transfers from the Accounts in accordance with the terms of this Indenture based on the Relevant Information and as calculated by it pursuant to this Indenture. Each of the Issuer and the Trustee as the Operating Bank acknowledges and agrees that the Accounts (other than the Escrow Account) are "deposit accounts" or "investment property" within the meaning of Section 9-102 of the UCC and that the Trustee has "control", for purposes of Section 9-314 of the UCC, of such Accounts (other than the Escrow Account) that are maintained with the Trustee as the Operating Bank. The Issuer agrees that, if any Account (other than the Escrow Account) is established or maintained with any Operating Bank other than the Trustee, the Issuer shall direct the Servicer to cause such Operating Bank to enter into an agreement with the Trustee, the

Issuer and the Servicer pursuant to which such Operating Bank agrees to comply with any and all instructions of the Trustee directing the disposition, investment and reinvestment of funds in all Accounts (other than the Escrow Account) maintained with such Operating Bank without the further consent of the Issuer (or the Servicer), and the Issuer shall take such other actions as are reasonably required by the Trustee to establish its "control", for purposes of Section 9-314 of the UCC, over any such Accounts (other than the Escrow Account). The Trustee as the Operating Bank hereby confirms that it has established the following accounts in the name of the Issuer: (a) the Collection Account (account number 145651000); (b) the Redemption Account (account number 145651002); (c) the Capital Account (account number 145651004); (d) the Escrow Account (account number 145651003); and (e) the Interest Reserve Account (account number 145651005) (collectively, the "Closing Day Accounts"). The Trustee, the Issuer and the Trustee as the Operating Bank hereby agree that (i) the Trustee as the Operating Bank shall comply with all instructions originated by the Trustee directing the disposition of funds in any Closing Day Account or any other Account maintained with the Trustee as the Operating Bank (other than the Escrow Account) and all entitlement orders originated by the Trustee with respect to any Closing Day Account or any other Account (other than the Escrow Account), in each case without further consent by the Issuer, and (ii) the jurisdiction of the Trustee as the Operating Bank for purposes of the UCC shall be the State of New York.

(c) If, at any time, any Account (other than the Escrow Account) ceases to be an Eligible Account, the Issuer will cause the Servicer or an agent thereof to, within ten Business Days, establish a new Account meeting the conditions set forth in this Section 3.1 in respect of such Account and transfer any cash or investments in the existing Account to such new Account, and, from the date such new Account is established, it shall have the same designation as the existing Account. If the Operating Bank should change at any time, then the Issuer will cause the Servicer, acting on behalf of the Issuer, to thereupon promptly establish replacement Accounts as necessary at the successor Operating Bank and transfer the balance of funds in each Account then maintained at the former Operating Bank pursuant to the terms of the Servicing Agreement to such successor Operating Bank.

(d) The Issuer will cause the Servicer to maintain the Collection Account at the Operating Bank not later than the Closing Date, and the Collection Account shall bear a designation clearly indicating that the funds or other assets deposited therein are held for the benefit of the Trustee. Except as expressly provided herein, all Collections shall be deposited in the Collection Account and transferred therefrom in accordance with the terms of this Indenture. No funds shall be deposited in the Collection Account that do not constitute Collections, except as expressly provided in this Indenture, without the prior written consent of the Trustee.

(e) The Issuer will cause the Servicer to maintain the Redemption Account at the Operating Bank that shall bear a designation clearly indicating that the funds or other assets deposited therein are held for the benefit of the Trustee, who shall hold such amounts for the benefit of the Noteholders of Notes that are the subject of such Redemption. All amounts received for the purpose of any such Redemption shall be deposited in such Redemption Account and shall be held in such Account until such amounts are applied to pay the Redemption Price of such Notes (together with related Expenses) and such Notes are cancelled by the Trustee.

(f) The Issuer will cause the Servicer to maintain the Capital Account at the Operating Bank not later than the Closing Date, and the Capital Account shall bear a designation clearly indicating that the funds or other assets deposited therein are held for the benefit of the Trustee. Except as expressly provided herein, all capital contributions made to the Issuer shall be deposited and held in the Capital Account and transferred therefrom (i) to the Noteholders in payment of any Interest Amount in accordance with Section 3.8, (ii) on the Final Legal Maturity Date, to the Noteholders in payment of the Outstanding Principal Balance in accordance with Section 3.8, (iii) to the Redemption Account only to the extent specifically provided for in any written notice of an Optional Redemption delivered to the Trustee pursuant to Section 3.9(b), (iv) to the Equityholders only to the extent permitted by Section 5.2(b) (solely as relates to the issuance of Capital Securities of the Issuer in accordance with such Section 5.2(b)) and (v) to the Equityholders only to the extent permitted by Section 3.8.

(g) The Issuer will cause the Servicer to maintain the Escrow Account at the Operating Bank in the name of the Trustee that shall bear a designation clearly indicating that the funds or other assets deposited therein are held for the benefit of any such Noteholder, Agent Member or Beneficial Holder. All amounts withheld from such Noteholder, Agent Member or Beneficial Holder pursuant to Section 2.5(d) shall be deposited in such Escrow Account and shall be held in such Escrow Account until such amounts are distributed as provided in Section 2.5(d).

(h) The Issuer will cause the Servicer to maintain the Interest Reserve Account at the Operating Bank that shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of the Trustee. Amounts shall be deposited into the Interest Reserve Account only pursuant to Section 3.3(a)(iii) or Section 3.8. All such amounts shall be held in such Interest Reserve Account and transferred therefrom only pursuant to Section 3.8.

Section 3.2 Investments of Cash. So long as no Event of Default has occurred and is continuing, the Servicer may direct the Trustee in writing to invest and reinvest the funds on deposit in the Collection Account and the Interest Reserve Account in Eligible Investments, to the extent such Eligible Investments are available to the relevant Operating Bank, and advise the Trustee in writing of any depository institution or trust company described in the proviso to the definition of Eligible Investments; provided, however, that, so long as an Event of Default has occurred and is continuing, the Trustee shall direct each Operating Bank to invest such amount in Eligible Investments described in clause (a) of the definition thereof from the time of receipt thereof until such time as such amounts are required to be distributed pursuant to the terms of this Indenture. In the absence of written direction delivered to the Trustee from the Servicer, the Trustee shall direct each Operating Bank to invest any funds in Eligible Investments described in clause (a) of the definition thereof. The Trustee shall direct each Operating Bank to make such investments and reinvestments in accordance with the terms of the following provisions:

(a) the Eligible Investments shall have maturities and other terms such that sufficient funds shall be available to make required payments pursuant to this Indenture on the Business Day immediately preceding the next occurring Payment Date after such investment is made;

(b) if any funds to be invested are received in the Accounts after 1:00 p.m., New York City time, on any Business Day, such funds shall, if possible, be invested in overnight Eligible Investments;

(c) all interest and earnings on Eligible Investments held in the Accounts shall be invested in Eligible Investments on an overnight basis and credited to the appropriate Account until the next Payment Date; and

(d) the Issuer acknowledges that regulations of the U.S. Comptroller of the Currency grant the Issuer the right to receive confirmations of security transactions as they occur, and the Issuer specifically waives receipt of such confirmations to the extent permitted by Applicable Law and acknowledges that the Operating Bank will instead furnish monthly cash transaction statements that will detail all investment transactions as set forth in this Indenture.

Section 3.3 Payments and Transfers in connection with Issuance of Notes.

(a) On the Closing Date, the Trustee shall, subject to the receipt of written direction from the Issuer, upon receipt of the Note Purchase Price from the sale by the Issuer of the Original Class A Notes, make the following payments from such proceeds in the amounts so directed by the Issuer:

(i) to such Persons and in such amounts as shall be specified by the Issuer, such Transaction Expenses as shall be due and payable in connection with the issuance and sale of the Notes;

(ii) to the Seller, in accordance with the Purchase and Sale Agreement, the amount by which the Note Purchase Price exceeds the sum of (x) such Transaction Expenses and (y) the Initial Interest Reserve Amount; and

(iii) to the Interest Reserve Account, the Initial Interest Reserve Amount.

(b) On the date of issuance of any Subordinated Notes or any Refinancing Notes, the Trustee shall, subject to the receipt of written direction from the Issuer upon receipt of the proceeds of the sale by the Issuer of such Notes, make such payments and transfers as shall be specified in this Indenture, the related Resolution and any indenture supplemental hereto in respect of such Notes, copies of which Resolution and indenture supplemental hereto shall be attached to such written direction.

(c) The Trustee shall hold all funds received on or prior to the Closing Date from the Note Purchasers in trust for the Note Purchasers pending the Closing Date. Upon receipt by the Trustee of the aggregate Note Purchase Price from all Note Purchasers, the Trustee shall disburse the Note Purchase Price in accordance with this Section 3.3. If the aggregate Note Purchase Price shall not have been received by the Trustee by 3:30 p.m. (New York City time) on the Closing Date, or if the closing of the transactions contemplated by the Purchase Agreements shall not otherwise be capable of being consummated by 3:30 p.m. (New York City time) on the Closing Date, then each Note Purchaser who has paid its respective portion of the Note Purchase Price shall have the right to instruct the Trustee in writing at or after 3:30 p.m. (New York City time) on the Closing Date to return such portion of the Note Purchase Price to

such Note Purchaser prior to the close of business on the Closing Date or as soon thereafter as reasonably practicable.

Section 3.4 Seller Payments. Subject to Section 11.2, within ten Business Days of receipt of Royalties (whether denominated in dollars or yen) in the Collection Account from Counterparty, the Trustee shall remit 4% of the gross amount of such Royalties (the "Seller Payments") to the Seller at such account or accounts as the Seller shall designate in writing to the Trustee.

Section 3.5 Calculation Date Calculations.

(a) As soon as reasonably practicable after each Calculation Date (a "Relevant Calculation Date"), but in no event later than 12:00 noon (New York City time) on the second Business Day prior to the immediately succeeding Payment Date, the Calculation Agent shall, based on the Calculation Date Information received by the Calculation Agent, and based on information known to it or Relevant Information provided to it, make the following determinations and calculations (and each of the Trustee and the Issuer (for itself and on behalf of the Servicer) agrees to provide any Relevant Information reasonably requested by the Calculation Agent for the purpose of making such determinations and calculations):

(i) the Available Collections Amount for such Payment Date;

(ii) (x) the amount of Collections received during the period commencing on the day immediately following the Calculation Date that immediately preceded such Relevant Calculation Date and ending on such Relevant Calculation Date and (y) the amount, if any, to be transferred from the Interest Reserve Account and the Capital Account as of the Relevant Calculation Date to the Collection Account on such Payment Date in accordance with Section 3.8 and as calculated pursuant to Section 3.5(a)(x);

(iii) the balance of funds on deposit in each Account other than the Collection Account on such Relevant Calculation Date and the amount of interest and earnings (net of losses and investment expenses), if any, on investments of funds on deposit therein from the day immediately following the Calculation Date that immediately preceded such Relevant Calculation Date and ending on such Relevant Calculation Date;

(iv) the balance of funds on deposit in the Collection Account on such Relevant Calculation Date and the amount of interest and earnings (net of losses and investment expenses), if any, on investments of funds on deposit therein from the day immediately following the Calculation Date that immediately preceded such Relevant Calculation Date and ending on such Relevant Calculation Date;

(v) Taxes owed by the Issuer;

(vi) the amounts that have been paid or otherwise become payable to the Seller pursuant to Section 3.4 from the day immediately following the Calculation Date that immediately preceded such Relevant Calculation Date and ending on such Relevant Calculation Date;

(vii) (x) all other Expenses due and payable on such Payment Date and not previously paid or reimbursed, and to be paid or reimbursed, pursuant to Section 3.7(a)(ii), in the amounts shown on all supporting documentation therefor and attached to the Calculation Date Information received by the Calculation Agent, and (y) all Expenses previously reimbursed and paid to the Issuer in respect of Expenses pursuant to Section 3.7(c) from the day immediately following the Calculation Date that immediately preceded such Relevant Calculation Date and ending on such Relevant Calculation Date;

(viii) the applicable interest rate on each class of Floating Rate Notes (if any) determined on the Reference Date for the Interest Accrual Period beginning on such Payment Date and the Interest Amount (including any Additional Interest) on each class of Floating Rate Notes and Fixed Rate Notes for such Payment Date;

(ix) if such Payment Date is a Redemption Date on which a Redemption of Notes is scheduled to occur, the amount necessary to pay the Redemption Price (and related Expenses) of the Notes to be repaid on such Redemption Date and the Redemption Premium, if any, to be paid as part of such Redemption Price;

(x) the Interest Amount due to Noteholders of Class A Notes on such Payment Date and the difference, if any, between the Interest Amount due to the Noteholders of Class A Notes on such Payment Date and the Available Collections Amount for such Payment Date, after giving effect to the payment of all amounts to be paid or reimbursed on such Payment Date pursuant to Section 3.7(a)(i) and Section 3.7(a)(ii) (such difference, an "Interest Shortfall"), and, with respect to each Interest Shortfall, the amount to be withdrawn from the Interest Reserve Account and/or the Capital Account, if any, determined as provided in Section 3.8;

(xi) the Outstanding Principal Balance of each class of Notes on such Payment Date immediately prior to any principal payment with respect to the Outstanding Principal Balance on such Payment Date and the amount of any principal payment with respect to the Outstanding Principal Balance to be made in respect of each class of Notes on such Payment Date, taking into account the other payments to be made on such Payment Date entitled to priority pursuant to Section 3.7;

(xii) the amounts, if any, distributable to the Issuer on such Payment Date pursuant to Section 3.7(a)(viii);

(xiii) the amount of the Seller Shortfall Payment, if any, to be made on such Payment Date pursuant to Section 3.11;

(xiv) any amounts payable to the Interest Reserve Account on such Payment Date pursuant to Section 3.7(a)(iv); and

(xv) any other information, determinations and calculations reasonably required in order to give effect to the terms of this Indenture and the other Deal Documents.

(b) Following the calculations and determinations by the Calculation Agent described in Section 3.5(a), and not later than 1:00 p.m., New York City time, on the second Business Day prior to the immediately succeeding Payment Date, the Calculation Agent shall provide to each of the Issuer, the Servicer and the Trustee a calculation report (a "Calculation Report") listing the determinations and calculations set forth in Section 3.5(a).

Section 3.6 Payment Date First Step Transfers. On each Payment Date, the Trustee shall transfer from any Account (other than the Collection Account and the Capital Account) to the Collection Account the amount of interest and earnings (net of losses and investment expenses), if any, earned as a result of investments of funds on deposit therein from the day immediately following the Calculation Date that immediately preceded the Relevant Calculation Date and ending on the Relevant Calculation Date.

Section 3.7 Payment Date Second Step Withdrawals.

(a) Subject to Section 3.4 and Section 3.7(d), on each Payment Date, after the applicable transfers provided for in Section 3.6 have been made, after the making of any Seller Shortfall Payment pursuant to Section 3.11 and after giving effect to Section 3.7(e), the Trustee shall distribute (or instruct the Paying Agent to distribute) from the Collection Account the amounts set forth below in the order of priority set forth below but, in each case, only to the extent that all amounts then required to be paid ranking prior thereto have been paid in full:

(i) first, to the Issuer for the payment of all Taxes owed by the Issuer, if any;

(ii) second, to the payment of all Expenses not previously paid or reimbursed, in the amounts shown in all supporting documentation attached to the Calculation Date Information received by the Calculation Agent;

(iii) third, to the Trustee for distribution to the Noteholders of the Class A Notes, the ratable payment of the Interest Amount then due and payable on the Class A Notes, taking into account any amounts previously paid pursuant to Section 2.5(e) and any adjustment to be made pursuant to Section 3.7(d) and any amounts to be paid pursuant to Section 3.8, in each case on such Payment Date;

(iv) fourth, as long as no Event of Default has occurred and is continuing, on the September 1, 2014 Payment Date, the September 1, 2015 Payment Date or the September 1, 2016 Payment Date, to the Interest Reserve Account, the amount set forth in a written direction to the Trustee from the Issuer on or prior to the related Calculation Date; provided, that such application of funds, together with any such prior application of funds, shall not exceed $2,100,000 in the aggregate;

(v) fifth, to the Trustee for distribution to the Noteholders of the Class A Notes, principal payments with respect to the Outstanding Principal Balance on the Class A Notes (without Premium or penalty), allocated pro rata in proportion to the Outstanding Principal Balance of such Class A Notes held by such Noteholders, until the Outstanding Principal Balance of the Class A Notes has been paid in full;

(vi) sixth, after the Class A Notes have been paid in full, to the Trustee for distribution to the Noteholders of the Subordinated Notes, if any, the principal amount of and any Interest Amount on the Subordinated Notes in accordance with the terms of the Subordinated Notes, until the Subordinated Notes have been paid in full;

(vii) seventh, after the Notes have been paid in full, to the ratable payment of all other obligations under this Indenture until all such amounts are paid in full; and

(viii) eighth, after the Notes and all amounts owing under clause (vii) above have been paid in full, to the Issuer, all remaining amounts.

(b) To the extent the Issuer receives amounts from the Trustee from the Collection Account pursuant to Section 3.7(a)(viii), such amounts may be distributed by the Issuer to the Equityholders (or as otherwise directed by the Equityholders or any Person designated by the Equityholders to give such directions) in their sole discretion. The provisions contained in this Section 3.7(b) may not be amended, modified, waived or terminated (including pursuant to any termination of this Indenture) without the prior written consent of the Equityholders materially and adversely affected thereby, and the provisions contained in this Section 3.7(b) shall survive the termination of this Indenture. The parties hereto specifically agree that each Equityholder materially and adversely affected thereby (i) is and shall be an express third-party beneficiary of the provisions of this Section 3.7(b) and (ii) shall have the right to enforce any provision of this Section 3.7(b).

(c) Notwithstanding anything herein to the contrary, but subject to the prior payment of funds pursuant to Section 3.4, so long as no Event of Default shall have occurred and be continuing, the Calculation Agent shall, on the 15th day of each calendar month (other than any month in which a Payment Date falls), reimburse and pay to the Issuer (or such other appropriate Person identified at the written instruction of the Issuer), from the Collection Account, an amount equal to the lesser of (i) all Expenses not previously paid or reimbursed and (ii) the balance of the Collection Account, in either case upon delivery to the Calculation Agent by the Issuer, not less than three Business Days prior to such 15th day, of supporting documentation therefor in writing.

(d) Notwithstanding anything herein to the contrary, the priority of payments set forth in Section 3.7(a) shall be adjusted to give effect to (i) any inaccuracy set forth in any report of an accounting firm pursuant to Section 6.14(b), such that each Person shall be restored on the immediately succeeding Payment Date (or, if necessary, the immediately succeeding Payment Dates) to the cash flow position that such Person would have been in had the accurate amounts set forth in such report been paid in accordance with Section 3.7(a) on the relevant prior Payment Dates, and (ii) the amount by which any Audit Expenses exceed $20,000 per annum (to the extent that such excess amount is to be borne by the Noteholders in accordance with Section 6.14(b)), such that any payments to the Noteholders pursuant to Section 3.7(a) shall first be offset against the payment of such Audit Expenses; provided, that the Issuer (or the Servicer) shall notify the Trustee in writing of the occurrence of the events described in the proviso to Section 6.14 and an itemization of the impact on the cash flows pursuant to Section 3.7(a).

(e) To the extent that any monies are deposited in the Collection Account to reimburse prior distributions in respect of a Seller Shortfall, such monies shall be paid to the Trustee on behalf of the Noteholders before making any other distributions pursuant to Section 3.7(a) to the extent that such monies otherwise would have been paid to such Noteholders on the prior respective Payment Date in accordance with this Section 3.7 in the absence of such Seller Shortfall.

Section 3.8 Interest Reserve Account and Capital Account; Interest Shortfalls. If the Calculation Agent has determined that an Interest Shortfall exists pursuant to the Calculation Report with respect to any Payment Date and there is a positive balance in the Interest Reserve Account on the Relevant Calculation Date immediately preceding such Payment Date, then on such Payment Date the Trustee shall withdraw from the Interest Reserve Account an amount equal to the lesser of the Interest Shortfall and the balance in the Interest Reserve Account and distribute it to the Noteholders of the Class A Notes in payment of the Interest Amount; provided, that, if the amount available in the Interest Reserve Account (if any) is less than the amount of such Interest Shortfall and there is a positive balance in the Capital Account on the Relevant Calculation Date immediately preceding such Payment Date, then on such Payment Date the Trustee shall, if directed in writing by the Issuer and the Seller, withdraw from the Capital Account an amount equal to the lesser of (i) the amount by which the Interest Shortfall exceeds the amount, if any, withdrawn from the Interest Reserve Account and (ii) the balance in the Capital Account and distribute it to the Noteholders of the Class A Notes in payment of the Interest Amount; provided, further, that the Trustee shall (a) make such a withdrawal from the Capital Account only once, whether in respect of such Payment Date or on any other Business Day, and (b) distribute any funds remaining in the Capital Account to the Equityholders upon their written request in the event that such one-time withdrawal from the Capital Account has been made. If funds from the Interest Reserve Account and the Capital Account are insufficient or otherwise not made available to pay the remaining Interest Shortfall, then the unpaid Interest Shortfall shall accrue interest at the interest rate applicable to the Class A Notes compounded annually. If such unpaid Interest Shortfall (and interest thereon) in the case of any Payment Date other than the Final Legal Maturity Date is not paid in full on or prior to the next succeeding Payment Date following the Payment Date on which such interest was first payable, an Event of Default shall occur on such next succeeding Payment Date (but not before such date). Notwithstanding the foregoing, if, on the Final Legal Maturity Date, (x) the portion of the Available Collections Amount available to pay in full the Outstanding Principal Balance on the Class A Notes, after giving effect to the other payments to be made on the Final Legal Maturity Date and entitled to priority pursuant to Section 3.7, are insufficient to pay in full the Outstanding Principal Balance on the Class A Notes, and (y) there is a positive balance in the Capital Account after giving effect to any withdrawal therefrom in respect of any Interest Shortfall, then on the Final Legal Maturity Date the Trustee shall withdraw from the Capital Account an amount equal to the lesser of the Outstanding Principal Balance on the Class A Notes and the balance of the Capital Account and distribute it to the Noteholders of the Class A Notes for payment of all or any portion of the Outstanding Principal Balance on the Class A Notes.

From and including the September 1, 2014 Payment Date to and including the September 1, 2016 Payment Date, if no Event of Default has occurred and is continuing, the Issuer may, at its option upon written direction to the Trustee on or prior to the related Calculation Date, replenish the Interest Reserve Account from time to time from the Available Collections Amount

on such Payment Date (after the payment of the amounts described in Section 3.4, Section 3.7(a)(i), Section 3.7(a)(ii) and Section 3.7(a)(iii)); provided, however, that all such replenishments (if any) taken together shall not exceed $2,100,000 in the aggregate.

On each of the September 1, 2013 Payment Date and the September 1, 2017 Payment Date, any funds remaining in the Interest Reserve Account (after any application of the first paragraph of this Section 3.8 on such September 1, 2013 Payment Date or September 1, 2017 Payment Date, as the case may be) shall be transferred to the Collection Account and included in the Available Collections Amount and applied as provided in Section 3.7 on such September 1, 2013 Payment Date or September 1, 2017 Payment Date, as the case may be.

Section 3.9 Redemptions.

(a) On any Redemption Date, the Trustee shall distribute the amounts in the applicable Redemption Account as provided herein and in the applicable Resolution, including:

(i) to the extent Subordinated Notes or Refinancing Notes were issued for the purpose of funding such Redemption, paying to such Persons as shall be specified by the Issuer such Transaction Expenses as shall be due and payable in connection with the issuance and sale of the applicable Subordinated Notes or Refinancing Notes;

(ii) remitting to the Noteholders of such class of Notes, in accordance with the Resolution authorizing such Redemption (and, if such Redemption Date is a Payment Date, after application of Section 3.7 and Section 3.8), an amount equal to the Redemption Price plus Premium, if any, allocated, in the event of a Redemption of such Notes in part, pro rata in proportion to the Outstanding Principal Balance of such Notes held by such Noteholders; and

(iii) making such other distributions and payments as shall be authorized and directed by the Resolution and indentures supplemental hereto executed in connection with such Redemption.

(b) Subject to the provisions of Section 3.9(c) and Section 3.10, on any Redemption Date (and, if such Redemption Date is a Payment Date, to the extent that any class of Notes will remain Outstanding after application of Section 3.7 and Section 3.8), the Issuer may elect to redeem such class of Notes, in whole, but not in part, out of the proceeds of any Refinancing Notes and any funds in the Interest Reserve Account in the case of a Refinancing of such class of Notes, or, in whole or in part, out of amounts available in the Capital Account or the Redemption Account for such purpose, if any, including the proceeds of any Subordinated Notes (but excluding in the case of a Redemption in part any funds in the Interest Reserve Account, except for any payment in respect thereof representing interest payable in connection with the Redemption), in each case, at the Redemption Price (any such redemption, an "Optional Redemption"). The Issuer shall give written notice of any such Optional Redemption to the Trustee and the Servicer not later than five Business Days prior to the date on which notice is to be given to Noteholders in accordance with Section 3.10(a) (unless the Trustee and any such Servicer agree to waive or limit the requirement for such notice). Such written notice to the Trustee shall include a copy of the Resolution authorizing such Optional Redemption and shall

set forth the relevant information regarding such Optional Redemption, including the information to be included in the notice given pursuant to Section 3.10(a).

(c) An indenture supplemental hereto providing for the issuance of any Subordinated Notes or Refinancing Notes may authorize one or more redemptions, in whole or in part, of such Notes, on such terms and subject to such conditions as shall be specified in such indenture supplemental hereto; provided, that, while any Class A Notes are Outstanding, such Subordinated Notes may only be redeemed by the Issuer with proceeds from Refinancing Notes in respect of such Subordinated Notes or capital contributions from the Equityholders.

(d) The application of Royalties or Currency Hedge Payments to principal payments on any Notes shall not be deemed to be a redemption or partial redemption of such Notes.

Section 3.10 Procedure for Redemptions.

(a) The Trustee (or the Servicer acting as its agent (or any authorized agent of any such Servicer)) shall give written notice in respect of any Redemption of any class of Notes under Section 3.9 to each Noteholder of such Notes at least 30 days but not more than 60 days before such Redemption Date. Each notice in respect of a Redemption given pursuant to this Section 3.10(a) shall state (A) the expected applicable Redemption Date, (B) the arrangements for making payments in respect of such Redemption, (C) the projected Redemption Price of the Notes to be redeemed, (D) in the case of a Redemption of the Notes of any class in part, the portion of the Outstanding Principal Balance of the Notes that is expected to be redeemed, (E) that Notes to be redeemed in a Redemption in whole must be surrendered (which action may be taken by any Noteholder or its authorized agent) to the Trustee to collect the Redemption Price on such Notes and (F) that, unless the Issuer fails to pay the Redemption Price, interest on Notes called for Redemption in whole shall cease to accrue on and after the Redemption Date. If mailed in the manner herein provided, the notice shall be conclusively presumed to have been given whether or not the Noteholder receives such notice.

(b) If, at the time of the mailing of any notice in respect of a Redemption, the Issuer shall not have irrevocably directed the Trustee to apply funds then on deposit with the Trustee or held by the Issuer and available to be used for such Redemption to redeem all of the Notes called for Redemption, such notice, at the election of the Issuer, may state that such Redemption is conditional and subject to the receipt of the redemption moneys in an amount sufficient to pay the principal of and Premium, if any, and interest on the Notes being redeemed and related Transaction Expenses by the Trustee on or before the Redemption Date and that such notice shall be of no force and effect, and the Issuer shall not be required to redeem such Notes, unless such Redemption moneys are so received on or before such Redemption Date.

(c) If notice in respect of a Redemption for any Notes shall have been given as provided in Section 3.10(a) and such notice shall not contain the language permitted at the Issuer's option under Section 3.10(b), such Notes shall become due and payable on the Redemption Date at the Corporate Trust Office at the applicable Redemption Price, and, unless there is a default in the payment of the applicable Redemption Price, interest on such Notes shall cease to accrue on and after the Redemption Date. Upon presentation and surrender of such

Notes at the Corporate Trust Office, such Notes shall be paid and redeemed at the applicable Redemption Price. On or before any Redemption Date in respect of such a Redemption, the Issuer shall, to the extent an amount equal to the Redemption Price of such Notes (and any Transaction Expenses relating thereto as of the Redemption Date) is not then held by the Issuer or on deposit in the Redemption Account, deposit or cause to be deposited in the Redemption Account an amount in immediately available funds so that the total amount in the Redemption Account shall be sufficient to pay such Redemption Price (and any Transaction Expenses relating thereto as of the Redemption Date).

(d) If notice in respect of a Redemption for any Notes shall have been given as provided in Section 3.10(a) and such notice shall contain the language permitted at the Issuer's option under Section 3.10(b), such Notes shall become due and payable on the Redemption Date at the Corporate Trust Office at the applicable Redemption Price and interest on such Notes shall cease to accrue on and after the Redemption Date; provided, that, in each case, the Issuer shall have deposited in the Redemption Account on or prior to 11:00 a.m. (New York City time) on the Redemption Date an amount sufficient to pay the Redemption Price (and any Transaction Expenses relating thereto as of the Redemption Date). Upon the Issuer making such deposit and presentation and surrender of such Notes at the Corporate Trust Office, such Notes shall be paid and redeemed at the applicable Redemption Price. If the Issuer shall not make such deposit on or prior to 11:00 a.m. (New York City time) on the Redemption Date, the notice in respect of Redemption shall be of no force and effect, and the principal on such Notes or specified portions thereof shall continue to bear interest as if such notice in respect of Redemption had not been given.

(e) All Notes that are redeemed will be surrendered to the Trustee for cancellation and may not be reissued or resold.

Section 3.11 Seller Shortfall. If, no later than ten Business Days prior to any Calculation Date, the Trustee receives written notice of the existence of a Seller Shortfall, the Trustee shall promptly (but in no event later than the next succeeding Business Day following receipt of such written notice) notify the Servicer, the Seller and the Issuer of such existence of a Seller Shortfall. Upon the Issuer or the Seller receiving notification of the same, or upon the Issuer or the Seller otherwise becoming aware of a Seller Shortfall, the Issuer shall cause the Servicer, no later than such Calculation Date, to confirm the amount of any such Seller Shortfall in writing to the Trustee, with a copy to the Issuer and the Seller. Unless the Trustee shall have received prior to the related Payment Date (i) written notification from the Seller or the Servicer certifying that any such Seller Shortfall has been cured in full or (ii) written notice from at least two-thirds of the Outstanding Principal Balance of the Senior Class of Notes that such payment shall not be made on such Payment Date, then prior to making any other distributions pursuant to Section 3.7 or Section 3.8, the Trustee shall make a Seller Shortfall Payment to Counterparty or the Currency Hedge Provider, as the case may be, on such Payment Date in the amount of such Seller Shortfall from the Collection Account; provided, that if Counterparty or the Currency Hedge Provider, as the case may be, shall refuse to accept such payment, then such funds shall be returned to the Collection Account for distribution in accordance with this Indenture on the first possible Payment Date. The Trustee shall have no duty under this Section 3.11 to determine whether a Seller Shortfall exists, and the Trustee may assume that no Seller Shortfall has occurred until and unless the Trustee receives written notice thereof. The Trustee is not a party

to and has no duties with respect to the Counterparty License Agreement or the Currency Hedge Agreement.

Section 3.12 Currency Exchange.

(a) Yen accumulated in the Collection Account as of 10:00 a.m., New York City time, on May 18 of any year (if such date is the expiration date of an Option), in an amount of yen equal to the lesser of (i) the amount of yen then accumulated in the Collection Account and (ii) an amount of yen equal to the notional amount of yen covered by such Option, shall be exchanged by the Issuer into dollars at such time to the extent that the yen-dollar foreign currency exchange spot rate at such time is $1£¥100 (provided, however, that the Issuer, in its discretion, may exchange a greater amount of yen on such date in its sole discretion). Such currency exchange shall be effected through the Currency Hedge Provider or an affiliate thereof in one or more foreign currency exchange spot market transactions at the then-prevailing yen-dollar foreign currency exchange spot rate. To the extent such date is the expiration date of an Option and the yen-dollar foreign currency exchange spot rate at such time is $1>¥100, the Issuer shall exchange yen for dollars through the physical settlement of such Option with respect to an amount of yen equal to the lesser of (A) the amount of yen then accumulated in the Collection Account and (B) an amount of yen equal to the notional amount of yen covered by such Option. Notwithstanding anything in the immediately preceding sentences of this Section 3.12(a) to the contrary, the Issuer shall not be required to exchange yen for dollars pursuant to the first or third sentence of this Section 3.12(a) on any May 18 that is an expiration date of an Option (whether or not the yen-dollar foreign currency exchange spot rate as of 10:00 a.m., New York City time, on such May 18 is $1£¥100) in an amount that is greater than, and the Issuer's obligation to exchange yen for dollars pursuant to such first or third sentence of this Section 3.12(a) shall be limited to, that amount of yen determined by subtracting (x) the amount of yen, if any, exchanged by the Issuer pursuant to Section 3.12(c) subsequent to the immediately preceding Calculation Date and prior to such May 18 from (y) the notional amount of yen with respect to such May 18 covered by such Option; provided, however, that the Issuer, in its discretion, may exchange a greater amount of yen on such date to the extent that such exchange otherwise complies with the provisions of Section 3.12(c) (without regard to the provisions limiting the effect of Section 3.12(c) to any Business Day other than the expiration date of an Option or another date on which the Issuer is required to effect an exchange of yen for dollars as described in this Section 3.12(a) or Section 3.12(b)). For the avoidance of doubt, if any May 18 is not the expiration date of an Option, the Issuer shall not be required to exchange yen in the Collection Account on such date for dollars pursuant to this Section 3.12(a) (even if the then-current yen-dollar foreign currency exchange spot rate is $1£¥100); provided, however, that, in such case, the Issuer may, in its sole discretion, elect to exchange yen for dollars to the extent otherwise permitted on such date in accordance with Section 3.12(c).

(b) All yen accumulated in the Collection Account as of 10:00 a.m., New York City time, on August 18 of any year or on November 18, 2020 shall be exchanged by the Issuer into dollars at such time, regardless of the then-prevailing yen-dollar foreign currency exchange spot rate or whether or not such date is the expiration date of an Option. Such currency exchanges shall take place in a foreign currency exchange spot market transaction at the then-prevailing foreign currency exchange spot rate through the Currency Hedge Provider or an

affiliate thereof and/or, if such date is also the expiration date of an Option, through physical settlement by the Currency Hedge Provider of such Option (or a portion thereof).

(c) On any Business Day other than the expiration date of an Option or another date on which the Issuer is required to effect an exchange of yen for dollars as described in Section 3.12(a) or Section 3.12(b), the Issuer shall have the right (but not the obligation), in its discretion, to effect foreign currency exchange spot market transactions through the Currency Hedge Provider or an affiliate thereof in order to exchange all or a portion of the yen then accumulated in the Collection Account for dollars at the then-current yen-dollar foreign currency exchange spot rate; provided, that, at such time, such yen-dollar foreign currency exchange spot rate is $1£¥100.

(d) To the extent any date on which the Issuer is required to exchange yen for dollars is a day that is not a Business Day, such currency exchange will not be required to be effected until the next succeeding Business Day.

(e) Notwithstanding anything in this Section 3.12 to the contrary, any currency exchange contemplated by this Section 3.12 may be effected through a Person other than the Currency Hedge Provider or an affiliate thereof in the event of a material breach of the Currency Hedge Agreement by the Currency Hedge Provider.

(f) Any foreign currency exchange transaction under this Section 3.12 shall occur upon written direction from the Issuer to the Trustee designating the amount of yen for exchange and providing wire instructions for delivery of such yen. Upon such written direction, the Trustee shall make such withdrawals from the Collection Account, and accept such deposits into the Collection Account, and otherwise reasonably cooperate with the Issuer, to facilitate such foreign currency exchange transactions. The Trustee shall have no duties under this Section 3.12 other than to follow such written direction of the Issuer with respect to delivery of yen for exchange to dollars. Without limitation of the foregoing, the Trustee shall have no duty to monitor Option expiration dates or yen-dollar foreign currency exchange spot rates, whether absolutely or relative to dollars.

ARTICLE IV
DEFAULT AND REMEDIES

Section 4.1 Events of Default. Each of the following events or occurrences shall constitute an "Event of Default" hereunder with respect to any class of Notes (except for clauses (a), (b), (c) and (d) below in which the potential events or occurrences that would constitute an Event of Default are specific to certain classes of Notes, in which case such Event of Default shall be constituted only with respect to such classes of Notes (and not all classes of Notes)), and each such Event of Default shall be deemed to exist and continue so long as, but only so long as, it shall not have been waived or remedied, as applicable:

(a) (i) failure to pay interest on the Class A Notes due on any Payment Date (other than the Final Legal Maturity Date or any Redemption Date) within five Business Days of such Payment Date, but only to the extent of the Available Collections Amount available for interest payments pursuant to the priority of payments in Section 3.7, any funds in the Interest

Reserve Account and any capital contributed to the Issuer by the Equityholders as described in Section 3.1(f) and available for interest payments pursuant to Section 3.8, or (ii) failure to pay principal of the Class A Notes due on any Payment Date (other than the Final Legal Maturity Date or any Redemption Date) within five Business Days of such Payment Date, but only to the extent of the Available Collections Amount available for principal payments pursuant to the priority of payments in Section 3.7;

(b) (i) failure to pay interest on the Class A Notes due on any Payment Date (other than the Final Legal Maturity Date or any Redemption Date or as set forth in Section 4.1(a)) in full on or prior to the next succeeding Payment Date, together with Additional Interest on any interest not paid on the Payment Date on which it was originally due, and (ii) in the case of any class of Notes other than the Class A Notes, except as provided in the related Resolution and set forth in any indenture supplemental hereto providing for the issuance of such Notes pursuant to Section 2.15 or Section 2.16, failure to pay interest on any Notes of such class within 30 days of the Payment Date on which such interest is due (or, in the case of the Final Legal Maturity Date or any Redemption Date with respect to such class of Notes, on such Final Legal Maturity Date or such Redemption Date, as the case may be), in each case regardless of whether or not funds are then available therefor in the Collection Account;

(c) (i) failure to pay principal of and Premium, if any, and accrued and unpaid interest on any Notes of such class on the applicable Final Legal Maturity Date or (ii) if all conditions to the Redemption have been satisfied and subject to Section 3.10(b), failure to pay the Redemption Price when due on any Redemption Date for such class;

(d) failure to pay any other amount in respect of the Notes when due and payable in connection with such class of Notes and the continuance of such default for a period of 30 or more days after written notice thereof is given to the Issuer by the Trustee;

(e) failure by the Issuer to comply with any covenant, obligation, condition or provision binding on it under this Indenture or the Notes (other than a payment default for which provision is made in Section 4.1(a), Section 4.1(b), Section 4.1(c) or Section 4.1(d)); provided, that, (i) if the consequences of the failure can be cured, such failure continues for a period of 30 days or more after written notice thereof has been given to the Issuer by the Trustee at the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, and (ii) except in respect of a covenant, obligation, condition or provision already qualified in respect of Material Adverse Change, such failure is a Material Adverse Change;

(f) the Issuer becomes subject to a Voluntary Bankruptcy or an Involuntary Bankruptcy;

(g) any judgment or order for the payment of money in excess of $1,000,000 (not paid or covered by insurance) shall be rendered against the Issuer and either (i) enforcement proceedings have been commenced by any creditor upon such judgment or order or (ii) there is any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;

(h) the Issuer becomes an investment company required to be registered under the Investment Company Act of 1940, as amended;

(i) the Issuer is classified as a corporation or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes;

(j) the Seller shall have failed to perform any of its covenants under the Purchase and Sale Agreement where such failure is a Material Adverse Change;

(k) the Equityholders shall have failed to perform any of their covenants under the Pledge and Security Agreement where such failure is a Material Adverse Change; or

(l) the Trustee shall fail to have a first-priority perfected security interest in any of the Collateral, in any of the Issuer Pledged Equity or in any material portion of the other Issuer Pledged Collateral.

Section 4.2 Acceleration, Rescission and Annulment.

(a) If an Event of Default with respect to the Notes (other than an Acceleration Default) occurs and is continuing, the Senior Trustee may, and, upon the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, shall, give an Acceleration Notice to the Issuer. Upon delivery of such an Acceleration Notice (and so long as such Acceleration Notice has not been rescinded and annulled pursuant to this Indenture), the Outstanding Principal Balance of the Notes and all accrued and unpaid interest thereon shall be immediately due and payable. At any time after the Senior Trustee or such Noteholders have so declared the Outstanding Principal Balance of the Notes to be immediately due and payable, and prior to the exercise of any other remedies pursuant to this Article IV, the Senior Trustee, upon the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, shall, subject to Section 4.5(a), by written notice to the Issuer, rescind and annul such declaration and thereby annul its consequences if (i) there has been paid to or deposited with the Trustee an amount sufficient to pay all overdue installments of interest on the Notes, and the principal of, and Premium, if any, on, the Notes that would have become due otherwise than by such declaration of acceleration, (ii) the rescission would not conflict with any judgment or decree and (iii) all other Defaults and Events of Default, other than non-payment of interest and Premium, if any, on and principal of the Notes that have become due solely because of such declaration of acceleration, have been cured or waived. If an Acceleration Default occurs, the Outstanding Principal Balance of the Notes and all accrued and unpaid interest thereon shall automatically become immediately due and payable without any further action by any party.

(b) Notwithstanding this Section 4.2, Section 4.3 and Section 4.12, after the occurrence and during the continuation of an Event of Default, no Noteholders of any class of Notes other than the Senior Class of Notes shall be permitted to give or direct the giving of an Acceleration Notice, or to exercise any remedy in respect of such Event of Default, and no Person other than the Senior Trustee, at the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, may give an Acceleration Notice or exercise any such remedy.

(c) Within 30 days after the occurrence of an Event of Default in respect of any class of Notes, the Trustee shall give to the Noteholders notice, transmitted by mail, of all uncured or unwaived Defaults known to it on such date; provided, that the Trustee may withhold such notice with respect to a Default (other than a payment default with respect to interest, principal or Premium, if any) if it determines in good faith that withholding such notice is in the interest of the affected Noteholders.

Section 4.3 Other Remedies. Subject to the provisions of this Indenture and the Pledge and Security Agreement, if an Event of Default shall have occurred and be continuing, then the Senior Trustee may, but only at the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, pursue any available remedy by proceeding at law or in equity to collect the payment of principal, Premium, if any, or interest due on the Notes or to enforce the performance of any provision of the Notes, this Indenture, the Servicing Agreement, the Pledge and Security Agreement or the Currency Hedge Agreement, including any of the following, to the fullest extent permitted by law, subject to the receipt of such Direction:

(a) The Senior Trustee may obtain the appointment of a Receiver of the Indenture Estate as provided in Section 12.7 and the Issuer consents to and waives any right to notice of any such appointment.

(b) The Senior Trustee may, without notice to the Issuer and at such time as the Senior Trustee in its sole discretion may determine, exercise any or all of the Issuer's rights in, to and under or in any way connected with or related to any or all of the Indenture Estate, including (i) demanding and enforcing payment and performance of, and exercising any or all of the Issuer's rights and remedies with respect to the collection, enforcement or prosecution of, any or all of the Indenture Estate (including the Purchased Assets and the Issuer's rights under the Purchase and Sale Agreement), in each case by legal proceedings or otherwise, (ii) settling, adjusting, compromising, extending, renewing, discharging and releasing any or all of, and any legal proceedings brought to collect or enforce any or all of, the Purchased Assets and otherwise under the Deal Documents and (iii) preparing, filing and signing the name of the Issuer on (A) any proof of claim or similar document to be filed in any bankruptcy or similar proceeding involving the Indenture Estate (including the Purchased Assets) and (B) any notice of lien, assignment or satisfaction of lien, or similar document in connection with the Indenture Estate (including the Purchased Assets).

(c) Subject to the Pledge and Security Agreement (including the provisions of Section 11.1 of the Pledge and Security Agreement), the Senior Trustee may, without notice except as specified herein, and as required by Applicable Law, in accordance with Applicable Law, sell or cause the sale of all or any part of the Indenture Estate in one or more parcels at public or private sale, at any of the Senior Trustee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Senior Trustee may deem commercially reasonable, provided, that, so long as the Counterparty License Agreement remains in force, the Senior Trustee shall make any such sale only to a Person that is a Permitted Holder. The Issuer agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to the Issuer of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Senior Trustee shall not be obligated to make

any sale of all or any part of the Indenture Estate regardless of notice of sale having been given. The Senior Trustee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(d) The Senior Trustee may, instead of exercising the power of sale conferred upon it by Section 4.3(c) and Applicable Law, proceed by a suit or suits at law or in equity to foreclose the Security Interest and sell all or any portion of the Indenture Estate under a judgment or a decree of a court or courts of competent jurisdiction, provided, that, so long as the Counterparty License Agreement remains in force, the Senior Trustee shall make any such foreclosure sale only to a Person that is a Permitted Holder.

(e) The Senior Trustee may require the Issuer to, and the Issuer hereby agrees that it shall at its expense and upon request of the Senior Trustee, forthwith assemble all or part of the Indenture Estate as directed by the Senior Trustee and make it available to the Senior Trustee at a place to be designated by the Senior Trustee that is reasonably convenient to both parties.

(f) In addition to the rights and remedies provided for in this Indenture, the Senior Trustee may exercise in respect of the Indenture Estate all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected property included in the Indenture Estate) and under all other Applicable Law; provided, that, so long as the Counterparty License Agreement remains in force, the Senior Trustee shall cause any sale of the Collateral to be made only to a Person that is a Permitted Holder.

(g) The Senior Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding.

Section 4.4 Limitation on Suits. Without limiting the provisions of Section 4.9 and the final sentence of Section 12.4, no Noteholder shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, the Pledge and Security Agreement or the Notes, for the appointment of a receiver or trustee or for any other remedy hereunder, unless:

(a) such Noteholder is a holder of the Senior Class of Notes and has previously given written notice to the Senior Trustee of a continuing Event of Default;

(b) the Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes make a written request to the Senior Trustee to pursue a remedy hereunder;

(c) such Noteholder or Noteholders offer to the Senior Trustee an indemnity reasonably satisfactory to the Senior Trustee against any costs, expenses and liabilities to be incurred in complying with such request;

(d) the Senior Trustee does not comply with such request within 60 days after receipt of the request and the offer of indemnity; and

(e) during such 60-day period, Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes do not give the Senior Trustee a Direction inconsistent with such request.

No one or more Noteholders may use this Indenture to affect, disturb or prejudice the rights of another Noteholder or to obtain or seek to obtain any preference or priority not otherwise created by this Indenture and the terms of the Notes over any other Noteholder or to enforce any right under this Indenture, except in the manner herein provided.

Section 4.5 Waiver of Existing Defaults.

(a) The Senior Trustee, upon the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, by written notice to the Issuer may waive any existing Default (or Event of Default) hereunder and its consequences, except a Default (or Event of Default) (i) in the payment of the interest on, principal of and Premium, if any, on any Note or (ii) in respect of a covenant or provision hereof that under Article IX cannot be modified or amended without the consent of the Noteholder of each Note affected thereby. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default (or Event of Default) or impair any right consequent thereon.

(b) Any written waiver of a Default or an Event of Default given by the Senior Trustee to the Issuer in accordance with the terms of this Indenture shall be binding upon the Senior Trustee and the other parties hereto. Unless such writing expressly provides to the contrary, any waiver so granted shall extend only to the specific event or occurrence that gave rise to the Default or Event of Default so waived and not to any other similar event or occurrence that occurs subsequent to the date of such waiver.

Section 4.6 Restoration of Rights and Remedies. If the Senior Trustee or any Noteholder of the Senior Class of Notes has instituted any proceeding to enforce any right or remedy under this Indenture, and such proceeding has been discontinued or abandoned for any reason or has been determined adversely to the Senior Trustee or such Noteholder, then in every such case the Issuer, the Senior Trustee and the Noteholders shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Senior Trustee and the Noteholders shall continue as though no such proceeding has been instituted.

Section 4.7 Remedies Cumulative. Each and every right, power and remedy herein given to the Trustee specifically or otherwise in this Indenture shall be cumulative and shall, to the extent permitted by law, be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission by the Trustee in the exercise of any right, remedy or

power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any Default on the part of the Issuer or to be an acquiescence.

Section 4.8 Authority of Courts Not Required. The parties hereto agree that, to the greatest extent permitted by law, the Trustee shall not be obliged or required to seek or obtain the authority of, or any judgment or order of, the courts of any jurisdiction in order to exercise any of its rights, powers and remedies under this Indenture, and the parties hereby waive any such requirement to the greatest extent permitted by law.

Section 4.9 Rights of Noteholders to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Noteholder to receive payment of interest on, principal of, or Premium, if any, on any Note on or after the respective due dates therefor expressed in such Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Noteholder.

Section 4.10 Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and of any Noteholder allowed in any judicial proceedings relating to any obligor on the Notes, its creditors or its property.

Section 4.11 Undertaking for Costs. All parties to this Indenture agree, and each Noteholder by its acceptance hereof shall be deemed to have agreed, that, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defense made by the party litigant. This Section 4.11 does not apply to a suit instituted by the Trustee, a suit instituted by any Noteholder for the enforcement of the payment of interest, principal, or Premium, if any, on any Note on or after the respective due dates expressed in such Note or a suit by a Noteholder or Noteholders of at least 10% of the Outstanding Principal Balance of the Notes.

Section 4.12 Control by Noteholders. Subject to this Article IV and to the rights of the Trustee hereunder, Noteholders of a majority of the Outstanding Principal Balance of the Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust, right or power conferred on the Trustee under any Transaction Document; provided, that:

(a) such Direction shall not be in conflict with any rule of law or with this Indenture and would not involve the Trustee in personal liability or expense;

(b) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Noteholders of such class not taking part in such Direction; and

(c) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such Direction.

Section 4.13 Senior Trustee. The Trustee irrevocably agrees (and the Noteholders (other than the Noteholders represented by the Senior Trustee) shall be deemed to agree by virtue of their purchase of the Notes) that the Senior Trustee shall have all of the rights granted to it under this Indenture, including the right to direct the Trustee to take certain action as provided for in this Indenture, and the Trustee hereby agrees to act in accordance with each such authorized direction of the Senior Trustee.

Section 4.14 Application of Proceeds. All cash proceeds received by the Senior Trustee in respect of any sale of, collection from or other realization upon all or any part of the Indenture Estate shall be deposited in the Collection Account and distributed as provided in Article III. Any surplus of such cash proceeds held and remaining after payment in full of all Secured Obligations shall be paid over to the Issuer or whomsoever may be lawfully entitled to receive such surplus as provided in Section 3.7. Any amount received for any sale or sales conducted in accordance with the terms of Section 4.3 shall to the extent permitted by Applicable Law be deemed conclusive and binding on the Issuer and the Noteholders.

Section 4.15 Waivers of Rights Inhibiting Enforcement. The Issuer waives (a) any claim that, as to any part of the Indenture Estate, a private or public sale, should the Senior Trustee elect so to proceed, is, in and of itself, not a commercially reasonable method of sale for such part of the Indenture Estate, (b) except as otherwise provided in any of the Deal Documents, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NOTICE OR JUDICIAL HEARING IN CONNECTION WITH THE TRUSTEE'S TAKING POSSESSION OR DISPOSITION OF ANY OF THE INDENTURE ESTATE, INCLUDING ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES AND ANY SUCH RIGHT THAT THE ISSUER WOULD OTHERWISE HAVE UNDER THE CONSTITUTION OR ANY STATUTE OF THE U.S. OR OF ANY STATE, AND ALL OTHER REQUIREMENTS AS TO THE TIME, PLACE AND TERMS OF SALE OR OTHER REQUIREMENTS WITH RESPECT TO THE ENFORCEMENT OF THE TRUSTEE'S RIGHTS HEREUNDER, (c) all rights of redemption, appraisement, valuation, stay and extension or moratorium and (d) except as otherwise provided in any of the Deal Documents (including Section 11.1 of the Pledge and Security Agreement), all other rights the exercise of which would, directly or indirectly, prevent, delay or inhibit the enforcement of any of the rights or remedies under this Indenture or the absolute sale of the Indenture Estate, now or hereafter in force under any Applicable Law, and the Issuer, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws and rights.

Section 4.16 Security Interest Absolute. All rights of the Trustee and security interests hereunder, and all obligations of the Issuer hereunder, shall be absolute and unconditional irrespective of, and the Issuer hereby irrevocably waives any defenses it may now have or may hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any of the Deal Documents or any other agreement or instrument relating thereto (other than against the Trustee);

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Deal Documents or any other agreement or instrument relating thereto;

(c) any taking, exchange, surrender, release or non-perfection of any Collateral or any other collateral, or any release or amendment or waiver of or consent to any departure from any guaranty, for all or any of the Secured Obligations;

(d) any manner of application of any Collateral or any other collateral, or proceeds thereof, to all or any of the Secured Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Secured Obligations or any other obligations of the Issuer under or in respect of the Deal Documents or any other assets of the Issuer;

(e) any change, restructuring or termination of the limited liability company structure or existence of the Issuer;

(f) the failure of any other Person to execute this Indenture or any other agreement or the release or reduction of liability of the Issuer or other grantor or surety with respect to the Secured Obligations; or

(g) any other circumstance (including any statute of limitations) or any existence of or reliance on any representation by the Trustee that might otherwise constitute a defense available to, or a discharge of, the Issuer.

ARTICLE V
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 5.1 Representations and Warranties. The Issuer represents and warrants, as of the date of this Indenture, to the Trustee as follows:

(a) The Issuer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and in good standing in the State of Delaware and has full limited liability company power and authority to conduct its business and to execute, deliver and perform this Indenture, each other instrument to be delivered by it pursuant to this Indenture and each other Deal Document to which it is a party, and the Issuer is not in liquidation or bankruptcy and has not become subject to a Voluntary Bankruptcy or an Involuntary Bankruptcy.

(b) The Issuer has not engaged in any activities or become subject to any Losses or other obligations since its organization (other than those incidental to its organization and permitted by the Issuer Organizational Documents, the execution and performance of the Deal Documents to which it is a party and the activities referred to in or contemplated by such agreements and, in respect of Losses or other obligations since its organization, assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement), and the Issuer has not paid any dividends or made any similar distributions since its organization.

(c) The creation of the Notes and the issuance, execution and delivery, and the compliance by the Issuer with the terms, of the Notes and each of the other Deal Documents to which it is a party:

(i) do not at the Closing Date conflict with, result in a breach of any of the terms or provisions of or constitute a default under (A) the Issuer Organizational Documents or (B) assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, any judgment, order or decree of any Governmental Authority having jurisdiction over the Issuer, its assets or its properties or, except where it would not be a Material Adverse Change, any Applicable Law; and

(ii) assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, do not at the Closing Date violate, or constitute a default under, any deed, indenture, agreement or other instrument or obligation to which the Issuer is a party or by which it or any part of its assets, property or revenues are bound.

(d) The creation, execution and issuance of the Notes, the execution and delivery by the Issuer of the Deal Documents executed by it and the performance by the Issuer of its obligations hereunder and thereunder and the arrangements contemplated hereby and thereby to be performed by it have been duly authorized, executed and delivered by the Issuer.

(e) This Indenture constitutes, and the other Deal Documents to which it is a party, when duly authorized, executed and delivered by the other party or parties thereto, and, in the case of the Notes, when issued and authenticated in accordance with the provisions of this Indenture, will constitute, valid, legally binding and (subject to general equitable principles, and laws relating to insolvency, liquidation, reorganization and other laws of general application relating to creditors' rights or claims or to laws of prescription or the concepts of materiality, reasonableness, good faith and fair dealing) enforceable obligations of the Issuer.

(f) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, on the Closing Date, there exists no Event of Default nor any event that, had the Notes already been issued, would constitute a Default or an Event of Default.

(g) On the Closing Date, subject to the Liens created in favor of the Trustee and except for any other Permitted Liens, there exists no Lien over the assets of the Issuer.

(h) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, on the Closing Date, all consents, approvals, authorizations or other orders of all Governmental Authorities required (excluding any required by the other parties to the Deal Documents) for or in connection with the execution, delivery and

performance of the Deal Documents by the Issuer and the issuance and performance of the Notes and the offering of the Notes by the Issuer have been obtained and are in full force and effect and are not contingent upon fulfillment of any condition except for those required by the securities or blue sky laws of various states. No consent of any Governmental Authority or any other party (including directors, officers, partners, members, managers or creditors of the Issuer) is required that has not been obtained for the pledge by the Issuer of the Collateral pursuant to this Indenture, except for such consents as may have already been obtained.

(i) Assuming compliance with Section 6.9 and after giving pro forma effect to the use of proceeds as contemplated by the Memorandum, the Issuer would not be required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(j) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, there is no action, suit, investigation or proceeding pending or, to the knowledge of the Issuer, threatened against the Issuer before any Governmental Authority that in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated by this Indenture and the other Deal Documents to which the Issuer is a party.

(k) The Issuer has no Subsidiaries.

(l) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, the Issuer is the sole legal and beneficial owner of the Purchased Assets and the other assets and properties constituting the Collateral, free and clear of any Liens other than Permitted Liens.

(m) Under the laws of the State of Delaware, the laws of the State of New York and U.S. federal law in force at the Closing Date, it is not necessary that this Indenture or any other Deal Document (other than evidences and perfection of the Liens) be filed, recorded or enrolled by the Issuer with any court or other Governmental Authority in any such jurisdictions or that any stamp, registration or similar Tax be paid by the Issuer on or in relation to this Indenture or any of the other Deal Documents (other than filings with the SEC, Uniform Commercial Code financing statements set forth in Exhibit E, the notice to Counterparty contained in the Counterparty Instruction and the various consents and agreements, if any, pursuant hereto).

(n) The filings of financing statements under the UCC and other recordings, if any, in the appropriate offices therefor and any other actions required to perfect a security interest in favor of the Trustee in the Collateral, including the Purchased Assets sold, transferred, conveyed, assigned, contributed and granted on the Closing Date pursuant to the Purchase and Sale Agreement, have been or shall have been duly made by the Closing Date, and, subject to the terms and provisions of this Indenture, the Issuer has or shall have the same rights as the Seller has or would have with respect to the Purchased Assets (if the Seller were still the owner of such Purchased Assets) against Counterparty. No other security agreement, financing statement or

other public notice with respect to all or any part of the Collateral (other than any of the foregoing that is referenced in Exhibit E to this Indenture or otherwise names the Trustee as secured party) is on file or of record in any public office that perfects a valid security interest therein. This Indenture creates a valid security interest in the Collateral securing the payment of the Secured Obligations.

(o) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, the Issuer has determined, and by virtue of its entering into the transactions contemplated hereby and its authorization, execution and delivery of this Indenture and the other Deal Documents to which it is party, that its incurrence of Indebtedness and any other liability hereunder or thereunder or contemplated hereby or thereby, (i) does not leave the fair saleable value of its assets less than the sum of its debts and other obligations, including contingent liabilities, (ii) does not leave the present fair saleable value of its assets less than the amount that would be required to pay its probable liabilities on its existing debts and other obligations, including contingent liabilities, as they become absolute and matured, (iii) does not leave it unable to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (iv) does not leave it with unreasonably small capital with which to engage in its business or unable to pay its debts as they mature, (v) will not cause it to become subject to any Voluntary Bankruptcy or Involuntary Bankruptcy and (vi) will not render it insolvent within the meaning of Section 101(32) of the Bankruptcy Code. The Issuer has not incurred and does not have present plans or intentions to incur debts or other obligations or liabilities beyond its ability to pay such debts or other obligations or liabilities as they become absolute and matured.

(p) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, no material adverse change in the business, condition (financial or otherwise), operations, earnings, performance, properties or prospects of the Issuer has occurred since its date of formation.

(q) The Issuer is an entity that is disregarded as separate from the initial Equityholder for U.S. federal income tax purposes. The Issuer has never filed any tax return or report under any name other than its exact legal name. The Issuer has filed (or caused to be filed) all tax returns and reports required by law to have been filed by it and has paid all Taxes required to be paid by it. The Issuer does not have any express or implied obligation to indemnify any other Person with respect to Taxes.

(r) No step has been taken or is intended by the Issuer or, so far as it is aware, any other Person for the winding-up, liquidation, dissolution, administration, merger or consolidation or for the appointment of a receiver or administrator of the Issuer or all or any of its assets.

(s) Subject to Permitted Liens, the Issuer has not assigned or pledged any of its right, title or interest in the Collateral to anyone other than the Trustee.

(t) Assuming the accuracy of the representations and warranties of the Seller in the Purchase and Sale Agreement and the due and timely performance by the Seller of its obligations under the Purchase and Sale Agreement, the Issuer is in compliance with the requirements of all Applicable Laws, a breach of any of which would be a Material Adverse Change.

(u) The Issuer is not engaged in the business of extending credit for the purpose of buying or carrying margin stock, and no portion of the Note Purchase Price shall be used by the Issuer for a purpose that violates Regulation T, U or X promulgated by the Board of Governors of the Federal Reserve System from time to time.

(v) The representations and warranties made by the Issuer to the Noteholders in any of the other Transaction Documents to which it is a party are true and accurate as of the date made.

Section 5.2 Covenants. The Issuer covenants with the Trustee that, so long as any Notes are Outstanding, it will perform and comply with each of the following covenants and not engage in any activity prohibited by this Indenture without the prior written consent of the Trustee pursuant to Section 9.1 or Section 9.2, as applicable, authorizing the Issuer not to perform any such covenants or to engage in any such activity prohibited by this Indenture, in each case on such terms and conditions, if any, as shall be specified in such prior written consent:

(a) Except as described under Article IX, the Issuer shall not take any action, whether orally or in writing, that would amend, waive, modify, supplement, restate, cancel or terminate, or discharge or prejudice the validity or effectiveness of, this Indenture, the Notes, the Servicing Agreement or the Pledge and Security Agreement, or permit any party to any such document to be released from its obligations thereunder (unless, in each case, expressly permitted thereunder).

(b) The Issuer shall not, directly or indirectly, (i) declare or pay any dividend or make any distribution on its Capital Securities, whether in cash, property, securities or a combination thereof, to the Equityholders or otherwise with respect to any ownership of the Issuer's Capital Securities, except that the Issuer may distribute to the Equityholders (x) any amounts pursuant to Section 3.8, (y) pursuant to Section 3.7(b), all or any portion of any amounts transferred to the Issuer pursuant to Section 3.7(a)(viii), or (z) any proceeds from an issuance of Notes or Capital Securities in accordance with this Indenture, (ii) purchase, redeem, retire or otherwise acquire for value any issued Capital Securities of the Issuer, (iii) make any payment of principal, interest or Premium, if any, on the Notes or make any voluntary or optional redemption, repurchase, defeasance or other acquisition or retirement for value of, or make any deposit (including the payment of amounts into a sinking fund or other similar fund) with respect to, Indebtedness of the Issuer other than as permitted by the Notes and this Indenture (including in connection with any issuance or sale of any Subordinated Notes, Refinancing Notes or Capital Securities expressly permitted by the Notes and this Indenture) or (iv) make any loan or advance to any Person, any purchase or other acquisition of any beneficial interest, Capital Securities, warrants, rights, options, obligations or other securities of such Person, any capital contribution to such Person or any other investment in such Person (other than Eligible Investments and

investments permitted under Section 5.2(f)). The foregoing shall not restrict the Equityholder or its Affiliates (other than the Issuer) from making open market purchases or otherwise acquiring or purchasing Notes.

(c) The Issuer shall not (and shall not consent to the Equityholders taking any action that would cause the Issuer to) incur or suffer to exist any Lien over or with respect to any of the Issuer's assets, including the Collateral, other than any Permitted Lien (including any security interest created or required to be created hereunder, including in connection with the issuance of any Subordinated Notes and any Refinancing Notes).

(d) The Issuer shall not incur, create, issue, assume, Guarantee or otherwise become liable for or with respect to, or become responsible for, the payment or performance of, contingently or otherwise, whether present or future (in any such case, to "Incur"), Indebtedness; provided, however, that the Issuer may Incur Indebtedness in respect of the Original Class A Notes, any Subordinated Notes and any Refinancing Notes issued in accordance with this Indenture.

(e) Except as expressly permitted by the Deal Documents, the Issuer shall not liquidate or dissolve and shall not consolidate with, merge with or into, sell, convey, transfer, lease or otherwise dispose of the Purchased Assets or all or any portion of its other property and assets to, or purchase or otherwise acquire all or substantially all of the assets of, any other Person, or permit any other Person to merge with or into, or consolidate or otherwise combine with, the Issuer.

(f) The Issuer shall not, directly or indirectly, transfer, issue, deliver or sell, or consent to transfer, issue, deliver or sell, any Capital Securities of the Issuer unless (i) such Capital Securities are pledged to the Trustee pursuant to the Pledge and Security Agreement, (ii) after giving effect to such issuance, delivery and sale, any such Equityholder is not subject to Japanese withholding tax in respect of the Royalties and (iii) prior to such issuance, delivery or sale, the Trustee shall have been provided with an Opinion of Counsel from a law firm with a nationally recognized tax practice that such issuance, delivery or sale should not cause a "significant modification" of the Notes for U.S. federal income tax purposes; provided, however, that, notwithstanding anything in this Section 5.2(f)(iii), the Trustee shall not be required to be provided with such an Opinion of Counsel if there has been a Change in Law and counsel to such Equityholder determines in good faith that it is unable to render such an Opinion of Counsel (whereas it would have been able to render such an Opinion of Counsel had the Change in Law not occurred). Notwithstanding the foregoing, the Issuer is permitted to accept capital contributions from the Equityholders after the Closing Date provided such amount is deposited into the Capital Account and used only as permitted by Section 3.1(f).

(g) The Issuer shall not engage in any business or activity other than entering into the Purchase and Sale Agreement, the Servicing Agreement and this Indenture, purchasing, holding, servicing and pledging the Purchased Assets, collecting the Royalties and any Currency Hedge Payments, issuing Notes, issuing Capital Securities (subject to the provisions of Section 5.2(f)), undertaking any action contemplated by the Purchase and Sale Agreement, the Servicing Agreement or this Indenture or necessary or reasonably appropriate to maintain, enforce or enjoy the full benefit of any current or residual rights granted by or arising out of the Purchase and Sale

Agreement, the Servicing Agreement or this Indenture and entering into, remaining a party to, and otherwise performing any of the obligations contemplated by, and exercising any right or remedy granted to the Issuer pursuant to or arising out of, the Deal Documents and the Counterparty License Agreement and other matters reasonably related thereto.

(h) The Issuer shall not, directly or indirectly, enter into, renew or extend any transaction (including the purchase, sale, lease or exchange of property or assets, or the rendering of any service) with any Affiliate of the Issuer, except for (i) the Transaction Documents and the Issuer Organizational Documents and (ii) engaging in transactions permitted by the Transaction Documents and the Issuer Organizational Documents.

(i) The Issuer shall not, without the written consent of the Independent Member, take any action to become subject to a Voluntary Bankruptcy or an Involuntary Bankruptcy. The Issuer shall promptly provide the Trustee with written notice of the institution of any proceeding by or against the Issuer seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its property. The Issuer shall not, without the written consent of the Independent Member, take any action to waive, repeal, amend, vary, supplement or otherwise modify any provisions of any of the Issuer Organizational Documents that require written consent of the Independent Member. The Issuer shall comply with, and cause compliance with, the Issuer Organizational Documents.

(j) The Issuer shall not take any action to waive, repeal, amend, vary, supplement or otherwise modify the Issuer Organizational Documents in a manner that would materially adversely affect (x) the rights, remedies, privileges or preferences of the Noteholders or (y) the validity, perfection or priority of the Lien on any Collateral (including the Purchased Assets) or any Issuer Pledged Collateral.

(k) The Issuer shall duly and punctually pay principal with respect to the Outstanding Principal Balance, Premium, if any, and Interest Amount on the Notes in dollars in accordance with the terms of this Indenture and such Notes; provided, that the Issuer shall be in compliance with this covenant with respect to any Payment Date (other than the Final Legal Maturity Date or any Redemption Date subject to Section 3.10(b)) if any such interest in excess of the portion of the Available Collections Amount available to pay such interest on the relevant Payment Date and funds in the Interest Reserve Account and the Capital Account (subject to Section 3.8) are paid in full not later than the next succeeding Payment Date (together with Additional Interest thereon).

(l) The Issuer shall not employ any employees other than as required by any provisions of local law; provided, that the Members, the Manager and the Service Providers shall not be deemed to be employees for purposes of this Section 5.2(l).

(m) The Issuer shall not (v) assign, amend, waive, modify, supplement, restate, cancel or terminate (or consent to any cancellation or termination of) the Purchase and Sale Agreement or the Currency Hedge Agreement, (w) breach any of the provisions of the Purchase

and Sale Agreement, (x) enter into any new agreement in respect of the Purchased Assets or RAPIACTA in respect of the Territory, (y) waive any obligation of, or grant any consent to, the Seller under or in respect of the Purchased Assets, the Purchase and Sale Agreement, the Currency Hedge Agreement or RAPIACTA in respect of the Territory or the Counterparty License Agreement or (z) consent to an assignment of the Purchase and Sale Agreement by the Seller, the Counterparty License Agreement by Counterparty or the Currency Hedge Agreement by the Currency Hedge Provider. Nothing in this Section 5.2(m) shall prohibit the Issuer from taking any action reasonably requested by the Seller to facilitate any cancellation, unwind, termination, disposition, amendment or modification of an Option or the Currency Hedge Agreement permitted by Section 4.11 of the Purchase and Sale Agreement.

(n) The Issuer shall at all times use its commercially reasonable efforts to exercise and enforce its rights and remedies under the Purchase and Sale Agreement, the Servicing Agreement, the Currency Hedge Agreement, the Counterparty License Agreement and any agreement entered into in connection with the execution of foreign currency exchange transactions permitted or required by this Indenture, in each case, in a timely and commercially reasonable manner; provided, that, following the occurrence and continuation of an Event of Default, the Issuer shall give notice to the Trustee on behalf of the Noteholders of any contemplated enforcement of such rights and remedies and will follow any Direction regarding enforcement of such rights and remedies provided by Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes (or the Senior Trustee on their behalf) that it has received.

(o) The Issuer shall maintain its existence separate and distinct from any other Person in all material respects, including using its commercially reasonable efforts in taking the following actions, as appropriate:

(i) maintaining in full effect its existence, properties, rights and franchises as a Delaware limited liability company and obtaining and preserving its qualification to do business in each jurisdiction in which such qualification is necessary to protect the validity and enforceability of this Indenture and each other instrument or agreement necessary to properly administer this Indenture and permit and effectuate the transactions contemplated hereby and thereby;

(ii) maintaining its own deposit accounts, separate from those of the Equityholders, the Manager, any of the Members (including the Independent Member) and their respective Affiliates;

(iii) conducting its affairs separately from those of the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates and maintaining separate books, records and accounts and financial statements in accordance with GAAP, including in connection with the purchase of the Purchased Assets from the Seller; provided, however, that activities conducted by the Servicer in its capacity as such will not be deemed to violate this Section 5.2(o)(iii);

(iv) acting solely in its own name and not that of any other Person, including the Equityholders, the Manager, any of the Members (including the

Independent Member) or any of their respective Affiliates, and at all times using its own stationery, invoices and checks separate from those of the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates;

(v) not holding itself out as having agreed to pay or guarantee, or as otherwise being liable for, the obligations of the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates;

(vi) causing any financial reports prepared by the Issuer and disclosing the accounting effects of the purchase of the Purchased Assets from the Seller to be in compliance with GAAP;

(vii) maintaining all of its assets in its own name and not commingling its assets with those of any other Person except as permitted or required under the Transaction Documents;

(viii) paying its own operating expenses and other liabilities out of its own funds;

(ix) observing all formalities required by the Issuer Organizational Documents;

(x) not acquiring obligations of the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates except as permitted or required under the Transaction Documents;

(xi) holding itself out to the public as a legal entity separate and distinct from any other Person, including the Equityholders or any Affiliate of any Equityholder;

(xii) correcting any known misunderstanding regarding its separate identity;

(xiii) not forming, acquiring or holding any Subsidiary;

(xiv) not sharing any common logo with or identifying itself as a department or division of the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates; provided, however, that the Issuer may identify itself as an investment of and as owned and/or managed by any such Equityholders or any of their respective Affiliates, as a Subsidiary of the Seller and as employing the Servicer to act on its behalf pursuant to the Servicing Agreement;

(xv) except as permitted by Section 5.2(g), conducting no material transactions between the Issuer and the Equityholders, other than entering into and performing its obligations under the Transaction Documents to which it is party, receiving any capital contributions from the Equityholders, entering into and performing its obligations under the Servicing Agreement, or as otherwise permitted by the Transaction Documents; and

(xvi) allocating fairly and reasonably the cost of any shared overhead expenses, including office space, if applicable, with the Equityholders, the Manager, any of the Members (including the Independent Member) or any of their respective Affiliates.

(p) The Issuer shall provide written notice to the Trustee of any capital contributions received by the Issuer from any Equityholder and will immediately forward any such amounts to the Trustee for deposit in the Capital Account.

(q) The Issuer will not change, amend or alter its exact legal name at any time except following 30 days' notice given by the Issuer to the Trustee.

(r) The Issuer will not assign or pledge, so long as the assignment hereunder shall remain in effect and has not been terminated pursuant to Section 11.1, any of its right, title or interest in the Collateral hereby assigned to anyone other than the Trustee; provided, that the sale or other disposition of the Capital Securities of the Issuer by any Equityholder (or any interest therein) in compliance with the Pledge and Security Agreement or any issuance of Capital Securities by the Issuer (subject to the provisions of Section 5.2(f)) shall not be considered a violation of this Section 5.2(r).

(s) The Issuer agrees that, at any time and from time to time, at the Issuer's expense and upon the Trustee's written request, the Issuer will promptly and duly execute and deliver or cause to be duly executed and delivered any and all such further instruments and documents, and take all further action, that may be necessary in the reasonable discretion of the Trustee, in order to perfect the security interest in the Collateral and to carry out the provisions of this Indenture or to enable the Trustee to exercise and enforce its rights and remedies hereunder with respect to any Collateral. The Issuer also agrees that, at any time and from time to time, at the Issuer's expense, the Issuer will file (or cause to be filed) such UCC continuation statements and such other instruments or notices as may be necessary, including UCC financing statements or amendments thereto, that the Trustee may reasonably request in order to perfect and preserve the security interests and other rights granted or purported to be granted to the Trustee hereby. With respect to the foregoing and the grant of the security interest hereunder, the Issuer hereby authorizes the Trustee to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral. The Issuer hereby authorizes the Trustee to file financing statements describing as the collateral covered thereby "all of the debtor's personal property or assets" or words to that effect, notwithstanding that such wording may be broader in scope than the Collateral described in this Indenture.

(t) The Issuer will maintain in the Borough of Manhattan, The City of New York, an office or agency of the Trustee, Registrar and Paying Agent where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer, exchange or purchase and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. Each of the Corporate Trust Office and each office or agency of the Trustee in the Borough of Manhattan, The City of New York shall initially be one such office or agency for all of the aforesaid purposes. The Issuer shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the office of the Trustee). If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with

the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 12.5. The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in the Borough of Manhattan, The City of New York, for such purposes.

(u) The Issuer shall use commercially reasonable efforts to file any form (or comply with any other administrative formalities) required for an exemption from or a reduction of any withholding tax for which it is eligible. The Issuer shall maintain its status as an entity that is not classified as a corporation or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes. The Issuer shall use commercially reasonable efforts to maintain its status as either (i) an entity that is disregarded as separate from the Equityholder if there is one Equityholder for U.S. federal income tax purposes or (ii) a partnership if there is more than one Equityholder for U.S. federal income tax purposes, in each case for U.S. federal income tax purposes and, to the extent permitted by Applicable Law, state and local tax purposes. The Issuer shall not file any tax return or report under any name other than its exact legal name. The Issuer shall treat the Notes as debt for U.S. federal income tax purposes. Neither the Issuer nor the Trustee shall treat any Noteholder or Beneficial Holder as a "partner" of the Issuer for U.S. federal income tax purposes with respect to the ownership of the Notes. The Issuer and the Trustee will treat all interest paid or otherwise accruing on the Notes as interest for U.S. federal income tax purposes. The Issuer will prepare and file all tax returns of the Issuer consistent with the covenants set forth in this Section 5.2(u) and will not take any inconsistent position in any communication or agreement with any taxing authority unless required by a final "determination" of a court of law within the meaning of Section 1313(a)(1) of the Code. The Issuer shall not enter into or incur any express or implied obligation to indemnify any other Person with respect to Taxes. The Issuer shall file (or cause to be filed) all tax returns and reports required by law to be filed by it and pay all Taxes required to be paid by it.

(v) The Issuer shall timely and fully perform and comply with each of its duties and obligations to the Noteholders under the Transaction Documents to which it is a party, including all covenants, conditions and other provisions with respect to the Purchased Assets; provided, that the Issuer shall be in compliance with this Section 5.2(v) with respect to any Payment Date (other than the Final Legal Maturity Date or any Redemption Date) if any such interest in excess of the portion of the Available Collections Amount available to pay such interest on the relevant Payment Date and funds in the Interest Reserve Account and the Capital Account (subject to Section 3.8) are paid in full not later than the next succeeding Payment Date (together with Additional Interest thereon).

(w) During any period in which the Issuer is not subject to Section 13 or 15(d) of the Exchange Act, the Issuer shall make available to any Noteholder or Beneficial Holder in connection with any sale of any or all of its Notes and any prospective purchaser of such Notes from such Noteholder or Beneficial Holder the information required by Rule 144A(d)(4) under the Securities Act.

(x) The Issuer shall not, and shall not permit any of its Affiliates to, directly or indirectly, pay or cause to be paid any consideration of any type or form (whether in cash, property, by way of interest or fee or otherwise) to or for the benefit of any Noteholder or Beneficial Holder for or as an inducement to any forbearance, consent, waiver or amendment of any of the terms or provisions hereof or of the Notes, or any agreement in respect thereof, unless such consideration is, on the same terms and conditions, offered to all Noteholders and Beneficial Holders and paid to all Noteholders and Beneficial Holders that agree to such forbearance, consent, waiver or amendment, or agreement in respect thereof.

Section 5.3 Reports and Other Deliverables by the Issuer.

(a) The Issuer shall furnish to the Trustee, within 120 days after the end of each fiscal year commencing with the fiscal year ending December 31, 2011, a certificate from a Responsible Officer of the Issuer as to his or her knowledge of the Issuer's compliance with all of its obligations under this Indenture (it being understood that, for purposes of this Section 5.3, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture but shall reflect any Interest Amount paid on the Original Class A Notes (other than on the Final Legal Maturity Date) by the Payment Date immediately following the Payment Date on which such Interest Amount was first payable as contemplated by the proviso to Section 5.2(k) as have been timely paid).

(b) The Issuer shall deliver written notice to the Trustee of the occurrence of any Default or Event of Default under this Indenture promptly and in any event within five Business Days of a Responsible Officer of the Issuer (including the Manager) becoming aware of such Default or Event of Default.

(c) The Issuer shall promptly (and in any event within five Business Days of receipt thereof) provide to the Trustee and the Servicer copies of written materials that the Issuer receives from the Seller pursuant to Sections 4.1, 4.5, 4.7, 4.11 and 4.12 of the Purchase and Sale Agreement or otherwise in respect of the Counterparty License Agreement; provided, however, that the Issuer shall not be required to provide any written materials received by it from the Seller to the extent such materials are not, in the reasonable judgment of the Issuer, material in the context of the Royalties or the transactions contemplated by the Deal Documents.

(d) Within 120 days after the beginning of each fiscal year commencing with the fiscal year beginning January 1, 2012, the Issuer shall furnish to the Trustee an opinion of its legal counsel, which opinion shall state either that (i) in the opinion of such counsel, all action has been taken with respect to any filing, re-filing, recording or re-recording with respect to the Collateral as is necessary to maintain the security interest on the Collateral in favor of the Trustee and the Noteholders, or (ii) in the opinion of such counsel, no such action is necessary to maintain such security interest.

ARTICLE VI
THE TRUSTEE

Section 6.1 Acceptance of Trusts and Duties. Except during the continuance of an Event of Default, the Trustee undertakes to perform such duties and only such duties as are

specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; provided, that, to the extent those duties are qualified, limited or otherwise affected by the provisions of any other Deal Document, the Trustee shall be required to perform those duties only as so qualified, limited or otherwise affected. The duties and responsibilities of the Trustee shall be as provided by the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture) and as set forth herein. The Trustee accepts the trusts hereby created and applicable to it and agrees to perform the same but only upon the terms of this Indenture and the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture) and agrees to receive and disburse all moneys received by it in accordance with the terms hereof. The Trustee in its individual capacity shall not be answerable or accountable under any circumstances except for its own willful misconduct or negligence or breach of any of its representations or warranties set forth herein, and the Trustee shall not be liable for any action or inaction of the Issuer or any other parties to any of the Deal Documents. Any amounts received by or due to the Trustee under this Indenture, including the fees, out-of-pocket expenses and indemnities of the Trustee, shall be Expenses of the Issuer.

The Issuer does hereby constitute and appoint the Trustee the true and lawful attorney of the Issuer, irrevocably, granted for good and valuable consideration and coupled with an interest and with full power of substitution, and with full power (in the name of the Issuer or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for monies (in each case including insurance and requisition proceeds) due and to become due under or arising out of any Deal Document and all other property that now or hereafter constitutes part of the Indenture Estate, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings that the Trustee may deem to be necessary or advisable in the premises; provided, that the Trustee shall not exercise any such rights except upon the occurrence and during the continuance of an Event of Default hereunder in accordance with Section 4.3.

Section 6.2 Copies of Documents and Other Notices.

(a) The Trustee, upon written request, shall furnish to each requesting Noteholder or Beneficial Holder included on the Approved Holder List and the Servicer, promptly upon receipt thereof, duplicates or copies of all reports, Notices, requests, demands, certificates, financial statements and other instruments furnished to the Trustee under or in connection with this Indenture.

(b) The Trustee shall furnish to Noteholders and Beneficial Holders included on the Approved Holder List and the Servicer promptly after receipt thereof any reports or notices received from any of the Issuer, the Equityholders, the Seller, the Currency Hedge Provider or Counterparty.

Section 6.3 Representations and Warranties. The Trustee does not make and shall not be deemed to have made any representation or warranty as to the validity, legality or enforceability of this Indenture, the Notes or any other document or instrument or as to the correctness of any statement contained in any thereof, except that the Trustee in its individual capacity hereby represents and warrants as follows:

(a) The Trustee is a national banking association and is validly existing and in good standing under the laws of the United States, and is duly authorized and licensed under applicable law to conduct its business as presently conducted.

(b) The Trustee has all requisite right, power and authority to execute and deliver this Indenture and its related documents and to perform all of its duties as Trustee hereunder and thereunder.

(c) The execution and delivery by the Trustee of this Indenture and the other Deal Documents to which it is a party, and the performance by the Trustee of its duties hereunder and thereunder, have been duly authorized by all necessary corporate proceedings, and no further approvals or filings, including any governmental approvals, are required for the valid execution and delivery by the Trustee, or the performance by the Trustee, of this Indenture and such other Deal Documents to which it is a party.

(d) The execution, delivery and performance by the Trustee of this Indenture and the other Deal Documents to which it is a party (i) to the best of the Trustee's knowledge and without independent inquiry or investigation into the facts thereto, do not violate any provision of any Applicable Law and (ii) do not violate any provision of its corporate charter or by-laws.

(e) The execution, delivery and performance by the Trustee of this Indenture and the other Deal Documents to which it is a party, to the best of the Trustee's knowledge and without independent inquiry or investigation into the facts thereto, do not require the authorization, consent or approval of, the giving of notice to, the filing or registration with, or the taking of any action in respect of, any Governmental Authority.

(f) The Trustee has duly executed and delivered this Indenture and each other Deal Document to which it is a party, and each of this Indenture and each such other Deal Document constitutes the legal, valid and binding obligation of the Trustee in accordance with its terms, except as (i) such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting the enforcement of creditors' rights generally and (ii) the availability of equitable remedies may be limited by equitable principles of general applicability.

(g) The Trustee meets the requirements of Section 6.9.

Section 6.4 Reliance; Agents; Advice of Counsel. The Trustee shall incur no liability to anyone acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties. The Trustee may accept a copy of a resolution of the governing body of any party to any Deal Document (including the Issuer), certified in an accompanying Officer's Certificate as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Trustee shall be entitled to receive and may for all purposes hereof conclusively rely on a certificate, signed by an officer of any duly authorized Person, as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action

taken or omitted to be taken by it in good faith in reliance thereon. To the extent not otherwise specifically provided herein, the Trustee shall assume, and shall be fully protected in assuming, that the Issuer is authorized by its constitutional documents to enter into this Indenture and to take all action permitted to be taken by it pursuant to the provisions hereof and shall not be required to inquire into the authorization of the Issuer with respect thereto. To the extent not otherwise specifically provided herein, the Trustee shall furnish to the Issuer or the Servicer upon written request such information and copies of such documents as the Trustee may have and as are necessary for the Issuer or any such Servicer to perform its duties under Article II and Article III or otherwise.

The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within its rights or powers or for any action it takes or omits to take in accordance with the Direction of the Noteholders in accordance with Section 4.12 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust, right or power conferred upon the Trustee, under any Transaction Document.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder or under any other Transaction Document either directly or by or through agents or attorneys or a custodian or nominee, and the Trustee shall not be responsible for any misconduct or negligence on the part of, or for the supervision of, any such agent, attorney, custodian or nominee appointed with due care by it hereunder.

The Trustee may consult with counsel as to any matter relating to this Indenture or any other Transaction Document and any Opinion of Counsel or any advice of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture or any other Transaction Document, or to institute, conduct or defend any litigation hereunder or in relation hereto, at the request, order or Direction of any of the Noteholders, pursuant to the provisions of this Indenture or any other Transaction Document, unless such Noteholders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that may be incurred therein or thereby.

The Trustee shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or under any other Transaction Document, or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it, and none of the provisions contained in this Indenture or any other Transaction Document shall in any event require the Trustee to perform, or be responsible or liable for the manner of performance of, any obligations of the Issuer or the Servicer under this Indenture or any of the other Transaction Documents.

The Trustee shall not be liable for any Losses or Taxes (except for Taxes relating to any compensation, fees or commissions of any entity acting in its capacity as Trustee hereunder) or

in connection with the selection of Eligible Investments or for any investment losses resulting from Eligible Investments.

When the Trustee incurs expenses or renders services in connection with an Acceleration Default, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors' rights generally.

The Trustee shall not be charged with knowledge of an Event of Default unless a Responsible Officer of the Trustee obtains actual knowledge of such event or has received written notice of such event at its Corporate Trust Office from the Issuer, the Servicer or Noteholders of not less than 10% of the Outstanding Principal Balance of the Notes.

The Trustee shall have no duty to monitor the performance of the Issuer, the Servicer or any other party to the Deal Documents, nor shall it have any liability in connection with the malfeasance or nonfeasance by such parties.

Whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action to be taken hereunder or under any other Transaction Document, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a certificate signed by a Responsible Officer of the Issuer and delivered to the Trustee, and such certificate, in the absence of gross negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture or any other Transaction Document upon the faith thereof.

Except as provided expressly hereunder, the Trustee shall have no obligation to invest and reinvest any cash held in the Accounts in the absence of timely and specific written investment direction by or on behalf of the Issuer. In no event shall the Trustee be liable for the selection of investments or for investment losses incurred thereon. The Trustee shall have no liability in respect of losses incurred as a result of the liquidation of any investment prior to its stated maturity or the failure of the Issuer to provide timely written investment direction.

When the Trustee incurs expenses after the occurrence of a Default specified in Section 4.1 with respect to the Issuer, if the surviving entity has failed to honor such obligation, the expenses are intended to constitute expenses of administration under any insolvency law or under the Bankruptcy Code.

Section 6.5 Not Acting in Individual Capacity. The Trustee acts hereunder solely as trustee unless otherwise expressly provided, and all Persons, other than the Noteholders to the extent expressly provided in this Indenture, having any claim against the Trustee by reason of the transactions contemplated hereby shall look, subject to the lien and priorities of payment as provided herein or in any other Transaction Document, only to the property of the Issuer for payment or satisfaction thereof.

Section 6.6 Compensation of Trustee. The Trustee agrees that it shall have no right against the Noteholders or, except as provided in Section 3.7(a), the property of the Issuer, for

any fee as compensation for its services hereunder. The Issuer shall pay to the Trustee from time to time such compensation as is agreed between the two parties. The priority of such compensation shall be subject to Section 3.7(a).

Section 6.7 Notice of Defaults. As promptly as practicable after, and in any event within 30 days after, the occurrence of any Default hereunder, the Trustee shall transmit by mail to the Issuer, the Servicer and the Noteholders of the related class, in accordance with Section 313(c) of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture), notice of such Default hereunder actually known to a Responsible Officer of the Trustee, unless such Default shall have been cured or waived; provided, however, that, except in the case of a Default on the payment of the interest, principal or Premium, if any, on any Note, the Trustee shall be fully protected in withholding such notice if and so long as a trust committee of Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Noteholders of the related class.

Section 6.8 May Hold Notes. The Trustee, any Paying Agent, the Registrar or any of their Affiliates or any other agent in their respective individual or any other capacity may become the owner or pledgee of the Notes and, subject to Sections 310(b) and 311 of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture), may otherwise deal with the Issuer with the same rights it would have if it were not the Trustee, Paying Agent, Registrar or such other agent.

Section 6.9 Corporate Trustee Required; Eligibility. There shall at all times be a Trustee that shall (a) be eligible to act as a trustee under Section 310(a) of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture), (b) meet the requirements of Rule 3a-7(a)(4)(i) under the Investment Company Act of 1940, as amended, and (c) meet the Eligibility Requirements. If such corporation publishes reports of conditions at least annually, pursuant to law or to the requirements of any federal, state, foreign, territorial or District of Columbia supervising or examining authority, then, for the purposes of this Section 6.9, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of conditions so published.

In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.9 to act as Trustee, the Trustee shall resign immediately as Trustee in the manner and with the effect specified in Section 7.1.

Section 6.10 Reports by the Trustee. Within 60 days after May 15 of each year commencing with the first full calendar year following the issuance of any class of Notes, the Trustee shall, if required by Section 313(a) of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture), transmit to the Noteholders of each class, as provided in Section 313(c) of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture), a brief report describing, among other things, any changes in eligibility and qualifications of the Trustee and any Subordinated Note Issuance.

Section 6.11 Pledge and Security Agreement and Other Deal Documents. The Trustee shall enter into the Pledge and Security Agreement with the Equityholders on the Closing Date and shall hold the collateral pledged thereunder as part of the Collateral and the Indenture Estate

for purposes of this Indenture. The provisions of this Article VI shall apply to the Trustee's exercise of rights and remedies under the Pledge and Security Agreement, mutatis mutandis. In addition, the Trustee shall enter into such other Deal Documents on the Closing Date to which it is party.

Section 6.12 Custody of the Collateral. The Trustee shall hold such of the Indenture Estate as consists of instruments, deposit accounts, negotiable documents, money, goods, letters of credit and advices of credit in the State of New York. The Trustee shall hold such of the Indenture Estate as constitutes investment property through a securities intermediary, which securities intermediary shall agree with the Trustee that (a) such investment property shall at all times be credited to a securities account of the Trustee, (b) such securities intermediary shall treat the Trustee as entitled to exercise the rights that comprise each financial asset credited to such securities account, (c) all property credited to such securities account shall be treated as a financial asset, (d) such securities intermediary shall comply with entitlement orders originated by the Trustee without the further consent of any other Person, (e) such securities intermediary will not agree with any Person other than the Trustee to comply with entitlement orders originated by such other Person, (f) such securities account and the property credited thereto shall not be subject to any lien, security interest or right of set-off in favor of such securities intermediary or anyone claiming through it (other than the Trustee) and (g) such agreement shall be governed by the laws of the State of New York. Except as permitted by this Section 6.12 or as otherwise permitted by any Transaction Document, the Trustee shall not hold any part of the Indenture Estate through an agent or a nominee.

Section 6.13 Preservation and Disclosure of Noteholder Lists. The Registrar shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Noteholders received by it, including the Approved Holder List. At any time when a default or an Event of Default has occurred and is continuing, in case either (a) three or more Noteholders that have executed and delivered to the Registrar a Confidentiality Agreement or (b) one or more Noteholders of at least 25% of the Outstanding Principal Balance of the Senior Class of Notes that have executed and delivered to the Registrar a Confidentiality Agreement (in each case, "Applicants") apply in writing to the Registrar and furnish to the Registrar reasonable proof that each such Applicant has owned a Note for a period of at least three months preceding the date of such application, and such application states that the Applicants desire to communicate with other Noteholders with respect to their rights under this Indenture or under the Notes and such application is accompanied by a copy of the form of proxy or other communication that such Applicants propose to transmit, then the Registrar shall, within five Business Days after the receipt of such application, inform such Applicants as to the approximate number of Noteholders whose names and addresses appear in such information and as to the approximate cost of mailing to such Noteholders the form of proxy or other communication, if any, specified in such application. The Registrar shall, upon the written request of such Applicants, mail to each Noteholder whose name and address appears in such information a copy of the form of proxy or other communication that is specified in such request, with reasonable promptness after a tender to the Registrar of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing. Each and every Noteholder, by receiving and holding the same, agrees with the Issuer and the Registrar that neither the Registrar nor any agent of the Issuer or the Registrar shall be held accountable by reason of mailing any material pursuant to a request made under this Section 6.13.

Section 6.14 Audit Rights.

(a) At the Direction of Noteholders of at least 35% of the Outstanding Principal Balance of the Senior Class of Notes, the Senior Trustee shall instruct the Servicer on behalf of the Issuer to exercise the Issuer's rights pursuant to Section 9.8 of the Counterparty License Agreement to have the financial books and records of Counterparty audited by an independent certified public accountant permitted by the Counterparty License Agreement (which audit may only be made at the times and in the manner provided by and otherwise in conformity with the requirements of the audit rights of the Seller provided for by Section 9.8 of the Counterparty License Agreement), and the Issuer shall promptly provide to the Trustee for distribution to Noteholders and Beneficial Holders on the Approved Holder List within five Business Days after receipt thereof any written report that the Issuer receives with respect to such inspection or audit, which written report shall be treated confidentially pursuant to the terms of the Confidentiality Agreement; provided, however, that nothing in this Section 6.14(a) shall prohibit or restrict the Issuer's ability to unilaterally exercise its rights pursuant to Section 4.7 of the Purchase and Sale Agreement in the absence of any such Direction of the Noteholders.

(b) At the Direction of Noteholders of at least 35% of the Outstanding Principal Balance of the Senior Class of Notes, the Issuer shall, upon not less than ten Business Days' prior written notice to the Issuer, permit an independent public accounting firm of nationally recognized standing selected by such Noteholders to make such inspection and audit of the books and records of the Issuer as may reasonably be necessary to determine the correctness of any Distribution Report, including the calculations made by the Calculation Agent in respect of any Calculation Date, as set forth in Section 3.5, and the payments made pursuant to Section 3.7 with respect thereto. Such inspection and audit (x) may not be conducted more than once during any calendar year, (y) shall be conducted by such accounting firm during normal business hours at such place or places where such books and records are held and (z) may not be conducted more than once in respect of any given Calculation Date. Subject to this Section 6.14(b), the Issuer shall make available to such accounting firm such books and records of the Issuer reasonably pertinent to such inspection and audit and shall reasonably cooperate with such accounting firm in connection therewith. Any and all fees and expenses of such accounting firm incurred in connection with any such inspection and audit (the "Audit Expenses") shall constitute Expenses; provided, that any and all such Audit Expenses exceeding $20,000 per annum shall be borne solely by the Noteholders in accordance with Section 3.7(d) if the report prepared by such accounting firm does not disclose that there was a shortfall of 5% or more in the amounts paid during such period(s) when compared to the amounts that should have been paid during such period(s) in accordance with this Indenture. Such accounting firm shall prepare a report disclosing its conclusions with respect to the accuracy or inaccuracy of the amounts inspected and audited and shall furnish such report to the Trustee for distribution to Noteholders and Beneficial Holders on the Approved Holder List. In the event of any inaccuracy reported by such accounting firm, the Issuer shall cause the amounts to be paid to the Collection Account for distribution on the immediately succeeding Payment Date pursuant to Section 3.7(a) to be adjusted in accordance with Section 3.7(d).

Section 6.15 Compliance with Applicable Anti-Terrorism and Anti-Money Laundering Regulations. In order to comply with Applicable Laws in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money

laundering, the Trustee is required to obtain, verify and record certain information relating to Persons that maintain a business relationship with the Trustee. Accordingly, the Issuer agrees to provide to the Trustee upon its request from time to time such identifying information and documentation as may be available for the Issuer in order to enable the Trustee to comply with such Applicable Laws.

Section 6.16 Jurisdiction of Trustee. Each of the Issuer and the Trustee agrees that the State of New York shall be the Trustee's jurisdiction for purposes of Sections 8-110, 9-304 and 9-305 of the UCC.

Section 6.17 Notice of Event of Default to the Equityholders. If an Event of Default of which the Trustee has been provided written notice or has actual knowledge shall have occurred and be continuing, the Trustee shall deliver written notice to each Equityholder, in accordance with the notice information provided in the Pledge and Security Agreement to which such Equityholder is party, of the occurrence and continuance of such Event of Default promptly and in any event within five Business Days of a Responsible Officer of the Trustee so becoming aware of such Event of Default; provided, that the Trustee shall not be deemed to have any fiduciary duty to any Equityholder by reason of this Section 6.17, and the Trustee shall not be liable to any Equityholder for any failure to comply with this Section 6.17.

ARTICLE VII
SUCCESSOR TRUSTEES, REGISTRARS, PAYING AGENTS AND CALCULATION AGENTS

Section 7.1 Resignation and Removal of Trustee, Registrar, Paying Agent or Calculation Agent. Any of the Trustee, the Registrar, the Paying Agent and the Calculation Agent may resign as to all or any of the classes of Notes at any time without cause by giving at least 30 days' prior written notice to the Issuer, the Servicer and the Noteholders. Noteholders of a majority of the Outstanding Principal Balance of any class of Notes may at any time remove one or more of the Trustee, the Registrar, the Paying Agent and the Calculation Agent as to such class without cause, with the consent of the Issuer (such consent not to be unreasonably withheld) if no Event of Default shall have occurred and be continuing, by an instrument in writing delivered to the Issuer, the Servicer and the Trustee, Registrar, Paying Agent or Calculation Agent being removed. In addition, the Issuer may remove the Trustee, the Registrar, the Paying Agent or the Calculation Agent as to any class of Notes if (a) such Trustee, Registrar, Paying Agent or Calculation Agent fails to comply with Section 310 of the Trust Indenture Act (as if the Trust Indenture Act applied to this Indenture) after written request therefor by the Issuer or the Noteholders of the related class who have been bona fide Noteholders for at least six months, (b) such Trustee, Registrar, Paying Agent or Calculation Agent fails to comply with Section 7.2(d) or any other provision hereof, (c) such Trustee, Registrar, Paying Agent or Calculation Agent is adjudged a bankrupt or an insolvent, (d) a receiver or public officer takes charge of such Trustee, Registrar, Paying Agent or Calculation Agent or its property or (e) such Trustee, Registrar, Paying Agent or Calculation Agent becomes incapable of acting. References to the Trustee, Registrar, Paying Agent and Calculation Agent in this Indenture include any successor Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, as to all or any of the classes of Notes appointed in accordance with this Article VII. Any resignation or removal of the Trustee, Registrar, Paying Agent or Calculation Agent pursuant to this Section

7.1 shall not be effective until a successor Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, shall have been duly appointed and vested as Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, pursuant to Section 7.2.

Section 7.2 Appointment of Successor.

(a) In the case of the resignation or removal of the Trustee, Registrar, Paying Agent or Calculation Agent as to any class of Notes under Section 7.1, the Issuer shall promptly appoint a successor Trustee, Registrar, Paying Agent or Calculation Agent as to such class. Every successor Trustee, Registrar, Paying Agent or Calculation Agent (i) shall be a national or state bank or trust company that is authorized by law to perform all the duties imposed upon it by this Indenture and to exercise corporate trust powers and (ii) shall have (or, in the case of a corporation included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least $50,000,000 as set forth in its (or its related bank holding company's) most recent published annual report of condition. If a successor Trustee, Registrar, Paying Agent or Calculation Agent as to any class of Notes shall not have been appointed and accepted its appointment hereunder within 60 days after the Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, gives notice of resignation as to such class, the retiring Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, the Issuer, the Servicer or a majority of the Outstanding Principal Balance of such class of Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee, Registrar, Paying Agent or Calculation Agent as to such class.

(b) Any successor Trustee, Registrar, Paying Agent or Calculation Agent as to any class of Notes, however appointed, shall execute and deliver to the Issuer, the Servicer and the predecessor Trustee, Registrar, Paying Agent or Calculation Agent as to such class an instrument accepting such appointment, and thereupon such successor Trustee, Registrar, Paying Agent or Calculation Agent, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of such predecessor Trustee, Registrar, Paying Agent or Calculation Agent hereunder in the trusts hereunder applicable to it with like effect as if originally named the Trustee, Registrar, Paying Agent or Calculation Agent as to such class herein; provided, that, upon the written request of such successor Trustee, Registrar, Paying Agent or Calculation Agent, such predecessor Trustee, Registrar, Paying Agent or Calculation Agent shall, upon payment of all amounts due and owing to it, execute and deliver an instrument transferring to such successor Trustee, Registrar, Paying Agent or Calculation Agent, upon the trusts herein expressed applicable to it, all the estates, properties, rights, powers and trusts of such predecessor Trustee, Registrar, Paying Agent or Calculation Agent, and such predecessor Trustee, Registrar, Paying Agent or Calculation Agent shall duly assign, transfer, deliver and pay over to such successor Trustee, Registrar, Paying Agent or Calculation Agent all moneys or other property then held by such predecessor Trustee, Registrar, Paying Agent or Calculation Agent hereunder solely for the benefit of such class of Notes.

(c) If a successor Trustee, Registrar, Paying Agent or Calculation Agent is appointed with respect to one or more (but not all) classes of the Notes, the Issuer, the predecessor Trustee, Registrar, Paying Agent or Calculation Agent and each successor Trustee, Registrar, Paying Agent or Calculation Agent with respect to each class of Notes shall execute and deliver an indenture supplemental hereto that shall contain such provisions as shall be

deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor Trustee, Registrar, Paying Agent or Calculation Agent with respect to the classes of Notes as to which the predecessor Trustee, Registrar, Paying Agent or Calculation Agent is not retiring shall continue to be vested in the predecessor Trustee, Registrar, Paying Agent or Calculation Agent, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the Notes hereunder by more than one Trustee, Registrar, Paying Agent or Calculation Agent.

(d) Each Trustee, Registrar, Paying Agent or Calculation Agent shall be an Eligible Institution and shall meet the Eligibility Requirements and the requirements of Section 6.9, if there be such an institution willing, able and legally qualified to perform the duties of a Trustee, Registrar, Paying Agent or Calculation Agent hereunder.

(e) Any Person into which the Trustee, Registrar, Paying Agent or Calculation Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee, Registrar, Paying Agent or Calculation Agent shall be a party, or any Person to which all or substantially all of the corporate trust business of the Trustee, Registrar, Paying Agent or Calculation Agent (including the administration of the trust created by this Indenture) may be transferred, shall, subject to the terms of Section 7.2(c), be the Trustee, Registrar, Paying Agent or Calculation Agent, as the case may be, under this Indenture without the execution or filing of any paper with any party hereto or any further act on the part of any party hereto, except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

ARTICLE VIII
INDEMNITY

Section 8.1 Indemnity. The Issuer shall indemnify and defend the Trustee (and its officers, directors, managers, employees and agents) for, and hold it harmless from and against, and reimburse the Trustee for, any loss, liability or expense incurred by it without bad faith, gross negligence or willful misconduct on its part in connection with the acceptance or administration of this Indenture and its performance of its duties under this Indenture and the Notes or any other Transaction Document, including the costs and expenses of defending itself against any claim or liability and of complying with any process served upon it or any of its officers in connection with the exercise or performance of any of its powers or duties, and hold it harmless against any loss, liability or reasonable expense incurred without bad faith, gross negligence or willful misconduct on its part, arising out of or in connection with actions taken or omitted to be taken in reliance on any Officer's Certificate furnished hereunder, or the failure to furnish any such Officer's Certificate required to be furnished hereunder. The Trustee shall notify the Issuer promptly of any claim asserted against the Trustee for which it may seek indemnity; provided, however, that failure to provide such notice shall not invalidate any right to indemnity hereunder. The Issuer shall defend any such claim and the Trustee shall cooperate in the defense thereof. The Trustee may have separate counsel and the Issuer shall pay the reasonable fees and expenses of one separate outside counsel for the Trustee. The Issuer need not pay for any settlements made without its consent; provided, that such consent shall not be unreasonably withheld or delayed. The Issuer need not reimburse any expense or provide any

indemnity against any loss, liability or expense incurred by the Trustee through bad faith, gross negligence or willful misconduct.

Section 8.2 Noteholders' Indemnity. The Trustee shall be entitled, subject to such Trustee's duty during a Default to act with the standard of care required under this Indenture, to be indemnified by the Noteholders of any class of Notes before proceeding to exercise any right or power under this Indenture or any other Transaction Document at the request or Direction of such Noteholders.

Section 8.3 Survival. The provisions of Section 8.1 and Section 8.2 shall survive the termination of this Indenture or the earlier resignation or removal of the Trustee.

ARTICLE IX
MODIFICATION

Section 9.1 Modification with Consent of Noteholders. Subject to Section 3.7(b), with the consent of Noteholders of a majority of the Outstanding Principal Balance of the Notes (voting or acting as a single class), the Trustee may agree to amend, modify or waive any provision of (or consent to the amendment, modification or waiver of) this Indenture, the Notes, the Pledge and Security Agreement or the Servicing Agreement; provided, however, that if there shall be Notes of more than one class Outstanding and if a proposed amendment, modification, consent or waiver shall directly affect the rights of Noteholders of one or more, but less than all, of such classes, then the consent only of the Noteholders of a majority of the Outstanding Principal Balance of each affected class of Notes, each voting or acting as a single class, shall be required; provided, further, however, that no such amendment, modification, consent or waiver may, without the consent of Noteholders of 100% of the Outstanding Principal Balance of the class of Notes affected thereby:

(a) reduce the percentage of Noteholders of any such class of Notes required to take or approve any action hereunder or thereunder;

(b) reduce the amount or change the time of payment of any amount owing or payable with respect to any such class of Notes (including pursuant to any Redemption) or change the rate of interest or change the manner of calculation of interest payable with respect to any such class of Notes;

(c) alter or modify in any adverse respect the provisions of this Indenture with respect to the Collateral for the Notes, the provisions of the Pledge and Security Agreement with respect to the related Issuer Pledged Collateral for the Notes or the manner of payment or the order of priority in which payments or distributions hereunder will be made as between the Noteholders of such Notes and the Issuer or as among the Noteholders (including pursuant to Section 3.7) (except, with respect to Subordinated Notes or as among classes of Subordinated Notes, alterations or modifications to Section 3.7(a)(vi), at the time such Subordinated Notes are established, provided such alterations or modifications do not change the order of priority as between the Class A Notes and the Subordinated Notes);

(d) consent to any assignment of the Issuer's rights to a party other than the Trustee for the benefit of the Noteholders;

(e) alter the provisions relating to the Interest Reserve Account in a manner adverse to any Noteholder; or

(f) increase the amount of Seller Payments as a percentage of Royalties under Section 3.4;

provided, that the Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, by written notice to the Trustee, may waive any Default or Event of Default to the extent provided in Section 4.5.

It shall not be necessary for the consent of the Noteholders under this Section 9.1 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof. Any such modification approved by the required Noteholders of any class of Notes will be binding on the Noteholders of the relevant class of Notes and each party to this Indenture.

After an amendment under this Section 9.1 becomes effective, the Issuer or, at the direction of the Issuer, the Trustee shall mail to the Noteholders a notice briefly describing such amendment. Any failure of the Issuer or the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment.

After an amendment under this Section 9.1 becomes effective, it shall bind every Noteholder, whether or not notation thereof is made on any Note held by such Noteholder.

Section 9.2 Modification Without Consent of Noteholders. Subject to Section 3.7(b), the Trustee may, without the consent of any Noteholder, agree to amend, modify or waive any provision of (or consent to the amendment, modification or waiver of) this Indenture, the Notes, the Pledge and Security Agreement or the Servicing Agreement to:

(a) establish the terms of any Refinancing Notes or Subordinated Notes pursuant to Section 2.15 and Section 2.16, respectively (including, with respect to Subordinated Notes or as among classes of Subordinated Notes, modifications to Section 3.7(a)(vi));

(b) evidence the succession of a successor to the Trustee, Registrar or Calculation Agent, the removal of the Trustee, Registrar or Calculation Agent or the appointment of any separate or additional trustee or trustees or co-trustees and to define the rights, powers, duties and obligations conferred upon any such separate trustee or trustees or co-trustees;

(c) correct, confirm or amplify the description of any property at any time subject to the lien of this Indenture or to convey, transfer, assign, mortgage or pledge any property to or with the Trustee;

(d) cure any ambiguity in or correct or supplement any defective or inconsistent provision of this Indenture, the Notes, the Pledge and Security Agreement or the Servicing

Agreement in any manner that will not adversely affect the interests of the Noteholders in any material respect as confirmed in an Officer's Certificate of the Issuer;

(e) grant or confer upon the Trustee for the benefit of the Noteholders any additional rights, remedies, powers, authority or security that may be lawfully granted or conferred and that are not contrary to this Indenture;

(f) add to the covenants or agreements to be observed by the Issuer, which are not contrary to this Indenture, or to add Events of Default for the benefit of the Noteholders;

(g) comply with the requirements of the SEC or any other regulatory body or any Applicable Law;

(h) effect any indenture supplemental hereto or any other amendment, modification, supplement, waiver or consent with respect to this Indenture, the Notes, the Pledge and Security Agreement or the Servicing Agreement; provided, that such indenture supplemental hereto, amendment, modification, supplement, waiver or consent will not adversely affect the interests of the Noteholders in any material respect as confirmed in an Officer's Certificate of the Issuer; or

(i) reduce, waive or eliminate the amount of Seller Payments as a percentage of Royalties under Section 3.4.

After an amendment under this Section 9.2 becomes effective, the Issuer or, at the direction of the Issuer, the Trustee shall mail to the Noteholders a notice briefly describing such amendment. Any failure of the Issuer or the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment.

After an amendment under this Section 9.2 becomes effective, it shall bind every Noteholder, whether or not notation thereof is made on any Note held by such Noteholder.

Section 9.3 Subordination; Priority of Payments. The subordination provisions contained in Article X may not be amended or modified without the consent of Noteholders of 100% of the Outstanding Principal Balance of the class of Notes affected thereby. In no event shall the provisions set forth in Section 3.7 relating to the priority of payment of Expenses be amended or modified.

Section 9.4 Execution of Amendments by Trustee. In executing, or accepting the additional trusts created by, any amendment or modification to this Indenture permitted by this Article IX or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amendment is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such amendment that affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

ARTICLE X
SUBORDINATION

Section 10.1 Subordination of the Notes.

(a) Each of the Issuer and the Trustee (on behalf of the Noteholders) covenants and agrees, and each Noteholder, by its acceptance of a Note, covenants and agrees, that the Notes of each class will be issued subject to the provisions of this Article X. Each Noteholder, by its acceptance of a Note, further agrees that all amounts payable on any Note will, to the extent provided in Section 3.7 and in the manner set forth in this Article X, be subordinated in right of payment to the prior payment in full of all Taxes owed by the Issuer (if any), all Expenses payable to the Service Providers pursuant to this Indenture and the other Transaction Documents. Each Noteholder of a Subordinated Note, by its acceptance of a Subordinated Note, further agrees that all amounts payable on any Subordinated Note will, to the extent provided in Section 3.7 and in the manner set forth in this Article X, be subordinated in right of payment to the payment in full of the Class A Notes. Any claim to payment so stated to be subordinated is referred to as a "Subordinated Claim"; each claim to payment to which another claim to payment is a Subordinated Claim is referred to as a "Senior Claim" with respect to such Subordinated Claim.

(b) If, prior to the payment in full of all Senior Claims then due and payable, the Trustee or any Noteholder of a Subordinated Claim shall have received any payment or distribution in respect of such Subordinated Claim in excess of the amount to which such Noteholder was then entitled under Section 3.7, then such payment or distribution shall be received and held in trust by such Person and paid over or delivered to the Trustee for application as provided in Section 3.7.

(c) If any Service Provider, any Equityholder, the Trustee or any Noteholder of any Senior Claim receives any payment in respect of any Senior Claim that is subsequently invalidated, declared preferential, set aside and/or required to be repaid to a trustee, receiver or other party, then, to the extent such payment is so invalidated, declared preferential, set aside and/or required to be repaid, such Senior Claim shall be revived and continue in full force and effect and shall be entitled to the benefits of this Article X, all as if such payment had not been received.

(d) The Trustee (on its own behalf and on behalf of the Noteholders) and the Issuer each confirm that the payment priorities specified in Section 3.7 shall apply in all circumstances.

(e) Each Noteholder, by its acceptance of a Note, authorizes and expressly directs the Trustee on its behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article X, and appoints the Trustee its attorney-in-fact for such purposes, including, in the event of any dissolution, winding-up, liquidation or reorganization of the Issuer (whether in bankruptcy, insolvency, receivership, reorganization or similar proceedings or upon an assignment for the benefit of creditors or otherwise), any actions tending towards liquidation of the property and assets of the Issuer or the filing of a claim for the unpaid balance of its Notes in the form required in those proceedings.

(f) If payment on the Notes is accelerated as a result of an Event of Default, the Issuer shall promptly notify the holders of the Senior Claims of such acceleration.

(g) After all Senior Claims are paid in full and until the Subordinated Claims are paid in full, and to the extent that such Senior Claims shall have been paid with funds that would, but for the subordination pursuant to this Article X, have been paid to and retained by such holders of Subordinated Claims, the holders of Subordinated Claims shall be subrogated to the rights of holders of Senior Claims to receive payments applicable to Senior Claims. A payment made under this Article X to holders of Senior Claims that otherwise would have been made to the holders of Subordinated Claims is not, as between the Issuer and the holders of Subordinated Claims, a payment by the Issuer.

(h) No right of any holder of any Senior Claim to enforce the subordination of any Subordinated Claim shall be impaired by an act or failure to act by the Issuer or the Trustee or by any failure by either the Issuer or the Trustee to comply with this Indenture.

(i) Each Noteholder by accepting a Note acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration to each holder of any Senior Claim, whether such Senior Claim was created or acquired before or after the issuance of such Noteholder's claim, to acquire and continue to hold such Senior Claim, and such holder of any Senior Claim shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold such Senior Claim. Each holder of a Subordinated Claim agrees to comply with the provisions of Article IV.

ARTICLE XI
DISCHARGE OF INDENTURE

Section 11.1 Discharge of Indenture.

(a) When (i) all outstanding Secured Obligations have been satisfied and the Issuer delivers to the Trustee all Outstanding Notes (other than Notes replaced pursuant to Section 2.8) for cancellation or (ii) all Outstanding Notes have become due and payable, whether at maturity or as a result of the mailing of a notice of an Optional Redemption pursuant to Section 3.9(b) or any other Redemption pursuant to Section 3.9(c), in each case that is subject to Section 3.10(c), and the Issuer irrevocably deposits in the Redemption Account funds sufficient to pay all remaining Expenses accrued and payable through such date and to pay all principal of and interest and Premium (if any) on Outstanding Notes at maturity or upon redemption all Outstanding Notes, including interest and any Premium thereon to maturity or the Redemption Date (other than Notes replaced pursuant to Section 2.8), and if in either case the Issuer pays all other sums payable hereunder by the Issuer, then this Indenture shall, subject to Section 11.1(b), cease to be of further effect and the Security Interest granted to the Trustee hereunder in the Collateral and the Indenture Estate shall terminate. The Trustee shall acknowledge satisfaction and discharge of this Indenture, file all UCC termination statements and similar documents prepared by the Issuer and take other actions in order to terminate the Security Interest, on demand of the Issuer accompanied by an Officer's Certificate and an Opinion of Counsel, at the cost and expense of the Issuer, to the effect that any conditions precedent to a discharge of this Indenture have been met.

(b) Notwithstanding Section 11.1(a), the Issuer's obligations in Section 3.7(b) and Section 8.1 and the Trustee's obligations in Section 12.13 and Section 12.14 shall survive the satisfaction and discharge of this Indenture.

Section 11.2 Release of Security Interest in Certain Cash Collateral. Upon distribution or transfer of (a) cash amounts permitted to be distributed or transferred by Article III and (b) cash proceeds from the Notes issued in accordance with this Indenture, the security interest in such cash amounts or such cash proceeds, as the case may be, shall terminate, and such item(s) of Collateral shall be released therefrom, immediately upon such distribution or transfer, without any further action by the Trustee; provided, however, that such release shall not apply to any other Collateral.

ARTICLE XII
MISCELLANEOUS

Section 12.1 Right of Trustee to Perform. If the Issuer for any reason fails to observe or punctually to perform any of its obligations to the Trustee, whether under this Indenture, under any of the other Transaction Documents or otherwise, the Trustee shall have the power (but shall have no obligation), on behalf of or in the name of the Issuer or otherwise, to perform such obligations or cause performance of such obligations and to take any steps that the Trustee may, in its absolute discretion, consider appropriate with a view to remedying, or mitigating the consequences of, such failure by the Issuer, in which case the reasonable expenses of the Trustee, including the reasonable fees and expenses of its counsel, incurred in connection therewith shall be payable by the Issuer under Section 8.1; provided, that no exercise or failure to exercise this power by the Trustee shall in any way prejudice the Trustee's other rights under this Indenture or any of the other Transaction Documents.

Section 12.2 Waiver. Any waiver by any party of any provision of this Indenture or any right, remedy or option hereunder shall only prevent and estop such party from thereafter enforcing such provision, right, remedy or option if such waiver is given in writing and only as to the specific instance and for the specific purpose for which such waiver was given. The failure or refusal of any party hereto to insist in any one or more instances, or in a course of dealing, upon the strict performance of any of the terms or provisions of this Indenture by any party hereto or the partial exercise of any right, remedy or option hereunder shall not be construed as a waiver or relinquishment of any such term or provision, but the same shall continue in full force and effect. No failure on the part of the Trustee to exercise, and no delay on its part in exercising, any right or remedy under this Indenture will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Indenture are cumulative and not exclusive of any rights or remedies provided by law.

Section 12.3 Severability. In the event that any provision of this Indenture or the application thereof to any party hereto or to any circumstance or in any jurisdiction governing this Indenture shall, to any extent, be invalid or unenforceable under any applicable statute, regulation or rule of law, then such provision shall be deemed inoperative to the extent that it is invalid or unenforceable, and the remainder of this Indenture, and the application of any such

invalid or unenforceable provision to the parties, jurisdictions or circumstances other than to whom or to which it is held invalid or unenforceable, shall not be affected thereby nor shall the same affect the validity or enforceability of this Indenture. The parties hereto further agree that the holding by any court of competent jurisdiction that any remedy pursued by the Trustee hereunder is unavailable or unenforceable shall not affect in any way the ability of the Trustee to pursue any other remedy available to it.

Section 12.4 Restrictions on Exercise of Certain Rights. The Trustee and, during the continuance of a payment Default with respect to the Senior Class of Notes, the Senior Trustee, except as otherwise provided in Section 4.4, Section 4.9 and Section 4.11, may sue for recovery or take any other steps for the purpose of recovering any of the obligations hereunder or any other debts or liabilities whatsoever owing to it by the Issuer. Each of the Noteholders shall at all times be deemed to have agreed by virtue of the acceptance of the Notes that only the Trustee and, during the continuance of a payment Default with respect to the Senior Class of Notes, the Senior Trustee, except as provided in Section 4.4, Section 4.9 and Section 4.11, may take any steps for the purpose of procuring the appointment of an administrative receiver, examiner, receiver or similar officer or the making of an administration order or for instituting any bankruptcy, reorganization, arrangement, insolvency, winding-up, liquidation, composition, examination or any like proceedings under Applicable Law.

Section 12.5 Notices. All Notices shall be in writing and shall be effective (a) upon receipt when sent through the mails, registered or certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) upon receipt when sent by an overnight courier, (c) on the date personally delivered to an authorized officer of the party to which sent, (d) on the date transmitted by legible telecopier transmission with a confirmation of receipt or (e) in the case of reports under Article III and any other report that is of a routine nature, on the date sent by first class mail or overnight courier or transmitted by legible telecopier transmission, in all cases, with a copy emailed to the recipient at the applicable address, addressed to the recipient as follows:

if to the Issuer, to:

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel
Telephone: 919-859-1302
Facsimile: 919-851-1416
Email: abarnes@biocryst.com

if to the Trustee, the Registrar, the Paying Agent or the Calculation Agent, to:

U.S. Bank National Association
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst)
Telephone: 617-603-6553
Facsimile: 617-603-6683

A copy of each notice given hereunder to any party hereto shall also be given to each of the other parties hereto. Each party hereto may, by notice given in accordance herewith to each of the other parties hereto, designate any further or different address to which subsequent Notices shall be sent.

Section 12.6 Assignments. This Indenture shall be a continuing obligation of the Issuer and shall (a) be binding upon the Issuer and its successors and assigns and (b) inure to the benefit of and be enforceable by the Trustee and by its successors, transferees and assigns and, as and to the extent provided in Section 3.7(b), the Equityholders. The Issuer may not assign any of its obligations under this Indenture or delegate any of its duties hereunder.

Section 12.7 Application to Court. The Trustee may at any time after the service of an Acceleration Notice apply to any court of competent jurisdiction for an order that the terms of this Indenture be carried into execution under the direction of such court and for the appointment of a Receiver of the Collateral or any part thereof and for any other order in relation to the administration of this Indenture as the Trustee shall deem fit, and it may assent to or approve any application to any court of competent jurisdiction made at the instigation of any of the Noteholders and shall be indemnified by the Issuer against all costs, charges and expenses incurred by it in relation to any such application or proceedings.

Section 12.8 GOVERNING LAW. THIS INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

Section 12.9 Jurisdiction.

(a) Each of the parties hereto agrees that the U.S. federal and State of New York courts located in the Borough of Manhattan, The City of New York shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Indenture and, for such purposes, submits to the jurisdiction of such courts. Each of the parties hereto waives any objection that it might now or hereafter have to the U.S. federal or State of New York courts located in the Borough of Manhattan, The City of New York being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Indenture and agrees not to

claim that any such court is not a convenient or appropriate forum. Each of the parties hereto has irrevocably designated, appointed and empowered the respective Persons named in Exhibit C as its designee, appointee and agent to receive, accept and acknowledge for and on its behalf, and its properties, assets and revenues, service of any and all legal process, summons, notices and documents that may be served in any suit, action or proceeding brought against such party in any United States or state court arising out of or relating to this Indenture or the Notes. If for any reason any such designee, appointee and agent hereunder shall cease to be available to act as such, such party agrees to designate a new designee, appointee and agent in the Borough of Manhattan, The City of New York on the terms and for the purposes of this Section 12.9 satisfactory to such other party. Each party further hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents in any suit, action or proceeding against such party by serving a copy thereof upon the relevant agent for service of process referred to in this Section 12.9 (whether or not the appointment of such agent shall for any reason prove to be ineffective or such agent shall accept or acknowledge such service) or by mailing copies thereof by registered or certified mail, postage prepaid, to such party at its address specified in or designated pursuant to this Indenture. Each party agrees that the failure of any such designee, appointee and agent to give any notice of such service to it shall not impair or affect in any way the validity of such service or any judgment rendered in any action or proceeding based thereon. Nothing herein shall in any way be deemed to limit the ability of the Issuer or the Trustee and the Noteholders, as the case may be, to serve any such legal process, summons, notices and documents in any other manner permitted by Applicable Law or to obtain jurisdiction over such party or bring suits, actions or proceedings against such party in such other jurisdictions, and in such manner, as may be permitted by Applicable Law.

(b) The submission to the jurisdiction of the courts referred to in Section 12.9(a) shall not (and shall not be construed so as to) limit the right of the Trustee to take proceedings against the Issuer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

(c) Each of the parties hereto hereby consents generally in respect of any legal action or proceeding arising out of or in connection with this Indenture to the giving of any relief or the issue of any process in connection with such action or proceeding, including the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment that may be made or given in such action or proceeding.

(d) If, for the purpose of obtaining a judgment or order in any court, it is necessary to convert a sum due hereunder to any Noteholder from dollars into another currency, the Issuer has agreed, and each Noteholder by holding a Note will be deemed to have agreed, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures, such Noteholder could purchase dollars with such other currency in the Borough of Manhattan, The City of New York on the Business Day preceding the day on which final judgment is given.

(e) The obligation of the Issuer in respect of any sum payable by it to a Noteholder shall, notwithstanding any judgment or order in a currency other than dollars (the "Judgment Currency"), be discharged only to the extent that, on the Business Day following

receipt by such Noteholder of such security of any sum adjudged to be so due in the Judgment Currency, such Noteholder may in accordance with normal banking procedures purchase dollars with the Judgment Currency. If the amount of dollars so purchased is less than the sum originally due to such Noteholder in the Judgment Currency (determined in the manner set forth in Section 12.9(d)), the Issuer agrees, as a separate obligation and notwithstanding any such judgment, to indemnify such Noteholder against such loss, and, if the amount of the dollars so purchased exceeds the sum originally due to such Noteholder, such Noteholder agrees to remit to the Issuer such excess, provided that such Noteholder shall have no obligation to remit any such excess as long as the Issuer shall have failed to pay such Noteholder any obligations due and payable under the Notes of such Noteholder, in which case such excess may be applied to such obligations of the Issuer under such Notes in accordance with the terms thereof. The foregoing indemnity shall constitute a separate and independent obligation of the Issuer and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid.

(f) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS INDENTURE OR ANY MATTER ARISING HEREUNDER.

Section 12.10 Counterparts. This Indenture may be executed in one or more counterparts by the parties hereto, and each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument.

Section 12.11 Table of Contents and Headings. The Table of Contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

Section 12.12 Trust Indenture Act. This Indenture shall not be qualified under the Trust Indenture Act and shall not be subject to the provisions of the Trust Indenture Act.

Section 12.13 Confidential Information. The Trustee, in its individual capacity and as Trustee, agrees and acknowledges that all information (including Confidential Information) provided to the Trustee by an Equityholder, the Seller or the Issuer may be considered to be proprietary and confidential information of Counterparty. The Trustee agrees to take all reasonable precautions necessary to keep such information confidential, which precautions shall be no less stringent than those that the Trustee employs to protect its own confidential information. The Trustee shall not disclose to any third party other than as set forth herein, and shall not use for any purpose other than the exercise of the Trustee's rights and the performance of its obligations under this Indenture, any such information without the prior written consent of Counterparty. In addition, the Trustee agrees to be bound by the provisions of Section 4.2 of the Purchase and Sale Agreement to the extent it receives confidential information of Counterparty pursuant to Section 3.1 of the Servicing Agreement or Section 5.3. The Trustee shall limit access to such information received hereunder to (a) its directors, officers, managers and employees and (b) its legal advisors, to each of whom disclosure of such information is necessary for the purposes described above; provided, however, that in each case such party has

expressly agreed to maintain such information in confidence under terms and conditions substantially identical to the terms of this Section 12.13.

The Trustee agrees that Counterparty does not have any responsibility whatsoever for any reliance on such information by the Trustee or by any Person to whom such information is disclosed in connection with this Indenture, whether related to the purposes described above or otherwise. Without limiting the generality of the foregoing, the Trustee agrees that Counterparty makes no representation or warranty whatsoever to it with respect to such information or its suitability for such purposes. The Trustee further agrees that it shall not acquire any rights against Counterparty or any employee, officer, director, manager, representative or agent of Counterparty (together with Counterparty, "Confidential Parties") as a result of the disclosure of such information to the Trustee or to any Noteholder or Beneficial Holder and that no Confidential Party has any duty, responsibility, liability or obligation to any Person as a result of any such disclosure.

In the event the Trustee is required to disclose any such information received hereunder in order to comply with any laws, regulations or court orders, it may disclose such information only to the extent necessary for such compliance; provided, however, that it shall give Counterparty and the Issuer reasonable advance written notice of any such court proceeding in which such disclosure may be required pursuant to a court order so as to afford Counterparty a full and fair opportunity to oppose the issuance of such order and to appeal therefrom and shall cooperate reasonably with Counterparty in opposing such order and in securing confidential treatment of any such information to be disclosed and/or obtaining a protective order narrowing the scope of such disclosure.

The Trustee agrees that Counterparty is an express third-party beneficiary of the provisions of this Section 12.13.

Each of the Calculation Agent, the Paying Agent and the Registrar agrees to be bound by this Section 12.13 to the same extent as the Trustee.

Section 12.14 Limited Recourse. Each of the parties hereto accepts that the enforceability against the Issuer of the obligations of the Issuer hereunder and under the Notes shall be limited to the assets of the Issuer, whether tangible or intangible, real or personal (including the Collateral) and the proceeds thereof. Once all such assets have been realized upon and such assets (and proceeds thereof) have been applied in accordance with Article III, any outstanding obligations of the Issuer shall be extinguished. For the avoidance of doubt, this Section 12.14 does not affect the obligations of the Equityholders under the Pledge and Security Agreement or the ability of the Trustee or any Noteholder to exercise any rights or remedies it may have under the Pledge and Security Agreement. Each of the parties hereto further agrees that it shall take no action against any employee, director, officer or administrator of the Issuer, an Equityholder or the Trustee in relation to this Indenture; provided, that nothing herein shall limit the Issuer (or its permitted successors or assigns, including any party hereto that becomes such a successor or assign) from pursuing claims, if any, against any such Person. The provisions of this Section 12.14 shall survive termination of this Indenture; provided, further, that the foregoing shall not in any way limit, impair or otherwise affect any rights of the Trustee or the Noteholders to proceed against any such Person (a) for intentional and willful fraud or

intentional and willful misrepresentations on the part of or by such Person or (b) for the receipt of any distributions or payments to which the Issuer or any successor in interest is entitled, other than distributions expressly permitted pursuant to this Indenture and the other Deal Documents.

Section 12.15 Tax Matters.

(a) The Issuer has entered into this Indenture, and the Notes will be issued, with the intention that, for all Tax purposes, the Notes will qualify as indebtedness. The Issuer, by entering into this Indenture, and each Noteholder and Beneficial Holder, agree to treat the Notes as debt for all Tax purposes.

(b) The Issuer shall not be obligated to pay any additional amounts to the Noteholders or Beneficial Holders as a result of any withholding or deduction for, or on account of, any present or future Taxes imposed on payments in respect of the Notes. If a Global Note is issued, in accordance with the procedures of DTC, the Issuer shall (or shall direct the Trustee in writing to) request the Notes to be coded as eligible for the "portfolio interest exemption". Unless otherwise required by Applicable Law, if Definitive Notes are issued, so long as a Person shall have delivered to the Issuer a properly completed IRS Form W-9, IRS Form W-8BEN, IRS Form W-8ECI or other applicable IRS form or, in the case of a Person claiming the exemption from U.S. federal withholding tax under Section 871(h) of the Code or Section 881(c) of the Code with respect to payments of "portfolio interest", the appropriate properly completed IRS form together with a certificate substantially in the form of Exhibit K, neither the Issuer nor the Trustee shall withhold Taxes on payments of interest made to any such Person. Any such IRS Form W-8BEN shall specify whether the Noteholder or Beneficial Holder to whom the form relates is entitled to the benefits of any applicable income tax treaty.

(c) Provided that the Issuer complies with Section 5.2(u), Section 12.15(a) and Section 12.15(b), if Definitive Notes are issued, (i) if any withholding Tax is imposed on the Issuer's payment under the Notes to any Noteholder or Beneficial Holder, such Tax shall reduce the amount otherwise distributable to such Noteholder or Beneficial Holder, as the case may be, (ii) the Trustee is hereby authorized and directed to retain from amounts otherwise distributable to any Noteholder or Beneficial Holder sufficient funds for the payment of any withholding Tax that is legally owed by the Issuer (but such authorization shall not prevent the Trustee from contesting any such withholding Tax in appropriate proceedings and withholding payment of such Tax, if permitted by Applicable Law, pending the outcome of such proceedings) and (iii) the amount of any withholding Tax imposed with respect to any Noteholder or Beneficial Holder shall be treated as cash distributed to such Noteholder or Beneficial Holder, as the case may be, at the time it is withheld by the Trustee and remitted to the appropriate taxing authority. Provided that the Issuer complies with Section 5.2(u), Section 12.15(a) and Section 12.15(b), if there is a possibility that withholding Tax is payable with respect to a payment under the Notes, the Trustee may (but shall have no obligation to) withhold such amounts in accordance with this Section 12.15. Nothing herein shall impose an obligation on the part of the Trustee to determine the amount of any Tax or withholding obligation on the part of the Issuer or in respect of the Notes.

Section 12.16 Waiver. The Issuer waives any right to contest or otherwise assert that the Purchase and Sale Agreement is other than a true, absolute and irrevocable sale and assignment by the Seller to the Issuer of the Purchased Assets under Applicable Law.

Section 12.17 Distribution Reports. Each party hereto acknowledges and agrees that the Trustee may effect delivery of any Distribution Report (including the materials accompanying such Distribution Report) by making such Distribution Report and accompanying materials available by posting such Distribution Report and accompanying materials on IntraLinks or a substantially similar electronic transmission system; provided, however, that, upon written notice to the Trustee, any Noteholder may decline to receive such Distribution Report and accompanying materials via IntraLinks or a substantially similar electronic transmission system, in which case such Distribution Report and accompanying materials shall be provided as otherwise set forth in the Deal Documents. Subject to the conditions set forth in the proviso in the immediately preceding sentence, nothing in this Section 12.17 shall prejudice the right of the Trustee to make such Distribution Report and accompanying materials available in any other manner specified in the Deal Documents.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Indenture to be duly executed, all as of the date first written above.

JPR ROYALTY SUB LLC, as Issuer

By: BioCryst Pharmaceuticals, Inc., its Manager

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Alison D. B. Nadeau
Name: Alison D.B. Nadeau
Title: Vice President

ANNEX A
RULES OF CONSTRUCTION AND DEFINED TERMS

Unless the context otherwise requires, in this Annex A and each Transaction Document (or other document) to which this Annex A is attached:

(a) A term has the meaning assigned to it and an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP.

(b) Unless otherwise defined, all terms used herein or therein that are defined in the UCC shall have the meanings stated in the UCC.

(c) Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words in the singular shall include the plural, and vice versa.

(d) The terms “include”, “including” and similar terms shall be construed as if followed by the phrase “without limitation”.

(e) References to an agreement or other document include references to such agreement or document as amended, restated, reformed, supplemented or otherwise modified in accordance with the terms thereof and include any Annexes, Exhibits and Schedules attached thereto, and the provisions thereof apply to successive events and transactions.

(f) References to any statute or other legislative provision shall include any statutory or legislative modification or re-enactment thereof, or any substitution therefor.

(g) References to any Person shall be construed to include such Person’s successors and permitted assigns.

(h) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(i) The words “hereof”, “herein”, “hereunder” and similar terms when used in this Annex A or any Transaction Document (or other document) shall refer to this Annex A or such Transaction Document (or other document) as a whole and not to any particular provision hereof or thereof, and Article, Section, Annex, Schedule and Exhibit references herein and therein are references to Articles and Sections of, and Annexes, Schedules and Exhibits to, the relevant Transaction Document (or other document) unless otherwise specified.

(j) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means ”to but excluding”.

(k) References to a class of Notes shall be to the Original Class A Notes, to a class of Subordinated Notes or to a class of Refinancing Notes, as applicable.

(l) References to the Notes include the terms and conditions in the relevant Transaction Document (or other document) applicable to the Notes, and any reference to any amount of money due or payable by reference to the Notes shall include any sum covenanted to be paid by the Issuer under the relevant Transaction Document (or other document) in respect of the Notes.

(m) References to any action, remedy or method of judicial proceeding for the enforcement of the rights of creditors or of security shall be deemed to include, in respect of any jurisdiction other than the State of New York, references to such action, remedy or method of judicial proceeding for the enforcement of the rights of creditors or of security available or appropriate in such jurisdiction as shall most nearly approximate such action, remedy or method of judicial proceeding described or referred to in the relevant Transaction Document (or other document).

(n) Where any payment is to be made, any funds are to be applied or any calculation is to be made under any Transaction Document (or other document) on a day that is not a Business Day, unless any Transaction Document (or other document) otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the next succeeding Business Day, and payments shall be adjusted accordingly, including interest unless otherwise specified; provided, however, that no interest shall accrue in respect of any payments made on Fixed Rate Notes on that next succeeding Business Day.

(o) References to any Calculation Date or Relevant Calculation Date, in each case that would be prior to the first Calculation Date that follows the Closing Date, shall be deemed to refer to the Closing Date.

(p) Any reference herein to a term that is defined by reference to its meaning in the Counterparty License Agreement or the UAB Agreement shall refer to such term's meaning in the Counterparty License Agreement or the UAB Agreement, as the case may be, as in existence on the date of the relevant Transaction Document (or other document) to which this Annex A is attached (and not to any new, substituted or amended version thereof).

"144A Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Acceleration Default" means any Event of Default of the type described in Section 4.1(f) of the Indenture.

"Acceleration Notice" means a written notice given after the occurrence and continuation of an Event of Default to the Issuer by the Senior Trustee pursuant to Section 4.2 of the Indenture declaring all Outstanding principal of and accrued and unpaid interest on the Notes to be immediately due and payable.

"Accounts" means the Collection Account, the Redemption Account, the Escrow Account, the Capital Account, the Interest Reserve Account and any other account established pursuant to Section 3.1 of the Indenture.

"Act" has the meaning set forth in Section 1.3(a) of the Indenture.

"Actual Beneficial Holder List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Additional Interest" means, with respect to the Notes, interest accrued on the amount of any interest and Premium, if any, in respect of such Notes that is not paid when due at the Stated Rate of Interest of such Notes for each Interest Accrual Period until any such unpaid interest or Premium is paid in full, compounded annually on each Payment Date, to the fullest extent permitted by Applicable Law.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director, officer or manager of such Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing.

"Agent Members" has the meaning set forth in Section 2.10(a) of the Indenture.

"Applicable Law" means, with respect to any Person, all laws, rules, regulations and orders of Governmental Authorities applicable to such Person or any of its properties or assets.

"Applicants" has the meaning set forth in Section 6.13 of the Indenture.

"Approved Holder List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Audit Expenses" has the meaning set forth in Section 6.14(b) of the Indenture.

"Authorized Agent" means, with respect to the Notes, any authorized Calculation Agent, Paying Agent or Registrar acting as such for the Notes.

"Available Collections Amount" means, for any Payment Date, the sum of (a) the amount of U.S. dollars on deposit in the Collection Account as of the Calculation Date immediately preceding such Payment Date and (b) the amount of any net investment income on amounts on deposit in the Accounts (other than the Capital Account) as of such Calculation Date.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Beneficial Holder" means any Person that holds a Beneficial Interest in any Global Note through an Agent Member.

"Beneficial Interest" means any beneficial interest in any Global Note, whether held directly by an Agent Member or held indirectly through an Agent Member's beneficial interest in such Global Note.

"Bill of Sale" means that certain bill of sale dated as of the Closing Date executed by the Seller and the Issuer.

"Business Day" means (a) any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Applicable Law to remain closed or a day on which the Corporate Trust Office is closed for business and (b) for purposes of calculating any amounts at the London interbank offered rate and related calculations relative to the making, continuing, prepaying or repaying of Indebtedness in respect thereof, any day that is a Business Day described in clause (a) that is also a day on which dealings in dollars are carried on in the London interbank market.

"Calculation Agent" means U.S. Bank National Association, a national banking association, as Calculation Agent under the Indenture, and any successor appointed pursuant to Section 2.3 of the Indenture.

"Calculation Date" means, for any Payment Date, the fifth Business Day preceding such Payment Date.

"Calculation Date Information" means, with respect to any Calculation Date, the information provided by the Servicer under Section 3.1(c) of the Servicing Agreement with respect to such Calculation Date.

"Calculation Report" has the meaning set forth in Section 3.5(b) of the Indenture.

"Capital Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Capital Securities" means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital, whether now outstanding or issued after the Closing Date, including common shares, ordinary shares, preferred shares, membership interests or share capital in a limited liability company or other Person, limited or general partnership interests in a partnership, beneficial interests in trusts or any other equivalent of such ownership interest or any options, warrants and other rights to acquire such shares or interests, including rights to allocations and distributions,

dividends, redemption payments and liquidation payments, but in any event excluding any membership interest in the Issuer held by the Independent Member.

"Change in Law" means the occurrence, after the date of the Memorandum, of any of the following: (a) the adoption or taking effect of any law, rule, statute, ordinance, regulation or treaty; (b) any change in any law, rule, statute, ordinance, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority whether or not such change can be relied on as precedent; or (c) the making or issuance of any guideline, directive, private ruling or administrative guidance (whether or not having the force of law) by any Governmental Authority (including any IRS private letter ruling or field service advisory).

"Change of Control" means, with respect to an Equityholder (or any parent entity of an Equityholder), any merger, consolidation or amalgamation (or any transaction substantially similar to any of the foregoing) with, or, in the case of clause (a) below, a sale of all or substantially all of the assets of such Equityholder (or such parent entity) to, any other Person if such Equityholder (or such parent entity) (a) is not the continuing or surviving entity but the continuing or surviving entity shall have assumed all of the obligations of such Equityholder under the Deal Documents to which such Equityholder is a party immediately prior to such transaction (including such Equityholder's obligations under the Pledge and Security Agreement in accordance with Sections 6.1 and 17.1 of the Pledge and Security Agreement) or (b) is the continuing or surviving entity.

"Class A Notes" means the Original Class A Notes and any Refinancing Notes issued to refinance the foregoing.

"Clearstream" means Clearstream Banking, a French société anonyme.

"Closing Date" means March 9, 2011.

"Closing Day Accounts" has the meaning set forth in Section 3.1(b) of the Indenture.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

"Collateral" has the meaning set forth in the Granting Clause of the Indenture.

"Collection Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Collections" means, without duplication, (a) the Royalties, (b) the Currency Hedge Payments, (c) any net investment income on amounts on deposit in the Accounts (other than the Capital Account) and (d) any other amounts received by the Issuer (other than the proceeds of any Notes and capital contributions from the Equityholders), including any amounts payable to the Issuer pursuant to Section 4.5(c) of the Purchase and Sale Agreement or Article VI of the Purchase and Sale Agreement in respect of the Royalties.

"Compound" has the meaning set forth in Section 1.1(m) of the Counterparty License Agreement.

"Confidential Information" means, as it relates to the Seller and its Affiliates, the Licensed Products and the Intellectual Property Rights, all information (whether written or oral, or in electronic or other form) furnished after the Closing Date involving or relating in any way, directly or indirectly, to the Purchased Assets or the Royalties, including (a) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the Counterparty License Agreement, the UAB Agreement and the Currency Hedge Agreement) involving or relating in any way, directly or indirectly, to the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including all terms and conditions thereof and the identities of the parties thereto, (b) any reports, data, materials or other documents of any kind concerning or relating in any way, directly or indirectly, to the Seller, the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (a) above, and (c) any inventions, devices, improvements, formulations, discoveries, compositions, ingredients, patents, patent applications, know-how, processes, trial results, research, developments or any other intellectual property, trade secrets or information involving or relating in any way, directly or indirectly, to the Purchased Assets or the compounds or products giving rise to the Purchased Assets.

"Confidentiality Agreement" means, with respect to Noteholders or Beneficial Holders at the Closing Date with respect to the Original Class A Notes (or, with respect to Noteholders or Beneficial Holders with respect to any Subordinated Notes or any Refinancing Notes), a confidentiality agreement for the benefit of the Issuer provided to the Registrar on or prior to the Closing Date (or on or prior to the date of issuance of any such Subordinated Notes or Refinancing Notes), and otherwise means a confidentiality agreement for the benefit of the Issuer substantially in the form of Exhibit B to the Indenture or substantially in the form of any confidentiality agreement referenced in Schedule 1 to an applicable Purchase Agreement.

"Confidential Parties" has the meaning set forth in Section 12.13 of the Indenture.

"Corporate Trust Office" means the office of the Trustee in the city at which at any particular time the Trustee's duties under the Transaction Documents shall be principally administered and, on the Closing Date, shall be U.S. Bank National Association, One Federal Street, 3rd Floor, Boston, Massachusetts 02110, Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst).

"Counterparty" means Shionogi & Co., Ltd., a Japanese corporation.

"Counterparty Instruction" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Counterparty License Agreement" means that certain License, Development and Commercialization Agreement dated as of February 28, 2007, as amended by that certain First Amendment to License, Development and Commercialization Agreement dated as of September 30, 2008, that certain letter agreement dated May 10, 2010 and that certain Consent Agreement dated as of November 2, 2010, between the Seller and Counterparty.

"Currency Hedge Agreement" means that certain Confirmation (including the related letter agreement) dated as of March 9, 2011 and the ISDA Master Agreement (including the schedule and credit support annex included therein) (solely insofar as such ISDA Master Agreement relates to such Confirmation and not to any other "Transaction" as such term is defined in such ISDA Master Agreement) dated as of March 7, 2011, in each case between the Seller and the Currency Hedge Provider (and any replacement foreign currency hedge arrangement entered into by the Seller as permitted by Section 4.11(e)(i) of the Purchase and Sale Agreement) and, with respect to such letter agreement, among the Seller, the Currency Hedge Provider, the Issuer and the Trustee.

"Currency Hedge Payments" means the amounts required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement (subject to all of the Currency Hedge Provider's rights under the Currency Hedge Agreement (including, to the extent provided in the Currency Hedge Agreement, liquidation, netting and setoff rights, specified conditions precedent to the Currency Hedge Provider's required payments and performance and rights to realize on margin or other collateral)) except any amount required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement as a result of a termination of the Currency Hedge Agreement by the Seller permitted by Section 4.11(e) of the Purchase and Sale Agreement.

"Currency Hedge Provider" means Morgan Stanley Capital Services Inc.

"Deal Documents" means the Transaction Documents, the Purchase and Sale Agreement, the Bill of Sale and the Counterparty Instruction.

"Default" means a condition, event or act that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Definitive Notes" has the meaning set forth in Section 2.1(b) of the Indenture.

"Direction" has the meaning set forth in Section 1.3(c) of the Indenture.

"Distribution Report" has the meaning set forth in Section 2.13(a) of the Indenture.

"Dollar" or the sign "$" means United States dollars.

"DTC" means The Depository Trust Company, its nominees and their respective successors.

"DTC List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Eligibility Requirements" has the meaning set forth in Section 2.3(c) of the Indenture.

"Eligible Account" means a trust account maintained on the books and records of an Eligible Institution in the name of the Issuer.

"Eligible Institution" means any bank organized under the laws of the U.S. or any state thereof or the District of Columbia (or any domestic branch of a foreign bank), which at all times

has either (a) a long-term unsecured debt rating of at least A2 by Moody's and A by S&P or (b) a certificate of deposit rating of at least P-1 by Moody's and A-1 by S&P.

"Eligible Investments" means, in each case, book-entry securities, negotiable instruments or securities represented by instruments in bearer or registered form that evidence:

(a) direct obligations of, and obligations fully Guaranteed as to timely payment of principal and interest by, the U.S. or any agency or instrumentality thereof the obligations of which are backed by the full faith and credit of the U.S. (having original maturities of no more than 365 days or such lesser time as is required for the distribution of funds); or

(b) demand deposits, time deposits or certificates of deposit of the Operating Bank or of depositary institutions or trust companies organized under the laws of the U.S. or any state thereof or the District of Columbia (or any domestic branch of a foreign bank) with capital and surplus of not less than $500,000,000 (i) having original maturities of no more than 365 days or such lesser time as is required for the distribution of funds; provided, that, at the time of investment or contractual commitment to invest therein, the short-term debt rating of such depositary institution or trust company shall be at least P-1 by Moody's and A-1 by S&P or (ii) having maturities of more than 365 days and, at the time of the investment or contractual commitment to invest therein, a rating of at least A2 by Moody's and A by S&P;

provided, however, that no investment shall be made in any obligations of any depositary institution or trust company that is identified in a written notice to the Trustee from the Issuer or the Servicer as having a contractual right to set off and apply any deposits held, or other indebtedness owing, by the Issuer to or for the credit or the account of such depositary institution or trust company, unless such contractual right by its terms expressly excludes all Eligible Investments.

"Equityholder" means a holder of Capital Securities of the Issuer. The only Equityholder as of the Closing Date is the Seller.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any trade or business that is treated as a single employer with the Issuer or the Seller under Section 414 of the Code.

"Escrow Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Escrow List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

"Event of Default" has the meaning set forth in Section 4.1 of the Indenture.

"Excess Holder Event" has the meaning set forth in Section 2.17 of the Indenture.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended.

"Expenses" means any and all reasonable out-of-pocket fees, costs and expenses of the Issuer, including the reasonable fees, expenses and indemnities of the Service Providers (provided, that, with respect to the Servicer, such expenses shall only be the Servicing Fee and reasonable out-of-pocket expenses), reasonable and customary directors and officers liability insurance for any directors and officers of the Issuer, the fees and out-of-pocket expenses of counsel to the Independent Member, the Trustee and the Issuer incurred after the Closing Date in connection with the transactions contemplated by the Deal Documents, any Audit Expenses, the fees and expenses of any nationally recognized independent public accounting firm engaged as auditors of the Issuer (including any fees incurred by any accounting firm in connection with auditing the records of Counterparty), any expenses incurred in connection with the exercise of audit rights at the direction of the Issuer or at the direction of the Noteholders pursuant to Section 6.14(a) of the Indenture and any payments by the Issuer to third parties in respect of obligations for which indemnification payments have been received from the Seller; provided, however, that, except as expressly provided in the Indenture, Expenses shall not include any Transaction Expenses, any amounts related to any indemnification or contribution obligations of the Issuer set forth in the Issuer Organizational Documents, any Servicing Fee to the extent greater than $20,000 per year, any amounts payable on the Notes pursuant to Section 3.7(a)(i), 3.7(a)(iii), 3.7(a)(iv) and 3.7(a)(v) of the Indenture, any fees, costs or expenses relating to the Subordinated Notes or any other amounts ranking pari passu with or junior to interest payable on the Class A Notes in the priority of payments set forth under Section 3.7 of the Indenture.

"Field" has the meaning set forth in Section 1.1(u) of the Counterparty License Agreement.

"Final Legal Maturity Date" means, with respect to (a) the Original Class A Notes, December 1, 2020, and (b) with respect to any Subordinated Notes or Refinancing Notes, the date specified in the indenture supplemental to the Indenture providing for their issuance; provided, that the Final Legal Maturity Date with respect to any Subordinated Notes where the proceeds thereof are not used to redeem or refinance all of the Outstanding Class A Notes shall be no earlier than December 1, 2020.

"Fixed Rate Notes" means (a) the Original Class A Notes and (b) any Subordinated Notes or Refinancing Notes issued with a fixed rate of interest.

"Floating Rate Notes" means any Subordinated Notes or Refinancing Notes issued with a floating or variable rate of interest.

"GAAP" means generally accepted accounting principles in effect in the United States from time to time.

"Global Notes" means any 144A Global Note and Regulation S Global Note.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or

other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation of such other Person or (b) entered into for purposes of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" when used as a verb has a corresponding meaning.

"Holder Lists" has the meaning set forth in Section 2.17 of the Indenture.

"Incur" has the meaning set forth in Section 5.2(d) of the Indenture.

"Indebtedness" means, with respect to any Person at any date of determination (without duplication), (a) all indebtedness of such Person for borrowed money or other similar monetary obligations, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person as an account party in respect of letters of credit or other similar instruments (including reimbursement obligations with respect thereto), (d) all the obligations of such Person to pay the deferred and unpaid purchase price of property or services (other than obligations to trade creditors incurred in the ordinary course of business in connection with the obtaining of goods, materials or services), which purchase price is due more than 90 days after the date of purchasing such property or service or taking delivery and title thereto or the completion of such services, and payment deferrals arranged primarily as a method of raising funds to acquire such property or service, (e) all monetary obligations of such Person and its Subsidiaries under any leasing or similar arrangement that have been (or, in accordance with GAAP, should be) classified as capitalized leases, (f) all Guarantees of such Person in respect of any of the foregoing, (g) all monetary obligations of such Person with respect to any interest rate hedge, cap, floor, swap, option or other interest rate hedge agreement, (h) all Indebtedness (as defined in clauses (a) through (g) of this definition) of other Persons secured by a lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person, and (i) all Indebtedness (as defined in clauses (a) through (g) of this definition) of other Persons Guaranteed by such Person. Notwithstanding the foregoing, "Indebtedness" shall not include any surety or performance bonds required to be obtained in connection with the performance or enforcement by the Issuer of any Deal Document or the Counterparty License Agreement or the Issuer's defense of any action, suit or proceeding.

"Indemnitee" has the meaning set forth in Section 19.1 of the Pledge and Security Agreement.

"Indemnitees" has the meaning set forth in Section 19.1 of the Pledge and Security Agreement.

"Indenture" means that certain indenture, dated as of the Closing Date, by and between the Issuer and the Trustee.

"Indenture Estate" has the meaning set forth in the Granting Clause of the Indenture.

"Independent Member" means a Member (i) who is not at the time of such Person's admission to the Issuer, (ii) who is not and (iii) who has not been at any time during the preceding five years: (a) a director, manager, officer or employee of the Issuer or an Equityholder (other than in the capacity of Independent Member) or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (b) a Person related to any officer, director, manager or employee of the Issuer or an Equityholder (other than in the capacity of Independent Member) or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (c) a holder (directly or indirectly) of any Voting Securities of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (d) a Person related to a holder (directly or indirectly) of any Voting Securities of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (e) a creditor, supplier, contractor, purchaser, customer or any other Person who derives any of his, her or its revenues from interactions with the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder or a family member of such creditor, supplier, contractor, purchaser, customer or other Person; (f) a trustee in bankruptcy or other insolvency proceeding for, or a reorganization of, an Equityholder or any Affiliate of an Equityholder; or (g) a Person who controls (directly or indirectly) the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder or any creditor, supplier, employee, officer, director, manager or contractor of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder.

"Initial Interest Reserve Amount" means $3,000,000.

"Institutional Accredited Investor" means a Person that is an accredited investor as that term is defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Intellectual Property Rights" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Interest Accrual Period" means the period beginning on (and including) the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, the date of issuance of such Subordinated Notes or Refinancing Notes) and ending on (and including) September 1, 2011 and each successive period beginning on (and including) September 2 of each year and ending on (and including) September 1 of the succeeding year; provided, however, that the final Interest Accrual Period shall end on but exclude the final Payment Date (or, if earlier, with respect to any class of Notes repaid in full, the date such class of Notes is repaid in full).

"Interest Amount" means, with respect to the Outstanding Principal Balance of any class of Notes, on any Payment Date, the amount of accrued and unpaid interest at the Stated Rate of Interest with respect to the Outstanding Principal Balance of such class of Notes on such Payment Date (including any Additional Interest, if any), determined in accordance with the

terms thereof (including interest accruing after the commencement of a proceeding in bankruptcy, insolvency or similar law, whether or not permitted as a claim under such law).

"Interest Reserve Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Interest Shortfall" has the meaning set forth in Section 3.5(a)(x) of the Indenture.

"Involuntary Bankruptcy" means, without the consent or acquiescence of the Issuer, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against the Issuer, or, without the consent or acquiescence of the Issuer, the entering of an order appointing a trustee, custodian, receiver or liquidator of the Issuer or of all or any substantial part of the property of the Issuer, in each case where such petition or order shall remain unstayed or shall not have been stayed or dismissed within 90 days from entry thereof.

"IRS" means the U.S. Internal Revenue Service.

"Issuer" means JPR Royalty Sub LLC, a Delaware limited liability company, as issuer of the Notes pursuant to the Indenture.

"Issuer Organizational Documents" means the certificate of formation of the Issuer dated January 14, 2011 and effective January 20, 2011 and the limited liability company agreement of the Issuer dated as of the Closing Date.

"Issuer Pledged Collateral" has the meaning set forth in Section 2.1 of the Pledge and Security Agreement.

"Issuer Pledged Equity" has the meaning set forth in Section 2.1(a) of the Pledge and Security Agreement.

"Judgment Currency" has the meaning set forth in Section 12.9(e) of the Indenture.

"Legend" has the meaning set forth in Section 2.2 of the Indenture.

"Licensed Product" has the meaning set forth in Section 1.1(jj) of the Counterparty License Agreement.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property or other priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale, any sale with recourse or any agreement to give any security interest.

"Loss" means any loss, set-off, off-set, rescission, counterclaim, reduction, deduction, defense, cost, charge, expense, interest, fee, payment, demand, liability, claim, action, proceeding, penalty, fine, damages, judgment, order or other sanction.

"Manager" means the manager of the Issuer.

"Material Adverse Change" means any event, circumstance or change resulting in a material adverse effect on (a) the legality, validity or enforceability of any of the Deal Documents, the Counterparty License Agreement or the back-up security interest granted pursuant to Section 2.1(d) of the Purchase and Sale Agreement, (b) the right or ability of the Seller (or any permitted assignee), the Issuer or the Servicer, as the case may be, to perform its obligations under any of the Deal Documents or the Counterparty License Agreement, in each case to which it is a party, or to consummate the transactions contemplated under any of the Transaction Documents or the Counterparty License Agreement, (c) the rights or remedies of the Issuer under any of the Deal Documents or the Counterparty License Agreement, (d) the timing, amount or duration of the Royalties or any Currency Hedge Payments, (e) the Purchased Assets, (f) the Intellectual Property Rights or (g) the ability of the Trustee to realize the practical benefit of the Pledge and Security Agreement (including any failure to have a perfected Lien on any of the Issuer Pledged Collateral as required by the Indenture).

"Member" means a member of the Issuer.

"Memorandum" means the private placement memorandum of the Issuer for the Original Class A Notes dated March 1, 2011.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto or, if such corporation or its successor shall for any reason no longer perform the functions of a rating agency, "Moody's" shall be deemed to refer to any other nationally recognized statistical rating organization (within the meaning ascribed thereto by the Exchange Act) designated by the Issuer.

"Non-U.S. Person" means a person who is not a U.S. person within the meaning of Regulation S.

"Noteholder" means any Person in whose name a Note is registered from time to time in the Register for such Note.

"Note Purchase Price" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Note Purchasers" has the meaning set forth in Section 1.1 of the Purchase Agreements.

"Notes" means the Original Class A Notes, any Subordinated Notes and any Refinancing Notes.

"Notices" means notices, demands, certificates, requests, directions, instructions and communications.

"Officer's Certificate" means a certificate signed by, with respect to the Issuer, a Responsible Officer of the Issuer and, with respect to any other Person, any officer, director, manager, partner, trustee or equivalent representative of such Person.

"Operating Bank" means U.S. Bank National Association or any other Eligible Institution at which the Accounts are held; provided, that (a) upon the resignation or removal and the replacement of the Trustee pursuant to the terms of the Indenture, the successor trustee appointed thereunder shall be the Operating Bank, and (b) if at any time the Operating Bank ceases to be an Eligible Institution, a successor shall be appointed by the Issuer (or the Servicer) on behalf of the Trustee and all Accounts shall thereafter be transferred to and be maintained at such successor in the name of the Trustee and such successor shall thereafter be the "Operating Bank".

"Opinion of Counsel" means a written opinion signed by legal counsel, who may be an employee of or counsel to the Issuer or the Seller, that meets the requirements of Section 1.2 of the Indenture.

"Option" means a foreign currency exchange option set forth in the Currency Hedge Agreement.

"Options" means, collectively, the foreign currency exchange options set forth in the Currency Hedge Agreement.

"Optional Redemption" has the meaning set forth in Section 3.9(b) of the Indenture.

"Original Class A Notes" means the JPR PhaRMA^{SM} Senior Secured 14% Notes due 2020 of the Issuer in the initial Outstanding Principal Balance of $30,000,000, substantially in the form of Exhibit A to the Indenture.

"Other Agreements" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Other Note Purchasers" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Other Prices" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Outstanding" means (a) with respect to the Notes of any class at any time, all Notes of such class theretofore authenticated and delivered by the Trustee except (i) any such Notes cancelled by, or delivered for cancellation to, the Trustee, (ii) any such Notes, or portions thereof, for the payment of principal of and accrued and unpaid interest on which moneys have been distributed to Noteholders by the Trustee and any such Notes, or portions thereof, for the payment or redemption of which moneys in the necessary amount have been deposited in the Redemption Account for such Notes; provided, that, if such Notes are to be redeemed prior to the maturity thereof in accordance with the requirements of Section 3.9 of the Indenture, written notice of such Redemption shall have been given and not rescinded as provided in Section 3.10 of the Indenture, or provision satisfactory to the Trustee shall have been made for giving such written notice, and, if Redemption does not occur, then this clause (ii) ceases to apply as of the Payment Date that was supposed to be the date of Redemption, and (iii) any such Notes in exchange or substitution for which other Notes, as the case may be, have been authenticated and delivered, or which have been paid pursuant to the terms of the Indenture (unless proof satisfactory to the Trustee is presented that any of such Notes is held by a Person in whose hands such Note is a legal, valid and binding obligation of the Issuer), and (b) when used with respect

to any other evidence of Indebtedness, at any time, any principal amount thereof then unpaid and outstanding (whether or not due or payable).

"Outstanding Principal Balance" means, with respect to any Note or other evidence of Indebtedness Outstanding, the total principal amount of such Note or other evidence of Indebtedness unpaid and Outstanding at any time, as determined in the case of the Notes in the Calculation Report to be provided to the Issuer (or the Servicer) and the Trustee by the Calculation Agent pursuant to Section 3.5 of the Indenture.

"Paying Agent" has the meaning set forth in Section 2.3(a) of the Indenture.

"Payment Date" means each September 1, commencing on September 1, 2011, and the Final Legal Maturity Date; provided, that, if any such date would otherwise fall on a day that is not a Business Day, the Payment Date falling on such date shall be the first following day that is a Business Day; provided, further, however, that, if any such date on or after September 1, 2016 would otherwise fall on a day that is not a Business Day, the Payment Date falling on such date shall be the first preceding day that is a Business Day (in which case the full interest payment for the related Interest Accrual Period shall nonetheless be payable on such first preceding Business Day).

"Permanent Regulation S Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Permitted Holder" means (a) the Seller, (b) the Issuer and (c) any Person (including the Noteholders) that has executed a Confidentiality Agreement and delivered such Confidentiality Agreement to the Registrar in accordance with the terms of the Indenture.

"Permitted Lien" means (a) any lien for Taxes, assessments and governmental charges or levies not yet due and payable or that are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on the books of the relevant Person, (b) any Lien created in favor of the Trustee and (c) any other Lien expressly permitted under the Deal Documents (including any security interest created or required to be created under the Indenture, including in connection with the issuance of any Subordinated Notes and any Refinancing Notes).

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Placement Agent" means Morgan Stanley & Co. Incorporated.

"Plan" means, with respect to any Person, any employee benefit plan (within the meaning of Section 3(3) of ERISA), whether or not subject to ERISA, in each case that is (or within the preceding six years has been) maintained, or to which contributions are (or within the preceding six years have been) required to be made by such Person or an ERISA Affiliate or with respect to which such Person may have any liability.

"Plan Assets" has the meaning given to such term by Section 3(42) of ERISA and regulations issued by the U.S. Department of Labor, but also includes assets of an employee benefit plan (within the meaning of Section 3(3) of ERISA) subject to Similar Laws.

"Pledge and Security Agreement" means that certain pledge and security agreement dated as of the Closing Date made by the Equityholders to the Trustee.

"Premium" means, with respect to any Note on any Redemption Date, any Redemption Premium, if applicable, or, with respect to any Redemption Date, the portion of the Redemption Price of the Notes being redeemed in excess of the Outstanding Principal Balance of the Notes being redeemed.

"Price" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Purchase Agreement" means that certain note purchase agreement dated the Closing Date among the Issuer, the Seller and the Purchaser party thereto.

"Purchase Agreements" means, collectively, each Purchase Agreement and the Other Agreements.

"Purchase and Sale Agreement" means that certain purchase and sale agreement dated as of the Closing Date between the Seller and the Issuer.

"Purchased Assets" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Purchase Price" has the meaning set forth in Section 2.3 of the Purchase and Sale Agreement.

"Purchaser" has the meaning set forth in Section 1.1 of the Purchase Agreements.

"Purchaser Indemnified Party" has the meaning set forth in Section 6.1 of the Purchase and Sale Agreement.

"QIB" means a qualified institutional buyer within the meaning of Rule 144A.

"RAPIACTA" means (i) the brand name for peramivir in Japan and (ii) the equivalent product sold by Counterparty or its Affiliates in Taiwan under such brand name or another brand name.

"Receiver" means any Person or Persons appointed as (and any additional Person or Persons appointed or substituted as) administrative receiver, receiver, manager or receiver and manager.

"Record Date" means, with respect to each Payment Date, the close of business on the fifteenth day preceding such Payment Date and, with respect to the date on which any Direction is to be given by the Noteholders, the close of business on the last Business Day prior to the solicitation of such Direction.

"Redemption" means any Optional Redemption and any other redemption of Notes described in Section 3.9(c) of the Indenture.

"Redemption Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Redemption Date" means the date, which may be any Business Day on or after March 9, 2012, on which Notes are redeemed pursuant to a Redemption.

"Redemption Premium" means, in the case of any Subordinated Notes or Refinancing Notes, the amount, if any, specified in the Resolution and set forth in any indenture supplemental to the Indenture to be paid in the event of a Redemption of such Subordinated Notes or Refinancing Notes separately from the Redemption Price.

"Redemption Price" means (a) in respect of an Optional Redemption of the Original Class A Notes, an amount equal to the product of (x) the applicable Class A Redemption Percentage as set forth below and (y) the Outstanding Principal Balance of the Original Class A Notes that are being redeemed on such Business Day, plus the accrued and unpaid interest to the Redemption Date on the Original Class A Notes that are being redeemed:

Business Day	Class A Redemption Percentage
From and including March 9, 2012 to and including March 8, 2013	107.00%
From and including March 9, 2013 to and including March 8, 2014	103.50%
From and including March 9, 2014 and thereafter	100.00%

and (b) in respect of any Subordinated Notes or Refinancing Notes, the redemption price, if any, plus the accrued and unpaid interest to the Redemption Date on the Subordinated Notes or Refinancing Notes, as the case may be, established by or pursuant to a Resolution and set forth in any indenture supplemental to the Indenture providing for the issuance of such Notes or designated as such in the form of such Notes (any such Redemption Price in respect of any Subordinated Notes or Refinancing Notes may include a Redemption Premium, and such Resolution and indenture supplemental to the Indenture may specify a separate Redemption Premium).

"Reference Date" means, with respect to each Interest Accrual Period, the day that is two Business Days prior to the Payment Date on which such Interest Accrual Period commences; provided, however, that the Reference Date with respect to the initial Interest Accrual Period means the date that is two Business Days prior to the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, the date that is two Business Days prior to the date of issuance of such Subordinated Notes or Refinancing Notes).

"Refinancing" has the meaning set forth in Section 2.15(a) of the Indenture.

"Refinancing Expenses" means all Transaction Expenses incurred in connection with an offering and issuance of Refinancing Notes.

"Refinancing Notes" means any class (or sub-class) of Notes issued by the Issuer under the Indenture at any time and from time to time after the Closing Date pursuant to Section 2.15 of the Indenture, the proceeds of which are used to repay all of the Outstanding Principal Balance of a class of Notes.

"Register" has the meaning set forth in Section 2.3(a) of the Indenture.

"Registrar" has the meaning set forth in Section 2.3(a) of the Indenture.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S Global Note Exchange Date" means the date of exchange of any Temporary Regulation S Global Note for any Permanent Regulation S Global Note, which date shall be 40 days after the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, 40 days after the date of issuance of such Subordinated Notes or Refinancing Notes).

"Regulation S Global Notes" has the meaning set forth in Section 2.1(b) of the Indenture.

"Relevant Calculation Date" has the meaning set forth in Section 3.5(a) of the Indenture.

"Relevant Information" means any information provided to the Trustee, the Calculation Agent or the Paying Agent in writing by any Service Provider retained from time to time by the Issuer pursuant to the Deal Documents.

"Resolution" means a copy of a resolution certified by a Responsible Officer of the Issuer as having been duly adopted by the Issuer and being in full force and effect on the date of such certification.

"Responsible Officer" means (a) with respect to the Trustee, any officer within the Corporate Trust Office, including any principal, vice president, managing director, director, manager, associate or other officer of the Trustee customarily performing functions similar to those performed by any of the above-designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge and familiarity with the particular subject, (b) with respect to the Seller, any officer of the Seller, and (c) with respect to the Issuer, any officer of the Manager or person designated by the governing body of the Manager as a Responsible Officer for purposes of the Deal Documents.

"Royalties" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Rule 144A" means Rule 144A under the Securities Act.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto or, if such division or its successor shall for any reason no longer perform the functions of a rating agency, "S&P" shall be deemed to refer to any other nationally recognized statistical rating organization (within the meaning ascribed thereto by the Exchange Act) designated by the Issuer.

"SEC" means the U.S. Securities and Exchange Commission.

"Secured Obligations" has the meaning set forth in the Granting Clause of the Indenture.

"Securities Act" means the U.S. Securities Act of 1933, as amended.

"Security Interest" means the security interest granted or expressed to be granted in the Collateral pursuant to the Granting Clause of the Indenture and in the Issuer Pledged Collateral pursuant to the Pledge and Security Agreement.

"Seller" means BioCryst Pharmaceuticals, Inc., a Delaware corporation.

"Seller Payments" has the meaning set forth in Section 3.4 of the Indenture.

"Seller Shortfall" means the amount, if any, payable by the Seller to Counterparty under the Counterparty License Agreement or to the Currency Hedge Provider under the Currency Hedge Agreement that is due and payable but that has not been paid by the Seller.

"Seller Shortfall Payment" means any payment made by the Trustee in respect of any Seller Shortfall.

"Senior Claim" has the meaning set forth in Section 10.1(a) of the Indenture.

"Senior Class of Notes" means (a) so long as any Class A Notes are Outstanding, the Class A Notes, or (b) if no Class A Notes are Outstanding, the class or classes (or sub-class or sub-classes) of Subordinated Notes defined as such pursuant to the Resolution(s) and/or indenture(s) supplemental to the Indenture providing for the issuance of such Subordinated Notes.

"Senior Trustee" means the Trustee, acting in its capacity as the trustee of the Senior Class of Notes.

"Service Providers" means the Servicer, the Trustee, the Independent Member, the Calculation Agent, the Paying Agent, the Registrar, the Operating Bank, any outside law firm or accounting firm providing services to the Issuer and any Person that becomes a Servicer, the Trustee, the Independent Member, the Calculation Agent, the Paying Agent, the Registrar or the Operating Bank in accordance with the terms of the applicable agreement and, subject to the written approval of the Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, any other Person designated as a Service Provider by the Issuer.

"Servicer" means the Seller, acting in its capacity as servicer pursuant to the Servicing Agreement (or any other Person appointed to succeed the Seller as such or any successor thereto pursuant to the Servicing Agreement).

"Servicer Termination Event" means any one of the following events:

(a) the Seller shall resign as Servicer in accordance with the terms of the Servicing Agreement;

(b) the Servicer shall fail to pay any amount when due under the Servicing Agreement and such failure shall continue unremedied for five Business Days;

(c) the Servicer shall fail to deliver the Distribution Report and the other required accompanying materials with respect to any Payment Date in accordance with the provisions of the Servicing Agreement within five Business Days of the date such Distribution Report and the other required accompanying materials are required to be delivered under the Servicing Agreement; provided, however, that the Servicer shall have received in a timely manner any Calculation Report (unless the failure to receive such Calculation Report was due to the breach by the Servicer of Section 3.1(c)(vi) of the Servicing Agreement);

(d) the Servicer shall fail to carry out its obligations under Section 3.1(c)(ii) of the Servicing Agreement that shall have or reasonably be expected to have a material adverse effect on the Noteholders;

(e) the Servicer shall fail to carry out its obligations under Section 3.1(c)(v), Section 3.1(c)(viii) or Section 3.1(c)(ix) of the Servicing Agreement;

(f) the Servicer shall fail to observe or perform in any material respect any of the covenants or agreements on the part of the Servicer contained in the Servicing Agreement (other than for which provision is made in clauses (a) through (e) above) and such failure shall continue unremedied for a period of 30 days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Servicer by the Trustee, and such failure continues to materially adversely affect the Noteholders for such period;

(g) a court having jurisdiction in the premises enters a decree or order for (i) relief in respect of the Servicer under any Applicable Law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law in effect now or after the Closing Date, (ii) appointment of a receiver, liquidator, examiner, assignee, custodian, trustee, sequestrator or similar official of the Servicer or (iii) the winding-up or liquidation of the affairs of the Servicer and, in each case, such decree or order shall remain unstayed or such writ or other process shall not have been stayed or dismissed within 90 days from entry thereof;

(h) the Servicer (i) commences a voluntary case under any Applicable Law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law in effect now or after the Closing Date, or consents to the entry of an order for relief in any involuntary case under any such law, (ii) consents to the appointment of or taking possession by a receiver, liquidator, examiner, assignee, custodian, trustee, sequestrator or similar official of the Servicer or for all or substantially all of the property and assets of the Servicer or (iii) effects any general assignment for the benefit of creditors;

(i) the Servicer’s business activities are terminated by any Governmental Authority;

(j) a material adverse change occurs in the financial condition or operations of the Servicer that is a Material Adverse Change;

(k) an Event of Default shall have occurred, other than an Event of Default solely caused by the Trustee, the Calculation Agent, the Paying Agent or the Registrar failing to perform any of its respective obligations under the Indenture or any other Transaction Document; or

(l) so long as the Seller is the Servicer, the Seller sells, transfers, conveys, assigns, contributes or grants a majority of the Capital Securities of the Issuer to another Person or Persons.

"Servicing Agreement" means that certain servicing agreement dated as of the Closing Date between the Issuer and the Seller.

"Servicing Fee" has the meaning set forth in Section 2.1 of the Servicing Agreement.

"Similar Laws" means, with respect to a Plan that is not subject to Section 406 of ERISA or Section 4975 of the Code, all Applicable Laws that may affect the Plan's investment in the Notes and that is substantially similar to Section 406 of ERISA or Section 4975 of the Code.

"Stated Rate of Interest" means, with respect to any class of the Notes for any Interest Accrual Period, the interest rate set forth in such class of Notes for such Interest Accrual Period.

"Subordinated Claim" has the meaning set forth in Section 10.1(a) of the Indenture.

"Subordinated Note Issuance" has the meaning set forth in Section 2.16(a) of the Indenture.

"Subordinated Notes" means any class (or sub-class) of Notes issued in such form as shall be authorized by a Resolution and set forth in any indenture supplemental to the Indenture in respect thereof pursuant to Section 2.16 of the Indenture and any Refinancing Notes issued to refinance the foregoing.

"Subsidiary" means, with respect to any Person, any other Person of which more than 50% of the outstanding Voting Securities of such other Person (irrespective of whether at the time Capital Securities of any other class or classes of such other Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more other Subsidiaries of such Person or by one or more other Subsidiaries of such Person.

"Taxes" means (a) any and all taxes, fees, levies, duties, tariffs, imposts and other charges of any kind (together with any and all interest, penalties, loss, damage, liability, expense, additions to tax and additional amounts or costs incurred or imposed with respect thereto) now or hereafter imposed, levied, collected, withheld or otherwise assessed by the U.S. or by any state, local, foreign or other Governmental Authority (or any subdivision or agency thereof) or other taxing authority, including taxes or other charges on or with respect to income, franchise, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment,

social security, workers' compensation, unemployment compensation or net worth and similar charges and taxes or other charges in the nature of excise, deduction, withholding, ad valorem, stamp, transfer, value added, taxes on goods and services, escheat, gains taxes, license, registration and documentation fees, customs duties, tariffs and similar charges, (b) liability for such a tax that is imposed by reason of United States Treasury Regulation Section 1.1502-6 or similar provision of law and (c) liability for the payment of any amounts as a result of any express or implied obligation to indemnify any other Person with respect to the payment of any amounts described in clause (a) or clause (b).

"Temporary Regulation S Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Territory" means Japan and Taiwan.

"Transaction Documents" means the Indenture, the Notes, the Servicing Agreement, the Pledge and Security Agreement, the Purchase Agreements and the Currency Hedge Agreement, and each other agreement pursuant to which the Trustee (or its agent) is granted a Lien to secure the obligations under the Indenture or the Notes.

"Transaction Expenses" means the out-of-pocket expenses payable by the Issuer in connection with (a) the issuance of the Original Class A Notes, including placement fees, any initial fees payable to Service Providers and the documented fees and expenses of Pillsbury Winthrop Shaw Pittman LLP, counsel to the Noteholders in connection with the offering and issuance of the Original Class A Notes, as set forth in the Purchase Agreements, and (b) the offering and issuance of any Subordinated Notes or any Refinancing Notes, to the extent specified in the Resolution authorizing such offering and issuance.

"Trustee" means U.S. Bank National Association, a national banking association, as initial trustee of the Notes under the Indenture, and any successor appointed in accordance with the terms of the Indenture; provided, that, for purposes of Section 3.1(b) of the Indenture, "Trustee" means U.S. Bank National Association, a national banking association, as the Operating Bank and/or initial trustee of the Notes under the Indenture, as the context may require.

"Trustee Closing Account" means the account of the Issuer maintained with the Trustee at U.S. Bank National Association, ABA No. 091000022, Account No. 173103321092, Ref. JPR Royalty, Attention: Josh Tripi.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended.

"UAB" means The UAB Research Foundation, a non-profit corporation.

"UAB Agreement" means that certain Joint Research and License Agreement dated as of November 23, 1994 between the Seller and UAB, as amended by that certain letter agreement dated October 9, 1996 and by that certain Agreement dated as of December 16, 2010 between the Seller and UAB.

"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 law, the perfection or the effect of perfection or non-perfection of the Liens granted to the Trustee pursuant to the applicable Transaction Document 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 each Transaction Document and any financing statement relating to such perfection or effect of perfection or non-perfection.

"United States Treasury" means the U.S. Department of the Treasury.

"U.S." or "United States" means the United States of America, its 50 states, each territory thereof and the District of Columbia.

"U.S. Person" means a U.S. person within the meaning of Regulation S.

"Voluntary Bankruptcy" means (a) an admission in writing by the Issuer of its inability to pay its debts generally or a general assignment by the Issuer for the benefit of creditors, (b) the filing of any petition or answer by the Issuer seeking to adjudicate itself as bankrupt or insolvent, or seeking for itself any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of the Issuer or its debts under any law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law now or hereafter in effect, or seeking, consenting to or acquiescing in the entry of an order for relief in any case under any such law, or the appointment of or taking possession by a receiver, trustee, custodian, liquidator, examiner, assignee, sequestrator or other similar official for the Issuer or for any substantial part of its property, or (c) limited liability company action taken by the Issuer to authorize any of the actions set forth in clause (a) or clause (b) above.

"Voting Securities" means, with respect to any Person, Capital Securities of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Yen" or the sign "¥" means Japanese yen.

EXHIBIT A

FORM OF ORIGINAL CLASS A NOTE

[INSERT THE APPLICABLE LEGEND(S) SET FORTH IN SECTION 2.2]

JPR ROYALTY SUB LLC

JPR PhaRMA[SM] Senior Secured 14% Notes due 2020

Class A

No. _____ CUSIP: _____

U.S.$_____

JPR ROYALTY SUB LLC, a limited liability company organized under the laws of the State of Delaware (herein referred to as the "Issuer"), for value received, hereby promises to pay to CEDE & CO., or registered assigns, the principal amount set forth on Schedule I hereto on or before December 1, 2020 (the "Final Legal Maturity Date") and to pay interest annually on the Outstanding Principal Balance hereof at a rate per annum equal to 14% (the "Stated Rate of Interest"), from the date hereof until the Outstanding Principal Balance hereof is paid or duly provided for, which interest shall be due and payable on each Payment Date; provided, that, with respect to any Payment Date (other than the Final Legal Maturity Date or any Redemption Date), any such interest in excess of the portion of the Available Collections Amount available to pay such interest on such Payment Date and funds in the Interest Reserve Account and the Capital Account (and available for interest payments pursuant to Section 3.8 of the Indenture (as defined below)) shall be payable in full not later than the immediately succeeding Payment Date (together with Additional Interest on the amount of unpaid interest from the Payment Date on which it was due until the date on which it is paid, compounded annually on each Payment Date). Interest on this Note in each Interest Accrual Period shall be calculated on the basis of a 360-day year consisting of twelve 30-day months on the Outstanding Principal Balance of this Note. If this Note is issued in the form of a Global Note, in accordance with the requirements of DTC, the Issuer will cause the Trustee to authenticate an additional Note or additional Notes in the appropriate principal amount such that neither this Note nor any other such Note may exceed an aggregate principal amount of U.S.$500,000,000 at any time.

This Note is a duly authorized issue of Notes of the Issuer, designated as its "JPR PhaRMA[SM] Senior Secured 14% Notes due 2020", issued under the Indenture dated as of March 9, 2011 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Indenture"), by and between the Issuer and U.S. Bank National Association, as trustee (including any successor appointed in accordance with the terms of the Indenture, the "Trustee"). The Indenture also provides for the issuance of Refinancing Notes and Subordinated Notes. All capitalized terms used in this Note and not defined herein shall have the respective meanings assigned to such terms in the Indenture. Reference is made to the Indenture and all indentures supplemental thereto for a statement of the respective rights and obligations thereunder of the Issuer, the Trustee and the Noteholders. This Note is subject to all terms of the Indenture.

The Issuer will pay the Outstanding Principal Balance of this Note on or prior to the Final Legal Maturity Date on the Payment Date specified in the Indenture, subject to the availability of the Available Collections Amount therefor after making payments entitled to priority under Section 3.7 of the Indenture.

The indebtedness evidenced by the Original Class A Notes is, to the extent and in the manner provided in the Indenture, senior in right of payment to the right of payment of the Subordinated Notes, and this Note is issued subject to such provisions. The maturity of this Note is subject to acceleration upon the occurrence and during the continuance of the Events of Default specified in the Indenture.

The Issuer may redeem all or part of the Outstanding Principal Balance of this Note prior to the Final Legal Maturity Date on any Redemption Date, in the amounts and under the circumstances specified in the Indenture.

Any amount of Premium or interest on this Note that is not paid when due shall, to the fullest extent permitted by Applicable Law, bear interest ("Additional Interest") at an interest rate per annum equal to the Stated Rate of Interest from the date when due until such amount is paid or duly provided for, compounded annually and payable on the next succeeding Payment Date, subject to the availability of the Available Collections Amount therefor (and, to the extent provided in Section 3.8, the Interest Reserve Account and the Capital Account) after making payments entitled to priority under Section 3.7 of the Indenture.

This Note is and will be secured by the Collateral and the Issuer Pledged Equity pledged as security therefor as provided in the Indenture and the Pledge and Security Agreement, respectively.

Subject to and in accordance with the terms of the Indenture, there will be distributed annually from the Collection Account on each Payment Date commencing on September 1, 2011, to the Person in whose name this Note is registered at the close of business on the Record Date with respect to such Payment Date, in the manner specified in Section 3.7 of the Indenture, such Person's pro rata share (based on the aggregate percentage of the Outstanding Principal Balance of the Original Class A Notes held by such Person) of the aggregate amount distributable to all Noteholders of Original Class A Notes on such Payment Date.

All amounts payable in respect of this Note shall be payable in dollars in the manner provided in the Indenture to the Noteholder hereof on the Record Date relating to such payment. The final payment with respect to this Note, however, shall be made only upon presentation and surrender of this Note by the Noteholder or its agent at an office or agency of the Trustee or Paying Agent in New York City. At such time, if any, as this Note is issued in the form of one or more Definitive Notes (other than by reason of Section 2.5(d) of the Indenture), payments on a Payment Date shall be made by check mailed to each Noteholder of such a Definitive Note on the applicable Record Date at its address appearing on the Register maintained with respect to the Original Class A Notes. Alternatively, upon application in writing to the Trustee or other Paying Agent, not later than the applicable Record Date, by a Noteholder (but only if this Note has an Outstanding Principal Balance of at least $5,000,000), any such payments shall be made by wire transfer to an account designated by such Noteholder at a financial institution in New

York City; provided, that, in each case, the final payment with respect to any such Definitive Note shall be made only upon presentation and surrender of such Definitive Note by the Noteholder or its agent at an office or agency of the Trustee or Paying Agent in New York City. Notwithstanding the foregoing, payments in respect of this Note issued in the form of a Global Note (including principal, Premium, if any, and interest) shall be made by wire transfer of immediately available funds to the account specified by DTC. Any reduction in the Outstanding Principal Balance of this Note (or any one or more predecessor Original Class A Notes) effected by any payments made on any Payment Date shall be binding upon all future Noteholders of this Note and of any Original Class A Note issued upon the registration of transfer of, in exchange or in lieu of or upon the refinancing of this Note, whether or not noted hereon.

The Noteholder of this Note agrees, by acceptance hereof, to pay over to the Trustee any money (including principal, Premium, if any, and interest) paid to it in respect of this Note in the event that the Trustee, acting in good faith, determines subsequently that such monies were not paid in accordance with the priority of payment provisions of the Indenture or as a result of any other mistake of fact or law on the part of the Trustee in making such payment.

This Note is issuable only in registered form. A Noteholder or Beneficial Holder may transfer this Note or a Beneficial Interest herein only by delivery of a written application to the Registrar stating the name of the proposed transferee, a Confidentiality Agreement duly executed and delivered to the Registrar by such transferee and otherwise complying with the terms of the Indenture. No such transfer shall be effected until, and such transferee shall succeed to the rights of a Noteholder only upon, final acceptance and registration of the transfer by the Registrar in the Register. When this Note is presented to the Registrar with a request to register the transfer or to exchange it for an equal principal amount of Original Class A Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements for such transactions are met (including, in the case of a transfer, that such Note is duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee and Registrar duly executed by the Noteholder thereof or by an attorney who is authorized in writing to act on behalf of the Noteholder and that the transferee has executed and delivered to the Registrar a Confidentiality Agreement). No service charge shall be made for any registration of transfer or exchange of this Note, but the party requesting such new Original Class A Note or Original Class A Notes may be required to pay a sum sufficient to cover any transfer Tax or similar governmental charge payable in connection therewith.

Prior to the registration of transfer of this Note, the Issuer and the Trustee may deem and treat the Person in whose name this Note (as of the day of determination or as of such other date as may be specified in the Indenture) is registered as the absolute owner and Noteholder hereof for the purpose of receiving payment of all amounts payable with respect to this Note and for all other purposes, and neither the Issuer nor the Trustee shall be affected by notice to the contrary.

Subject to Section 3.7(b) of the Indenture, the Indenture permits the amendment or modification of the Indenture and the Original Class A Notes by the Issuer with the consent of the Noteholders of a majority of the Outstanding Principal Balance of the Notes (voting or acting as a single class); provided, however, that if there shall be Notes of more than one class Outstanding and if a proposed amendment, modification, consent or waiver shall directly affect the rights of Noteholders of one or more, but less than all, of such classes, then the consent only

of the Noteholders of a majority of the Outstanding Principal Balance of each affected class of Notes, each voting or acting as a single class, shall be required; provided, further, however, that no amendment or modification of the Indenture or the Original Class A Notes may, without the consent of Noteholders of 100% of the Outstanding Principal Balance of the class of Notes affected thereby, (i) reduce the percentage of Noteholders of any such class of Notes required to take or approve any action under the Indenture, (ii) reduce the amount or change the time of payment of any amount owing or payable with respect to any such class of Notes (including pursuant to any Redemption) or change the rate of interest or change the manner of calculation of interest payable with respect to any such class of Notes, (iii) alter or modify in any adverse respect the provisions with respect to the Collateral or any Issuer Pledged Collateral for the Notes, the provisions of the Pledge and Security Agreement with respect to the related Issuer Pledged Collateral for the Notes or the manner of payment or the order of priorities in which payments or distributions under the Indenture will be made as between the Noteholders of such Notes and the Issuer or as among the Noteholders (including pursuant to Section 3.7 of the Indenture), (iv) consent to any assignment of the Issuer's rights to a party other than the Trustee for the benefit of the Noteholders or (v) alter the provisions relating to the Interest Reserve Account in a manner adverse to any Noteholder. Any such amendment or modification shall be binding on every Noteholder hereof, whether or not notation thereof is made upon this Note.

The subordination provisions contained in Article X of the Indenture may not be amended or modified without the consent of Noteholders of 100% of the Outstanding Principal Balance of the class of Notes affected thereby. In no event shall the provisions set forth in Section 3.7 of the Indenture relating to the priority of payment of Expenses be amended or modified.

The Indenture also contains provisions permitting the Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, on behalf of the Noteholders of all of the Original Class A Notes, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver shall be conclusive and binding upon all present and future Noteholders of this Note and of any Original Class A Note issued upon the registration of transfer of, in exchange or in lieu of or upon the refinancing of this Note, whether or not notation of such consent or waiver is made upon this Note.

The Original Class A Notes are issuable only in registered form in denominations as provided in the Indenture, subject to certain limitations therein set forth.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

The enforceability against the Issuer of the obligations of the Issuer under the Indenture and under the Notes shall be limited to the assets of the Issuer, whether tangible or intangible, real or personal (including the Collateral) and the proceeds thereof. Once all such assets have

been realized upon and such assets (and proceeds thereof) have been applied in accordance with Article III of the Indenture, any outstanding obligations of the Issuer shall be extinguished. Each of the parties to the Indenture shall take no action against any employee, director, officer or administrator of the Issuer, an Equityholder or the Trustee in relation to the Indenture; provided, that nothing therein shall limit the Issuer (or its permitted successors or assigns, including any party thereto that becomes such a successor or assign) from pursuing claims, if any, against any such Person. The provisions of Section 12.14 of the Indenture shall survive termination of the Indenture; provided, further, that the foregoing shall not in any way limit, impair or otherwise affect any rights of the Trustee or the Noteholders to proceed against any such Person (a) for intentional and willful fraud or intentional and willful misrepresentations on the part of or by such Person or (b) for the receipt of any distributions or payments to which the Issuer or any successor in interest is entitled, other than distributions expressly permitted pursuant to the Indenture and the other Deal Documents.

Unless the certificate of authentication hereon has been executed by the Trustee whose name appears below by manual signature, this Note shall not be entitled to any benefit under the Indenture, or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Issuer has caused this Note to be signed manually or by facsimile by its duly authorized Manager.

Date: March 9, 2011

JPR ROYALTY SUB LLC

By: BioCryst Pharmaceuticals, Inc., its Manager

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Note is one of the JPR PhaRMA^{SM} Senior Secured 14% Notes due 2020 designated above and referred to in the within-mentioned indenture.

Date: March 9, 2011

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

FORM OF TRANSFER NOTICE

FOR VALUE RECEIVED the undersigned registered holder hereby sell(s), assign(s) and transfer(s) unto

Insert Taxpayer Identification No. _____

_____

(Please print or typewrite name and address including zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Issuer with full power of substitution in the premises.

_____ _____

Date Signature of Transferor

NOTE: The signature to this assignment must correspond with the name as written upon the face of the within-mentioned instrument in every particular, without alteration or any change whatsoever.

[THE FOLLOWING PROVISIONS TO BE INCLUDED ON ALL NOTES]

In connection with any transfer of the within-mentioned Note, the undersigned confirms without utilizing any general solicitation or general advertising that:

[Check One]

__(a) the within-mentioned Note is being transferred in compliance with the exemption from registration under the Securities Act provided by Rule 144A thereunder

__(b) the within-mentioned Note is being transferred other than in accordance with clause (a) above and documents are being furnished that comply with the conditions of transfer set forth in the within-mentioned Note and the Indenture

If neither of the foregoing boxes is checked, the Trustee or other Registrar shall not be obligated to register the within-mentioned Note in the name of any Person other than the Noteholder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 2.11 of the Indenture shall have been satisfied.

_____ _____

Date NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within-mentioned instrument in every particular, without alteration or any change whatsoever.

TO BE COMPLETED BY PURCHASER IF CLAUSE (a) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing the within-mentioned Note for its own account or an account with respect to which it exercises sole investment discretion and that each of it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A and has executed and delivered to the Registrar a Confidentiality Agreement.

Dated: _____

_____
Executive Officer

SCHEDULE I

JPR ROYALTY SUB LLC
JPR PhaRMA[SM] Senior Secured 14% Notes due 2020

No. ____

Date	Principal Amount	Notation Explaining Principal Amount Recorded	Authorized Signature of Trustee or Custodian

EXHIBIT B

FORM OF CONFIDENTIALITY AGREEMENT

No. ____

BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703

_____, 20__

CONFIDENTIALITY AGREEMENT

In connection with our possible interest in the purchase of the JPR PhaRMA℠ Senior Secured Notes (the "Notes") issued by JPR Royalty Sub LLC, a Delaware limited liability company (the "Company") (the "Transaction"), we have requested a copy of the Private Placement Memorandum relating to the Notes (the "Memorandum"). In addition to receiving the Memorandum, we may also request that you or your directors, officers, managers, members, partners, employees, affiliates, assigns, representatives (including, without limitation, financial advisors, attorneys and accountants), agents or similar persons (collectively, "your Representatives") furnish us or our directors, officers, managers, members, partners, employees, affiliates, assigns, representatives (including, without limitation, financial advisors, attorneys and accountants), agents or similar persons (collectively, "our Representatives") with certain Confidential Information (as defined in the Indenture described below) and with certain other information relating to the Company, the Transaction and the rights being acquired by the Company from BioCryst Pharmaceuticals, Inc., a Delaware corporation (the "Seller"). All such information (whether written, visual or oral, and whether tangible or electronic) furnished on or after the date hereof by you or your Representatives (including any such information provided in a dataroom via IntraLinks or otherwise) to us or our Representatives, including, without limitation, the Memorandum, any agreements between the Seller and Shionogi & Co., Ltd., any royalty reports required to be delivered thereunder, any agreements between the Seller and The UAB Research Foundation ("UAB RF") and any materials containing, based on or derived from any such information (including, without limitation, any financial models or other analyses, compilations, forecasts, studies or other documents based thereon) prepared by us or our Representatives in connection with our or our Representatives' review of, or our interest in, the Transaction is hereinafter referred to as the "Information". The term Information will not, however, include information that (i) is already known by us at the time that such information is disclosed (unless such information was disclosed to us under a confidentiality agreement with you), (ii) is or thereafter becomes available in the public domain, other than by breach by us or our Representatives of our obligations hereunder or (iii) is obtainable by us from another source without breach of such source's obligations of confidentiality to you.

As a condition to receiving the Information, we hereby agree as follows:

1. We and our Representatives hereby agree (i) to keep the Information confidential and to use at least the same level of care in safeguarding such Information as we use with our own confidential information, and in no event less than reasonable care under the circumstances, (ii) that the Information will be used solely for the purpose of evaluating, entering into, monitoring or enforcing the Transaction, (iii) not to, without your prior written consent, disclose any Information in any manner whatsoever, and (iv) not to decompile, disassemble or reverse engineer the Information; provided, however, that we may reveal the Information to (a) our Representatives who need to know the Information for the purpose of evaluating, entering into, monitoring or enforcing the Transaction or (b) third parties in order to comply with any applicable law, rule, regulation or legal process or pursuant to requests of governmental authorities or regulatory agencies having oversight over us or our Representatives, and only after compliance with paragraph 3 below, provided, that all of such persons listed in clause (a) above shall agree to keep such Information confidential, and only to use such Information, on terms that are substantially the same as the terms we are subject to herein, and, provided, further, that we shall be wholly responsible for the full compliance of such confidentiality agreement or confidentiality undertaking by any of the persons listed in clause (a) above to which we disclosed Information. Notwithstanding and without limitation of the foregoing, we and our Representatives agree not to reveal Information to advisors who are principally engaged in the business of investment banking, capital markets, securitization of financial assets or in any other business that may include the provision of capital without the prior written consent of your Representative, Morgan Stanley & Co. Incorporated ("Morgan Stanley").

2. We and our Representatives agree, whether or not the Transaction is consummated, not to (except as required by applicable law, rule, regulation or legal process or pursuant to requests of governmental authorities or regulatory agencies having oversight over us or our Representatives, and only after compliance with paragraph 3 below), without your prior written consent, disclose to any person the fact that the Information or the Transaction exists or has been made available, that we are considering the Transaction, that (if prior to consummation of the Transaction) you are considering the Transaction, or that discussions or negotiations are taking or have taken place concerning the Transaction or any term, condition or other fact relating to the Transaction or such discussions or negotiations, including, without limitation, the status thereof.

3. In the event that we or any of our Representatives are required by applicable law, rule, regulation or legal process or pursuant to requests of governmental authorities or regulatory agencies having oversight over us or our Representatives to disclose any of the Information, we agree to notify you promptly (unless such notice is not permitted by applicable law, rule or regulation) so that you may seek, at your own expense, but with our cooperation, a protective order or other appropriate remedy or, in your sole discretion, waive compliance with the terms of this Confidentiality Agreement. In the event that no such protective order or other remedy is obtained, or that you do not waive compliance with the terms of this Confidentiality Agreement, we agree to furnish only that portion of the Information that we are advised by counsel (which may be internal counsel) is legally required and will exercise all commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Information.

4. If we determine not to proceed with the Transaction or we cease to have an interest arising from the Transaction, we will promptly inform you in writing (including, without limitation, via email) of that decision or event and, in that case, and at any time upon your request or the request of any of your Representatives, we and our Representatives agree to (i) promptly deliver to you all copies of the Information in our possession (except as described in the following proviso), (ii) promptly destroy all copies of any written Information (whether in tangible or electronic form, or otherwise) that we and our Representatives have created, including, without limitation, any notes we have taken on any discussions with you or your Representatives, and upon your request such destruction shall be certified in writing (including, without limitation, via email) to you by an authorized officer supervising such destruction (provided in each case that an appropriate person within our organization may retain one copy of the Information, subject to the provisions of this Confidentiality Agreement, if required to comply with internal record retention policies or regulatory considerations, in which case, regardless of paragraph 16 below, the confidentiality provisions of this Confidentiality Agreement will continue to apply to such Information for so long as it is retained by such person or any other of our Representatives) and (iii) certify that clauses (i) and (ii) above have been complied with. Any visual, oral or other Information not returned to you or destroyed in accordance with the preceding sentence will continue to be subject to the terms of this Confidentiality Agreement, regardless of paragraph 16 below.

5. We acknowledge that you have not updated, and have no obligation to update, the Memorandum in any respect for events, developments or circumstances. We further acknowledge that neither you nor any of your Representatives, nor any of your or their respective officers, directors, managers, members, partners, employees, agents or controlling persons within the meaning of Section 20 of the Securities Exchange Act of 1934, as amended, makes any express or implied representation or warranty as to the accuracy or completeness of the Information, and we agree that no such person will have any liability relating to the Information or for any errors therein or omissions therefrom. We further agree that we are not entitled to rely on the accuracy or completeness of the Information and that we will be entitled to rely solely on such representations and warranties as may be included in any definitive written agreement with respect to the Transaction, subject to such limitations and restrictions as may be contained therein.

6. We acknowledge that we are aware of the restrictions imposed by the United States securities laws on the purchase or sale of securities of an issuer (such as the Seller) or an affiliate or controlling person of the issuer while in possession of material, non-public information and on the communication of such information to any other person. We represent that we maintain effective internal procedures with respect to maintaining the confidentiality and use of the Information, that we will not trade in securities of, or derivative instruments relating to, the Seller while in possession of material nonpublic information relating to the Seller, and that we will not otherwise use the Information for any purpose in violation of United States securities laws or any other applicable laws. We further represent that we are a qualified institutional buyer (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act")) or a non-U.S. person within the meaning of Regulation S under the Securities Act that is also an institutional accredited investor (as defined in subparagraph (a) (1), (2), (3) or (7) of Rule 501 under the Securities Act of 1933, as amended) and acknowledge and agree that,

by our purchase of any Notes, we will be deemed to have made the representations, agreements and acknowledgments set forth in the Memorandum under "Transfer Restrictions".

7. We represent and warrant that (i) we are not, and will not become, a partnership, Subchapter S corporation or grantor trust for U.S. federal income tax purposes or (ii) we are or may become a partnership, Subchapter S corporation or grantor trust for U.S. federal income tax purposes but (A) none of the direct or indirect beneficial owners of any of our interests have allowed or caused, or will allow or cause, 50% or more of the value of such interests to be attributable to the ownership of Notes plus the ownership, if any, of equity of the Company or (B) such partnership, Subchapter S corporation or grantor trust was not formed with a principal purpose of permitting the Company to satisfy the 100-partner limitation in Treasury Regulation Section 1.7704-1(h)(1)(ii).

8. We agree that, at any time prior to your consummation of the Transaction, (i) you reserve the right, in your sole discretion, to change the terms of the Transaction at any time without prior notice to us or any other person, to reject any and all proposals or offers made by us or any of our Representatives with regard to the Transaction, and to terminate discussions and negotiations with us at any time and for any reason, and (ii) except to the extent set forth in any definitive written agreement concerning the Transaction, you will not have any liability to us with respect to the Transaction, whether by virtue of this Confidentiality Agreement, any other written or oral expression with respect to the Transaction or otherwise.

9. We acknowledge that remedies at law may be inadequate to protect you against any actual or threatened breach of this Confidentiality Agreement by us or our Representatives, and, without prejudice to any other rights and remedies otherwise available to you, we agree to permit you to seek the granting of injunctive or other equitable relief in your favor without proof of actual damages.

10. We acknowledge and agree that each of the Seller, Shionogi & Co., Ltd., UAB RF and Morgan Stanley is a third party beneficiary of this Confidentiality Agreement and shall have the right to enforce any provision of this Confidentiality Agreement.

11. We acknowledge and agree that neither this Confidentiality Agreement nor any disclosure of Information made hereunder by you shall be construed, deemed or interpreted, by implication or otherwise, to vest in us or our Representatives any license or other ownership rights in, to or under any of such Information or other copyrights, intellectual property, know-how, moral rights, trade secrets, trademark rights or other proprietary rights whatsoever.

12. We agree that no failure or delay by you in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

13. This Confidentiality Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. We agree that we will not assign this Confidentiality Agreement without your prior written consent.

14. This Confidentiality Agreement shall be governed by, and construed, interpreted and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflicts of law thereof (other than the provisions of Section 5-1401 of the General Obligations Law of the State of New York).

15. This Confidentiality Agreement contains the entire agreement between you and us, and supersedes all prior agreements and understandings, whether written or oral, between you and us, concerning the confidentiality of the Information, and no modifications of this Confidentiality Agreement or waiver of the terms and conditions hereof will be binding upon you or us, unless approved in writing by each of you and us.

16. This Confidentiality Agreement will terminate (i) if we do not proceed with the Transaction, 24 months after the date hereof, and (ii) if we do proceed with the Transaction, 24 months from the date we cease to have an interest arising from the Transaction, whether through a sale of our interest, the maturity or repayment of our interest or otherwise.

17. If we propose to purchase, transfer, sell or otherwise dispose of any of our interest at any time, we agree to (i) abide by any transfer restrictions described in the Memorandum, (ii) inform any proposed transferee of such interest of any such transfer restrictions, including, without limitation, any requirement that such proposed transferee execute a confidentiality agreement, and (iii) not furnish any Information to such proposed transferee. We acknowledge that the servicer for the Transaction shall be responsible for the delivery of all Information to any such prospective transferee following execution by such prospective transferee of an appropriate confidentiality agreement.

18. This Confidentiality Agreement may be executed by facsimile signature and such facsimile signature shall be deemed an original. This Confidentiality Agreement may be executed in one or more counterparts by the parties hereto, and each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument.

In accordance with Section 2.11(j) of the Indenture that will have been entered into by and between you and U.S. Bank National Association, a national banking association, as trustee (the "Indenture"), we will provide a fully executed copy of this Confidentiality Agreement to the Registrar (as defined in the Indenture) promptly after executing this Confidentiality Agreement.

Very truly yours,

_____
[Please insert prospective purchaser's name on line above]

By: _____
Name:
Title:
Address:

Accepted and agreed as of the date
first written above:

BIOCRYST PHARMACEUTICALS, INC.

By: _____
Name:
Title:

JPR ROYALTY SUB LLC

By: BioCryst Pharmaceuticals, Inc.,
as authorized signatory for JPR Royalty Sub LLC

By: _____
Name:
Title:

EXHIBIT C

AGENTS FOR SERVICE OF PROCESS

Party	Jurisdiction	Appointed Agent
JPR Royalty Sub LLC	Delaware	Corporation Service Company

EXHIBIT D

COVERAGE OF DISTRIBUTION REPORT

(i) With respect to the current Payment Date, (A) the balances on deposit in the Collection Account and any other Account established under the Indenture on the Calculation Date immediately preceding the prior Payment Date (or, with respect to the first Payment Date, on the Closing Date) (the "Preceding Calculation Date"), (B) the aggregate amounts of deposits into and withdrawals from the Collection Account and any other Account established under the Indenture from but excluding the Preceding Calculation Date to and including the Calculation Date immediately preceding the Payment Date (the "Current Calculation Date") and (C) the balances on deposit in the Collection Account and any other Account established under the Indenture on the Current Calculation Date

(ii) Analysis of currency hedge and currency exchange transactions from the Preceding Calculation Date to the Current Calculation Date

(iii) Analysis of Collection Account activity from the Preceding Calculation Date to the Current Calculation Date

Balance on the Preceding Calculation Date

Collections from but excluding the Preceding Calculation Date to and including the Current Calculation Date ("Current Collections")

Aggregate Note payments from but excluding the Preceding Calculation Date to and including the Current Calculation Date, including pursuant to Section 2.5(e)

Expense payments payable on the Current Calculation Date, including normal and routine bank fees ("Current Expenses")

Payments to the Seller pursuant to Section 3.4

Balance on the Current Calculation Date

(iv) Amount, if any, to be transferred from the Interest Reserve Account to the Collection Account on the current Payment Date

(v) Payments on the current Payment Date

Current Expenses
Interest Amount
Additional Interest, if any
Payments to the Interest Reserve Account, if any
Principal payments, if any

(vi) Outstanding Principal Balance

Opening Outstanding Principal Balance
Principal payments, if any, made on the current Payment Date
Closing Outstanding Principal Balance

(vii) Amount distributed to the Issuer from the Collection Account, if any, with respect to the current Payment Date

(viii) A withholding obligation may be included

(ix) Appropriate modifications will be made to contemplate any Refinancing Notes and/or Subordinated Notes

EXHIBIT E

UCC FINANCING STATEMENTS

1. A Form UCC-1 Financing Statement will be filed with the Secretary of State of the State of Delaware naming the Issuer as debtor and the Trustee as secured party.

EXHIBIT F

FORM OF CERTIFICATE OF EUROCLEAR OR CLEARSTREAM FOR PERMANENT REGULATION S GLOBAL NOTE

_____, 20__

U.S. Bank National Association,
as Trustee
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst)

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel

Re: JPR Royalty Sub LLC (the "Issuer")

Ladies and Gentlemen:

This letter relates to U.S.$_____ principal amount of JPR PhaRMA^{SM} Senior Secured 14% Notes due 2020 of the Issuer (the "Notes") represented by a Note that bears a legend (the "Legended Note") outlining restrictions upon transfer of such Legended Note. Pursuant to Section 2.1 of the Indenture dated as of March 9, 2011 (the "Indenture") relating to the Notes and certain other classes of notes of the Issuer, we hereby certify that we are (or we will hold such securities on behalf of) an Institutional Accredited Investor (as defined in the Indenture) outside the United States to whom the Notes may be transferred in accordance with Rule 904 of Regulation S promulgated under the U.S. Securities Act of 1933, as amended ("Regulation S"). Accordingly, you are hereby requested to exchange the Legended Note for a Permanent Regulation S Global Note (as defined in the Indenture) representing an identical principal amount of Notes, all in the manner provided for in the Indenture.

Each of you is entitled to rely upon this letter and is irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby. Certain terms used in this certificate have the meanings set forth in Regulation S.

Very truly yours,

[Euroclear Bank S.A./N.V.][Clearstream Banking]

By: _____
Authorized Signatory

EXHIBIT G

FORM OF CERTIFICATE OF BENEFICIAL OWNER OF TEMPORARY REGULATION S GLOBAL NOTE

Euroclear Bank S.A./N.V.
[Address]

AND/OR

Clearstream Banking
[Address]

Re: JPR Royalty Sub LLC (the "Issuer")

Reference is hereby made to the Indenture, dated as of March 9, 2011 (the "Indenture"), made by and between the Issuer and U.S. Bank National Association, as trustee (the "Trustee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to U.S.$_____ principal amount of JPR PhaRMA**SM** Senior Secured 14% Notes due 2020 that are held in the form of a Beneficial Interest in the Temporary Regulation S Global Note (CUSIP No. _____) through DTC by the undersigned (the "Holder") in the name of _____. The Holder of such Temporary Regulation S Global Note hereby requests the receipt of payments due and payable on the applicable Payment Date pursuant to Section 2.5 of the Indenture.

The Holder hereby represents and warrants that it (i) is an Institutional Accredited Investor, (ii) is not a U.S. Person, (iii) does not hold the above-referenced Temporary Regulation S Global Note for the account or benefit of a U.S. Person (other than a distributor) and (iv) has executed and delivered to the Registrar a Confidentiality Agreement. Certain terms in this certificate not otherwise defined in the Indenture have the meanings given to them in Regulation S.

This certificate and the statements contained herein are made for your benefit and the benefit of the Paying Agent.

[Name of Holder]

By: _____
Name:
Title:

EXHIBIT H

FORM OF CERTIFICATE OF EUROCLEAR OR CLEARSTREAM FOR PAYMENTS

U.S. Bank National Association,
as Paying Agent
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst)

Re: JPR Royalty Sub LLC (the "Issuer")

Reference is hereby made to the Indenture, dated as of March 9, 2011 (the "Indenture"), made by and between the Issuer and U.S. Bank National Association, as trustee (the "Trustee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to U.S.$_____ principal amount of JPR PhaRMA℠ Senior Secured 14% Notes due 2020 that are held in the form of a Beneficial Interest in the Temporary Regulation S Global Note (CUSIP No. _____) through DTC by the undersigned (the "Holder") in the name of _____. Certain Holders of the Beneficial Interests in such Temporary Regulation S Global Note have requested the receipt of payments due and payable on the applicable Payment Date pursuant to Section 2.5 of the Indenture.

We have received from such Holders certifications to the effect that they (i) are Institutional Accredited Investors, (ii) are not U.S. Persons, (iii) do not hold the above-referenced Temporary Regulation S Global Note for the account or benefit of U.S. Persons (other than distributors) and (iv) have executed and delivered to the Registrar a Confidentiality Agreement. Certain terms in this certificate not otherwise defined in the Indenture have the meanings given to them in Regulation S.

Accordingly, the Holders of the Beneficial Interests in the Temporary Regulation S Global Note are entitled to receive interest, principal and Premium, if any, in accordance with the terms of the Indenture in the amount of U.S.$_____.

[Clearstream Banking][Euroclear Bank S.A./N.V.]

By: _____
Name:
Title:

EXHIBIT I

FORM OF CERTIFICATE OF PROPOSED TRANSFEROR

_____, 20__

U.S. Bank National Association,
as Registrar
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst)

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel

Re: JPR Royalty Sub LLC (the "Issuer")

Ladies and Gentlemen:

In connection with our proposed sale of U.S.$_____ aggregate principal amount of JPR PhaRMA**SM** Senior Secured 14% Notes due 2020 of the Issuer (the "Notes"), we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the U.S. Securities Act of 1933, as amended ("Regulation S") and, accordingly, we represent that:

(1) the offer of the Notes was not made to a person in the U.S.;

(2) at the time the buy order was originated, the transferee was an institutional accredited investor (as defined in subparagraph (a) (1), (2), (3) or (7) of Rule 501 under the U.S. Securities Act of 1933, as amended) outside the U.S. or we and any person acting on our behalf reasonably believed that the transferee was an institutional accredited investor outside the U.S.;

(3) no directed selling efforts have been made by us in the U.S. in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

(4) the transaction is not part of a plan or scheme to evade the registration requirements of the U.S. Securities Act of 1933; and

(5) the transferee has entered into the confidentiality agreement required in connection with the purchase of the Notes.

Each of you is entitled to rely upon this letter and is irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby. Certain terms used in this certificate have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____
Authorized Signatory

EXHIBIT J

FORM OF CERTIFICATE OF CERTAIN PROPOSED INSTITUTIONAL ACCREDITED INVESTOR TRANSFEREES

_____, 20__

U.S. Bank National Association,
as Registrar
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst)

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel

Ladies and Gentlemen:

In connection with our proposed purchase of Notes (the "Notes") of JPR Royalty Sub LLC (the "Issuer"), we confirm that:

1. We have duly executed and delivered to the Registrar (as defined in that certain Indenture dated as of March 9, 2011 (the "Indenture") by and between the Issuer and U.S. Bank National Association, as trustee, as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof) a Confidentiality Agreement and have subsequently received a copy of the Private Placement Memorandum dated March 1, 2011 (the "Memorandum") relating to the Notes and such other information as we deem necessary in order to make our investment decision. We acknowledge that we have read and agreed to the matters stated in the section entitled "Transfer Restrictions" of such Memorandum and the restrictions on duplication and circulation of such Memorandum.

2. We understand that any subsequent transfer of the Notes is subject to certain restrictions and conditions set forth in the Memorandum under "Transfer Restrictions" and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes except in compliance with, such restrictions and conditions and the U.S. Securities Act of 1933, as amended (the "Securities Act").

3. We understand that the offer and sale of the Notes have not been registered under the Securities Act, that the Notes will only be in the form of definitive physical certificates and that the Notes may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that, if we should sell any Notes in the future, we will do so only (1) (A) to the Issuer or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a qualified institutional buyer (as defined therein), (C) to an institutional accredited investor (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) ("Institutional

Accredited Investor") that, prior to such transfer, furnishes to the Trustee (as defined in the Indenture) a signed letter containing certain representations and agreements relating to the restrictions on transfer of the Notes (the form of which letter can be obtained from the Trustee) and an opinion of counsel acceptable to the Issuer that such transfer is in compliance with the Securities Act, (D) to an Institutional Accredited Investor in an offshore transaction in compliance with Rule 904 of Regulation S under the Securities Act or (E) to an Institutional Accredited Investor after the relevant time period referred to in Rule 144 under the Securities Act expires, and we further agree to provide to any entity purchasing any of the Notes from us a notice advising such purchaser that resales of the Notes are restricted as stated herein and (2) in each case, in accordance with any applicable securities laws of any state in the U.S. or any other applicable jurisdiction and in accordance with the legend to be set forth in the Notes, which will reflect the substance of this paragraph.

4. We understand that, on any proposed resale of any Notes, we will be required to furnish to the Issuer and the Trustee such certifications, legal opinions and other information as the Issuer and the Trustee may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that a confidentiality agreement is required under the Indenture to be executed and delivered by any proposed transferee to whom we wish to sell any Notes.

5. We are an Institutional Accredited Investor and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are able to bear the economic risks of our or their investment.

6. We are acquiring the Notes purchased by us for our own account or for one or more accounts (each of which is an Institutional Accredited Investor) as to each of which we exercise sole investment discretion.

7. We are not acquiring the Notes with a view to distribution thereof or with any present intention of offering or selling the Notes, except as permitted above, provided that the disposition of our property and property of any accounts for which we are acting as fiduciary shall remain at all times within our control.

You, the Issuer and the Trustee are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby.

Very truly yours,

By: _____
Name:
Title

EXHIBIT K

FORM OF PORTFOLIO INTEREST CERTIFICATE

_____ hereby certifies that:

1. It is (*one must be checked*):

   (1) ____ a natural individual person;

   (2) ____ treated as a corporation for U.S. federal income tax purposes;

   (3) ____ disregarded for U.S. federal income tax purposes (in which case a copy of this certificate is completed and signed by its sole beneficial owner); or

   (4) ____ treated as a partnership for U.S. federal income tax purposes (in which case each partner also has completed as to itself and signed a copy of this certificate and an appropriate IRS Form W-8, a copy of each of which is attached, or, if applicable, has completed as to itself and signed an IRS Form W-9, a copy of which is attached).

2. It is not a bank, as such term is used in Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "Code").

3. It is not a 10-percent shareholder of JPR Royalty Sub LLC (the "Issuer") or BioCryst Pharmaceuticals, Inc. (the "Equityholder") within the meaning of Section 871(h)(3) of the Code or Section 881(c)(3)(B) of the Code.

4. It is not a controlled foreign corporation that is related to the Issuer or the Equityholder within the meaning of Section 881(c)(3)(C) of the Code.

5. Amounts received by it on the JPR PhaRMA℠ Senior Secured 14% Notes due 2020 are not effectively connected with its conduct of a trade or business in the United States.

_____
[Fill in name of holder]

By: _____
Name:
Title:
Date:

Exhibit 10.1

PURCHASE AND SALE AGREEMENT

dated as of March 9, 2011

between

BIOCRYST PHARMACEUTICALS, INC.

and

JPR ROYALTY SUB LLC

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PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "Purchase and Sale Agreement") dated as of March 9, 2011 is between BIOCRYST PHARMACEUTICALS, INC., a Delaware corporation (the "Seller"), and JPR ROYALTY SUB LLC, a Delaware limited liability company (the "Purchaser").

W I T N E S S E T H
:

WHEREAS, the Seller has the right to receive royalties based on Net Sales of the Licensed Products in the Territory under the Counterparty License Agreement; and

WHEREAS, the Seller desires to sell, transfer, convey, assign, contribute and grant to the Purchaser, and the Purchaser desires to purchase, acquire and accept from the Seller, the Purchased Assets, upon and subject to the terms and conditions set forth in this Purchase and Sale Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and warranties set forth herein and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINED TERMS AND RULES OF CONSTRUCTION

Section 1.1 Defined Terms. The following terms, as used herein, shall have the following respective meanings:

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director, officer or manager of such Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing. For purposes hereof, the term "Affiliate" when used in respect of the Seller shall be deemed to exclude the Purchaser.

"Bankruptcy Event" means the occurrence of any of the following in respect of a Person: (i) an admission in writing by such Person of its inability to pay its debts generally or a general assignment by such Person for the benefit of creditors; (ii) the filing of any petition or answer by such Person seeking to adjudicate itself as bankrupt or insolvent, or seeking for itself any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of such Person or its debts under any law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law now or hereafter in effect, or seeking, consenting to or acquiescing in the entry of an order for relief in any case under any such law, or the appointment of or taking possession by a

receiver, trustee, custodian, liquidator, examiner, assignee, sequestrator or other similar official for such Person or for any substantial part of its property; (iii) corporate or other entity action taken by such Person to authorize any of the actions set forth in clause (i) or clause (ii) above; or (iv) without the consent or acquiescence of such Person, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against such Person, or, without the consent or acquiescence of such Person, the entering of an order appointing a trustee, custodian, receiver or liquidator of such Person or of all or any substantial part of the property of such Person, in each case where such petition or order shall remain unstayed or shall not have been stayed or dismissed within 90 days from entry thereof.

"Bill of Sale" means that certain bill of sale dated as of the Closing Date executed by the Seller and the Purchaser substantially in the form of Exhibit A.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by applicable law to remain closed.

"Capital Securities" means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital, whether now outstanding or issued after the Closing Date, including common shares, ordinary shares, preferred shares, membership interests or share capital in a limited liability company or other Person, limited or general partnership interests in a partnership, beneficial interests in trusts or any other equivalent of such ownership interest or any options, warrants and other rights to acquire such shares or interests, including rights to allocations and distributions, dividends, redemption payments and liquidation payments.

"Closing" has the meaning set forth in Section 5.1.

"Closing Date" has the meaning set forth in Section 5.1.

"Collateral" has the meaning set forth in the Granting Clause of the Indenture.

"Collection Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Commercial Sales" has the meaning set forth in Section 9.3(a) of the Counterparty License Agreement.

"Compound" has the meaning set forth in Section 1.1(m) of the Counterparty License Agreement.

"Confidential Information" means, as it relates to the Seller and its Affiliates, the Licensed Products and the Intellectual Property Rights, all information (whether written or oral, or in electronic or other form) furnished after the Closing Date involving or relating in any way,

directly or indirectly, to the Purchased Assets or the Royalties, including (a) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the Counterparty License Agreement, the UAB Agreement and the Currency Hedge Agreement) involving or relating in any way, directly or indirectly, to the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including all terms and conditions thereof and the identities of the parties thereto, (b) any reports, data, materials or other documents of any kind concerning or relating in any way, directly or indirectly, to the Seller, the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (a) above, and (c) any inventions, devices, improvements, formulations, discoveries, compositions, ingredients, patents, patent applications, know-how, processes, trial results, research, developments or any other intellectual property, trade secrets or information involving or relating in any way, directly or indirectly, to the Purchased Assets or the compounds or products giving rise to the Purchased Assets; provided, however, that, solely for purposes of this Purchase and Sale Agreement, Confidential Information shall not include information that is (i) already in the public domain at the time the information is disclosed, (ii) lawfully obtainable from other sources, (iii) required to be disclosed in any document to be filed with any Governmental Authority or (iv) required to be disclosed by court or administrative order or under laws, rules and regulations applicable to the Seller or the Purchaser or their respective Affiliates (including securities laws, rules and regulations), as the case may be, or pursuant to the rules and regulations of any stock exchange or stock market on which securities of the Seller or the Purchaser or their respective Affiliates may be listed for trading.

"Counterparty" means Shionogi & Co., Ltd., a Japanese corporation.

"Counterparty Instruction" means the irrevocable direction to Counterparty in the form set forth in Exhibit B.

"Counterparty License Agreement" means that certain License, Development and Commercialization Agreement dated as of February 28, 2007, as amended by that certain First Amendment to License, Development and Commercialization Agreement dated as of September 30, 2008, that certain letter agreement dated May 10, 2010 and that certain Consent Agreement dated as of November 2, 2010, between the Seller and Counterparty. The term "Counterparty License Agreement" shall include all rights that arise therefrom and relate thereto.

"Currency Hedge Agreement" means that certain Confirmation (including the related letter agreement) dated as of March 9, 2011 and the ISDA Master Agreement (including the schedule and credit support annex included therein) (solely insofar as such ISDA Master Agreement relates to such Confirmation and not to any other "Transaction" as such term is defined in such ISDA Master Agreement) dated as of March 7, 2011, in each case between the Seller and the Currency Hedge Provider (and any replacement foreign currency hedge arrangement entered into by the Seller as permitted by Section 4.11(e)(i) of this Purchase and Sale Agreement) and, with respect to such letter agreement, among the Seller, the Currency Hedge Provider, the Purchaser and the Trustee.

"Currency Hedge Payments" means the amounts required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement (subject to all of the Currency Hedge Provider's rights under the Currency Hedge Agreement (including, to the extent provided in the Currency Hedge Agreement, liquidation, netting and setoff rights, specified conditions precedent to the Currency Hedge Provider's required payments and performance and rights to realize on margin or other collateral)) except any amount required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement as a result of a termination of the Currency Hedge Agreement by the Seller permitted by Section 4.11(e) of this Purchase and Sale Agreement.

"Currency Hedge Provider" means Morgan Stanley Capital Services Inc.

"Discrepancy" has the meaning set forth in Section 2.2(b).

"Disputes" has the meaning set forth in Section 3.9(e).

"Dollar" or the sign "$" means United States dollars.

"Event of Default" has the meaning set forth in Section 4.1 of the Indenture.

"Excluded Liabilities and Obligations" has the meaning set forth in Section 2.4.

"FDA" means the U.S. Food and Drug Administration and any successor agency thereto.

"Field" has the meaning set forth in Section 1.1(u) of the Counterparty License Agreement.

"Future Data" has the meaning set forth in Section 2.5(c)(i) of the Counterparty License Agreement.

"GAAP" means generally accepted accounting principles in effect in the United States from time to time.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including each Patent Office, the FDA and any other government authority in any country.

"Indenture" means that certain indenture, dated as of the Closing Date, by and between the Purchaser and U.S. Bank National Association, a national banking association, as initial trustee thereunder, and any successor appointed in accordance with the terms thereof.

"Intellectual Property Rights" means: (a) patents and patent applications; (b) continuations, continuations-in-part, divisionals and substitute applications with respect to any such patent application; (c) patents issued based on or claiming priority to any such patent

applications; (d) reissue, reexamination, renewal or extension (including any supplemental patent certificate) of any such patents; and (e) confirmation patent or registration patent or patent of addition based on any such patents, in each case, owned, licensed or controlled by the Seller, that are filed in the Territory solely to the extent that any of the foregoing relate to the manufacture, use or sale of Licensed Products and/or Compound in the Field.

"Issuer Pledged Collateral" has the meaning set forth in Section 2.1 of the Pledge and Security Agreement.

"Know-How" has the meaning set forth in Section 1.1(hh) of the Counterparty License Agreement.

"Knowledge" means the actual knowledge of any of the following officers or employees of the Seller: the Chief Executive Officer; the Chief Financial Officer; the General Counsel; the Vice President, Drug Discovery; the Vice President, Strategic Planning and Commercialization; and the Chief Medical Officer.

"Licensed Product" has the meaning set forth in Section 1.1(jj) of the Counterparty License Agreement.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property or other priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale, any sale with recourse or any agreement to give any security interest.

"Loss" means any loss, Set-off, cost, charge, expense, interest, fee, payment, demand, liability, claim, action, proceeding, penalty, fine, damages, judgment, order or other sanction.

"Material Adverse Change" means any event, circumstance or change resulting in a material adverse effect on (a) the legality, validity or enforceability of any of the Transaction Documents, the Counterparty License Agreement or the back-up security interest granted pursuant to Section 2.1(d), (b) the right or ability of the Servicer, the Seller (or any permitted assignee) or the Purchaser to perform its obligations under any of the Transaction Documents or the Counterparty License Agreement, in each case to which it is a party, or to consummate the transactions contemplated hereunder or thereunder, (c) the rights or remedies of the Purchaser under any of the Transaction Documents or the Counterparty License Agreement, (d) the timing, amount or duration of the Royalties or any Currency Hedge Payments, (e) the Purchased Assets, (f) the Intellectual Property Rights or (g) the ability of the Trustee to realize the practical benefit of the Pledge and Security Agreement (including any failure to have a perfected Lien on any of the Issuer Pledged Collateral as required by the Indenture).

"Material Use" has the meaning set forth in Section 1.1(mm) of the Counterparty License Agreement.

"Memorandum" means the private placement memorandum of the Purchaser dated March 1, 2011.

"Net Sales" has the meaning set forth in Section 1.1(pp) of the Counterparty License Agreement.

"New Formulations" has the meaning set forth in Section 1.1(jj) of the Counterparty License Agreement.

"NI Option" has the meaning set forth in Section 12.1 of the Counterparty License Agreement.

"NI Option Period" has the meaning set forth in Section 12.1 of the Counterparty License Agreement.

"Non-Commercial Sales" has the meaning set forth in Section 9.3(a) of the Counterparty License Agreement.

"Noteholder" means any Person in whose name a Note is registered from time to time in the Register for such Note.

"Notes" means any notes issued under the Indenture from time to time, including the JPR PhaRMA[SM] Senior Secured 14% Notes due 2020 of the Purchaser in the initial outstanding principal balance of $30,000,000 issued on the Closing Date.

"Option" means a foreign currency exchange option set forth in the Currency Hedge Agreement.

"Options" means, collectively, the foreign currency exchange options set forth in the Currency Hedge Agreement.

"Patent" means any pending or issued patent or continuation, continuation in part, division, extension or reissue thereof.

"Patent Office" means the applicable patent office, including the United States Patent and Trademark Office and any comparable foreign patent office, for any Intellectual Property Rights that are Patents.

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Pledge and Security Agreement" means that certain pledge and security agreement dated as of the Closing Date made by the Seller to the Trustee.

"Purchase Agreements" means those certain note purchase agreements dated the Closing Date among the Purchaser, the Seller and the note purchasers named therein.

"Purchase and Sale Agreement" has the meaning set forth in the preamble.

"Purchased Assets" means, collectively, the Seller's (a) right, title and interest in, to and under the Counterparty License Agreement to (i) receive all of the Royalties, (ii) receive the reports produced by Counterparty pursuant to the Counterparty License Agreement in respect of sales of Licensed Products in the Territory, (iii) audit the records of Counterparty in respect of such sales pursuant to the Counterparty License Agreement and receive an audit report summarizing the results of any such audit and (iv) make indemnification claims against Counterparty pursuant to the Counterparty License Agreement, (b) rights under the Currency Hedge Agreement to receive the Currency Hedge Payments, (c) right to disapprove of an assignment of the Counterparty License Agreement by Counterparty and (d) right to transfer, assign or pledge the foregoing, in whole or in part, and the proceeds of and the rights to enforce each of the foregoing. For the avoidance of doubt, Purchased Assets do not include (x) any amounts payable by Counterparty to the Seller in consideration for the supply by the Seller of Compound to Counterparty or (y) any royalties payable by Counterparty to the Seller arising out of, related to or resulting from Non-Commercial Sales.

"Purchase Price" has the meaning set forth in Section 2.3.

"Purchaser" has the meaning set forth in the preamble.

"Purchaser Indemnified Party" has the meaning set forth in Section 6.1.

"RAPIACTA" means (i) the brand name for peramivir in Japan and (ii) the equivalent product sold by Counterparty or its Affiliates in Taiwan under such brand name or another brand name.

"Register" has the meaning set forth in Section 2.3(a) of the Indenture.

"Regulatory Agency" means a Governmental Authority with responsibility for the approval of the marketing and sale of pharmaceuticals or other regulation of pharmaceuticals in any country.

"Regulatory Approvals" means, collectively, all regulatory approvals, registrations, certificates, authorizations, permits and supplements thereto, as well as associated materials (including the product dossier) pursuant to which the Licensed Products may be marketed, sold and distributed in a jurisdiction, issued by the appropriate Regulatory Agency.

"Royalties" means (a) all royalties paid, owed, accrued or otherwise required to be paid to the Seller or any of its Affiliates under the Counterparty License Agreement arising out of, related to or resulting from Commercial Sales by Counterparty or its Affiliates of Licensed Product in the Territory (including not only from the Commercial Sale of currently approved indications for Licensed Product in the Territory, but also from any additionally approved indications and from any off-label usage for Licensed Product in the Territory) and, in each case, attributable to the period commencing on the Royalties Commencement Date, including (i) all amounts due or to be paid to the Seller or any of its Affiliates under Section 9.3(b) of the Counterparty License Agreement and (ii) all amounts due or to be paid to the Seller or any of its Affiliates in lieu thereof (whether based upon Commercial Sales of Licensed Product in the

Territory or otherwise), (b) all future milestone payments paid, owed, accrued or otherwise required to be paid to the Seller or any of its Affiliates under the Counterparty License Agreement, (c) all indemnity payments, recoveries, damages or award or settlement amounts paid or payable to the Seller or any of its Affiliates by any third party and arising out of or relating to the Commercial Sale of Licensed Products in the Territory or as a result of a breach by any Person other than the Seller of the Counterparty License Agreement with respect to the Commercial Sale of Licensed Products in the Territory and attributable to the period commencing on the Royalties Commencement Date, including pursuant to Section 4.5(d) or Section 4.5(e), (d) all other amounts paid by Counterparty or any other Person pursuant to the Counterparty License Agreement arising out of, related to or resulting from the Commercial Sale by Counterparty or its Affiliates of Licensed Products in the Territory and attributable to the period commencing on the Royalties Commencement Date, (e) all accounts (as defined under the UCC) evidencing the rights to the payments and amounts described herein and (f) all proceeds (as defined under the UCC) of any of the foregoing.

"Royalties Commencement Date" means January 1, 2011.

"SEC" means the U.S. Securities and Exchange Commission.

"Seller" has the meaning set forth in the preamble.

"Seller Account" has the meaning set forth in Section 4.4(d).

"Seller Shortfall" means the amount, if any, payable by the Seller to Counterparty under the Counterparty License Agreement or to the Currency Hedge Provider under the Currency Hedge Agreement that is due and payable but that has not been paid by the Seller.

"Seller Shortfall Payment" means any payment made by the Trustee in respect of any Seller Shortfall.

"Servicer" means the Seller, acting in its capacity as servicer pursuant to the Servicing Agreement (or any other Person appointed to succeed the Seller as such or any successor thereto pursuant to the Servicing Agreement).

"Servicing Agreement" means that certain servicing agreement dated as of the Closing Date between the Purchaser and the Seller.

"Set-off" means any set-off, off-set, rescission, counterclaim, reduction, deduction or defense.

"Subsidiary" means, with respect to any Person, any other Person of which more than 50% of the outstanding Voting Securities of such other Person (irrespective of whether at the time Capital Securities of any other class or classes of such other Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more other Subsidiaries of such Person

or by one or more other Subsidiaries of such Person. For purposes hereof, the term "Subsidiary" when used in respect of the Seller shall be deemed to exclude the Purchaser.

"Territory" means Japan and Taiwan.

"Third Party New Formulations License" has the meaning set forth in Section 9.3(e)(i) of the Counterparty License Agreement.

"Transaction Documents" means this Purchase and Sale Agreement, the Bill of Sale, the Counterparty Instruction, the Indenture, the Notes, the Pledge and Security Agreement, the Servicing Agreement, the Purchase Agreements and the Currency Hedge Agreement.

"Trustee" means U.S. Bank National Association, a national banking association, as initial trustee of the Notes under the Indenture, and any successor appointed in accordance with the terms of the Indenture.

"UAB" means The UAB Research Foundation, a non-profit corporation.

"UAB Agreement" means that certain Joint Research and License Agreement dated as of November 23, 1994 between the Seller and UAB, as amended by that certain letter agreement dated October 9, 1996 and by that certain Agreement dated as of December 16, 2010 between the Seller and UAB.

"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 law, the perfection or the effect of perfection or non-perfection of the back-up security interest granted pursuant to Section 2.1(d) 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 Purchase and Sale Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"U.S." or "United States" means the United States of America, its 50 states, each territory thereof and the District of Columbia.

"Voting Securities" means, with respect to any Person, Capital Securities of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Yen" or the sign "¥" means Japanese yen.

Section 1.2 Rules of Construction. Unless the context otherwise requires, in this Purchase and Sale Agreement:

(a) A term has the meaning assigned to it and an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP.

(b) Unless otherwise defined, all terms used herein that are defined in the UCC shall have the meanings stated in the UCC.

(c) Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words in the singular shall include the plural, and vice versa.

(d) The terms “include”, “including” and similar terms shall be construed as if followed by the phrase “without limitation”.

(e) References to an agreement or other document include references to such agreement or document as amended, restated, reformed, supplemented or otherwise modified in accordance with the terms thereof and include any annexes, exhibits and schedules attached thereto, and the provisions thereof apply to successive events and transactions.

(f) References to any statute or other legislative provision shall include any statutory or legislative modification or re-enactment thereof, or any substitution therefor.

(g) References to any Person shall be construed to include such Person’s successors and permitted assigns.

(h) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(i) The words “hereof”, “herein”, “hereunder” and similar terms when used in this Purchase and Sale Agreement shall refer to this Purchase and Sale Agreement as a whole and not to any particular provision hereof, and Article, Section and Exhibit references herein are references to Articles and Sections of, and Exhibits to, this Purchase and Sale Agreement unless otherwise specified.

(j) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means “to but excluding”.

(k) Where any payment is to be made, any funds are to be applied or any calculation is to be made under this Purchase and Sale Agreement on a day that is not a Business Day, unless this Purchase and Sale Agreement otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the next succeeding Business Day, and payments shall be adjusted accordingly.

(l) Any reference herein to a term that is defined by reference to its meaning in the Counterparty License Agreement or the UAB Agreement shall refer to such term’s meaning in the Counterparty License Agreement or the UAB Agreement, as the case may be, as in existence on the date hereof (and not to any new, substituted or amended version thereof).

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED ASSETS

Section 2.1 Purchase and Sale.

(a) Subject to the terms and conditions of this Purchase and Sale Agreement, on the Closing Date, the Seller shall sell, transfer, convey, assign, contribute and grant to the Purchaser, and the Purchaser shall purchase, acquire and accept from the Seller, all of the Seller's right, title and interest in and to the Purchased Assets, free and clear of any and all Liens, other than those Liens created in favor of the Purchaser by the Transaction Documents.

(b) The Seller and the Purchaser intend and agree that the sale, transfer, conveyance, assignment, contribution and granting of the Purchased Assets under this Purchase and Sale Agreement shall be, and are, a true, complete, absolute and irrevocable assignment and sale by the Seller to the Purchaser of the Purchased Assets and that such assignment and sale shall provide the Purchaser with the full benefits of ownership of the Purchased Assets. Neither the Seller nor the Purchaser intends the transactions contemplated hereunder to be, or for any purpose characterized as, a loan from the Purchaser to the Seller or a pledge or assignment of only a security agreement. The Seller waives any right to contest or otherwise assert that this Purchase and Sale Agreement is other than a true, complete, absolute and irrevocable sale and assignment by the Seller to the Purchaser of the Purchased Assets under applicable law, which waiver shall be enforceable against the Seller in any Bankruptcy Event relating to the Seller. The sale, transfer, conveyance, assignment, contribution and granting of the Purchased Assets shall be reflected on the Seller's financial statements and other records as a sale of assets to the Purchaser (except to the extent GAAP or the rules of the SEC require otherwise with respect to the Seller's consolidated financial statements).

(c) The Seller hereby authorizes the Purchaser or its designee to execute, record and file, and consents to the Purchaser or its designee executing, recording and filing, at the Purchaser's sole cost and expense, financing statements in the appropriate filing offices under the UCC (and continuation statements with respect to such financing statements when applicable), and amendments thereto or assignments thereof, meeting the requirements of applicable law in such manner and in such jurisdictions as are necessary or appropriate to evidence the purchase, acquisition and acceptance by the Purchaser of the Purchased Assets and to perfect the security interest in the Purchased Assets granted by the Seller to the Purchaser pursuant to Section 2.1(d).

(d) Notwithstanding that the Seller and the Purchaser expressly intend for the sale, transfer, conveyance, assignment, contribution and granting of the Purchased Assets to be a true, complete, absolute and irrevocable sale and assignment, the Seller hereby grants, conveys, pledges and assigns to the Purchaser, as security for its obligations created hereunder in the event that the transfer contemplated by this Purchase and Sale Agreement is held not to be a sale, a security interest in and to all of the Seller's right, title and interest in, to and under the Purchased Assets and, in such event, this Purchase and Sale Agreement shall constitute a security agreement.

Section 2.2 Entitlement to Payments. The Purchaser shall be entitled to receive the following transfers and payments in respect of the Purchased Assets:

(a) The Seller agrees that the Purchaser is entitled to the Purchased Assets and may enforce such entitlement directly against Counterparty pursuant to the Counterparty License Agreement and the Currency Hedge Provider pursuant to the Currency Hedge Agreement and, notwithstanding any claim or Set-off that the Seller may have against the Purchaser or that Counterparty or the Currency Hedge Provider may have against the Seller, the Seller agrees and will use its best efforts to ensure (including taking such actions as the Purchaser shall reasonably request) that each of Counterparty and the Currency Hedge Provider remits all payments that Counterparty or the Currency Hedge Provider, as the case may be, is required to pay to the Seller under the Counterparty License Agreement and the Currency Hedge Agreement, as the case may be, with respect to the Purchased Assets directly to the Collection Account, pursuant to the Counterparty Instruction and the irrevocable direction described in Section 5.2(c).

(b) For the avoidance of doubt, the parties hereto understand and agree that if Counterparty fails to pay any Royalties when the Seller or the Purchaser reasonably believes such Royalties are due under the Counterparty License Agreement, except for any Set-off contemplated by Section 2.2(c) (each such unpaid amount, a "Discrepancy"), and if such Discrepancy is not the result of a default or breach by the Seller under the Counterparty License Agreement, then the Seller shall not be obligated to pay to the Purchaser or otherwise compensate or make the Purchaser whole with respect to any such Discrepancy so long as the Seller is in compliance with the provisions of this Purchase and Sale Agreement; provided, however, that nothing in this Section 2.2(b) shall limit or affect in any respect the rights of any Purchaser Indemnified Party under Article VI.

(c) The Seller agrees that it will promptly (and in any event within three Business Days) pay to the Purchaser in accordance with Section 4.4 the amount of any Set-off by Counterparty against any Royalties or other Purchased Assets to the extent that such Set-off arises out of or relates to any period prior to the Royalties Commencement Date or to any events occurring, circumstances existing or actions taken prior to the Royalties Commencement Date and that in each case has the effect of reducing amounts to be paid to the Purchaser following the Closing Date.

Section 2.3 Purchase Price. In full consideration for the sale, transfer, conveyance, assignment, contribution and granting of the Purchased Assets, and subject to the terms and conditions set forth herein, the Purchaser shall pay (or cause to be paid) to the Seller, or the Seller's designee, on the Closing Date, the sum of $24,023,660, in immediately available funds by wire transfer to the Seller Account (the "Purchase Price"), it being understood that any excess portion of the consideration for the Purchased Assets, where the total consideration for the Purchased Assets is equal to the fair market value of the Purchased Assets as agreed at arm's length by the Seller and the Purchaser, shall be deemed a capital contribution by the Seller to the Purchaser in an amount equal to such excess portion.

Section 2.4 No Assumed Obligations. Notwithstanding any provision in this Purchase and Sale Agreement or any other writing to the contrary, the Purchaser is purchasing, acquiring

and accepting only the Purchased Assets and is not assuming any liability or obligation of the Seller or any of the Seller's Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter, whether under the Counterparty License Agreement (including any obligation to pay any amounts to, or accept any Set-off by, Counterparty or any of Counterparty's Affiliates), any Transaction Document or otherwise. All such liabilities and obligations shall be retained by and remain liabilities and obligations of the Seller or the Seller's Affiliates (the "Excluded Liabilities and Obligations").

Section 2.5 Excluded Assets. The Purchaser does not, by purchase, acquisition or acceptance of the rights granted hereunder or otherwise pursuant to any of the Transaction Documents, purchase, acquire or accept any assets or contract rights of the Seller under the Counterparty License Agreement or the UAB Agreement, other than the Purchased Assets, or any other assets of the Seller.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller hereby represents and warrants to the Purchaser as of the date hereof as follows:

Section 3.1 Organization. The Seller is duly incorporated, validly existing as a corporation and in good standing under the laws of the State of Delaware and has all corporate power and authority, and all licenses, permits, franchises, authorizations, consents and approvals of all Governmental Authorities, required to own its property and carry on its business as described in the filings made by the Seller with the SEC from time to time, to execute and deliver, and perform its obligations under, the Transaction Documents to which it is party and to exercise its rights and to perform its obligations under the Counterparty License Agreement. The Seller is duly licensed or qualified to do business as a foreign entity and is in good standing in every jurisdiction in which the conduct of its business or its ownership or leasing of property requires such license or qualification, except where the failure to do so would not, individually or in the aggregate, be a Material Adverse Change.

Section 3.2 Seller Authorization. Each Transaction Document to which the Seller is party has been duly authorized, executed and delivered by the Seller. When each Transaction Document to which the Seller is party has been duly executed and delivered by all other parties thereto, such Transaction Document constitutes the legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, general equitable principles and principles of public policy.

Section 3.3 Governmental and Third Party Authorizations. The execution and delivery by the Seller of the Transaction Documents to which the Seller is party, the performance by the Seller of its obligations hereunder and thereunder and the consummation of any of the transactions contemplated hereunder and thereunder do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with

any Governmental Authority or any other Person, except for filings with the SEC, the filing of the UCC financing statements referred to in Section 2.1, the notice to Counterparty contained in the Counterparty Instruction, the irrevocable direction described in Section 5.2(c) and any third party consents previously obtained.

Section 3.4 Ownership. The Seller is the exclusive owner of the entire right, title (legal and equitable) and interest in, to and under the Purchased Assets and the Intellectual Property Rights and has good and valid title thereto, free and clear of all Liens. The Seller has filed or applied for registration for its ownership interest in the Patents included in the Intellectual Property Rights in the appropriate agencies in Japan, and the Seller is the exclusive "owner of record" of such patents in each such jurisdiction. The Purchased Assets sold, transferred, conveyed, assigned, contributed and granted to the Purchaser on the Closing Date have not been pledged, sold, transferred, conveyed, assigned, contributed or granted by the Seller to any other Person. The Seller has full right to sell, transfer, convey, assign, contribute and grant the Purchased Assets to the Purchaser. Upon the sale, transfer, conveyance, assignment, contribution and granting by the Seller of the Purchased Assets to the Purchaser, the Purchaser shall acquire good and marketable title to the Purchased Assets free and clear of all Liens, other than Liens in favor of the Trustee, and shall be the exclusive owner of the Purchased Assets. The Purchaser has or shall have the same rights as the Seller would have with respect to the Purchased Assets (if the Seller were still the owner of such Purchased Assets) against any other Person.

Section 3.5 Solvency. The Seller has determined that, and by virtue of its entering into the transactions contemplated by the Transaction Documents and its authorization, execution and delivery of the Transaction Documents to which the Seller is a party, the Seller's incurrence of any liability hereunder or thereunder or contemplated hereby or thereby is in its own best interests. On the Closing Date, (a) the fair saleable value of the Seller's assets will be greater than the sum of its debts and other obligations, including contingent liabilities, (b) the present fair saleable value of the Seller's assets will be greater than the amount that would be required to pay its probable liabilities on its existing debts and other obligations, including contingent liabilities, as they become absolute and matured, (c) the Seller will be able to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (d) the Seller will not have unreasonably small capital with which to engage in its business or be unable to pay its debts as they mature, (e) the Seller has not incurred and does not have present plans or intentions to incur debts or other obligations or liabilities beyond its ability to pay such debts or other obligations or liabilities as they become absolute and matured, (f) the Seller will not have become subject to any Bankruptcy Event and (g) the Seller will not have been rendered insolvent within the meaning of Section 101(32) of Title 11 of the United States Code. No step has been taken or is intended by the Seller or, so far as it is aware, any other Person to make the Seller subject to a Bankruptcy Event.

Section 3.6 No Litigation. There is no (a) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative, regulatory or investigative) pending or, to the Knowledge of the Seller, threatened by or against the Seller or, to the Knowledge of the Seller, pending or threatened by or against Counterparty with respect to

RAPIACTA, at law or in equity, or (b) inquiry or investigation (whether civil, criminal, administrative, regulatory or investigative) by or before a Governmental Authority pending or, to the Knowledge of the Seller, threatened against the Seller or, to the Knowledge of the Seller, pending or threatened against Counterparty with respect to RAPIACTA, that, in each case, (i) if adversely determined, would, individually or in the aggregate, be a Material Adverse Change, or (ii) challenges, or would have the effect of preventing, delaying, making illegal, or otherwise would reasonably be expected to interfere with, any of the transactions contemplated by any of the Transaction Documents. To the Knowledge of the Seller, no event has occurred or circumstance exists that could reasonably be expected to give rise to or serve as a basis for the commencement of any such action, suit, arbitration, claim, investigation, proceeding or inquiry.

Section 3.7 Compliance with Laws. The Seller is not (a) in violation of and has not violated, and, to the Knowledge of the Seller, is not under investigation with respect to, and has not been threatened to be charged with or been given notice of any violation of, any law, statute, rule, ordinance or regulation of, or any judgment, order, writ, decree, injunction, stipulation, consent order, permit or license granted, issued or entered by, any Governmental Authority or (b) subject to any judgment, order, writ, decree, injunction, stipulation, consent order, permit or license granted, issued or entered by any Governmental Authority, that, in the case of clause (a) or clause (b), would, individually or in the aggregate, be a Material Adverse Change. To the Knowledge of the Seller, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would reasonably be expected to constitute or result in a violation by the Seller of, or a failure on the part of the Seller to comply with, any such law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority, in each case, that would, individually or in the aggregate, be a Material Adverse Change. The Seller is in compliance with the requirements of all applicable laws, a breach of any of which would be a Material Adverse Change.

Section 3.8 No Conflicts.

(a) None of the execution and delivery by the Seller of any of the Transaction Documents to which the Seller is party, the performance by the Seller of the obligations contemplated hereby or thereby or consummation of the transactions contemplated hereby or thereby conflict with, result in a breach or violation of or constitute a default (with or without notice or lapse of time, or both) under any term or provision of any of the organizational documents of the Seller. Except as would not, individually or in the aggregate, be a Material Adverse Change, none of the execution and delivery by the Seller of any of the Transaction Documents to which the Seller is party, the performance by the Seller of the obligations contemplated hereby or thereby or consummation of the transactions contemplated hereby or thereby: (i) conflict with, result in a breach or violation of or constitute a default (with or without notice or lapse of time, or both) under (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit or license of any Governmental Authority, to which the Seller or any of its assets or properties may be subject or bound or (B) any term or provision of any contract, agreement, indenture, lease, license, deed, commitment or instrument to which the Seller is a party or by which the Seller or any of its assets or properties is bound or committed (including the Counterparty License Agreement); or

(ii) except as provided in any of the Transaction Documents to which it is party, result in or require the creation or imposition of any Lien on the Intellectual Property Rights, RAPIACTA, the Counterparty License Agreement or the Purchased Assets.

(b) The Seller has not granted, nor does there exist, any Lien on the Transaction Documents, the Counterparty License Agreement, the Intellectual Property Rights or the Purchased Assets. Except for the license granted by the Seller to Counterparty under the Counterparty License Agreement, any joint ownership interest of UAB that may arise upon any termination of the UAB Agreement (which joint ownership interest would be subject to the license granted by the Seller to Counterparty under the Counterparty License Agreement), or as would not otherwise, individually or in the aggregate, be a Material Adverse Change, there are no licenses, sublicenses, or other rights under the Intellectual Property Rights in the Territory that have been granted to any other Person.

Section 3.9 Intellectual Property Rights.

(a) Exhibit C sets forth an accurate and complete list of all Intellectual Property Rights that are Patents. For each of such Intellectual Property Rights listed on Exhibit C, the Seller has indicated (i) the countries in which such Patent is pending, allowed, granted or issued, (ii) the patent number or patent serial number, (iii) the scheduled expiration date of such issued patent, (iv) the scheduled expiration date of such pending patent application once issued and (v) the owner of such Patent.

(b) To the Knowledge of the Seller, each claim that has been issued or granted by the appropriate Patent Office included in the relevant Intellectual Property Rights that are patents and that covers RAPIACTA is valid and enforceable.

(c) There are no unpaid maintenance or renewal fees payable by the Seller to any third party that currently are overdue for any of the Intellectual Property Rights that are Patents covering RAPIACTA. No Intellectual Property Rights that are Patents covering RAPIACTA have lapsed or been abandoned, cancelled or expired. To the Knowledge of the Seller, each individual associated with the filing and prosecution of the Intellectual Property Rights that are Patents covering RAPIACTA has complied in all material respects with all applicable duties of candor and good faith in dealing with any Patent Office, including any duty to disclose to any Patent Office all information known by such individuals to be material to the patentability of each of the Intellectual Property Rights that are Patents covering RAPIACTA (including any relevant prior art), in each case, in those jurisdictions in the Territory where such duties exist.

(d) Subsequent to the issuance of any Patents included in the Intellectual Property Rights covering RAPIACTA, neither the Seller nor, to the Knowledge of the Seller, Counterparty has filed any disclaimer or made or permitted any other voluntary reduction in the scope of such Patents. To the Knowledge of the Seller, no allowable or allowed subject matter of the Patents included in the Intellectual Property Rights covering RAPIACTA is subject to any competing conception claims of allowable or allowed subject matter of any Patents of any third party and have not been the subject of any interference, re-examination or opposition proceedings.

(e) There is no opposition, interference, reexamination, injunction, claim, suit, action, hearing, inquiry, investigation (by the International Trade Commission or otherwise), complaint, arbitration, mediation, demand, decree or other dispute, disagreement, proceeding or claim of which the Seller has received written notice or that, to the Knowledge of the Seller, is threatened (collectively, "Disputes") challenging the validity, enforceability or ownership of any of the Intellectual Property Rights or that could give rise to a credit pursuant to Section 9.3(e)(ii) of the Counterparty License Agreement against the payments due to the Seller under the Counterparty License Agreement for the use of the related Intellectual Property Rights. There are no Disputes by or with any third party against the Seller involving RAPIACTA of which the Seller has received written notice. None of the Intellectual Property Rights is subject to any outstanding injunction, judgment, order, decree, ruling, change, settlement or other disposition of a Dispute of which the Seller has received written notice.

(f) To the Knowledge of the Seller, there is no pending or threatened, and no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would reasonably be expected to give rise to or serve as a basis for any, action, suit or proceeding, or any investigation or claim by any Person to which the Seller or, to the Knowledge of the Seller, to which Counterparty is or could reasonably be expected to be a party, and the Seller has not received any written notice of the foregoing, that claims that the manufacture, use, marketing, sale, offer for sale, importation or distribution of RAPIACTA in the Territory by Counterparty pursuant to the Counterparty License Agreement does or could infringe on any patent or other intellectual property rights of any other Person or constitute misappropriation of any other Person's trade secrets or other intellectual property rights arising under the laws of any jurisdiction in the Territory. To the Knowledge of the Seller, there are no pending patent applications owned by any third party that, if issued, would limit or prohibit, in any material respect, the manufacture, use or sale of RAPIACTA by Counterparty in the Territory.

(g) Peramivir is a Licensed Product.

(h) To the Knowledge of the Seller, there is no third party infringing any Intellectual Property Rights, nor has the Seller received any written notice under the Counterparty License Agreement of infringement of any of the Intellectual Property Rights that is continuing.

(i) Each of the Seller and, to the Knowledge of the Seller, Counterparty has taken reasonable precautions to protect the secrecy and confidentiality of all Know-How protected as a trade secret under applicable law that is used in connection with the manufacture, use or sale of RAPIACTA by Counterparty or its Affiliates in the Territory.

(j) The Intellectual Property Rights constitute all of the intellectual property owned or licensed by the Seller or any of the Seller's Affiliates necessary for the sale by Counterparty of RAPIACTA in the Territory.

(k) Except for the product clearance opinion dated December 20, 2010 of Abe, Ikubo & Katayama and the validity opinion dated December 20, 2010 of Abe, Ikubo & Katayama, the Seller has not received and is not otherwise in possession of any written legal

opinion concerning or with respect to any third party intellectual property rights in the Territory relating to RAPIACTA in the Field, including any freedom-to-operate, product clearance, patentability or right-to-use opinion.

Section 3.10 Regulatory Approval, Manufacturing and Marketing.

(a) To the Knowledge of the Seller, Counterparty has complied with its obligations to develop RAPIACTA and seek and obtain Regulatory Approval for RAPIACTA pursuant to the Counterparty License Agreement.

(b) To the Knowledge of the Seller, RAPIACTA has received Regulatory Approval for marketing and distribution in Japan.

Section 3.11 No Subordination. The claims and rights of the Purchaser created by any Transaction Document in and to the Purchased Assets are not and shall not, at any time, be subordinated to any creditor of the Seller.

Section 3.12 Counterparty License Agreement and UAB Agreement.

(a) Other than the Transaction Documents, the Counterparty License Agreement and the UAB Agreement, there is no contract, agreement or other arrangement (whether written or oral) to which the Seller is a party or by which any of its assets or properties is bound or committed (i) that creates a Lien on, or affects or relates in any material respect to, the Purchased Assets, the Counterparty License Agreement or the Intellectual Property Rights, or (ii) for which breach, nonperformance, cancellation or failure to renew would, individually or in the aggregate, be a Material Adverse Change.

(b) The Seller has provided to the Purchaser a true, correct and complete copy of the Counterparty License Agreement (it being understood that neither Schedule 1.1(q) nor Exhibit G to the Counterparty License Agreement are included therewith) and the UAB Agreement and any confidentiality agreement relating to any of the foregoing.

(c) The Counterparty License Agreement is in full force and effect and is the legal, valid and binding obligation of the Seller and, to the Knowledge of the Seller, Counterparty, enforceable against the Seller and, to the Knowledge of the Seller, Counterparty in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, general equitable principles and principles of public policy. The execution, delivery and performance of the Counterparty License Agreement was and is within the powers of the Seller and, to the Knowledge of the Seller, Counterparty. The Counterparty License Agreement was duly authorized by all necessary action on the part of, and validly executed and delivered by, the Seller and, to the Knowledge of the Seller, Counterparty. The Seller is not in breach or violation of or in default under the Counterparty License Agreement. There is no event or circumstance that, upon notice or the passage of time, or both, would reasonably be expected to constitute or give rise to any breach or default in the performance of the Counterparty License Agreement by the Seller or, to the Knowledge of the Seller, Counterparty.

(d) The Seller has not waived any rights or defaults under the Counterparty License Agreement or released Counterparty, in whole or in part, from any of its obligations under the Counterparty License Agreement, in any case that would adversely affect the Purchaser's rights under any of the Transaction Documents.

(e) To the Knowledge of the Seller, no event has occurred that would give the Seller (pursuant to Section 14.2 of the Counterparty License Agreement) or Counterparty (pursuant to Section 14.3(a) of the Counterparty License Agreement) the right to terminate the Counterparty License Agreement or give Counterparty the right to cease paying Royalties under the Counterparty License Agreement. The Seller has not received any notice of an intention by Counterparty to terminate or breach the Counterparty License Agreement, in whole or in part, or challenging the validity or enforceability of the Counterparty License Agreement or the obligation to pay the Royalties under the Counterparty License Agreement, or that the Seller or Counterparty is in default of its obligations under the Counterparty License Agreement. The Seller is not aware of any default by Counterparty under the Counterparty License Agreement. The Seller has no intention of terminating the Counterparty License Agreement and has not given Counterparty any notice of termination of the Counterparty License Agreement, in whole or in part.

(f) Except as provided in the Counterparty License Agreement or for the UAB Agreement, the Seller is not a party to any agreement providing for or permitting a sharing of, or Set-off against, the Royalties payable under the Counterparty License Agreement to the Seller.

(g) The sale by the Seller of the Purchased Assets to the Purchaser and the execution and delivery of and performance of obligations under the Transaction Documents will not require the approval, consent, ratification, waiver or other authorization of Counterparty under the Counterparty License Agreement or otherwise (except to the extent previously obtained) and will not constitute a breach of or default or event of default under the Counterparty License Agreement or any other agreement or law applicable thereto.

(h) The Seller has not consented to an assignment by Counterparty of any of Counterparty's rights or obligations under the Counterparty License Agreement and the Seller does not have Knowledge of any such assignment by Counterparty.

(i) Neither the Seller nor Counterparty has made any claim of indemnification under the Counterparty License Agreement of which, in the case of Counterparty, the Seller has received any written notice.

(j) The Seller has not exercised its rights to conduct an audit under the Counterparty License Agreement.

(k) To the Knowledge of the Seller, the Seller has received all amounts owed to it under the Counterparty License Agreement.

(l) The Seller has received payment from Counterparty of the signing fee and milestone payments set forth in Section 9.1 and Section 9.2 of the Counterparty License

Agreement. The date of first commercial sale of RAPIACTA was January 26, 2010. Counterparty has exercised its option to manufacture or have manufactured Compound for the Territory. The NI Option was not exercised by Counterparty, and the NI Option Period has expired. There are no New Formulations.

Section 3.13 Set-off and Other Sources of Royalty Reduction. Except as provided in the Counterparty License Agreement or for any set-off rights that might be available under law, Counterparty has no right of Set-off under any contract or other agreement against the Royalties or any other amounts payable to the Seller under the Counterparty License Agreement. Counterparty has not exercised, and, to the Knowledge of the Seller, Counterparty has not had the right to exercise, any Set-off against the Royalties or any other amounts payable to the Seller under the Counterparty License Agreement. To the Knowledge of the Seller, there are no third party patents that, if licensed by Counterparty, would provide a basis for a reduction in the royalties due to the Seller pursuant to the Counterparty License Agreement based on the royalty or other payments made by Counterparty in consideration of such license. There are no compulsory licenses that have been granted by the Seller or, to the Knowledge of the Seller, threatened with respect to the Intellectual Property Rights, except as provided in the Counterparty License Agreement or rights reserved to any government under law. For the avoidance of doubt, the term "Set-off" as used in this Section 3.13 does not include any items that may reduce Net Sales in accordance with the definition thereof.

Section 3.14 UCC Matters. The Seller's exact legal name is, and for the immediately preceding 10 years has been, "BioCryst Pharmaceuticals, Inc." The Seller's principal place of business is, and for the immediately preceding 10 years has been, located in Birmingham, Alabama or Durham, North Carolina. The Seller's jurisdiction of organization is, and for the immediately preceding 10 years has been, the State of Delaware. For the immediately preceding 10 years, the Seller has not been the subject of any merger or other corporate or other reorganization in which its identity or status was materially changed, except in each case when it was the surviving or resulting entity.

Section 3.15 Tax Matters. No deduction or withholding for or on account of any tax has been made, or was required under applicable law to be made, from any payment to the Seller under the Counterparty License Agreement. Except as individually or in the aggregate would not be a Material Adverse Change, the Seller has filed (or caused to be filed) all tax returns and reports required by law to have been filed by it and has paid all taxes required to be paid by it, except any such taxes that are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on its books. The Seller has never filed any tax return or report under any name other than its exact legal name.

Section 3.16 UAB Agreement. Under the UAB Agreement, payments due to UAB in respect of RAPIACTA are equal to 4% of royalties and milestone payments received by the Seller from Counterparty under the Counterparty License Agreement, and no other payment provisions of the UAB Agreement are applicable to the Purchased Assets. The failure of the UAB Agreement to continue to be in full force and effect would not (a) result in Counterparty infringing any patent or intellectual property rights of UAB in respect of RAPIACTA or misappropriating any of UAB's trade secrets or other intellectual property rights in respect of

RAPIACTA or (b) give rise to an independent right of termination of the Counterparty License Agreement (subject to Counterparty's right to terminate the Counterparty License Agreement at any time in its discretion pursuant to Section 14.3(b) thereof) or result in Counterparty being entitled to cease the payment of royalties or milestone payments thereunder. There are no patents or other intellectual property rights licensed to Counterparty under the Counterparty License Agreement for which Counterparty would require a license from UAB to sell RAPIACTA in the Territory if the UAB Agreement failed to continue to be in full force and effect.

Section 3.17 Margin Stock. The Seller is not engaged in the business of extending credit for the purpose of buying or carrying margin stock, and no portion of the Purchase Price shall be used by the Seller for a purpose that violates Regulation T, U or X promulgated by the Board of Governors of the Federal Reserve System from time to time.

Section 3.18 Disclosure. The Memorandum, taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made. From the date of the Memorandum until the date hereof and except as disclosed therein (or in any supplement thereto), there has been no material adverse change or development involving or anticipated to involve a prospective material adverse change in the Seller's business relating to the Purchased Assets or the Counterparty License Agreement or its ability to perform its obligations under the Transaction Documents. As of the date hereof, there is no fact known to the Seller that could reasonably be expected to have a material adverse effect on its business relating to the Purchased Assets or the Counterparty License Agreement or its ability to perform its obligations under the Transaction Documents that has not been set forth in the Memorandum or in any supplement thereto.

ARTICLE IV
COVENANTS

So long as the Notes are outstanding, the parties hereto covenant and agree as follows:

Section 4.1 Books and Records; Notices.

(a) After receipt by the Seller of notice of any action, claim, demand, dispute, investigation, arbitration or proceeding (commenced or threatened) relating to the transactions contemplated by any Transaction Document, the Purchased Assets or the Counterparty License Agreement or any default or termination by any Person under the Counterparty License Agreement or the Currency Hedge Agreement, the Seller shall (i) promptly inform the Purchaser in writing of the receipt of such notice and the substance thereof and (ii) if such notice is in writing, promptly furnish the Purchaser with a copy of such notice and any related materials with respect thereto and received therewith.

(b) The Seller shall keep and maintain, or cause to be kept and maintained, at all times books and records adequate to reflect accurately all financial information it has received from Counterparty with respect to the Royalties.

(c) Promptly after receipt by the Seller (but in no event more than five Business Days following receipt by the Seller) of any written notice, certificate, offer, proposal, report or other material correspondence or material written communication relating to the Counterparty License Agreement, the Royalties, the Intellectual Property Rights, the Purchased Assets or Licensed Products, the Seller shall (i) inform the Purchaser in writing of such receipt, (ii) provide to the Purchaser in writing a reasonably detailed description of the substance thereof and (iii) furnish the Purchaser with a copy of such notice, certificate, offer, proposal, correspondence, report or other communication.

(d) The Seller shall provide the Purchaser with written notice as promptly as practicable (and in any event within five Business Days) after becoming aware of any of the following: (i) the occurrence of a Bankruptcy Event in respect of the Seller; (ii) any material breach or default by the Seller of any covenant, agreement or other provision of this Purchase and Sale Agreement or any other Transaction Document; (iii) any representation or warranty made by the Seller in any of the Transaction Documents or in any certificate delivered to the Purchaser pursuant hereto shall prove to be untrue, inaccurate or incomplete in any material respect on the date as of which made (except that any such representations and warranties that are qualified in respect of materiality or Material Adverse Change shall prove to be untrue, inaccurate or incomplete in any respect); or (iv) any change, effect, event, occurrence, state of facts, development or condition that would reasonably be expected to be a Material Adverse Change.

(e) The Seller shall notify the Purchaser in writing not less than 30 days prior to any change in, or amendment or alteration of, the Seller's (i) legal name, (ii) form or type of organization or corporate structure or (iii) jurisdiction of organization.

(f) Subject to applicable confidentiality restrictions and securities laws, the Seller shall make available such other information as the Purchaser may, from time to time, reasonably request with respect to the Purchased Assets.

Section 4.2 Confidentiality; Public Announcement.

(a) Except as otherwise required by law, by the rules and regulations of the SEC or any securities exchange or trading system or by the FDA or any other Governmental Authority with similar regulatory authority and except as otherwise set forth in this Section 4.2, all Confidential Information furnished by the Seller to the Purchaser, as well as the terms, conditions and provisions of this Purchase and Sale Agreement and any other Transaction Document, shall be kept confidential by the Purchaser and shall be used by the Purchaser only in connection with this Purchase and Sale Agreement and any other Transaction Document and the transactions contemplated hereby and thereby. Notwithstanding the foregoing, the Purchaser may disclose such information to its actual and potential partners, directors, employees, managers, officers, agents, investors (including any holder of debt securities of the Purchaser and

such holder's advisors, agents and representatives), co-investors, insurers and insurance brokers, underwriters, financing parties, equity holders, brokers, advisors, lawyers, bankers, trustees and representatives; provided, that such Persons (i) shall be informed of the confidential nature of such information and shall be obligated to keep such information confidential pursuant to obligations of confidentiality no less onerous than those set out herein or (ii) shall have executed and delivered a confidentiality agreement substantially in the form attached as Exhibit B to the Indenture.

(b) The Seller and the Purchaser acknowledge that each party hereto may, after execution of this Purchase and Sale Agreement, make a public announcement of the transactions contemplated by the Transaction Documents. The Seller and the Purchaser agree that, after the Closing, public announcements may be issued in the form of one or more press releases, and in disclosures contained in documents to be filed with or furnished to the SEC, in each case subject to the Purchaser or the Seller having a reasonable prior opportunity to review such public announcement, and which announcement shall be in a form mutually acceptable to the Purchaser and the Seller, and either party hereto may thereafter disclose any information contained in such press release or SEC documents at any time without the consent of the other party hereto.

Section 4.3 Further Assurances.

(a) Subject to the terms and conditions of this Purchase and Sale Agreement, each party hereto will use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable laws and regulations to consummate the transactions contemplated by the Transaction Documents, including to perfect the sale, transfer, conveyance, assignment, contribution and granting of the Purchased Assets to the Purchaser pursuant to this Purchase and Sale Agreement. The Purchaser and the Seller agree to execute and deliver such other documents, certificates, instruments, 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 any Transaction Document and to perfect, protect, more fully evidence, vest and maintain in the Purchaser good, valid and marketable rights and interests in and to the Purchased Assets free and clear of all Liens (other than those permitted by the Transaction Documents) or enable the Purchaser to exercise or enforce any of the Purchaser's rights under any Transaction Document, including following the Closing.

(b) The Seller and the Purchaser shall cooperate and provide assistance as reasonably requested by the other party hereto, at the expense of such other party hereto, in connection with any litigation, arbitration or other proceeding (whether threatened, existing, initiated or contemplated prior to, on or after the date hereof) to which the other party hereto, any of its Affiliates or controlling Persons or any of their respective officers, directors, equityholders, members, controlling Persons, managers, agents or employees is or may become a party or is or may become otherwise directly or indirectly affected or as to which any such Persons have a direct or indirect interest, in each case relating to any Transaction Document, the Purchased Assets or the transactions described herein or therein but in all cases excluding any litigation brought by the Seller against the Purchaser or brought by the Purchaser against the Seller.

(c) The Seller shall comply with all applicable laws with respect to the Transaction Documents, the Counterparty License Agreement, the Purchased Assets and all ancillary agreements related thereto, the violation of which would reasonably be expected to be a Material Adverse Change.

Section 4.4 Payments on Account of the Purchased Assets.

(a) Notwithstanding the terms of the Counterparty Instruction and the irrevocable direction described in Section 5.2(c), if Counterparty, the Currency Hedge Provider or any other Person makes any payment to the Seller (or any of its Subsidiaries other than the Purchaser) directly and not to the Collection Account on account of the Purchased Assets, then (i) the portion of such payment that represents the Royalties or the Currency Hedge Payments shall be held by the Seller (or such Subsidiary) in trust for the benefit of the Purchaser in a segregated account, (ii) the Seller (or such Subsidiary) shall have no right, title or interest whatsoever in such portion of such payment and shall not create or suffer to exist any Lien thereon and (iii) the Seller (or such Subsidiary) promptly, and in any event no later than five Business Days following the receipt by the Seller (or such Subsidiary) of such portion of such payment, shall remit such portion of such payment to the Collection Account pursuant to Section 4.4(b) in the exact form received with all necessary endorsements.

(b) The Seller shall make all payments to be made by the Seller pursuant to this Purchase and Sale Agreement by wire transfer of immediately available funds, without Set-off, to the Collection Account.

(c) If Counterparty or any other Person makes any payment to the Purchaser of Royalties relating to periods prior to the Royalties Commencement Date, then (i) such payment shall be held by the Purchaser in trust for the benefit of the Seller in a segregated account, (ii) the Purchaser shall have no right, title or interest whatsoever in such payment and shall not create or suffer to exist any Lien thereon and (iii) the Purchaser promptly, and in any event no later than two Business Days following the receipt by the Purchaser of such payment, shall remit such payment to the Seller Account pursuant to Section 4.4(d) in the exact form received with all necessary endorsements.

(d) The Purchaser shall make all payments of Royalties relating to periods prior to the Royalties Commencement Date to be made by the Purchaser pursuant to this Purchase and Sale Agreement by wire transfer of immediately available funds, without Set-off, to the following account (or to such other account as the Seller shall notify the Purchaser in writing from time to time) (the "Seller Account"):

Bank Name: Wachovia Bank, N.A.
Address: 420 North 20th Street, Birmingham, AL 35203
Account Name: BioCryst Pharmaceuticals Inc.
ABA/Routing Number: 111025013
Account Number: 2000019335913
Swift Code: PNBPUS33

(e) If Counterparty takes any Set-off in accordance with the terms of the Counterparty License Agreement where such Set-off (or any portion thereof) is made in respect of any event occurring, circumstance existing or action taken prior to the Royalties Commencement Date but has the effect of reducing amounts to be paid to the Purchaser following the Closing Date, then the Seller shall cause the amount of such Set-off (or portion thereof, as the case may be) to be paid promptly (but in no event later than five Business Days following such Set-off) to the Collection Account. For the avoidance of doubt, the term "Set-off" as used in this Section 4.4(e) does not include any items that may reduce Net Sales in accordance with the definition thereof.

Section 4.5 Counterparty License Agreement.

(a) The Seller shall timely perform and comply in all material respects with its duties and obligations under the Counterparty License Agreement and, without the prior written consent of the Purchaser, shall not (i) forgive, release or compromise any amount owed to or becoming owing to the Seller or the Purchaser under the Counterparty License Agreement and relating to or affecting the Royalties in any respect, (ii) waive, amend, cancel, terminate or fail to exercise any rights or options constituting or involving the right to receive the Royalties, (iii) except as contemplated by the Transaction Documents, create or permit to exist any Lien on the Counterparty License Agreement, the Purchased Assets or the Intellectual Property Rights, (iv) grant any license, sublicense or other right under the Intellectual Property Rights in respect of the Field in the Territory (except for licenses granted by the Seller to Counterparty under the Counterparty License Agreement as in existence on the Closing Date, any joint ownership interest of UAB that may arise upon any termination of the UAB Agreement (which joint ownership interest would be subject to the license granted by the Seller to Counterparty under the Counterparty License Agreement), or in accordance with Section 4.6(a), (v) challenge or assist in a challenge of the legality, validity or enforceability of any of the Intellectual Property Rights in respect of the Field in the Territory, (vi) assign, amend (including to add a New Formulation), modify, restate, cancel, supplement, terminate (in whole or in part), consent to any termination of (in whole or in part) or waive the Counterparty License Agreement or any provision thereof relating to or affecting the Royalties in any respect or grant any consent under or with respect to the Purchased Assets, RAPIACTA (in respect of the Field in the Territory) or the Counterparty License Agreement, in each case relating to or affecting the Royalties in any respect (including in respect of a Third Party New Formulations License), (vii) enter into any agreement with Counterparty in respect of or relating to the Purchased Assets or (in respect of the Field in the Territory) RAPIACTA, except in accordance with Section 4.6(a), (viii) select to make Material Use of the Future Data of Counterparty or (ix) agree to do any of the foregoing.

(b) The Seller shall not, without the prior written consent of the Purchaser and except as set forth in Section 4.5(a), exercise or waive any right or option, fail to exercise any right or option or exercise or fail to exercise any action in respect of the Purchased Assets, RAPIACTA (in respect of the Field in the Territory) or the Counterparty License Agreement in any manner that would, in each case, (i) be reasonably likely to be a Material Adverse Change or (ii) cause an event of default under, or breach or termination of, this Purchase and Sale Agreement, any other Transaction Document or the Counterparty License Agreement.

(c) Promptly after (i) receiving notice from Counterparty (A) terminating the Counterparty License Agreement (in whole or in part), (B) alleging any breach of or default under the Counterparty License Agreement by the Seller or (C) asserting the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the Counterparty License Agreement by the Seller or the right to terminate the Counterparty License Agreement (in whole or in part) by Counterparty pursuant to Section 14.3(a) of the Counterparty License Agreement or (ii) the Seller otherwise has knowledge of any fact, circumstance or event that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the Counterparty License Agreement by the Seller or give the right to terminate the Counterparty License Agreement (in whole or in part) by Counterparty pursuant to Section 14.3(a) of the Counterparty License Agreement, in each case, the Seller shall (A) promptly give a written notice to the Purchaser describing in reasonable detail the relevant breach, default or termination event, including a copy of any written notice received from Counterparty or the other relevant Person, and, in the case of any breach or default or alleged breach or default by the Seller, describing in reasonable detail any corrective action the Seller proposes to take, and (B) use commercially reasonable efforts to promptly cure such breach or default and shall give written notice to the Purchaser upon curing such breach or default; provided, however, that, if the Seller fails to promptly cure such breach or default, the Purchaser or the Trustee shall, to the extent permitted by the Counterparty License Agreement, be entitled to take any and all actions the Purchaser considers reasonably necessary to promptly cure such breach or default (including by making a Seller Shortfall Payment), and the Seller shall cooperate with the Purchaser for such purpose and reimburse the Purchaser promptly (but in no event later than five Business Days following notice thereof) for all costs and expenses incurred in connection therewith (including for any such Seller Shortfall Payment funded by the Purchaser or the Trustee), with any such reimbursement to be made directly to the Collection Account.

(d) Promptly after the Seller obtains knowledge of a breach or default or alleged breach or default under the Counterparty License Agreement by Counterparty or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach or default under the Counterparty License Agreement by Counterparty or the right to terminate the Counterparty License Agreement (in whole or in part) by the Seller pursuant to Section 14.2 of the Counterparty License Agreement, in each case, the Seller shall (i) promptly give a written notice to the Purchaser describing in reasonable detail the relevant breach, default or termination event and (ii) proceed in consultation with the Purchaser and take such permissible actions (including commencing legal action against Counterparty and the selection of legal counsel reasonably satisfactory to the Purchaser) to enforce compliance by Counterparty with the relevant provisions of the Counterparty License Agreement and to exercise any or all of the Purchaser's or the Seller's rights and remedies, whether under the Counterparty License Agreement or by operation of law, with respect thereto. The Seller acknowledges and agrees that, if an Event of Default occurs and is continuing, the Seller and the Purchaser shall, at the request of the Trustee (at the direction of Noteholders of a majority of the

outstanding principal balance of the Notes), jointly with the Trustee enforce their respective contractual rights under the Counterparty License Agreement.

(e) The Seller shall (i) subject to the provisions of the Counterparty License Agreement and any rights of Counterparty or UAB, take such actions as are commercially reasonable, and prepare, execute, deliver and file any and all agreements, documents and instruments in connection therewith that are reasonably necessary, to diligently preserve and maintain the Intellectual Property Rights, including payment of maintenance fees or annuities, at the sole expense of the Seller, and (ii) take commercially reasonable measures to diligently defend (and enforce) the Intellectual Property Rights, in such manner as it determines in the exercise of reasonable business judgment, against infringement or interference by any other Person, and against any claims of invalidity or unenforceability, in any relevant jurisdiction (including by bringing legal action for infringement or defending counterclaims of invalidity or action of a third party for declaratory judgment of non-infringement or non-interference), with counsel reasonably satisfactory to the Purchaser and whose reasonable fees and expenses shall be borne by the Seller, in each case, where the failure to defend or enforce the Intellectual Property Rights would reasonably be expected to be a Material Adverse Change. The Seller shall not disclaim or abandon, or fail to take any commercially reasonable action necessary to prevent the disclaimer or abandonment of, any Patents included in the Intellectual Property Rights. The Purchaser shall have the right, at its sole expense, to participate in and control, with counsel appointed by it, any meeting, discussion, action, suit or proceeding involving the infringement, legality, validity or enforceability of the Intellectual Property Rights or the Counterparty License Agreement to the same extent that the Seller has such rights under the Counterparty License Agreement consistent with the exercise of reasonable business judgment, including any counterclaim, settlement discussions or meetings, and the Seller shall exercise and enforce such rights on its own behalf (and on behalf of the Purchaser) to the fullest extent permissible under the terms of the Counterparty License Agreement; provided, that the Seller's exercise and enforcement of such rights shall not result in a breach of this Purchase and Sale Agreement or a Material Adverse Change; provided, further, that the fees and expenses of the Purchaser's counsel in connection therewith shall be borne by the Seller if such infringement, legality, validity or enforceability is caused by the Seller.

(f) Except in connection with an assignment by the Seller to any other Person with which the Seller may merge or consolidate or to which the Seller may sell all or substantially all of its assets or all of its assets related to Licensed Products in accordance with the provisions of Section 7.4, the Seller shall not dispose of or encumber the Intellectual Property Rights (in whole or in part).

(g) The Seller shall to the extent reasonably practicable make available its records and personnel to the Purchaser in connection with any prosecution of litigation by the Purchaser against any party to the Counterparty License Agreement (other than the Seller) to enforce any of the Purchaser's rights under the Counterparty License Agreement, and, to the extent commercially reasonable, provide assistance and authority to file and bring the litigation, including, if required to bring the litigation, being joined as a party plaintiff.

Section 4.6 Termination of the Counterparty License Agreement; Mergers, Consolidations and Asset Sales Involving Counterparty.

(a) Following any termination of the Counterparty License Agreement in respect of one or more countries in the Territory, the Seller shall use commercially reasonable efforts to (i) enter into a new agreement or other arrangement to license and sublicense the Intellectual Property Rights (or any portion thereof), as such rights may revert back to the Seller under and subject to the terms and conditions of the Counterparty License Agreement and the UAB Agreement, to one or more third parties in such country or countries of the Territory under which such third party will agree to use commercially reasonable efforts to develop, manufacture, commercialize and market RAPIACTA in such country or countries in the Territory, in which case the Seller shall instruct such third parties to make the corresponding royalty payments in respect of Commercial Sales, if any, directly to the Collection Account, and (ii) develop, manufacture, commercialize and market RAPIACTA in such country or countries in the Territory through such third party or by itself (in which case the Seller shall make the corresponding royalty payments directly to the Collection Account), it being understood that any such royalty payments shall only be an amount equivalent to the royalty that would have been payable by Counterparty, net of all deductions and adjustments, if the Counterparty License Agreement was still in effect and such commercialization was effected by Counterparty).

(b) If there occurs a merger or consolidation of the Seller, on the one hand, and Counterparty or its Affiliates, on the other hand, a sale of all or substantially all of the Seller's assets to Counterparty or a sale or assignment of the Counterparty License Agreement or the Intellectual Property Rights by the Seller to Counterparty, and in any such case the Counterparty License Agreement is terminated in connection therewith, the Seller (or its successor) shall pay to the Purchaser royalties on Commercial Sales of the Licensed Products in the Territory for the term of the Counterparty License Agreement on the same basis as if the Counterparty License Agreement had continued and the Purchaser's rights with respect to the Purchased Assets and the covenants of the Seller under this Purchase and Sale Agreement shall continue to apply on the same basis as if the Counterparty License Agreement was in place between the Seller and Counterparty.

Section 4.7 Audits. The Seller shall not, without the prior written consent of the Purchaser, and the Seller shall, upon the written request of the Purchaser, cause an inspection or audit of Counterparty's books and records to be conducted pursuant to, and in accordance with, Section 9.8 of the Counterparty License Agreement; provided, however, that the Seller shall retain the exclusive right to inspect and audit Counterparty's books and records at any time and from time to time at its sole discretion for payments that are paid or payable to the Seller pursuant to the Counterparty License Agreement with respect to Net Sales and Royalties attributable to the period prior to the Royalties Commencement Date. For the purposes of exercising the Purchaser's rights pursuant to this Section 4.7, the Seller shall select such public accounting firm as the Purchaser shall reasonably recommend for such purpose. The Seller and the Purchaser agree that all of the expenses of any inspection or audit carried out for the benefit of the Purchaser that would otherwise be borne by the Seller pursuant to the Counterparty License Agreement shall instead be borne by the Purchaser, including such fees and expenses of

such public accounting firm as are to be borne by the Seller pursuant to Section 9.8 of the Counterparty License Agreement together with the Seller's reasonable out-of-pocket costs incurred in connection with such examination or audit. The Seller will furnish any inspection or audit report prepared by such public accounting firm to the Purchaser. The Purchaser shall have the right to require the Seller, in writing, at the sole expense of the Purchaser, to exercise the Seller's rights under the Counterparty License Agreement to cause Counterparty to cure such discrepancy in accordance with the Counterparty License Agreement.

Section 4.8 Existence. The Seller shall (i) preserve and maintain its existence (provided, however, that nothing in this Section 4.8(i) shall prohibit the Seller from entering into any merger, consolidation or amalgamation with, or selling or otherwise transferring all or substantially all of its assets to, any other person if the Seller is the continuing or surviving entity or if the surviving or continuing or acquiring entity assumes all of the obligations of the Seller), (ii) preserve and maintain its rights, franchises and privileges unless failure to do any of the foregoing would not be a Material Adverse Change, and (iii) qualify and remain qualified in good standing in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualifications would be a Material Adverse Change, including appointing and employing such agents or attorneys in each jurisdiction where it shall be necessary to take action under this Purchase and Sale Agreement.

Section 4.9 Approval of Actions of Purchaser. To the extent approval by the members of the Purchaser is required prior to any action by the Purchaser to perform its obligations under the Transaction Documents to which the Purchaser is party, the Seller, so long as it is the holder of a majority of the Capital Securities of the Purchaser, shall approve any such action.

Section 4.10 Payments to UAB. The Seller shall pay to UAB, no later than when required under the UAB Agreement, the amounts paid by the Purchaser to the Seller pursuant to Section 3.4 of the Indenture. The Seller shall receive and hold such funds in one or more separate accounts and shall not commingle such funds with any other funds of the Seller.

Section 4.11 Currency Hedge Agreement.

(a) Except to the extent specifically described in Section 4.11(e) or Section 4.11(f), the Seller shall not, without the prior written consent of the Purchaser, (i) forgive or release, or fail to exercise any rights or options constituting or involving the right to receive, any Currency Hedge Payment, (ii) terminate or cancel (in whole or in part), or consent to any termination or cancellation of (in whole or in part), the Currency Hedge Agreement, (iii) waive, amend, supplement, modify or restate the Currency Hedge Agreement or any provision thereof that could adversely affect any Currency Hedge Payments, (iv) assign any of its obligations under the Currency Hedge Agreement or (v) agree to do any of the foregoing.

(b) Promptly after (i) receiving notice from the Currency Hedge Provider (A) terminating the Currency Hedge Agreement (in whole or in part), (B) alleging any breach of or default under the Currency Hedge Agreement by the Seller or (C) asserting the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to

give rise to a breach of or default under the Currency Hedge Agreement by the Seller or the right to terminate the Currency Hedge Agreement (in whole or in part) for cause by the Currency Hedge Provider or (ii) the Seller otherwise has knowledge of any fact, circumstance or event that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the Currency Hedge Agreement by the Seller or give the right to terminate the Currency Hedge Agreement (in whole or in part) for cause by the Currency Hedge Provider, in each case, the Seller shall promptly give a written notice to the Purchaser describing in reasonable detail the relevant breach, default or termination event, including a copy of any written notice received from the Currency Hedge Provider, and, in the case of any breach or default or alleged breach or default by the Seller, describing in reasonable detail any corrective action the Seller proposes to take. If the Seller fails to promptly cure such breach or default, the Purchaser or the Trustee shall, to the extent permitted by the Currency Hedge Agreement, be entitled to take any and all actions the Purchaser considers reasonably necessary to promptly cure such breach or default (including by making a Seller Shortfall Payment), and the Seller shall cooperate with the Purchaser for such purpose and reimburse the Purchaser promptly (but in no event later than five Business Days following notice thereof) for all costs and expenses incurred in connection therewith (including for any such Seller Shortfall Payment funded by the Purchaser or the Trustee), with any such reimbursement to be made directly to the Collection Account.

(c) Promptly after the Seller obtains knowledge of a breach or default or alleged breach or default under the Currency Hedge Agreement by the Currency Hedge Provider or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time or both) to give rise to a breach or default under the Currency Hedge Agreement by the Currency Hedge Provider or the right to terminate the Currency Hedge Agreement (in whole or in part) for cause by the Seller, in each case, the Seller shall (i) promptly give a written notice to the Purchaser describing in reasonable detail the relevant breach, default or termination event and (ii) proceed in consultation with the Purchaser and take commercially reasonable actions (including commencing legal action against the Currency Hedge Provider and the selection of legal counsel reasonably satisfactory to the Purchaser) to enforce compliance by the Currency Hedge Provider with the relevant provisions of the Currency Hedge Agreement and to exercise any or all of the Seller's or the Purchaser's rights and remedies, whether under the Currency Hedge Agreement or by operation of law, with respect thereto. The Seller acknowledges and agrees that, if an Event of Default occurs and is occurring, the Seller and the Purchaser shall, at the request of the Trustee (at the direction of Noteholders of a majority of the outstanding principal balance of the Notes), jointly with the Trustee enforce their respective contractual rights under the Currency Hedge Agreement.

(d) The Seller shall provide the Purchaser and the Trustee with an officer's certificate of the Seller within five Business Days in the event the Seller (i) effects any permitted cancellation, unwind, termination, disposition, amendment or modification of the Currency Hedge Agreement or all or any portion of an Option or (ii) enters into any replacement foreign currency hedge arrangement, in each case, as described in Section 4.11(e), and certifying as to

the satisfaction of the conditions set forth thereunder. For the avoidance of doubt, any such permitted cancellation, unwind, termination, disposition, amendment or modification of the Currency Hedge Agreement or all or any portion of an Option and/or the entry into any such permitted replacement foreign currency hedge arrangement shall not be deemed to constitute or result in a Material Adverse Change for any purpose.

(e) The Seller shall not cancel, unwind, terminate, dispose of, amend or modify all or any portion of the Currency Hedge Agreement unless (i) the Seller contemporaneously enters into one or more replacement foreign currency hedge arrangements with the Currency Hedge Provider (which replacement foreign currency hedge arrangements may be in the form of one or more options or a different type of foreign currency hedge), provided that the replacement foreign currency hedge arrangements provide for a foreign currency hedge in respect of at least an equivalent notional amount of yen as the Option(s) (or portion(s) thereof) so replaced, provide for a hedge of the yen-dollar exchange rate at an exchange rate at least as favorable to Noteholders as the exchange rate set forth in the Option(s) (or portion(s) thereof) so replaced, are otherwise on terms not materially less favorable to Noteholders (as determined in the reasonable good faith judgment of the Purchaser) than the Option(s) (or portion(s) thereof) so replaced, and provide for payments payable in respect of such replacement foreign currency hedge arrangements by the Currency Hedge Provider to be made to the Collection Account, (ii) there has been a material breach of the Currency Hedge Agreement by the Currency Hedge Provider permitting the Seller to so cancel, unwind, terminate or dispose of all or any portion of the Currency Hedge Agreement pursuant to its terms (in which case, with respect to this clause (ii), the Seller will be permitted, but shall not be obligated, to enter into new foreign currency hedging arrangements with another currency hedge provider, in which case the Seller will not be required to direct any payments payable in respect of such replacement foreign currency hedge arrangements by such other currency hedge provider to the Collection Account), (iii) the Notes are no longer outstanding, (iv) the Noteholders have foreclosed on all or any portion of the Collateral or the Issuer Pledged Collateral in connection with an exercise of remedies under the Indenture or (v) in the case of all or any portion of an Option, the Purchaser has effected foreign currency exchange spot market transactions of yen to dollars at a yen-dollar foreign currency exchange spot rate of $1≤¥100 (but only in respect of the notional amount of yen in respect of such Option that is less than or equal to the amount of yen so exchanged during the period to which such Option relates).

(f) The Seller shall not exercise its one-time right to terminate the Options expiring beginning in 2016 through and including 2020 pursuant to the Confirmation (or any replacement thereof) constituting part of the Currency Hedge Agreement unless the provisions of Section 4.11(e)(i), Section 4.11(e)(iii) or Section 4.11(e)(iv) apply.

(g) The Seller shall not enter into any “Transaction” under any ISDA Master Agreement constituting part of the Currency Hedge Agreement (with “Transaction” for this purpose having the meaning specified in such ISDA Master Agreement) except for the Options entered into under the Confirmation constituting part of the Currency Hedge Agreement on the date hereof and any other foreign currency hedge arrangements entered into by the Seller as permitted by Section 4.11(e)(i) of this Purchase and Sale Agreement.

ARTICLE V
THE CLOSING

Section 5.1 Closing. The closing of the transactions contemplated hereby (the "Closing") shall take place on the date hereof (the "Closing Date") at the offices of Pillsbury Winthrop Shaw Pittman LLP located at 1540 Broadway, New York, New York 10036, or such other place as the parties mutually agree.

Section 5.2 Closing Deliverables of the Seller. At the Closing, the Seller shall deliver or cause to be delivered to the Purchaser the following:

(a) the Bill of Sale, the Pledge and Security Agreement, the Servicing Agreement, the Purchase Agreements and the Currency Hedge Agreement, each executed by the Seller;

(b) an irrevocable direction to Counterparty to pay the Royalties directly to the Collection Account, and as to such other matters, in the form set forth in Exhibit B executed by the Seller;

(c) an irrevocable direction to the Currency Hedge Provider to pay the Currency Hedge Payments directly to the Collection Account, executed by the Seller; and

(d) such other certificates, documents and financing statements as the Purchaser may reasonably request, including (i) the documents contemplated by Article VI of the Purchase Agreements and (ii) a financing statement satisfactory to the Purchaser to create, evidence and perfect the sale of the Purchased Assets pursuant to Section 2.1(c) and the back-up security interest granted pursuant to Section 2.1(d).

Section 5.3 Closing Deliverables of the Purchaser. At the Closing, the Purchaser shall deliver or cause to be delivered to the Seller the following:

(a) the Bill of Sale executed by the Purchaser; and

(b) payment of the Purchase Price in accordance with Section 2.3.

ARTICLE VI
INDEMNIFICATION

Section 6.1 Indemnification by the Seller. The Seller hereby indemnifies and holds each of the Purchaser and its Affiliates and any and all of their respective partners, directors, managers, members, officers, employees, agents and controlling Persons (each, a "Purchaser Indemnified Party") harmless from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses (including attorneys' fees) awarded against or incurred or suffered by such Purchaser Indemnified Party, whether or not involving a third party claim, demand, action or proceeding, arising out of (i) any breach of any representation, warranty or certification made by the Seller in any of the Transaction Documents to which the Seller is party

or certificates given by the Seller to the Purchaser in writing pursuant to this Agreement or any other Transaction Document, (ii) any breach of or default under any covenant or agreement by the Seller to the Purchaser pursuant to any Transaction Document to which the Seller is party or the Counterparty License Agreement, (iii) any Excluded Liabilities and Obligations (unless such Excluded Liabilities and Obligations are due to the Purchaser not complying with any confidentiality provisions set forth in the Counterparty License Agreement), (iv) claims arising on or after the Closing Date and asserted against a Purchaser Indemnified Party relating to the transactions contemplated in any Transaction Document or the Counterparty License Agreement and (v) any fees, expenses, costs, liabilities or other amounts incurred or owed by the Seller to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Purchase and Sale Agreement; provided, however, that the foregoing shall exclude any indemnification to any Purchaser Indemnified Party that (A) has the effect of imposing on the Seller any recourse liability for Royalties because of the insolvency or other creditworthiness problems of Counterparty or the insufficiency of the Royalties, whether as a result of the amount of cash flow arising from sales of RAPIACTA or otherwise, unless resulting from the failure of the Seller to perform its obligations under this Purchase and Sale Agreement, (B) results from the bad faith, gross negligence or willful misconduct of such Purchaser Indemnified Party, (C) results from the failure of any other Person to perform any of its obligations under any of the Transaction Documents or (D) results from the Seller's acts or omissions based upon the written instructions from any Purchaser Indemnified Party. Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by the Seller to such Purchaser Indemnified Party upon demand. In addition to the foregoing obligations of the Seller, the Seller agrees (a) to pay to the Purchaser on demand all reasonable costs and expenses incurred by the Purchaser in connection with the enforcement of the Transaction Documents against the Seller or any Affiliates of the Seller, (b) to indemnify the Purchaser on an after-tax basis for any stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of the Transaction Documents, and to indemnify each Purchaser Indemnified Party on an after-tax basis in respect of any liabilities with respect to such taxes and fees, and (c) to indemnify the Purchaser on an after-tax basis for any U.S. federal, state or local or any foreign income, franchise or other taxes imposed on income or assets (including any interest, penalties or accountant or counsel fees incurred in connection with such taxes) asserted against, withheld from or required to be withheld by the Purchaser at any time that the Notes are outstanding.

Section 6.2 Procedures. If any claim, demand, action or proceeding (including any investigation by any Governmental Authority) shall be brought or alleged against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to Section 6.1, the indemnified party shall, promptly after receipt of notice of the commencement of any such claim, demand, action or proceeding, notify the indemnifying party in writing of the commencement of such claim, demand, action or proceeding, enclosing a copy of all papers served, if any; provided, that the omission to so notify such indemnifying party will not relieve the indemnifying party from any liability that it may have to any indemnified party under Section 6.1 unless, and only to the extent that, such omission results in the forfeiture of, or has a material adverse effect on the exercise or prosecution of, substantive rights or defenses by the indemnifying party. In case any such action is brought against an indemnified party and it

notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, at the indemnifying party's sole cost and expense, to participate therein and, to the extent that it may wish, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Article VI for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. In any such proceeding, an indemnified party shall have the right to retain its own counsel, but the reasonable fees and expenses of such counsel shall be at the expense of such indemnified party unless (a) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (b) the indemnifying party has assumed the defense of such proceeding and has failed within a reasonable time to retain counsel reasonably satisfactory to such indemnified party or (c) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interests between them based on the advice of counsel to the indemnifying party. It is agreed that the indemnifying party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate law firm (in addition to local counsel where necessary) for all such indemnified parties. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but, if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any Loss by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or discharge of any claim or pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement, compromise or discharge, as the case may be, (i) includes an unconditional written release of such indemnified party, in form and substance reasonably satisfactory to the indemnified party, from all liability on claims that are the subject matter of such claim or proceeding, (ii) does not include any statement as to an admission of fault, culpability or failure to act by or on behalf of any indemnified party and (iii) does not impose any continuing material obligation or restrictions on any indemnified party.

Section 6.3 Exclusive Remedy. Except in the case of fraud or intentional breach, following the Closing, the indemnification afforded by this Article VI shall be the sole and exclusive remedy for any and all Losses sustained or incurred by a party hereto in connection with the transactions contemplated by the Transaction Documents, including with respect to any breach of any representation, warranty or certification made by a party hereto in any of the Transaction Documents or certificates given by a party hereto in writing pursuant hereto or thereto or any breach of or default under any covenant or agreement by a party hereto pursuant to any Transaction Document. Notwithstanding anything in this Purchase and Sale Agreement to the contrary, in the event of any breach or failure in performance of any covenant or agreement contained in any Transaction Document, the non-breaching party shall be entitled to specific performance, injunctive or other equitable relief pursuant to Section 7.2.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Survival. All representations, warranties and covenants made herein and in any other Transaction Document or any certificates delivered pursuant to this Purchase and Sale Agreement shall survive the execution and delivery of this Purchase and Sale Agreement and the Closing. The rights hereunder to indemnification, payment of Losses or other remedies based on such representations, warranties and covenants shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time (whether before or after the execution and delivery of this Purchase and Sale Agreement or the Closing) in respect of the accuracy or inaccuracy of or compliance with, any such representation, warranty or covenant. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant, shall not affect the rights hereunder to indemnification, payment of Losses or other remedies based on such representations, warranties and covenants.

Section 7.2 Specific Performance. Each of the parties hereto acknowledges that the other party hereto will have no adequate remedy at law if it fails to perform any of its obligations under any of the Transaction Documents. In such event, each of the parties hereto agrees that the other party hereto shall have the right, in addition to any other rights it may have (whether at law or in equity), to specific performance of this Purchase and Sale Agreement.

Section 7.3 Notices. All notices, consents, waivers and other communications hereunder shall be in writing and shall be effective (a) upon receipt when sent through the mails, registered or certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) upon receipt when sent by an overnight courier, (c) on the date personally delivered to an authorized officer of the party to which sent or (d) on the date transmitted by legible telecopier transmission with a confirmation of receipt, in all cases, with a copy emailed to the recipient at the applicable address, addressed to the recipient as follows:

if to the Seller (including as Servicer under the Servicing Agreement), to:

BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel
Telephone: 919-859-1302
Facsimile: 919-851-1416
Email: abarnes@biocryst.com

if to the Purchaser, to:

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel
Telephone: 919-859-1302
Facsimile: 919-851-1416
Email: abarnes@biocryst.com

Each party hereto may, by notice given in accordance herewith to each of the other party hereto, designate any further or different address to which subsequent notices, consents, waivers and other communications shall be sent.

Section 7.4 Successors and Assigns. The provisions of this Purchase and Sale Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Seller shall not be entitled to assign any of its obligations and rights under any of the Transaction Documents without the prior written consent of the Purchaser; provided, however, that the Seller may, without the consent of the Purchaser, assign any of its obligations or rights under the Transaction Documents to any other Person with which it may merge or consolidate or to which it may sell all or substantially all of its assets or all of its assets related to the Licensed Products, provided that the assignee under such assignment agrees to be bound by the terms of the Transaction Documents and furnish a written agreement to the Purchaser in form and substance reasonably satisfactory to the Purchaser to that effect. The Purchaser may assign any of its obligations and rights hereunder without restriction and without the consent of the Seller. The Purchaser shall give notice of any such assignment to the Seller and Counterparty promptly after the occurrence thereof. The Seller shall be under no obligation to reaffirm any representations, warranties or covenants made in this Purchase and Sale Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by the Purchaser.

Section 7.5 Independent Nature of Relationship. Except for any Capital Securities of the Purchaser held by the Seller, the relationship between the Seller and the Purchaser is solely that of seller and purchaser, and neither the Seller nor the Purchaser has any fiduciary or other special relationship with the other party hereto or any of its Affiliates. Nothing contained herein or in any other Transaction Document shall be deemed to constitute the Seller and the Purchaser as a partnership, an association, a joint venture or any other kind of entity or legal form.

Section 7.6 Entire Agreement. This Purchase and Sale Agreement, together with the Exhibits hereto (which are incorporated herein by reference), and the other Transaction Documents constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties hereto with respect to the subject matter of this Purchase and Sale Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Exhibits hereto or the other Transaction Documents) has been made or

relied upon by either party hereto. Except as described in Section 7.15, neither this Purchase and Sale Agreement nor any provision hereof is intended to confer upon any Person other than the parties hereto and the other Persons referenced in Article VI any rights or remedies hereunder.

Section 7.7 Governing Law.

(a) THIS PURCHASE AND SALE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Purchase and Sale Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by 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.

(c) 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 suit, action or proceeding arising out of or relating to this Purchase and Sale Agreement in any court referred to in Section 7.7(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each of the parties hereto irrevocably consents to service of process in the manner provided for notices in Section 7.3. Nothing in this Purchase and Sale Agreement will affect the right of any party hereto to serve process in any other manner permitted by law. Each of the parties hereto waives personal service of any summons, complaint or other process, which may be made by any other means permitted by New York law.

Section 7.8 Waiver of Jury Trial. EACH PARTY HERETO HEREBY 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 PURCHASE AND SALE AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER

PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY HERETO WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS PURCHASE AND SALE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.8.

Section 7.9 Severability. If one or more provisions of this Purchase and Sale Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Purchase and Sale Agreement and the balance of this Purchase and Sale Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect be enforceable in accordance with its terms. Any provision of this Purchase and Sale Agreement held invalid or unenforceable only in part or degree by a court of competent jurisdiction shall remain in full force and effect to the extent not held invalid or unenforceable.

Section 7.10 Counterparts. This Purchase and Sale Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Purchase and Sale Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Any counterpart may be executed by facsimile signature and such facsimile signature shall be deemed an original.

Section 7.11 Amendments; No Waivers. Neither this Purchase and Sale Agreement nor any term or provision hereof may be amended, supplemented, restated, waived, changed or modified except with the written consent of the parties hereto. No waiver of any right hereunder shall be effective unless such waiver is signed in writing by the party hereto against whom such waiver is sought to be enforced. No failure or delay by either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No notice to or demand on either party hereto in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval hereunder shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 7.12 Limited Recourse. The Seller accepts that the enforceability against the Purchaser of any obligations of the Purchaser hereunder shall be limited to the assets of the Purchaser, whether tangible or intangible, real or personal and the proceeds thereof. Once all such assets have been realized upon and such assets (and proceeds thereof) have been applied in accordance with the Indenture, any outstanding obligations of the Purchaser to the Seller hereunder shall be extinguished. The Seller further agrees that it shall take no action against any employee, director, officer or administrator of the Purchaser in relation to this Purchase and Sale Agreement; provided, that nothing herein shall limit the Purchaser (or its permitted successors or assigns) from pursuing claims, if any, against any such Person; provided, further, that the

foregoing shall not in any way limit, impair or otherwise affect any rights of the Seller to proceed against any employee, director, officer or administrator of the Purchaser (a) for intentional and willful fraud or intentional and willful misrepresentations on the part of or by such employee, director, officer or administrator or (b) for the receipt of any distributions or payments to which the Seller or any successor in interest is entitled, other than distributions expressly permitted pursuant to the other Transaction Documents. For the avoidance of doubt, this Section 7.12 does not affect the obligations of any holder of Capital Securities of the Purchaser under the Pledge and Security Agreement or the ability of the Trustee or any Noteholder to exercise any rights or remedies it may have under the Pledge and Security Agreement.

Section 7.13 Cumulative Remedies. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. Without limiting the foregoing, the Seller hereby authorizes the Purchaser, at any time and from time to time, to the fullest extent permitted by law, to offset any amounts payable by the Purchaser to, or for the account of, the Seller against any obligations of the Seller to the Purchaser arising in connection with the Transaction Documents (including amounts payable pursuant to Article VI) that are then due and payable.

Section 7.14 Table of Contents and Headings. The Table of Contents and headings of the Articles and Sections of this Purchase and Sale Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

Section 7.15 Acknowledgment and Agreement. The Seller expressly acknowledges and agrees that all of the Purchaser's right, title and interest in, to and under this Purchase and Sale Agreement shall be pledged and assigned to the Trustee as collateral by the Purchaser pursuant to the Indenture, and the Seller consents to such pledge and assignment, without regard to whether an event of default has occurred and is continuing under the Indenture. Each of the parties hereto acknowledges and agrees that the Trustee, acting on behalf of the Noteholders, is a third party beneficiary of the rights of the Purchaser arising hereunder and shall be entitled to exercise and/or enforce certain rights of the Purchaser hereunder.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement as of the day and year first written above.

BIOCRYST PHARMACEUTICALS, INC.,
as Seller

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

JPR ROYALTY SUB LLC
as Purchaser

By: BioCryst Pharmaceuticals, Inc., its Manager

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

EXHIBIT A

FORM OF BILL OF SALE

This BILL OF SALE is dated as of March 9, 2011 (the "Closing Date") by BIOCRYST PHARMACEUTICALS, INC., a Delaware corporation (the "Seller"), in favor of JPR ROYALTY SUB LLC, a Delaware limited liability company (the "Purchaser").

RECITALS

WHEREAS, the Seller and the Purchaser are parties to that certain Purchase and Sale Agreement, dated as of the Closing Date (the "Purchase and Sale Agreement"), pursuant to which, among other things, the Seller agrees to sell, transfer, convey, assign, contribute and grant to the Purchaser, and the Purchaser agrees to purchase, acquire and accept from the Seller, all of the Seller's right, title and interest in, to and under the Purchased Assets, for the consideration described in the Purchase and Sale Agreement; and

WHEREAS, the parties hereto now desire to carry out the purposes of the Purchase and Sale Agreement by the execution and delivery of this instrument evidencing the Purchaser's purchase, acquisition and acceptance of the Purchased Assets;

NOW, THEREFORE, in consideration of the premises and the mutual agreements set forth in the Purchase and Sale Agreement and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. The Seller, by this Bill of Sale, does hereby sell, transfer, convey, assign, contribute, grant, release, set over, confirm and deliver to the Purchaser, and the Purchaser does hereby purchase, acquire and accept, all of the Seller's right, title and interest in, to and under the Purchased Assets.

2. The parties hereto acknowledge that the Purchaser is not assuming any of the Excluded Liabilities and Obligations.

3. The Seller hereby covenants that, at any time or from time to time after the Closing Date, at the Purchaser's reasonable request and without further consideration, the Seller shall execute and deliver to the Purchaser such other instruments of sale, transfer, conveyance, assignment, contribution, granting and confirmation, provide such materials and information and take such other actions, each as the Purchaser may reasonably deem necessary to sell, transfer, convey, assign, contribute, grant, release, set over, confirm and deliver to the Purchaser, and to confirm the Purchaser's title to, the Purchased Assets and to put the Purchaser in actual possession of such Purchased Assets and assist the Purchaser in exercising all rights with respect thereto.

4. This Bill of Sale shall be binding upon and inure to the benefit of the Seller, the Purchaser and their respective successors and assigns, for the uses and purposes set forth and referred to above, effective immediately upon its delivery to the Purchaser.

5. THIS BILL OF SALE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

6. This Bill of Sale may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of such counterparts shall together constitute but one and the same instrument.

7. The following terms as used herein shall have the following respective meanings:

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director, officer or manager of such Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing. For purposes hereof, the term "Affiliate" when used in respect of the Seller shall be deemed to exclude the Purchaser.

"Capital Securities" means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital, whether now outstanding or issued after the Closing Date, including common shares, ordinary shares, preferred shares, membership interests or share capital in a limited liability company or other Person, limited or general partnership interests in a partnership, beneficial interests in trusts or any other equivalent of such ownership interest or any options, warrants and other rights to acquire such shares or interests, including rights to allocations and distributions, dividends, redemption payments and liquidation payments.

"Commercial Sales" has the meaning set forth in Section 9.3(a) of the Counterparty License Agreement.

"Compound" has the meaning set forth in Section 1.1(m) of the Counterparty License Agreement.

"Counterparty" means Shionogi & Co., Ltd., a Japanese corporation.

"Counterparty License Agreement" means that certain License, Development and Commercialization Agreement dated as of February 28, 2007, as amended by that certain First Amendment to License, Development and Commercialization Agreement dated as of September 30, 2008, that certain letter agreement dated

May 10, 2010 and that certain Consent Agreement dated as of November 2, 2010, between the Seller and Counterparty. The term "Counterparty License Agreement" shall include all rights that arise therefrom and relate thereto.

"Currency Hedge Agreement" means that certain Confirmation (including the related letter agreement) dated as of March 9, 2011 and the ISDA Master Agreement (including the schedule and credit support annex included therein) (solely insofar as such ISDA Master Agreement relates to such Confirmation and not to any other "Transaction" as such term is defined in such ISDA Master Agreement) dated as of March 7, 2011, in each case between the Seller and the Currency Hedge Provider (and any replacement foreign currency hedge arrangement entered into by the Seller as permitted by Section 4.11(e)(i) of the Purchase and Sale Agreement) and, with respect to such letter agreement, among the Seller, the Currency Hedge Provider, the Purchaser and the Trustee.

"Currency Hedge Payments" means the amounts required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement (subject to all of the Currency Hedge Provider's rights under the Currency Hedge Agreement (including, to the extent provided in the Currency Hedge Agreement, liquidation, netting and setoff rights, specified conditions precedent to the Currency Hedge Provider's required payments and performance and rights to realize on margin or other collateral)) except any amount required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement as a result of a termination of the Currency Hedge Agreement by the Seller permitted by Section 4.11(e) of the Purchase and Sale Agreement.

"Currency Hedge Provider" means Morgan Stanley Capital Services Inc.

"$" means United States dollars.

"Excluded Liabilities and Obligations" has the meaning set forth in Section 2.4 of the Purchase and Sale Agreement.

"FDA" means the U.S. Food and Drug Administration and any successor agency thereto.

"Field" has the meaning set forth in Section 1.1(u) of the Counterparty License Agreement.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including each Patent Office, the FDA and any other government authority in any country.

"Indenture" means that certain indenture, dated as of the Closing Date, by and between the Purchaser and U.S. Bank National Association, a national banking association, as initial trustee thereunder, and any successor appointed in accordance with the terms thereof.

"Intellectual Property Rights" means: (a) patents and patent applications; (b) continuations, continuations-in-part, divisionals and substitute applications with respect to any such patent application; (c) patents issued based on or claiming priority to any such patent applications; (d) reissue, reexamination, renewal or extension (including any supplemental patent certificate) of any such patents; and (e) confirmation patent or registration patent or patent of addition based on any such patents, in each case, owned, licensed or controlled by the Seller, that are filed in the Territory solely to the extent that any of the foregoing relate to the manufacture, use or sale of Licensed Products and/or Compound in the Field.

"Licensed Product" has the meaning set forth in Section 1.1(jj) of the Counterparty License Agreement.

"Notes" means any notes issued under the Indenture from time to time, including the JPR PhaRMA^{SM} Senior Secured 14% Notes due 2020 of the Purchaser in the initial outstanding principal balance of $30,000,000 issued on the Closing Date.

"Non-Commercial Sales" has the meaning set forth in Section 9.3(a) of the Counterparty License Agreement.

"Patent" means any pending or issued patent or continuation, continuation in part, division, extension or reissue thereof.

"Patent Office" means the applicable patent office, including the United States Patent and Trademark Office and any comparable foreign patent office, for any Intellectual Property Rights that are Patents.

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Purchased Assets" means, collectively, the Seller's (a) right, title and interest in, to and under the Counterparty License Agreement to (i) receive all of the Royalties, (ii) receive the reports produced by Counterparty pursuant to the Counterparty License Agreement in respect of sales of Licensed Products in the Territory, (iii) audit the records of Counterparty in respect of such sales pursuant to the Counterparty License Agreement and receive an audit report summarizing the results of any such audit and (iv) make indemnification claims against Counterparty pursuant to the Counterparty License Agreement, (b) rights under the Currency Hedge Agreement to receive the Currency Hedge Payments, (c) right to disapprove of an assignment of the Counterparty License Agreement by Counterparty and (d) right to transfer, assign or pledge the foregoing, in whole or

in part, and the proceeds of and the rights to enforce each of the foregoing. For the avoidance of doubt, Purchased Assets do not include (x) any amounts payable by Counterparty to the Seller in consideration for the supply by the Seller of Compound to Counterparty or (y) any royalties payable by Counterparty to the Seller arising out of, related to or resulting from Non-Commercial Sales.

"Royalties" means (a) all royalties paid, owed, accrued or otherwise required to be paid to the Seller or any of its Affiliates under the Counterparty License Agreement arising out of, related to or resulting from Commercial Sales by Counterparty or its Affiliates of Licensed Product in the Territory (including not only from the Commercial Sale of currently approved indications for Licensed Product in the Territory, but also from any additionally approved indications and from any off-label usage for Licensed Product in the Territory) and, in each case, attributable to the period commencing on the Royalties Commencement Date, including (i) all amounts due or to be paid to the Seller or any of its Affiliates under Section 9.3(b) of the Counterparty License Agreement and (ii) all amounts due or to be paid to the Seller or any of its Affiliates in lieu thereof (whether based upon Commercial Sales of Licensed Product in the Territory or otherwise), (b) all future milestone payments paid, owed, accrued or otherwise required to be paid to the Seller or any of its Affiliates under the Counterparty License Agreement, (c) all indemnity payments, recoveries, damages or award or settlement amounts paid or payable to the Seller or any of its Affiliates by any third party and arising out of or relating to the Commercial Sale of Licensed Products in the Territory or as a result of a breach by any Person other than the Seller of the Counterparty License Agreement with respect to the Commercial Sale of Licensed Products in the Territory and attributable to the period commencing on the Royalties Commencement Date, including pursuant to Section 4.5(d) or Section 4.5(e) of the Purchase and Sale Agreement, (d) all other amounts paid by Counterparty or any other Person pursuant to the Counterparty License Agreement arising out of, related to or resulting from the Commercial Sale by Counterparty or its Affiliates of Licensed Products in the Territory and attributable to the period commencing on the Royalties Commencement Date, (e) all accounts (as defined under the UCC) evidencing the rights to the payments and amounts described herein and (f) all proceeds (as defined under the UCC) of any of the foregoing.

"Royalties Commencement Date" means January 1, 2011.

"Territory" means Japan and Taiwan.

"Trustee" means U.S. Bank National Association, a national banking association, as initial trustee of the Notes under the Indenture, and any successor appointed in accordance with the terms of the Indenture.

"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 law, the perfection or the effect of perfection or

non-perfection of the back-up security interest granted pursuant to Section 2.1(d) of the Purchase and Sale Agreement 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 the Purchase and Sale Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"U.S." or "United States" means the United States of America, its 50 states, each territory thereof and the District of Columbia.

"Voting Securities" means, with respect to any Person, Capital Securities of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

IN WITNESS WHEREOF, the parties hereto have executed this Bill of Sale as of the day and year first written above.

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

JPR ROYALTY SUB LLC

By: BioCryst Pharmaceuticals, Inc., its Manager

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

EXHIBIT B

FORM OF COUNTERPARTY INSTRUCTION

March 9, 2011

VIA OVERNIGHT COURIER

SHIONOGI & CO., LTD.
12-4, Sagisu 5 chome
Fukushima-ku, Osaka 553-0002
Japan
Attention: General Manager, License Department

Ladies and Gentlemen:

Reference is hereby made to that certain License, Development and Commercialization Agreement dated as of February 28, 2007 between BioCryst Pharmaceuticals, Inc., a Delaware corporation ("BioCryst"), and Shionogi & Co., Ltd., a Japanese corporation ("Shionogi"), as amended by that certain First Amendment to License, Development and Commercialization Agreement dated as of September 30, 2008 between BioCryst and Shionogi, that certain letter agreement dated May 10, 2010 executed by BioCryst and Shionogi and that certain Consent Agreement dated as of November 2, 2010 between BioCryst and Shionogi (collectively, the "License Agreement").

Effective as of March 9, 2011, as evidenced by a Bill of Sale dated as of March 9, 2011 between JPR Royalty Sub LLC, a Delaware limited liability company (the "Purchaser"), and BioCryst (the "Bill of Sale"), which is attached hereto as Appendix A, BioCryst is selling, transferring, conveying, assigning, contributing and granting the "Purchased Assets" described in such Bill of Sale.

In addition, the Purchaser has granted a security interest in the Purchased Assets to U.S. Bank National Association, a national banking association (the "Trustee"), for the benefit of certain noteholders of the Purchaser.

Accordingly, you are hereby irrevocably and unconditionally directed to make all payments of Royalties (as defined in the Bill of Sale, and which definition includes certain milestone payments) to BioCryst by Shionogi on or after January 1, 2011 by wire transfer in United States dollars to the following account:

U.S. Bank National Association
ABA No. 091000022
Account No. 173103321092
Ref: JPR Royalty Collection Account
Attention: Josh Tripi

In addition, you are hereby irrevocably and unconditionally instructed to send all reports or other notices sent or required to be sent to BioCryst pursuant to the License Agreement, including the

reports produced by Shionogi pursuant to Section 9.3(f) of the License Agreement, to the following party at the following address, beginning immediately:

JPR Royalty Sub LLC
c/o BioCryst Pharmaceuticals, Inc., as Manager and Servicer
4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703
Attention: General Counsel
Telephone: 919-859-1302
Facsimile: 919-851-1416
Email: abarnes@biocryst.com

Thank you for your cooperation regarding this matter.

Very truly yours,

BIOCRYST PHARMACEUTICALS, INC.

By: _____
Name:
Title:

APPENDIX A

Bill of Sale

See attached.

EXHIBIT C

INTELLECTUAL PROPERTY MATTERS

"PTE" in the chart below means patent term extension.

Country	Owner	Application Serial No.	Application Filing Date	Publication / Patent Number	Expiration Date
Japan	BioCryst Pharmaceuticals, Inc.	2000-526468	December 17, 1998	4102022	October 2, 2020 (PTE granted)
Japan	BioCryst Pharmaceuticals, Inc.	2001-506133	June 9, 2000	4532801	June 9, 2020
Japan	BioCryst Pharmaceuticals, Inc.	2001-506983	June 9, 2000	4262920	May 2, 2021 (PTE granted)
Japan	BioCryst Pharmaceuticals, Inc.	2008-25550	February 5, 2008	2008-163035	If granted, expiration will be December 17, 2018
Japan	BioCryst Pharmaceuticals, Inc.	2008-314190	December 10, 2008	4597237	June 9, 2020

Exhibit 10.2

PLEDGE AND SECURITY AGREEMENT

MADE BY

EACH UNDERSIGNED EQUITYHOLDER

TO

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE

Dated as of March 9, 2011

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PLEDGE AND SECURITY AGREEMENT

This PLEDGE AND SECURITY AGREEMENT, dated as of March 9, 2011, is made by each undersigned Equityholder in favor of U.S. BANK NATIONAL ASSOCIATION, a national banking association, as the Trustee under the Indenture, as grantee hereunder.

WITNESSETH :

WHEREAS, contemporaneously with the execution and delivery of this Pledge and Security Agreement, pursuant to the Purchase and Sale Agreement, the Seller has sold, transferred, conveyed, assigned, contributed and granted all of the Purchased Assets to the Issuer, in consideration of the payment by the Issuer to the Seller of the Purchase Price and the issuance by the Issuer to the Seller of all of the Capital Securities of the Issuer owned by the Seller;

WHEREAS, contemporaneously with the execution and delivery of this Pledge and Security Agreement, pursuant to the Indenture, the Issuer has issued its Original Class A Notes to the Noteholders;

WHEREAS, in order to secure the repayment of such Original Class A Notes, the Issuer shall, except as otherwise expressly provided in the Indenture, grant a security interest in all of its property and rights to the Trustee for the benefit of the Noteholders, including the Purchased Assets, its rights under the Purchase and Sale Agreement, any Accounts and certain other collateral in accordance with the terms and conditions thereof; and

WHEREAS, in addition to the grant of security interest by the Issuer to the Trustee as set forth in the immediately preceding recital, in order to further secure repayment of the Original Class A Notes, the Trustee desires that each Equityholder pledge all of the Capital Securities of the Issuer owned by such Equityholder to the Trustee for the benefit of the Noteholders;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to induce the Noteholders to purchase the Original Class A Notes issued pursuant to the Indenture, each Equityholder agrees, severally but not jointly, for the benefit of the Trustee on behalf of each Noteholder, as follows:

ARTICLE I
RULES OF CONSTRUCTION AND DEFINED TERMS

Section 1.1 Rules of Construction and Defined Terms. The rules of construction set forth in Annex A shall apply to this Pledge and Security Agreement and are hereby incorporated by reference into this Pledge and Security Agreement as if set forth fully in this Pledge and Security Agreement. Capitalized terms used but not otherwise defined in this Pledge and Security Agreement shall have the respective meanings given to such terms in Annex A, which is hereby incorporated by reference into this Pledge and Security Agreement as if set forth fully in this Pledge and Security Agreement. Not all terms defined in Annex A are used in this Pledge and Security Agreement.

Article II
PLEDGE

Section 2.1 Pledge. As security for the payment and performance of the Secured Obligations and subject to and in accordance with the provisions of this Pledge and Security Agreement, each Equityholder hereby pledges, grants, assigns, hypothecates, transfers and delivers (subject to Section 3.1) to the Trustee, its successors and assigns, for the security and benefit of the Noteholders, a continuing security interest in all of such Equityholder's right, title and interest in, to and under the following property, whether now owned or hereafter acquired (the "Issuer Pledged Collateral"):

(a) all of such Equityholder's Capital Securities in the Issuer, whether now owned or acquired in the future, and all certificates, agreements or other instruments, if any, representing such Capital Securities (the "Issuer Pledged Equity");

(b) subject to Section 6.4, the right to receive all monies and property representing a distribution in respect of the Issuer Pledged Equity of such Equityholder (except for proceeds of the Notes to the extent not applicable to any Redemption of the Notes), whether by way of dividend, redemption, liquidation payments, repurchase or otherwise; and

(c) subject to Section 6.4, all proceeds of the Issuer Pledged Equity of such Equityholder and any of the foregoing, including all shares, securities, rights, monies or other property accruing, offered or issued at any time by way of redemption, conversion, exchange, substitution, preference, option or otherwise in respect of the Issuer Pledged Equity of such Equityholder; provided, however, that all of the proceeds received or unbilled but to be received by such Equityholder in respect of any sale, transfer or other disposition of such Issuer Pledged Equity shall be excluded (x) to the extent such Issuer Pledged Equity remains or concurrently therewith becomes subject to this Pledge and Security Agreement and (y) such sale, transfer or other disposition is permitted pursuant to Sections 6.1 and 17.1;

TO HAVE AND TO HOLD the Issuer Pledged Collateral of such Equityholder, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Trustee, its successors and assigns, subject to the terms and conditions set forth herein.

ARTICLE III
DELIVERY OF ISSUER PLEDGED COLLATERAL

Section 3.1 Delivery of Issuer Pledged Collateral. Contemporaneously with the execution of this Pledge and Security Agreement, each Equityholder shall deliver or cause to be delivered to the Trustee, to the extent not previously delivered, (a) any and all certificates and other instruments evidencing the Issuer Pledged Equity then held in the form of certificates or other instruments by such Equityholder, together with undated stock powers or assignments of such certificates duly executed and signed in blank, (b) any and all certificates or other instruments or documents representing any of the Issuer Pledged Collateral then held by such Equityholder and (c) all other property comprising part of the Issuer Pledged Collateral then held in the form of certificates or other instruments by such Equityholder with proper instruments of

assignment or transfer duly executed and such other instruments or documents as the Trustee may reasonably request to effect the purposes contemplated hereby.

Section 3.2 Capital Securities. If any Equityholder shall become entitled to receive or shall receive, in respect of the Issuer Pledged Equity, any Capital Securities, options, warrants, rights or other similar property, including any certificate representing any distribution in connection with any recapitalization, reclassification or increase or reduction of capital (whether as an addition to, in substitution of or in exchange for such Issuer Pledged Equity or otherwise), such Equityholder agrees:

(a) to accept the same as the agent of the Trustee;

(b) to hold the same in trust on behalf of and for the benefit of the Trustee and separate and apart from its other property; and

(c) to deliver any and all certificates or instruments evidencing the same to the Trustee on or before the close of business on the fifth Business Day following the receipt thereof by such Equityholder, in the exact form received, with the endorsement or assignment in blank of such Equityholder when necessary and with appropriate undated irrevocable proxies duly executed in blank (with signatures properly guaranteed), to be held by the Trustee, subject to the terms of this Pledge and Security Agreement, as additional Issuer Pledged Collateral.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties. Each Equityholder represents and warrants to the Trustee, as of the date such Equityholder becomes a party to this Pledge and Security Agreement, severally but not jointly, as follows:

(a) If such Equityholder is not a natural person, such Equityholder has been duly organized, is validly existing and is in good standing under the laws of its jurisdiction of organization and, except where the failure to do so would be a Material Adverse Change, has all licenses, permits, franchises and governmental authorizations necessary to carry on its business as now being conducted and shall appoint and employ agents or attorneys in each jurisdiction where it shall be necessary to take action under this Pledge and Security Agreement. Such Equityholder is duly licensed or qualified to do business in good standing in each jurisdiction in which such qualification is required by law, except where the failure to do so would be a Material Adverse Change. Such Equityholder has the full power and authority to own the property it purports to own and to carry on its business as presently conducted and as proposed to be conducted. The jurisdiction of organization and principal place of business of such Equityholder as of the date hereof is set forth under such Equityholder's signature hereto.

(b) Such Equityholder is the sole legal and beneficial owner of the Issuer Pledged Collateral of such Equityholder, free and clear of any Lien other than the Lien created pursuant to this Pledge and Security Agreement and the Indenture or other Permitted Liens. No security agreement, financing statement or other public notice with respect to all or any part of the Issuer Pledged Collateral of such Equityholder is on file or of record in any public office,

except such as may have been filed in favor of the Trustee pursuant to this Pledge and Security Agreement and the Indenture.

(c) The consummation of the transactions contemplated hereby has been duly and validly authorized by such Equityholder. Such Equityholder has full power to execute and deliver this Pledge and Security Agreement and to perform its obligations hereunder and to pledge all the Issuer Pledged Collateral of such Equityholder pursuant to this Pledge and Security Agreement. This Pledge and Security Agreement has been duly authorized, executed and delivered by such Equityholder. This Pledge and Security Agreement constitutes a legal, valid and binding obligation of such Equityholder enforceable against such Equityholder in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally and except as enforceability may be limited by general principles of equity (whether considered in a suit at law or in equity). All requisite action has been taken by such Equityholder to make this Pledge and Security Agreement valid and binding upon such Equityholder.

(d) All necessary governmental approvals and consents of other parties (including directors, officers, partners, members, managers or creditors of such Equityholder) have been obtained that are required (i) for the execution, delivery and performance by such Equityholder of this Pledge and Security Agreement or (ii) for the pledge by such Equityholder of the Issuer Pledged Collateral of such Equityholder pursuant to this Pledge and Security Agreement (except as may be required (w) in connection with filings of any UCC financing statements, (x) in connection with any disposition of all or any part of the Issuer Pledged Collateral of such Equityholder under any laws affecting the offering and sale of securities generally, (y) under applicable federal and state laws, rules and regulations and applicable interpretations thereof providing for the supervision or regulation of the banking or trust businesses generally and applicable to the Trustee and (z) with respect to the Trustee as a result of any relationship that the Trustee may have with Persons not parties to, or any activity or business the Trustee may conduct other than pursuant to, any of the Deal Documents).

(e) This Pledge and Security Agreement creates a valid security interest in the Issuer Pledged Collateral of such Equityholder securing the Secured Obligations, and such Equityholder has done such other acts, if any, reasonably requested by the Trustee to perfect the security interest in the Issuer Pledged Collateral of such Equityholder granted hereunder (including permitting the Trustee to file any appropriate UCC financing statement against such Equityholder).

(f) The execution, delivery and performance by such Equityholder of this Pledge and Security Agreement and the consummation of the transactions contemplated by this Pledge and Security Agreement with respect to such Equityholder do not (i) violate the provisions of the organizational documents of such Equityholder, (ii) violate the provisions of any Applicable Law (including any usury law), regulation or order of any Governmental Authority applicable to such Equityholder except where such violation would not reasonably be expected to be a Material Adverse Change, (iii) result in a breach of, or constitute a default under, any material agreement relating to the management or affairs of such Equityholder, or any indenture, credit agreement or loan agreement or any other similar material agreement, lease or instrument to which such Equityholder is a party or by which such Equityholder or any of its material properties may be

bound (which default or breach has not been permanently waived by the other party to such document) except where such breach or default would not be a Material Adverse Change or (iv) result in or create any Lien (other than Permitted Liens) under, or require any consent that has not been obtained under, any indenture (including the Indenture), credit agreement or loan agreement or any other material agreement, instrument or document or the provisions of any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority, binding upon the Issuer Pledged Collateral of such Equityholder.

(g) There are no proceedings and there is no action, suit or proceeding at law or in equity or by or before any Governmental Authority now pending against such Equityholder or, to the best knowledge of such Equityholder, threatened against such Equityholder that questions the validity or legality of or seeks damages in connection with this Pledge and Security Agreement or that seeks to prevent the consummation of any of the transactions contemplated by this Pledge and Security Agreement.

(h) The percentage of limited liability company interests of Issuer Pledged Equity held by such Equityholder is set forth under such Equityholder's signature hereto.

ARTICLE V
SUPPLEMENTS; FURTHER ASSURANCES

Section 5.1 Supplements. Each Equityholder agrees that, at any time and from time to time, at such Equityholder's expense and upon the Trustee's reasonable request and without assuming any obligation for which it is not otherwise liable, such Equityholder will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary, in order to perfect the security interest of the Trustee in the Issuer Pledged Collateral of such Equityholder and to carry out the provisions of this Pledge and Security Agreement or to enable the Trustee to exercise and enforce its rights and remedies hereunder with respect to any Issuer Pledged Collateral of such Equityholder. Each Equityholder hereby authorizes the Trustee to file (or cause to be filed) such UCC financing statements or continuation statements, or amendments thereto, and such other instruments or notices as may be necessary to perfect and preserve the security interests and other rights granted or purported to be granted to the Trustee hereby in respect of the Issuer Pledged Collateral of such Equityholder. With respect to the foregoing and the grant of the security interest hereunder, each Equityholder hereby authorizes the Trustee to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Issuer Pledged Collateral of such Equityholder.

Section 5.2 Further Assurances. If any Equityholder fails to perform any agreement contained herein on its part after receipt of a written request to do so from the Trustee (it being understood that no such request need be given after the occurrence and during the continuance of an Event of Default), the Trustee may itself perform, or cause performance of, such agreement, in which case the reasonable expenses of the Trustee, including the reasonable fees and expenses of its counsel, incurred in connection therewith shall be payable by such Equityholder under Section 12.1 to the extent such Equityholder would have otherwise been responsible therefor under this Pledge and Security Agreement.

ARTICLE VI
COVENANTS

Section 6.1 No Sale and No Liens. Each Equityholder agrees that, without the consent of the Trustee pursuant to Section 9.1 or Section 9.2 of the Indenture, as applicable, it will not (a) sell or otherwise dispose of the Issuer Pledged Collateral of such Equityholder or any interest therein or (b) except for Permitted Liens, create or permit to exist any Lien upon or with respect to any of the Issuer Pledged Collateral of such Equityholder or any interest therein; provided, however, that, so long as no Event of Default has occurred and is continuing in respect of which such Equityholder has received written notice from the Trustee or otherwise has actual knowledge thereof, each Equityholder will be entitled to sell, transfer, assign, convey, contribute or grant the Issuer Pledged Equity of such Equityholder (x) subject to the lien of this Pledge and Security Agreement and (y) so long as (i) such Issuer Pledged Equity in the hands of each transferee remains subject to the pledge under this Pledge and Security Agreement, (ii) the Trustee shall have been provided with an Opinion of Counsel as to the continuing validity of such pledge and perfection of the security interest of the Trustee therein and a written acknowledgement from the transferee that it is acquiring such Issuer Pledged Equity subject to such pledge and security interest and making representations and warranties to the effect set forth in Article IV, (iii) the Trustee shall have been provided with an Opinion of Counsel from a law firm with a nationally recognized tax practice that such sale, transfer, assignment, conveyance, contribution or granting should not cause a "significant modification" of the Notes for U.S. federal income tax purposes; provided, however, that, notwithstanding the foregoing, the Trustee shall not be required to be provided with such an Opinion of Counsel if there has been a Change in Law and counsel to such Equityholder determines in good faith that it is unable to render such an Opinion of Counsel (whereas it would have been able to render such an Opinion of Counsel had the Change in Law not occurred), (iv) the transferee agrees in writing for the benefit of the Trustee to be bound by the provisions of this Pledge and Security Agreement and (v) the transferee is not subject to Japanese withholding tax in respect of the Royalties.

Section 6.2 Notices. Each Equityholder shall promptly provide the Trustee with copies of all notices and other communications received by such Equityholder with respect to any Issuer Pledged Collateral registered in the name of such Equityholder that could adversely affect in any material respect the validity, perfection or priority of the pledge of the Issuer Pledged Collateral owned by it pursuant to this Pledge and Security Agreement.

Section 6.3 Voting Rights. So long as any Equityholder is the owner of the Issuer Pledged Collateral of such Equityholder, notwithstanding anything to the contrary in this Pledge and Security Agreement or any other Deal Document, unless an Event of Default has occurred and is continuing in respect of which such Equityholder has received written notice from the Trustee or otherwise has actual knowledge thereof, such Equityholder may exercise any and all voting and consensual powers pertaining to the Issuer Pledged Collateral of such Equityholder or any part thereof. If an Event of Default has occurred and is continuing in respect of which such Equityholder has received written notice from the Trustee, and the Trustee shall have notified such Equityholder that the Trustee shall thereafter exercise all voting and consensual powers pertaining to the Issuer Pledged Collateral of such Equityholder or any specified part thereof, such Equityholder shall thereafter not be entitled to exercise any of the powers described in the preceding sentence as to the Issuer Pledged Collateral of such Equityholder or the specified part

thereof, which powers shall be exercised exclusively by the Trustee, until further notice to the contrary from the Trustee.

Section 6.4 Dividends and Distributions. So long as no Event of Default has occurred and is continuing in respect of which such Equityholder has received written notice from the Trustee or otherwise has actual knowledge thereof, each Equityholder may receive and retain any dividends and other distributions on the Issuer Pledged Equity of such Equityholder. If an Event of Default has occurred and is continuing in respect of which such Equityholder has received written notice from the Trustee or otherwise has actual knowledge thereof, such Equityholder shall not be entitled to receive any subsequent dividends or other distributions on the Issuer Pledged Equity of such Equityholder and, unless otherwise agreed by the Senior Trustee at the Direction of Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, all such subsequent dividends and other distributions otherwise payable or distributable thereafter in respect of such Equityholder's Issuer Pledged Collateral shall constitute Issuer Pledged Collateral of such Equityholder.

Section 6.5 Capital Securities. Each Equityholder agrees that it will not accept any Capital Securities of the Issuer or any rights or options to acquire any such Capital Securities, each in addition to or in substitution for the Issuer Pledged Collateral of such Equityholder, without prior written consent from the Trustee pursuant to Section 9.1 or Section 9.2 of the Indenture, as applicable, unless the foregoing are pledged to the Trustee pursuant hereto.

Section 6.6 Legal Existence. Each Equityholder shall preserve and maintain (a) its legal existence as an entity in good standing under the laws of its jurisdiction of organization and (b) its qualification to do business in every jurisdiction where the ownership of its properties and the nature of its business require it to be so qualified and where the failure to be so qualified would have a material adverse effect on the security interest created by this Pledge and Security Agreement in respect of the Issuer Pledged Collateral owned by it; provided, however, that a Change of Control shall not be deemed a violation of this Section 6.6.

Section 6.7 Compliance with Laws. Each Equityholder shall use commercially reasonable efforts to comply with all laws, and obtain, maintain and comply with all government approvals as shall now or hereafter be necessary under Applicable Law, in each case in connection with the making and performance by such Equityholder of any material provision of this Pledge and Security Agreement in respect of the Issuer Pledged Collateral owned by it.

Section 6.8 Modifications. No Equityholder shall agree to or permit (a) the amendment, supplement, modification, cancellation or termination of, or waiver with respect to, any of the organizational documents of the Issuer, except upon the expiration of the stated term thereof (but in no event prior to the Final Legal Maturity Date), or (b) any amendment, supplement or modification of, or waiver with respect to, any of the provisions of any of such organizational documents, if any such amendment, supplement, modification or waiver would result in a material adverse change in respect of the validity, perfection or priority of the pledge of the Issuer Pledged Collateral owned by it pursuant to this Pledge and Security Agreement or the exercise of the rights by the Trustee of the rights granted to it hereunder in respect thereof.

Section 6.9 No Liquidation or Dissolution. Without the prior written direction by the Trustee pursuant to Section 9.1 or Section 9.2 of the Indenture, as applicable, no Equityholder shall take any action to liquidate, dissolve or terminate the Issuer, or to authorize or cause any such liquidation, dissolution or termination, until all of the Secured Obligations are paid in full.

Section 6.10 Monies Held in Trust. Subject to Section 2.1(c) and Section 6.4, each Equityholder shall hold all monies received by it that constitute Issuer Pledged Collateral of such Equityholder (including any payment or other benefit in breach of this Section 6.10 or Section 6.11) in trust for the Trustee.

Section 6.11 No Claims. Subject to Section 6.4, no Equityholder shall claim payment, whether directly or by set-off, lien, counterclaim or otherwise, of any amount that may be or has become due to such Equityholder from the Issuer (other than Expenses in accordance with Section 3.7(a) of the Indenture, net proceeds from any Subordinated Note Issuance and proceeds of the issuance of the Original Class A Notes) until all of the Secured Obligations have been paid in full, other than if any amount received in respect thereof becomes Issuer Pledged Collateral or is entitled to become Issuer Pledged Collateral or to prevent a claim from becoming time-barred.

Section 6.12 Notice to Trustee. Upon any sale, transfer, assignment, conveyance, contribution or granting of any Issuer Pledged Equity by an Equityholder, such Equityholder shall cause the transferee (and, if any Issuer Pledged Equity is retained by such Equityholder, the Equityholder) to provide the Trustee with executed signature pages to this Pledge and Security Agreement, which shall set forth the percentage of limited liability company interests of Issuer Pledged Equity held by the transferee and, if applicable, such Equityholder.

Section 6.13 Other Covenants. Each Equityholder shall:

(a) file all tax returns and reports required by law to be filed by it and pay all taxes required to be paid by it, except any such taxes that are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on its books, and it shall not file any tax return or report under any name other than its exact legal name;

(b) maintain, and shall cause the Issuer to maintain, the status of the Issuer as an entity that is not classified as a corporation or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes;

(c) cause the Issuer to use commercially reasonable efforts to file any form (or comply with any other administrative formalities) required for an exemption from or a reduction of any withholding tax for which the Issuer is eligible;

(d) treat the Notes as debt for U.S. federal income tax purposes;

(e) maintain in place all policies and procedures, and take and continue to take all actions, described in the assumptions as to facts relating to the separateness of the Issuer and the Seller set forth in, and forming the basis of, the true sale and non-consolidation opinion delivered pursuant to Section 6.1 of the Purchase Agreements, and comply with the provisions of Section 5.2(o) of the Indenture (as to the Issuer);

(f) not take any action to cause the Issuer (except as required by law) to become subject to any Voluntary Bankruptcy or Involuntary Bankruptcy;

(g) not institute against the Issuer, or join any Person in instituting against the Issuer, any Voluntary Bankruptcy or Involuntary Bankruptcy until one year and one day after the date on which the Notes have been paid in full;

(h) not cause the Issuer to petition for a Voluntary Bankruptcy or an Involuntary Bankruptcy before one year and one day have elapsed since the Notes have been paid in full or, if longer, the applicable preference period then in effect; and

(i) not pass a resolution to cause the Issuer to be liquidated before one year and two days have elapsed since the Notes have been paid in full.

ARTICLE VII
TRUSTEE APPOINTED ATTORNEY-IN-FACT

Section 7.1 Trustee Appointed Attorney-In-Fact. Each Equityholder hereby appoints the Trustee, or any Person (including any officer or agent) whom the Trustee may designate, as such Equityholder's true and lawful attorney-in-fact, with full irrevocable power and authority in the place and stead of such Equityholder and in the name of such Equityholder or in its own name, at such Equityholder's cost and expense, from time to time in the Trustee's reasonable discretion to take any action and to execute any instrument that the Trustee may reasonably deem necessary or advisable to enforce its rights under this Pledge and Security Agreement, including authority to receive, endorse and collect all instruments made payable to such Equityholder representing any distribution, interest payment or other payment in respect of the Issuer Pledged Collateral of such Equityholder or any part thereof and to give full discharge for the same and to sign, complete and deliver all transfers, proxies and letters of resignation; provided, however, that the Trustee will not exercise its powers under this Section 7.1 unless so instructed by the Noteholders pursuant to and in accordance with the Indenture; provided, further, that if there is more than one Equityholder, the Trustee will enforce its rights and exercise its remedies against all Equityholders ratably and shall not enforce its rights or exercise its remedies against one Equityholder without similarly enforcing its rights and exercising its remedies against all Equityholders in the same manner.

ARTICLE VIII
REASONABLE CARE

Section 8.1 Reasonable Care. The Trustee shall be deemed to have exercised reasonable care in the custody and preservation of the Issuer Pledged Collateral in its possession if the Issuer Pledged Collateral is accorded treatment substantially equivalent to that which the Trustee accords its own property of the type of which the Issuer Pledged Collateral consists, it being understood that the Trustee shall have no responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Issuer Pledged Collateral, whether or not the Trustee has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Issuer Pledged Collateral absent its bad faith, gross negligence or willful misconduct.

ARTICLE IX
NO LIABILITY

Section 9.1 No Liability. Neither the Trustee nor any of its directors, officers, employees or agents shall be deemed to have assumed any of the liabilities or obligations of any Equityholder as a result of the pledge and security interest granted under or pursuant to this Pledge and Security Agreement. In the absence of bad faith, gross negligence or willful misconduct, the Trustee or any of its directors, officers, employees or agents shall not be liable for any failure to collect or realize upon the Secured Obligations or any collateral security or guarantee therefor, or any part thereof, or for any delay in so doing nor shall it be under any obligation to take any action whatsoever with regard thereto.

ARTICLE X
REMEDIES UPON EVENT OF DEFAULT

Section 10.1 Remedies Upon Event of Default. Subject to Section 4.3 of the Indenture and to the extent permitted by Applicable Law, if an Event of Default shall have occurred and be continuing and the Trustee shall have given written notice of such Event of Default to the Equityholders:

(a) The Trustee may exercise the power of attorney described in Section 7.1 with respect to any of the certificates or other instruments delivered pursuant to Section 3.1 with respect to the Issuer Pledged Collateral and may sign, complete and deliver all transfers, proxies and letters of resignation and do all acts and things that the Trustee may in its absolute discretion specify to enable or assist the Trustee to perfect or improve its security over the Capital Securities, to vest ownership of the Capital Securities in the Trustee or its nominee, to provide that the Trustee is registered as the holder of the Capital Securities, to exercise any rights or powers attaching to the Capital Securities, to sell the Capital Securities or otherwise to enforce any of the rights of the Trustee under this Pledge and Security Agreement.

(b) The Trustee may exercise in respect of the Issuer Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the UCC, to the extent permitted by Applicable Law or the UCC as then in effect in any applicable jurisdiction, and the Trustee may also in its sole discretion, without notice except as specified below or except as required by mandatory provisions of the UCC and other Applicable Law, sell, subject to Section 11.1, the Issuer Pledged Collateral or any part thereof in one or more parcels at public or private sale or at any of the Trustee's offices or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Trustee may deem commercially reasonable, irrespective of the impact of any such sales on the market price of the Issuer Pledged Collateral at any such sale. Each purchaser at any such sale shall hold the property, sold absolutely, free from any claim or right on the part of any Equityholder, and each Equityholder hereby waives (to the extent permitted by law) all rights of redemption, stay and/or appraisal that it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Equityholder agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to such Equityholder of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Trustee shall not be

obligated to make any sale of Issuer Pledged Collateral regardless of notice of sale having been given. The Trustee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Trustee shall incur no liability as a result of the sale of the Issuer Pledged Collateral, or any part thereof, at any public or private sale, absent bad faith, gross negligence or willful misconduct.

(c) Each Equityholder recognizes that the Trustee may elect in its sole discretion to sell all or a part of the Issuer Pledged Collateral to one or more purchasers in privately negotiated transactions in which the purchasers will be obligated to agree, among other things, to acquire the Issuer Pledged Collateral for their own account, for investment and not with a view to the distribution or resale thereof. Each Equityholder acknowledges that any such private sales may be at prices and on terms less favorable than those obtainable through a public sale (including a public offering made pursuant to a registration statement under the Securities Act), and the Equityholders and the Trustee agree that such private sales shall be deemed to have been made in a commercially reasonable manner and that the Trustee has no obligation to engage in public sales or to delay sale of any Issuer Pledged Collateral to permit the Issuer to register the Issuer Pledged Collateral for a form of public sale thereof requiring registration under the Securities Act.

(d) Any cash held by the Trustee as Issuer Pledged Collateral and all cash proceeds received by the Trustee in respect of any sale of, collection from or other realization upon all or any part of the Issuer Pledged Collateral shall, as soon as reasonably practicable, be applied (after payment of any amounts payable to the Trustee pursuant to Section 12.1) by the Trustee first to the payment of the costs and expenses of such sale, collection or other realization, if any, including reasonable out-of-pocket costs and expenses of the Trustee (including the reasonable fees and out-of-pocket expenses of its counsel), and all reasonable expenses, liabilities and advances made or incurred by the Trustee in connection therewith, second to the payment of the Secured Obligations in accordance with the terms of the Indenture and third to each Equityholder or its successors or assigns in respect to its respective Issuer Pledged Collateral as indicated in the signature page hereto (or pursuant to Section 6.12) and in respect to its respective portion of the proceeds from any sale of, collection from or other realization upon all or any part of the Issuer Pledged Collateral.

(e) Each Equityholder agrees that:

(i) in any sale of any of the Issuer Pledged Collateral, whenever an Event of Default shall have occurred and be continuing, the Trustee is hereby authorized to comply with any limitation or restriction in connection with such sale as it may be advised by counsel is necessary in order to:

(A) avoid any violation of Applicable Law (including compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications and restrict such prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Issuer Pledged Collateral); or

(B) obtain any required approval of the sale or of the purchaser by any Governmental Authority or official; and

(ii) such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Trustee be liable or accountable to any Equityholder for any discount allowed by the reason of the fact that such Issuer Pledged Collateral is sold in compliance with any such limitation or restriction.

ARTICLE XI
PURCHASE OF THE ISSUER PLEDGED COLLATERAL

Section 11.1 Purchase of the Issuer Pledged Collateral. In connection with the potential foreclosure or sale of any Issuer Pledged Collateral upon the occurrence and continuation of an Event of Default, the Seller (as long as it holds any of the Capital Securities of the Issuer) shall have the right, but not the obligation, to match any offer to purchase all or any portion of such Issuer Pledged Collateral from a third party. In the event that the Seller does not offer to purchase any Issuer Pledged Collateral within 10 Business Days of such offer, the Trustee may sell any remaining Issuer Pledged Collateral to third parties; provided, that such third parties shall have first executed a confidentiality agreement substantially similar to the Confidentiality Agreement and delivered such confidentiality agreement to the Trustee and the Seller. Subject to the immediately preceding sentence, any Equityholder may, but shall not be required to, bid on and be a purchaser of the Issuer Pledged Collateral or any part thereof (including any Issuer Pledged Collateral of such Equityholder) or any right or interest therein at any sale thereof, whether pursuant to foreclosure, power of sale or otherwise. In connection with any such sale of any Issuer Pledged Collateral by the Trustee pursuant to this Section 11.1, the Trustee may apply the purchase price to the payment of the Secured Obligations secured hereby. Any purchaser of all or any part of the Issuer Pledged Collateral shall, upon any such purchase, acquire good title to the Issuer Pledged Collateral so purchased, free of the security interests created by this Pledge and Security Agreement.

ARTICLE XII
EXPENSES

Section 12.1 Expenses. Each Equityholder will upon demand pay to the Trustee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and the Trustee, and any transfer taxes, in each case payable upon sale of the Issuer Pledged Collateral of such Equityholder, which the Trustee may incur solely in connection with (a) the custody or preservation of, or the sale of, collection from or other realization upon, any of the Issuer Pledged Collateral of such Equityholder, (b) the exercise or enforcement of any of the rights of the Trustee hereunder against such Equityholder or the Issuer Pledged Collateral of such Equityholder, (c) the failure by such Equityholder to perform or observe any of the provisions hereof or (d) the administration of this Pledge and Security Agreement in respect of such Equityholder. Any amount payable by an Equityholder pursuant to this Section 12.1 shall constitute Secured Obligations secured hereby; provided, however, that in

no event shall the Issuer Pledged Collateral of one Equityholder be used to satisfy the failure by another Equityholder to make any such payment.

ARTICLE XIII
NO WAIVER; REMEDIES

Section 13.1 No Waiver; Remedies. No failure or delay on the part of the Trustee to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Trustee of any right, power or remedy preclude any additional exercise by the Trustee of such right, power or remedy. The remedies herein provided are to the fullest extent permitted by law cumulative and are not exclusive of any remedies provided by law. No notice to or demand on any Equityholder in any case shall entitle such Equityholder to any other or further notice or demand in similar or other circumstances.

ARTICLE XIV
AMENDMENTS

Section 14.1 Amendments.

(a) No waiver, amendment, modification or termination of any provision of this Pledge and Security Agreement, or consent to any departure by any Equityholder therefrom, shall in any event be effective without the written concurrence of the Trustee pursuant to Section 9.1 or Section 9.2 of the Indenture, as applicable, and (except as otherwise provided in Section 15.1) none of the Issuer Pledged Collateral shall be released without the written consent of the Trustee pursuant to Section 9.1 or Section 9.2 of the Indenture, as applicable. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) As long as the Seller is the holder of any Capital Securities of the Issuer, no amendment, modification or termination of any provision of this Pledge and Security Agreement shall be effective without the written concurrence of the Seller.

ARTICLE XV
RELEASE; TERMINATION

Section 15.1 Release; Termination. Upon payment and performance in full of the Secured Obligations or discharge of the Indenture pursuant to Section 11.1 of the Indenture, this Pledge and Security Agreement shall terminate automatically, and the Trustee (a) upon written request by any Equityholder shall promptly deliver to such Equityholder any remaining Issuer Pledged Collateral of such Equityholder and money received in respect thereof in its possession, and all documents, agreements or instruments representing the Issuer Pledged Collateral of such Equityholder held by the Trustee prior to such termination, and (b) upon written request by any Equityholder, shall promptly execute and deliver to such Equityholder and, if necessary, file or record, at such Equityholder’s expense, all such documentation (including UCC termination statements) necessary to release, and evidence the release of, the liens on the Issuer Pledged

Collateral of such Equityholder, such documentation to be prepared by such Equityholder and delivered to the Trustee. If the Trustee fails to promptly deliver or file or record the UCC termination statements referred to in, and in accordance with, clause (b) in the immediately preceding sentence, then such Equityholder may file or record such UCC termination statements.

ARTICLE XVI
NOTICES

Section 16.1 Notices. All Notices shall be in writing and shall be effective (a) upon receipt when sent through the mails, registered or certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) upon receipt when sent by an overnight courier, (c) on the date personally delivered to an authorized officer of the party to which sent, (d) on the date transmitted by legible telecopier transmission with a confirmation of receipt or (e) in the case of any report that is of a routine nature, on the date sent by first class mail or overnight courier or transmitted by legible telecopier transmission, in all cases, with a copy emailed to the recipient at the applicable address, addressed to an Equityholder as set forth under such Equityholder's signature hereto and to the Trustee in accordance with Section 12.5 of the Indenture. Each party hereto may, by notice given in accordance herewith to each other party hereto, designate any further or different address to which subsequent Notices shall be sent.

ARTICLE XVII
CONTINUING SECURITY INTEREST

Section 17.1 Continuing Security Interest. Subject to the provisions of Section 6.1, this Pledge and Security Agreement shall create a continuing Lien in the Issuer Pledged Collateral and remain in full force and effect until the release thereof pursuant to Section 15.1 or the sale thereof pursuant to Section 11.1, shall be binding upon each Equityholder and its respective successors, transferees and assigns and shall inure to the benefit of and be enforceable by the Trustee and its successors, transferees and assigns; provided, however, that no Equityholder may (unless otherwise permitted hereunder) assign any of its obligations hereunder without the prior written consent of the Noteholders or the Trustee pursuant to the Indenture. The Trustee and the Noteholders may assign or otherwise transfer any indebtedness held by any of them secured by this Pledge and Security Agreement to any other Person in accordance with the Indenture, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to the Trustee herein or otherwise.

ARTICLE XVIII
SECURITY INTEREST ABSOLUTE

Section 18.1 Security Interest Absolute. All rights of the Trustee and security interests hereunder, and all obligations of each Equityholder hereunder, shall be absolute and unconditional irrespective of, and each Equityholder hereby irrevocably waives vis-à-vis the Trustee any defenses it may now have or may hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any of the Deal Documents or any other agreement or instrument relating thereto (other than against the Trustee);

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Deal Documents or any other agreement or instrument relating thereto, including any increase in the Secured Obligations resulting from the extension of additional credit;

(c) any taking, exchange, surrender, release or non-perfection of any Issuer Pledged Collateral or any other collateral securing the Secured Obligations, or any release or amendment or waiver of or consent to any departure from any guaranty, for all or any of the Secured Obligations;

(d) any manner of application of any other collateral, or proceeds thereof, to all or any of the Secured Obligations, or any manner of sale or other disposition of any other collateral securing all or any of the Secured Obligations or any other obligations of the Issuer under or in respect of the Deal Documents or of any other assets of the Issuer;

(e) any change, restructuring or termination of the limited liability company structure or existence of the Issuer;

(f) the release or reduction of liability of any guarantor or surety with respect to the Secured Obligations; or

(g) any other circumstance (including any statute of limitations) or any existence of or reliance on any representation to the Trustee that might otherwise constitute a defense available to, or a discharge of, the obligations of any Equityholder.

Section 18.2 Obligations of Equityholders Several and Not Joint. Notwithstanding any other provision of this Pledge and Security Agreement, the obligations of each Equityholder hereunder shall be several and not joint and in no event shall the Issuer Pledged Collateral of one Equityholder be used to satisfy the failure by any other Equityholder to perform any obligation hereunder.

ARTICLE XIX
INDEMNITY

Section 19.1 Indemnity. Each Equityholder agrees, severally and not jointly, to indemnify, reimburse, defend and save and hold the Trustee and its officers, directors, employees, trustees, agents, advisors and affiliates (each, an "Indemnitee" and, collectively, the "Indemnitees") harmless from and against, and shall pay on demand, any and all liabilities, losses, obligations, damages, injuries, penalties, claims, demands, actions, suits, judgments and any and all costs and expenses (including attorneys' fees and disbursements) of whatsoever kind and nature imposed on, asserted against or incurred by any of the Indemnitees solely (a) in connection with the custody or preservation of, or the sale of, collection from or other realization upon, any of the Issuer Pledged Collateral of such Equityholder pursuant to the exercise or

enforcement of any of the rights of the Trustee hereunder, (b) in connection with the failure by such Equityholder to perform or observe any of the provisions hereof to be performed by it or (c) arising out of or in connection with or resulting from this Pledge and Security Agreement and the transactions contemplated hereby in respect of such Equityholder, excluding those arising out of the bad faith, gross negligence or willful misconduct of any Indemnitee. Each Indemnitee agrees to use its best efforts to promptly notify the indemnitor(s) of any assertion of any such liability, damage, injury, penalty, claim, demand, action, judgment or suit of which such Indemnitee has knowledge.

The obligations of each Equityholder in this Section 19.1 shall survive the termination of this Pledge and Security Agreement.

ARTICLE XX
OBLIGATIONS SECURED BY ISSUER PLEDGED COLLATERAL

Section 20.1 Obligations Secured by Issuer Pledged Collateral. Any amounts paid by any Indemnitee as to which such Indemnitee has the right to indemnification, and any amounts paid by the Trustee in preservation of any of its rights or interest in the Issuer Pledged Collateral, shall constitute Secured Obligations secured by the Issuer Pledged Collateral.

ARTICLE XXI
SEVERABILITY

Section 21.1 Severability. Any provision of this Pledge and Security Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without, to the extent permitted by Applicable Law, invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not, to the extent permitted by Applicable Law, invalidate or render unenforceable such provision in any other jurisdiction. Where provisions of any law or regulation resulting in such prohibition or unenforceability may be waived, they are hereby waived by the parties hereto to the full extent permitted by law so that this Pledge and Security Agreement shall be deemed a valid, binding agreement in accordance with its terms, to the extent permitted by Applicable Law.

ARTICLE XXII
COUNTERPARTS; EFFECTIVENESS

Section 22.1 Counterparts; Effectiveness . This Pledge and Security Agreement and any amendments, waivers, consents or supplements may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. This Pledge and Security Agreement shall become effective upon the execution and delivery of a counterpart hereof by each of the original parties hereto and, with respect to any Person becoming a party hereto after the date hereof, upon the execution and delivery hereof by such Person.

ARTICLE XXIII
REINSTATEMENT

Section 23.1 Reinstatement. This Pledge and Security Agreement shall continue to be effective or be reinstated, as the case may be, with respect to any Equityholder if at any time any amount received by the Trustee hereunder or pursuant hereto is rescinded or must otherwise be restored or returned by the Trustee, as the case may be, upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of such Equityholder or upon the appointment of any intervenor or conservator of, or trustee or similar official for, such Equityholder or any substantial part of its assets, or upon the entry of an order by a bankruptcy court avoiding the payment of such amount, or otherwise, all as though such payments had not been made.

ARTICLE XXIV
SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL

Section 24.1 SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS PLEDGE AND SECURITY AGREEMENT OR ANY DOCUMENT RELATED HERETO MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK LOCATED IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND EACH EQUITYHOLDER HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS RESPECTIVE PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH EQUITYHOLDER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVE TRIAL BY JURY, AND EACH EQUITYHOLDER HEREBY IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

(b) EACH EQUITYHOLDER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE SENDING OF COPIES THEREOF BY FEDERAL EXPRESS OR OTHER OVERNIGHT COURIER COMPANY, TO SUCH EQUITYHOLDER AT ITS ADDRESS SPECIFIED BY SECTION 16.1, SUCH SERVICE TO BECOME EFFECTIVE UPON DELIVERY THEREOF TO SUCH EQUITYHOLDER.

(c) NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE TRUSTEE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY EQUITYHOLDER IN ANY OTHER JURISDICTION.

ARTICLE XXV
GOVERNING LAW

Section 25.1 GOVERNING LAW. THIS PLEDGE AND SECURITY AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS, EXCEPT TO THE EXTENT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR THE REMEDIES HEREUNDER, ARE GOVERNED BY THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK.

ARTICLE XXVI
TABLE OF CONTENTS AND HEADINGS

Section 26.1 Table of Contents and Headings. The Table of Contents and headings of the Articles and Sections of this Pledge and Security Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Pledge and Security Agreement as of the day and year first written above.

U.S. BANK NATIONAL ASSOCIATION,
not in its individual capacity but solely as Trustee

By: /s/ Alison D.B. Nadeau
Name: Alison D.B. Nadeau
Title: Vice President

BIOCRYST PHARMACEUTICALS, INC.

By: /s/ Stuart Grant
Name: Stuart Grant
Title: Chief Financial Officer

Percentage of Limited Liability Company Interests
of Issuer Pledged Equity as of the date hereof: 100%
Notice Information pursuant to Section 16.1:
Address: 4505 Emperor Boulevard, Suite 200
Durham, North Carolina 27703

Attention: General Counsel
Telephone: 919-859-1302
Facsimile: 919-851-1416
Email: abarnes@biocryst.com
Jurisdiction of Organization as of
the date hereof: Delaware

ANNEX A
RULES OF CONSTRUCTION AND DEFINED TERMS

Unless the context otherwise requires, in this Annex A and each Transaction Document (or other document) to which this Annex A is attached:

(a) A term has the meaning assigned to it and an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP.

(b) Unless otherwise defined, all terms used herein or therein that are defined in the UCC shall have the meanings stated in the UCC.

(c) Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words in the singular shall include the plural, and vice versa.

(d) The terms “include”, “including” and similar terms shall be construed as if followed by the phrase “without limitation”.

(e) References to an agreement or other document include references to such agreement or document as amended, restated, reformed, supplemented or otherwise modified in accordance with the terms thereof and include any Annexes, Exhibits and Schedules attached thereto, and the provisions thereof apply to successive events and transactions.

(f) References to any statute or other legislative provision shall include any statutory or legislative modification or re-enactment thereof, or any substitution therefor.

(g) References to any Person shall be construed to include such Person’s successors and permitted assigns.

(h) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(i) The words “hereof”, “herein”, “hereunder” and similar terms when used in this Annex A or any Transaction Document (or other document) shall refer to this Annex A or such Transaction Document (or other document) as a whole and not to any particular provision hereof or thereof, and Article, Section, Annex, Schedule and Exhibit references herein and therein are references to Articles and Sections of, and Annexes, Schedules and Exhibits to, the relevant Transaction Document (or other document) unless otherwise specified.

(j) In the computation of a period of time from a specified date to a later specified date, the word “from“ means “from and including“ and each of the words “to“ and “until“ means “to but excluding”.

(k) References to a class of Notes shall be to the Original Class A Notes, to a class of Subordinated Notes or to a class of Refinancing Notes, as applicable.

(l) References to the Notes include the terms and conditions in the relevant Transaction Document (or other document) applicable to the Notes, and any reference to any amount of money due or payable by reference to the Notes shall include any sum covenanted to be paid by the Issuer under the relevant Transaction Document (or other document) in respect of the Notes.

(m) References to any action, remedy or method of judicial proceeding for the enforcement of the rights of creditors or of security shall be deemed to include, in respect of any jurisdiction other than the State of New York, references to such action, remedy or method of judicial proceeding for the enforcement of the rights of creditors or of security available or appropriate in such jurisdiction as shall most nearly approximate such action, remedy or method of judicial proceeding described or referred to in the relevant Transaction Document (or other document).

(n) Where any payment is to be made, any funds are to be applied or any calculation is to be made under any Transaction Document (or other document) on a day that is not a Business Day, unless any Transaction Document (or other document) otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the next succeeding Business Day, and payments shall be adjusted accordingly, including interest unless otherwise specified; provided, however, that no interest shall accrue in respect of any payments made on Fixed Rate Notes on that next succeeding Business Day.

(o) References to any Calculation Date or Relevant Calculation Date, in each case that would be prior to the first Calculation Date that follows the Closing Date, shall be deemed to refer to the Closing Date.

(p) Any reference herein to a term that is defined by reference to its meaning in the Counterparty License Agreement or the UAB Agreement shall refer to such term's meaning in the Counterparty License Agreement or the UAB Agreement, as the case may be, as in existence on the date of the relevant Transaction Document (or other document) to which this Annex A is attached (and not to any new, substituted or amended version thereof).

"144A Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Acceleration Default" means any Event of Default of the type described in Section 4.1(f) of the Indenture.

"Acceleration Notice" means a written notice given after the occurrence and continuation of an Event of Default to the Issuer by the Senior Trustee pursuant to Section 4.2 of the Indenture declaring all Outstanding principal of and accrued and unpaid interest on the Notes to be immediately due and payable.

"Accounts" means the Collection Account, the Redemption Account, the Escrow Account, the Capital Account, the Interest Reserve Account and any other account established pursuant to Section 3.1 of the Indenture.

"Act" has the meaning set forth in Section 1.3(a) of the Indenture.

"Actual Beneficial Holder List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Additional Interest" means, with respect to the Notes, interest accrued on the amount of any interest and Premium, if any, in respect of such Notes that is not paid when due at the Stated Rate of Interest of such Notes for each Interest Accrual Period until any such unpaid interest or Premium is paid in full, compounded annually on each Payment Date, to the fullest extent permitted by Applicable Law.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director, officer or manager of such Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing.

"Agent Members" has the meaning set forth in Section 2.10(a) of the Indenture.

"Applicable Law" means, with respect to any Person, all laws, rules, regulations and orders of Governmental Authorities applicable to such Person or any of its properties or assets.

"Applicants" has the meaning set forth in Section 6.13 of the Indenture.

"Approved Holder List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Audit Expenses" has the meaning set forth in Section 6.14(b) of the Indenture.

"Authorized Agent" means, with respect to the Notes, any authorized Calculation Agent, Paying Agent or Registrar acting as such for the Notes.

"Available Collections Amount" means, for any Payment Date, the sum of (a) the amount of U.S. dollars on deposit in the Collection Account as of the Calculation Date immediately preceding such Payment Date and (b) the amount of any net investment income on amounts on deposit in the Accounts (other than the Capital Account) as of such Calculation Date.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Beneficial Holder" means any Person that holds a Beneficial Interest in any Global Note through an Agent Member.

"Beneficial Interest" means any beneficial interest in any Global Note, whether held directly by an Agent Member or held indirectly through an Agent Member's beneficial interest in such Global Note.

"Bill of Sale" means that certain bill of sale dated as of the Closing Date executed by the Seller and the Issuer.

"Business Day" means (a) any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Applicable Law to remain closed or a day on which the Corporate Trust Office is closed for business and (b) for purposes of calculating any amounts at the London interbank offered rate and related calculations relative to the making, continuing, prepaying or repaying of Indebtedness in respect thereof, any day that is a Business Day described in clause (a) that is also a day on which dealings in dollars are carried on in the London interbank market.

"Calculation Agent" means U.S. Bank National Association, a national banking association, as Calculation Agent under the Indenture, and any successor appointed pursuant to Section 2.3 of the Indenture.

"Calculation Date" means, for any Payment Date, the fifth Business Day preceding such Payment Date.

"Calculation Date Information" means, with respect to any Calculation Date, the information provided by the Servicer under Section 3.1(c) of the Servicing Agreement with respect to such Calculation Date.

"Calculation Report" has the meaning set forth in Section 3.5(b) of the Indenture.

"Capital Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Capital Securities" means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital, whether now outstanding or issued after the Closing Date, including common shares, ordinary shares, preferred shares, membership interests or share capital in a limited liability company or other Person, limited or general partnership interests in a partnership, beneficial interests in trusts or any other equivalent of such ownership interest or any options, warrants and other rights to acquire such shares or interests, including rights to allocations and distributions,

dividends, redemption payments and liquidation payments, but in any event excluding any membership interest in the Issuer held by the Independent Member.

"Change in Law" means the occurrence, after the date of the Memorandum, of any of the following: (a) the adoption or taking effect of any law, rule, statute, ordinance, regulation or treaty; (b) any change in any law, rule, statute, ordinance, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority whether or not such change can be relied on as precedent; or (c) the making or issuance of any guideline, directive, private ruling or administrative guidance (whether or not having the force of law) by any Governmental Authority (including any IRS private letter ruling or field service advisory).

"Change of Control" means, with respect to an Equityholder (or any parent entity of an Equityholder), any merger, consolidation or amalgamation (or any transaction substantially similar to any of the foregoing) with, or, in the case of clause (a) below, a sale of all or substantially all of the assets of such Equityholder (or such parent entity) to, any other Person if such Equityholder (or such parent entity) (a) is not the continuing or surviving entity but the continuing or surviving entity shall have assumed all of the obligations of such Equityholder under the Deal Documents to which such Equityholder is a party immediately prior to such transaction (including such Equityholder's obligations under the Pledge and Security Agreement in accordance with Sections 6.1 and 17.1 of the Pledge and Security Agreement) or (b) is the continuing or surviving entity.

"Class A Notes" means the Original Class A Notes and any Refinancing Notes issued to refinance the foregoing.

"Clearstream" means Clearstream Banking, a French société anonyme.

"Closing Date" means March 9, 2011.

"Closing Day Accounts" has the meaning set forth in Section 3.1(b) of the Indenture.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

"Collateral" has the meaning set forth in the Granting Clause of the Indenture.

"Collection Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Collections" means, without duplication, (a) the Royalties, (b) the Currency Hedge Payments, (c) any net investment income on amounts on deposit in the Accounts (other than the Capital Account) and (d) any other amounts received by the Issuer (other than the proceeds of any Notes and capital contributions from the Equityholders), including any amounts payable to the Issuer pursuant to Section 4.5(c) of the Purchase and Sale Agreement or Article VI of the Purchase and Sale Agreement in respect of the Royalties.

"Compound" has the meaning set forth in Section 1.1(m) of the Counterparty License Agreement.

"Confidential Information" means, as it relates to the Seller and its Affiliates, the Licensed Products and the Intellectual Property Rights, all information (whether written or oral, or in electronic or other form) furnished after the Closing Date involving or relating in any way, directly or indirectly, to the Purchased Assets or the Royalties, including (a) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the Counterparty License Agreement, the UAB Agreement and the Currency Hedge Agreement) involving or relating in any way, directly or indirectly, to the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including all terms and conditions thereof and the identities of the parties thereto, (b) any reports, data, materials or other documents of any kind concerning or relating in any way, directly or indirectly, to the Seller, the Purchased Assets, the Royalties or the intellectual property, compounds or products giving rise to the Purchased Assets, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (a) above, and (c) any inventions, devices, improvements, formulations, discoveries, compositions, ingredients, patents, patent applications, know-how, processes, trial results, research, developments or any other intellectual property, trade secrets or information involving or relating in any way, directly or indirectly, to the Purchased Assets or the compounds or products giving rise to the Purchased Assets.

"Confidentiality Agreement" means, with respect to Noteholders or Beneficial Holders at the Closing Date with respect to the Original Class A Notes (or, with respect to Noteholders or Beneficial Holders with respect to any Subordinated Notes or any Refinancing Notes), a confidentiality agreement for the benefit of the Issuer provided to the Registrar on or prior to the Closing Date (or on or prior to the date of issuance of any such Subordinated Notes or Refinancing Notes), and otherwise means a confidentiality agreement for the benefit of the Issuer substantially in the form of Exhibit B to the Indenture or substantially in the form of any confidentiality agreement referenced in Schedule 1 to an applicable Purchase Agreement.

"Confidential Parties" has the meaning set forth in Section 12.13 of the Indenture.

"Corporate Trust Office" means the office of the Trustee in the city at which at any particular time the Trustee's duties under the Transaction Documents shall be principally administered and, on the Closing Date, shall be U.S. Bank National Association, One Federal Street, 3rd Floor, Boston, Massachusetts 02110, Attention: Corporate Trust Services (JPR Royalty Sub LLC / BioCryst).

"Counterparty" means Shionogi & Co., Ltd., a Japanese corporation.

"Counterparty Instruction" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Counterparty License Agreement" means that certain License, Development and Commercialization Agreement dated as of February 28, 2007, as amended by that certain First Amendment to License, Development and Commercialization Agreement dated as of September 30, 2008, that certain letter agreement dated May 10, 2010 and that certain Consent Agreement dated as of November 2, 2010, between the Seller and Counterparty.

"Currency Hedge Agreement" means that certain Confirmation (including the related letter agreement) dated as of March 9, 2011 and the ISDA Master Agreement (including the schedule and credit support annex included therein) (solely insofar as such ISDA Master Agreement relates to such Confirmation and not to any other "Transaction" as such term is defined in such ISDA Master Agreement) dated as of March 7, 2011, in each case between the Seller and the Currency Hedge Provider (and any replacement foreign currency hedge arrangement entered into by the Seller as permitted by Section 4.11(e)(i) of the Purchase and Sale Agreement) and, with respect to such letter agreement, among the Seller, the Currency Hedge Provider, the Issuer and the Trustee.

"Currency Hedge Payments" means the amounts required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement (subject to all of the Currency Hedge Provider's rights under the Currency Hedge Agreement (including, to the extent provided in the Currency Hedge Agreement, liquidation, netting and setoff rights, specified conditions precedent to the Currency Hedge Provider's required payments and performance and rights to realize on margin or other collateral)) except any amount required to be paid to the Seller by the Currency Hedge Provider pursuant to the Currency Hedge Agreement as a result of a termination of the Currency Hedge Agreement by the Seller permitted by Section 4.11(e) of the Purchase and Sale Agreement.

"Currency Hedge Provider" means Morgan Stanley Capital Services Inc.

"Deal Documents" means the Transaction Documents, the Purchase and Sale Agreement, the Bill of Sale and the Counterparty Instruction.

"Default" means a condition, event or act that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Definitive Notes" has the meaning set forth in Section 2.1(b) of the Indenture.

"Direction" has the meaning set forth in Section 1.3(c) of the Indenture.

"Distribution Report" has the meaning set forth in Section 2.13(a) of the Indenture.

"Dollar" or the sign "$" means United States dollars.

"DTC" means The Depository Trust Company, its nominees and their respective successors.

"DTC List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Eligibility Requirements" has the meaning set forth in Section 2.3(c) of the Indenture.

"Eligible Account" means a trust account maintained on the books and records of an Eligible Institution in the name of the Issuer.

"Eligible Institution" means any bank organized under the laws of the U.S. or any state thereof or the District of Columbia (or any domestic branch of a foreign bank), which at all times

has either (a) a long-term unsecured debt rating of at least A2 by Moody's and A by S&P or (b) a certificate of deposit rating of at least P-1 by Moody's and A-1 by S&P.

"Eligible Investments" means, in each case, book-entry securities, negotiable instruments or securities represented by instruments in bearer or registered form that evidence:

(a) direct obligations of, and obligations fully Guaranteed as to timely payment of principal and interest by, the U.S. or any agency or instrumentality thereof the obligations of which are backed by the full faith and credit of the U.S. (having original maturities of no more than 365 days or such lesser time as is required for the distribution of funds); or

(b) demand deposits, time deposits or certificates of deposit of the Operating Bank or of depositary institutions or trust companies organized under the laws of the U.S. or any state thereof or the District of Columbia (or any domestic branch of a foreign bank) with capital and surplus of not less than $500,000,000 (i) having original maturities of no more than 365 days or such lesser time as is required for the distribution of funds; provided, that, at the time of investment or contractual commitment to invest therein, the short-term debt rating of such depositary institution or trust company shall be at least P-1 by Moody's and A-1 by S&P or (ii) having maturities of more than 365 days and, at the time of the investment or contractual commitment to invest therein, a rating of at least A2 by Moody's and A by S&P;

provided, however, that no investment shall be made in any obligations of any depositary institution or trust company that is identified in a written notice to the Trustee from the Issuer or the Servicer as having a contractual right to set off and apply any deposits held, or other indebtedness owing, by the Issuer to or for the credit or the account of such depositary institution or trust company, unless such contractual right by its terms expressly excludes all Eligible Investments.

"Equityholder" means a holder of Capital Securities of the Issuer. The only Equityholder as of the Closing Date is the Seller.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any trade or business that is treated as a single employer with the Issuer or the Seller under Section 414 of the Code.

"Escrow Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Escrow List" has the meaning set forth in Section 2.5(d) of the Indenture.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

"Event of Default" has the meaning set forth in Section 4.1 of the Indenture.

"Excess Holder Event" has the meaning set forth in Section 2.17 of the Indenture.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended.

"Expenses" means any and all reasonable out-of-pocket fees, costs and expenses of the Issuer, including the reasonable fees, expenses and indemnities of the Service Providers (provided, that, with respect to the Servicer, such expenses shall only be the Servicing Fee and reasonable out-of-pocket expenses), reasonable and customary directors and officers liability insurance for any directors and officers of the Issuer, the fees and out-of-pocket expenses of counsel to the Independent Member, the Trustee and the Issuer incurred after the Closing Date in connection with the transactions contemplated by the Deal Documents, any Audit Expenses, the fees and expenses of any nationally recognized independent public accounting firm engaged as auditors of the Issuer (including any fees incurred by any accounting firm in connection with auditing the records of Counterparty), any expenses incurred in connection with the exercise of audit rights at the direction of the Issuer or at the direction of the Noteholders pursuant to Section 6.14(a) of the Indenture and any payments by the Issuer to third parties in respect of obligations for which indemnification payments have been received from the Seller; provided, however, that, except as expressly provided in the Indenture, Expenses shall not include any Transaction Expenses, any amounts related to any indemnification or contribution obligations of the Issuer set forth in the Issuer Organizational Documents, any Servicing Fee to the extent greater than $20,000 per year, any amounts payable on the Notes pursuant to Section 3.7(a)(i), 3.7(a)(iii), 3.7(a)(iv) and 3.7(a)(v) of the Indenture, any fees, costs or expenses relating to the Subordinated Notes or any other amounts ranking pari passu with or junior to interest payable on the Class A Notes in the priority of payments set forth under Section 3.7 of the Indenture.

"Field" has the meaning set forth in Section 1.1(u) of the Counterparty License Agreement.

"Final Legal Maturity Date" means, with respect to (a) the Original Class A Notes, December 1, 2020, and (b) with respect to any Subordinated Notes or Refinancing Notes, the date specified in the indenture supplemental to the Indenture providing for their issuance; provided, that the Final Legal Maturity Date with respect to any Subordinated Notes where the proceeds thereof are not used to redeem or refinance all of the Outstanding Class A Notes shall be no earlier than December 1, 2020.

"Fixed Rate Notes" means (a) the Original Class A Notes and (b) any Subordinated Notes or Refinancing Notes issued with a fixed rate of interest.

"Floating Rate Notes" means any Subordinated Notes or Refinancing Notes issued with a floating or variable rate of interest.

"GAAP" means generally accepted accounting principles in effect in the United States from time to time.

"Global Notes" means any 144A Global Note and Regulation S Global Note.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or

other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation of such other Person or (b) entered into for purposes of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" when used as a verb has a corresponding meaning.

"Holder Lists" has the meaning set forth in Section 2.17 of the Indenture.

"Incur" has the meaning set forth in Section 5.2(d) of the Indenture.

"Indebtedness" means, with respect to any Person at any date of determination (without duplication), (a) all indebtedness of such Person for borrowed money or other similar monetary obligations, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person as an account party in respect of letters of credit or other similar instruments (including reimbursement obligations with respect thereto), (d) all the obligations of such Person to pay the deferred and unpaid purchase price of property or services (other than obligations to trade creditors incurred in the ordinary course of business in connection with the obtaining of goods, materials or services), which purchase price is due more than 90 days after the date of purchasing such property or service or taking delivery and title thereto or the completion of such services, and payment deferrals arranged primarily as a method of raising funds to acquire such property or service, (e) all monetary obligations of such Person and its Subsidiaries under any leasing or similar arrangement that have been (or, in accordance with GAAP, should be) classified as capitalized leases, (f) all Guarantees of such Person in respect of any of the foregoing, (g) all monetary obligations of such Person with respect to any interest rate hedge, cap, floor, swap, option or other interest rate hedge agreement, (h) all Indebtedness (as defined in clauses (a) through (g) of this definition) of other Persons secured by a lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person, and (i) all Indebtedness (as defined in clauses (a) through (g) of this definition) of other Persons Guaranteed by such Person. Notwithstanding the foregoing, "Indebtedness" shall not include any surety or performance bonds required to be obtained in connection with the performance or enforcement by the Issuer of any Deal Document or the Counterparty License Agreement or the Issuer's defense of any action, suit or proceeding.

"Indemnitee" has the meaning set forth in Section 19.1 of the Pledge and Security Agreement.

"Indemnitees" has the meaning set forth in Section 19.1 of the Pledge and Security Agreement.

"Indenture" means that certain indenture, dated as of the Closing Date, by and between the Issuer and the Trustee.

"Indenture Estate" has the meaning set forth in the Granting Clause of the Indenture.

"Independent Member" means a Member (i) who is not at the time of such Person's admission to the Issuer, (ii) who is not and (iii) who has not been at any time during the preceding five years: (a) a director, manager, officer or employee of the Issuer or an Equityholder (other than in the capacity of Independent Member) or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (b) a Person related to any officer, director, manager or employee of the Issuer or an Equityholder (other than in the capacity of Independent Member) or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (c) a holder (directly or indirectly) of any Voting Securities of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (d) a Person related to a holder (directly or indirectly) of any Voting Securities of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder (other than in the capacity of Independent Member); (e) a creditor, supplier, contractor, purchaser, customer or any other Person who derives any of his, her or its revenues from interactions with the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder or a family member of such creditor, supplier, contractor, purchaser, customer or other Person; (f) a trustee in bankruptcy or other insolvency proceeding for, or a reorganization of, an Equityholder or any Affiliate of an Equityholder; or (g) a Person who controls (directly or indirectly) the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder or any creditor, supplier, employee, officer, director, manager or contractor of the Issuer or an Equityholder or any Affiliate of the Issuer or an Equityholder.

"Initial Interest Reserve Amount" means $3,000,000.

"Institutional Accredited Investor" means a Person that is an accredited investor as that term is defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Intellectual Property Rights" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Interest Accrual Period" means the period beginning on (and including) the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, the date of issuance of such Subordinated Notes or Refinancing Notes) and ending on (and including) September 1, 2011 and each successive period beginning on (and including) September 2 of each year and ending on (and including) September 1 of the succeeding year; provided, however, that the final Interest Accrual Period shall end on but exclude the final Payment Date (or, if earlier, with respect to any class of Notes repaid in full, the date such class of Notes is repaid in full).

"Interest Amount" means, with respect to the Outstanding Principal Balance of any class of Notes, on any Payment Date, the amount of accrued and unpaid interest at the Stated Rate of Interest with respect to the Outstanding Principal Balance of such class of Notes on such Payment Date (including any Additional Interest, if any), determined in accordance with the

terms thereof (including interest accruing after the commencement of a proceeding in bankruptcy, insolvency or similar law, whether or not permitted as a claim under such law).

"Interest Reserve Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Interest Shortfall" has the meaning set forth in Section 3.5(a)(x) of the Indenture.

"Involuntary Bankruptcy" means, without the consent or acquiescence of the Issuer, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against the Issuer, or, without the consent or acquiescence of the Issuer, the entering of an order appointing a trustee, custodian, receiver or liquidator of the Issuer or of all or any substantial part of the property of the Issuer, in each case where such petition or order shall remain unstayed or shall not have been stayed or dismissed within 90 days from entry thereof.

"IRS" means the U.S. Internal Revenue Service.

"Issuer" means JPR Royalty Sub LLC, a Delaware limited liability company, as issuer of the Notes pursuant to the Indenture.

"Issuer Organizational Documents" means the certificate of formation of the Issuer dated January 14, 2011 and effective January 20, 2011 and the limited liability company agreement of the Issuer dated as of the Closing Date.

"Issuer Pledged Collateral" has the meaning set forth in Section 2.1 of the Pledge and Security Agreement.

"Issuer Pledged Equity" has the meaning set forth in Section 2.1(a) of the Pledge and Security Agreement.

"Judgment Currency" has the meaning set forth in Section 12.9(e) of the Indenture.

"Legend" has the meaning set forth in Section 2.2 of the Indenture.

"Licensed Product" has the meaning set forth in Section 1.1(jj) of the Counterparty License Agreement.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property or other priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale, any sale with recourse or any agreement to give any security interest.

"Loss" means any loss, set-off, off-set, rescission, counterclaim, reduction, deduction, defense, cost, charge, expense, interest, fee, payment, demand, liability, claim, action, proceeding, penalty, fine, damages, judgment, order or other sanction.

"Manager" means the manager of the Issuer.

"Material Adverse Change" means any event, circumstance or change resulting in a material adverse effect on (a) the legality, validity or enforceability of any of the Deal Documents, the Counterparty License Agreement or the back-up security interest granted pursuant to Section 2.1(d) of the Purchase and Sale Agreement, (b) the right or ability of the Seller (or any permitted assignee), the Issuer or the Servicer, as the case may be, to perform its obligations under any of the Deal Documents or the Counterparty License Agreement, in each case to which it is a party, or to consummate the transactions contemplated under any of the Transaction Documents or the Counterparty License Agreement, (c) the rights or remedies of the Issuer under any of the Deal Documents or the Counterparty License Agreement, (d) the timing, amount or duration of the Royalties or any Currency Hedge Payments, (e) the Purchased Assets, (f) the Intellectual Property Rights or (g) the ability of the Trustee to realize the practical benefit of the Pledge and Security Agreement (including any failure to have a perfected Lien on any of the Issuer Pledged Collateral as required by the Indenture).

"Member" means a member of the Issuer.

"Memorandum" means the private placement memorandum of the Issuer for the Original Class A Notes dated March 1, 2011.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto or, if such corporation or its successor shall for any reason no longer perform the functions of a rating agency, "Moody's" shall be deemed to refer to any other nationally recognized statistical rating organization (within the meaning ascribed thereto by the Exchange Act) designated by the Issuer.

"Non-U.S. Person" means a person who is not a U.S. person within the meaning of Regulation S.

"Noteholder" means any Person in whose name a Note is registered from time to time in the Register for such Note.

"Note Purchase Price" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Note Purchasers" has the meaning set forth in Section 1.1 of the Purchase Agreements.

"Notes" means the Original Class A Notes, any Subordinated Notes and any Refinancing Notes.

"Notices" means notices, demands, certificates, requests, directions, instructions and communications.

"Officer's Certificate" means a certificate signed by, with respect to the Issuer, a Responsible Officer of the Issuer and, with respect to any other Person, any officer, director, manager, partner, trustee or equivalent representative of such Person.

"Operating Bank" means U.S. Bank National Association or any other Eligible Institution at which the Accounts are held; provided, that (a) upon the resignation or removal and the replacement of the Trustee pursuant to the terms of the Indenture, the successor trustee appointed thereunder shall be the Operating Bank, and (b) if at any time the Operating Bank ceases to be an Eligible Institution, a successor shall be appointed by the Issuer (or the Servicer) on behalf of the Trustee and all Accounts shall thereafter be transferred to and be maintained at such successor in the name of the Trustee and such successor shall thereafter be the "Operating Bank".

"Opinion of Counsel" means a written opinion signed by legal counsel, who may be an employee of or counsel to the Issuer or the Seller, that meets the requirements of Section 1.2 of the Indenture.

"Option" means a foreign currency exchange option set forth in the Currency Hedge Agreement.

"Options" means, collectively, the foreign currency exchange options set forth in the Currency Hedge Agreement.

"Optional Redemption" has the meaning set forth in Section 3.9(b) of the Indenture.

"Original Class A Notes" means the JPR PhaRMA^{SM} Senior Secured 14% Notes due 2020 of the Issuer in the initial Outstanding Principal Balance of $30,000,000, substantially in the form of Exhibit A to the Indenture.

"Other Agreements" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Other Note Purchasers" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Other Prices" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Outstanding" means (a) with respect to the Notes of any class at any time, all Notes of such class theretofore authenticated and delivered by the Trustee except (i) any such Notes cancelled by, or delivered for cancellation to, the Trustee, (ii) any such Notes, or portions thereof, for the payment of principal of and accrued and unpaid interest on which moneys have been distributed to Noteholders by the Trustee and any such Notes, or portions thereof, for the payment or redemption of which moneys in the necessary amount have been deposited in the Redemption Account for such Notes; provided, that, if such Notes are to be redeemed prior to the maturity thereof in accordance with the requirements of Section 3.9 of the Indenture, written notice of such Redemption shall have been given and not rescinded as provided in Section 3.10 of the Indenture, or provision satisfactory to the Trustee shall have been made for giving such written notice, and, if Redemption does not occur, then this clause (ii) ceases to apply as of the Payment Date that was supposed to be the date of Redemption, and (iii) any such Notes in exchange or substitution for which other Notes, as the case may be, have been authenticated and delivered, or which have been paid pursuant to the terms of the Indenture (unless proof satisfactory to the Trustee is presented that any of such Notes is held by a Person in whose hands such Note is a legal, valid and binding obligation of the Issuer), and (b) when used with respect

to any other evidence of Indebtedness, at any time, any principal amount thereof then unpaid and outstanding (whether or not due or payable).

"Outstanding Principal Balance" means, with respect to any Note or other evidence of Indebtedness Outstanding, the total principal amount of such Note or other evidence of Indebtedness unpaid and Outstanding at any time, as determined in the case of the Notes in the Calculation Report to be provided to the Issuer (or the Servicer) and the Trustee by the Calculation Agent pursuant to Section 3.5 of the Indenture.

"Paying Agent" has the meaning set forth in Section 2.3(a) of the Indenture.

"Payment Date" means each September 1, commencing on September 1, 2011, and the Final Legal Maturity Date; provided, that, if any such date would otherwise fall on a day that is not a Business Day, the Payment Date falling on such date shall be the first following day that is a Business Day; provided, further, however, that, if any such date on or after September 1, 2016 would otherwise fall on a day that is not a Business Day, the Payment Date falling on such date shall be the first preceding day that is a Business Day (in which case the full interest payment for the related Interest Accrual Period shall nonetheless be payable on such first preceding Business Day).

"Permanent Regulation S Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Permitted Holder" means (a) the Seller, (b) the Issuer and (c) any Person (including the Noteholders) that has executed a Confidentiality Agreement and delivered such Confidentiality Agreement to the Registrar in accordance with the terms of the Indenture.

"Permitted Lien" means (a) any lien for Taxes, assessments and governmental charges or levies not yet due and payable or that are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on the books of the relevant Person, (b) any Lien created in favor of the Trustee and (c) any other Lien expressly permitted under the Deal Documents (including any security interest created or required to be created under the Indenture, including in connection with the issuance of any Subordinated Notes and any Refinancing Notes).

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Placement Agent" means Morgan Stanley & Co. Incorporated.

"Plan" means, with respect to any Person, any employee benefit plan (within the meaning of Section 3(3) of ERISA), whether or not subject to ERISA, in each case that is (or within the preceding six years has been) maintained, or to which contributions are (or within the preceding six years have been) required to be made by such Person or an ERISA Affiliate or with respect to which such Person may have any liability.

"Plan Assets" has the meaning given to such term by Section 3(42) of ERISA and regulations issued by the U.S. Department of Labor, but also includes assets of an employee benefit plan (within the meaning of Section 3(3) of ERISA) subject to Similar Laws.

"Pledge and Security Agreement" means that certain pledge and security agreement dated as of the Closing Date made by the Equityholders to the Trustee.

"Premium" means, with respect to any Note on any Redemption Date, any Redemption Premium, if applicable, or, with respect to any Redemption Date, the portion of the Redemption Price of the Notes being redeemed in excess of the Outstanding Principal Balance of the Notes being redeemed.

"Price" has the meaning set forth in Section 3.1 of the Purchase Agreements.

"Purchase Agreement" means that certain note purchase agreement dated the Closing Date among the Issuer, the Seller and the Purchaser party thereto.

"Purchase Agreements" means, collectively, each Purchase Agreement and the Other Agreements.

"Purchase and Sale Agreement" means that certain purchase and sale agreement dated as of the Closing Date between the Seller and the Issuer.

"Purchased Assets" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Purchase Price" has the meaning set forth in Section 2.3 of the Purchase and Sale Agreement.

"Purchaser" has the meaning set forth in Section 1.1 of the Purchase Agreements.

"Purchaser Indemnified Party" has the meaning set forth in Section 6.1 of the Purchase and Sale Agreement.

"QIB" means a qualified institutional buyer within the meaning of Rule 144A.

"RAPIACTA" means (i) the brand name for peramivir in Japan and (ii) the equivalent product sold by Counterparty or its Affiliates in Taiwan under such brand name or another brand name.

"Receiver" means any Person or Persons appointed as (and any additional Person or Persons appointed or substituted as) administrative receiver, receiver, manager or receiver and manager.

"Record Date" means, with respect to each Payment Date, the close of business on the fifteenth day preceding such Payment Date and, with respect to the date on which any Direction is to be given by the Noteholders, the close of business on the last Business Day prior to the solicitation of such Direction.

"Redemption" means any Optional Redemption and any other redemption of Notes described in Section 3.9(c) of the Indenture.

"Redemption Account" has the meaning set forth in Section 3.1(a) of the Indenture.

"Redemption Date" means the date, which may be any Business Day on or after March 9, 2012, on which Notes are redeemed pursuant to a Redemption.

"Redemption Premium" means, in the case of any Subordinated Notes or Refinancing Notes, the amount, if any, specified in the Resolution and set forth in any indenture supplemental to the Indenture to be paid in the event of a Redemption of such Subordinated Notes or Refinancing Notes separately from the Redemption Price.

"Redemption Price" means (a) in respect of an Optional Redemption of the Original Class A Notes, an amount equal to the product of (x) the applicable Class A Redemption Percentage as set forth below and (y) the Outstanding Principal Balance of the Original Class A Notes that are being redeemed on such Business Day, plus the accrued and unpaid interest to the Redemption Date on the Original Class A Notes that are being redeemed:

Business Day	Class A Redemption Percentage
From and including March 9, 2012 to and including March 8, 2013	107.00%
From and including March 9, 2013 to and including March 8, 2014	103.50%
From and including March 9, 2014 and thereafter	100.00%

and (b) in respect of any Subordinated Notes or Refinancing Notes, the redemption price, if any, plus the accrued and unpaid interest to the Redemption Date on the Subordinated Notes or Refinancing Notes, as the case may be, established by or pursuant to a Resolution and set forth in any indenture supplemental to the Indenture providing for the issuance of such Notes or designated as such in the form of such Notes (any such Redemption Price in respect of any Subordinated Notes or Refinancing Notes may include a Redemption Premium, and such Resolution and indenture supplemental to the Indenture may specify a separate Redemption Premium).

"Reference Date" means, with respect to each Interest Accrual Period, the day that is two Business Days prior to the Payment Date on which such Interest Accrual Period commences; provided, however, that the Reference Date with respect to the initial Interest Accrual Period means the date that is two Business Days prior to the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, the date that is two Business Days prior to the date of issuance of such Subordinated Notes or Refinancing Notes).

"Refinancing" has the meaning set forth in Section 2.15(a) of the Indenture.

"Refinancing Expenses" means all Transaction Expenses incurred in connection with an offering and issuance of Refinancing Notes.

"Refinancing Notes" means any class (or sub-class) of Notes issued by the Issuer under the Indenture at any time and from time to time after the Closing Date pursuant to Section 2.15 of the Indenture, the proceeds of which are used to repay all of the Outstanding Principal Balance of a class of Notes.

"Register" has the meaning set forth in Section 2.3(a) of the Indenture.

"Registrar" has the meaning set forth in Section 2.3(a) of the Indenture.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S Global Note Exchange Date" means the date of exchange of any Temporary Regulation S Global Note for any Permanent Regulation S Global Note, which date shall be 40 days after the Closing Date (or, with respect to any Subordinated Notes or any Refinancing Notes, 40 days after the date of issuance of such Subordinated Notes or Refinancing Notes).

"Regulation S Global Notes" has the meaning set forth in Section 2.1(b) of the Indenture.

"Relevant Calculation Date" has the meaning set forth in Section 3.5(a) of the Indenture.

"Relevant Information" means any information provided to the Trustee, the Calculation Agent or the Paying Agent in writing by any Service Provider retained from time to time by the Issuer pursuant to the Deal Documents.

"Resolution" means a copy of a resolution certified by a Responsible Officer of the Issuer as having been duly adopted by the Issuer and being in full force and effect on the date of such certification.

"Responsible Officer" means (a) with respect to the Trustee, any officer within the Corporate Trust Office, including any principal, vice president, managing director, director, manager, associate or other officer of the Trustee customarily performing functions similar to those performed by any of the above-designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge and familiarity with the particular subject, (b) with respect to the Seller, any officer of the Seller, and (c) with respect to the Issuer, any officer of the Manager or person designated by the governing body of the Manager as a Responsible Officer for purposes of the Deal Documents.

"Royalties" has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

"Rule 144A" means Rule 144A under the Securities Act.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto or, if such division or its successor shall for any reason no longer perform the functions of a rating agency, "S&P" shall be deemed to refer to any other nationally recognized statistical rating organization (within the meaning ascribed thereto by the Exchange Act) designated by the Issuer.

"SEC" means the U.S. Securities and Exchange Commission.

"Secured Obligations" has the meaning set forth in the Granting Clause of the Indenture.

"Securities Act" means the U.S. Securities Act of 1933, as amended.

"Security Interest" means the security interest granted or expressed to be granted in the Collateral pursuant to the Granting Clause of the Indenture and in the Issuer Pledged Collateral pursuant to the Pledge and Security Agreement.

"Seller" means BioCryst Pharmaceuticals, Inc., a Delaware corporation.

"Seller Payments" has the meaning set forth in Section 3.4 of the Indenture.

"Seller Shortfall" means the amount, if any, payable by the Seller to Counterparty under the Counterparty License Agreement or to the Currency Hedge Provider under the Currency Hedge Agreement that is due and payable but that has not been paid by the Seller.

"Seller Shortfall Payment" means any payment made by the Trustee in respect of any Seller Shortfall.

"Senior Claim" has the meaning set forth in Section 10.1(a) of the Indenture.

"Senior Class of Notes" means (a) so long as any Class A Notes are Outstanding, the Class A Notes, or (b) if no Class A Notes are Outstanding, the class or classes (or sub-class or sub-classes) of Subordinated Notes defined as such pursuant to the Resolution(s) and/or indenture(s) supplemental to the Indenture providing for the issuance of such Subordinated Notes.

"Senior Trustee" means the Trustee, acting in its capacity as the trustee of the Senior Class of Notes.

"Service Providers" means the Servicer, the Trustee, the Independent Member, the Calculation Agent, the Paying Agent, the Registrar, the Operating Bank, any outside law firm or accounting firm providing services to the Issuer and any Person that becomes a Servicer, the Trustee, the Independent Member, the Calculation Agent, the Paying Agent, the Registrar or the Operating Bank in accordance with the terms of the applicable agreement and, subject to the written approval of the Noteholders of a majority of the Outstanding Principal Balance of the Senior Class of Notes, any other Person designated as a Service Provider by the Issuer.

"Servicer" means the Seller, acting in its capacity as servicer pursuant to the Servicing Agreement (or any other Person appointed to succeed the Seller as such or any successor thereto pursuant to the Servicing Agreement).

"Servicer Termination Event" means any one of the following events:

(a) the Seller shall resign as Servicer in accordance with the terms of the Servicing Agreement;

(b) the Servicer shall fail to pay any amount when due under the Servicing Agreement and such failure shall continue unremedied for five Business Days;

(c) the Servicer shall fail to deliver the Distribution Report and the other required accompanying materials with respect to any Payment Date in accordance with the provisions of the Servicing Agreement within five Business Days of the date such Distribution Report and the other required accompanying materials are required to be delivered under the Servicing Agreement; provided, however, that the Servicer shall have received in a timely manner any Calculation Report (unless the failure to receive such Calculation Report was due to the breach by the Servicer of Section 3.1(c)(vi) of the Servicing Agreement);

(d) the Servicer shall fail to carry out its obligations under Section 3.1(c)(ii) of the Servicing Agreement that shall have or reasonably be expected to have a material adverse effect on the Noteholders;

(e) the Servicer shall fail to carry out its obligations under Section 3.1(c)(v), Section 3.1(c)(viii) or Section 3.1(c)(ix) of the Servicing Agreement;

(f) the Servicer shall fail to observe or perform in any material respect any of the covenants or agreements on the part of the Servicer contained in the Servicing Agreement (other than for which provision is made in clauses (a) through (e) above) and such failure shall continue unremedied for a period of 30 days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Servicer by the Trustee, and such failure continues to materially adversely affect the Noteholders for such period;

(g) a court having jurisdiction in the premises enters a decree or order for (i) relief in respect of the Servicer under any Applicable Law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law in effect now or after the Closing Date, (ii) appointment of a receiver, liquidator, examiner, assignee, custodian, trustee, sequestrator or similar official of the Servicer or (iii) the winding-up or liquidation of the affairs of the Servicer and, in each case, such decree or order shall remain unstayed or such writ or other process shall not have been stayed or dismissed within 90 days from entry thereof;

(h) the Servicer (i) commences a voluntary case under any Applicable Law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law in effect now or after the Closing Date, or consents to the entry of an order for relief in any involuntary case under any such law, (ii) consents to the appointment of or taking possession by a receiver, liquidator, examiner, assignee, custodian, trustee, sequestrator or similar official of the Servicer or for all or substantially all of the property and assets of the Servicer or (iii) effects any general assignment for the benefit of creditors;

(i) the Servicer’s business activities are terminated by any Governmental Authority;

(j) a material adverse change occurs in the financial condition or operations of the Servicer that is a Material Adverse Change;

(k) an Event of Default shall have occurred, other than an Event of Default solely caused by the Trustee, the Calculation Agent, the Paying Agent or the Registrar failing to perform any of its respective obligations under the Indenture or any other Transaction Document; or

(l) so long as the Seller is the Servicer, the Seller sells, transfers, conveys, assigns, contributes or grants a majority of the Capital Securities of the Issuer to another Person or Persons.

"Servicing Agreement" means that certain servicing agreement dated as of the Closing Date between the Issuer and the Seller.

"Servicing Fee" has the meaning set forth in Section 2.1 of the Servicing Agreement.

"Similar Laws" means, with respect to a Plan that is not subject to Section 406 of ERISA or Section 4975 of the Code, all Applicable Laws that may affect the Plan's investment in the Notes and that is substantially similar to Section 406 of ERISA or Section 4975 of the Code.

"Stated Rate of Interest" means, with respect to any class of the Notes for any Interest Accrual Period, the interest rate set forth in such class of Notes for such Interest Accrual Period.

"Subordinated Claim" has the meaning set forth in Section 10.1(a) of the Indenture.

"Subordinated Note Issuance" has the meaning set forth in Section 2.16(a) of the Indenture.

"Subordinated Notes" means any class (or sub-class) of Notes issued in such form as shall be authorized by a Resolution and set forth in any indenture supplemental to the Indenture in respect thereof pursuant to Section 2.16 of the Indenture and any Refinancing Notes issued to refinance the foregoing.

"Subsidiary" means, with respect to any Person, any other Person of which more than 50% of the outstanding Voting Securities of such other Person (irrespective of whether at the time Capital Securities of any other class or classes of such other Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more other Subsidiaries of such Person or by one or more other Subsidiaries of such Person.

"Taxes" means (a) any and all taxes, fees, levies, duties, tariffs, imposts and other charges of any kind (together with any and all interest, penalties, loss, damage, liability, expense, additions to tax and additional amounts or costs incurred or imposed with respect thereto) now or hereafter imposed, levied, collected, withheld or otherwise assessed by the U.S. or by any state, local, foreign or other Governmental Authority (or any subdivision or agency thereof) or other taxing authority, including taxes or other charges on or with respect to income, franchise, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment,

social security, workers' compensation, unemployment compensation or net worth and similar charges and taxes or other charges in the nature of excise, deduction, withholding, ad valorem, stamp, transfer, value added, taxes on goods and services, escheat, gains taxes, license, registration and documentation fees, customs duties, tariffs and similar charges, (b) liability for such a tax that is imposed by reason of United States Treasury Regulation Section 1.1502-6 or similar provision of law and (c) liability for the payment of any amounts as a result of any express or implied obligation to indemnify any other Person with respect to the payment of any amounts described in clause (a) or clause (b).

"Temporary Regulation S Global Note" has the meaning set forth in Section 2.1(b) of the Indenture.

"Territory" means Japan and Taiwan.

"Transaction Documents" means the Indenture, the Notes, the Servicing Agreement, the Pledge and Security Agreement, the Purchase Agreements and the Currency Hedge Agreement, and each other agreement pursuant to which the Trustee (or its agent) is granted a Lien to secure the obligations under the Indenture or the Notes.

"Transaction Expenses" means the out-of-pocket expenses payable by the Issuer in connection with (a) the issuance of the Original Class A Notes, including placement fees, any initial fees payable to Service Providers and the documented fees and expenses of Pillsbury Winthrop Shaw Pittman LLP, counsel to the Noteholders in connection with the offering and issuance of the Original Class A Notes, as set forth in the Purchase Agreements, and (b) the offering and issuance of any Subordinated Notes or any Refinancing Notes, to the extent specified in the Resolution authorizing such offering and issuance.

"Trustee" means U.S. Bank National Association, a national banking association, as initial trustee of the Notes under the Indenture, and any successor appointed in accordance with the terms of the Indenture; provided, that, for purposes of Section 3.1(b) of the Indenture, "Trustee" means U.S. Bank National Association, a national banking association, as the Operating Bank and/or initial trustee of the Notes under the Indenture, as the context may require.

"Trustee Closing Account" means the account of the Issuer maintained with the Trustee at U.S. Bank National Association, ABA No. 091000022, Account No. 173103321092, Ref. JPR Royalty, Attention: Josh Tripi.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended.

"UAB" means The UAB Research Foundation, a non-profit corporation.

"UAB Agreement" means that certain Joint Research and License Agreement dated as of November 23, 1994 between the Seller and UAB, as amended by that certain letter agreement dated October 9, 1996 and by that certain Agreement dated as of December 16, 2010 between the Seller and UAB.

"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 law, the perfection or the effect of perfection or non-perfection of the Liens granted to the Trustee pursuant to the applicable Transaction Document 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 each Transaction Document and any financing statement relating to such perfection or effect of perfection or non-perfection.

"United States Treasury" means the U.S. Department of the Treasury.

"U.S." or "United States" means the United States of America, its 50 states, each territory thereof and the District of Columbia.

"U.S. Person" means a U.S. person within the meaning of Regulation S.

"Voluntary Bankruptcy" means (a) an admission in writing by the Issuer of its inability to pay its debts generally or a general assignment by the Issuer for the benefit of creditors, (b) the filing of any petition or answer by the Issuer seeking to adjudicate itself as bankrupt or insolvent, or seeking for itself any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of the Issuer or its debts under any law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law now or hereafter in effect, or seeking, consenting to or acquiescing in the entry of an order for relief in any case under any such law, or the appointment of or taking possession by a receiver, trustee, custodian, liquidator, examiner, assignee, sequestrator or other similar official for the Issuer or for any substantial part of its property, or (c) limited liability company action taken by the Issuer to authorize any of the actions set forth in clause (a) or clause (b) above.

"Voting Securities" means, with respect to any Person, Capital Securities of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Yen" or the sign "¥" means Japanese yen.

Morgan Stanley

09 March 2011

To: BIOCRYST PHARMACEUTICALS, INC.
Account Number:
Attn: Alane Barnes
Email: abarnes@biocryst.com

From: Morgan Stanley & Co. International plc, London (Authorised and regulated by the Financial Services Authority)

Re: Swap Transaction Ref. No. EJPSY

THIS CONFIRMATION AMENDS AND RESTATES IN ITS ENTIRETY THE PREVIOUS CONFIRMATION FOR THIS TRANSACTION

Dear Sir or Madam:

Morgan Stanley & Co. International plc, acting as introducing broker for MORGAN STANLEY CAPITAL SERVICES INC. is pleased to confirm the terms and conditions of the transaction entered into between MORGAN STANLEY CAPITAL SERVICES INC. and BIOCRYST PHARMACEUTICALS, INC. on the Trade Date specified below (the "Transaction"). This facsimile constitutes a "Confirmation" as referred to in the Agreement as specified below.

The definitions and provisions contained in the 1998 FX and Currency Option Definitions, as supplemented by the 2005 Barrier Option Supplement (as published by the International Swaps and Derivatives Association, Inc. ("ISDA"), The Emerging Markets Traders Association and The Foreign Exchange Committee) are incorporated into this Confirmation. In the event of any inconsistency between those Definitions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to the ISDA Master Agreement dated as of 7 March 2011, as amended and supplemented from time to time (the "Agreement"), between MORGAN STANLEY CAPITAL SERVICES INC. and BIOCRYST PHARMACEUTICALS. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

The terms of the particular Transaction to which this Confirmation relates are as follows:

Party A:	MORGAN STANLEY CAPITAL SERVICES INC.
Party A Credit Support Documents:	As per the Agreement
Party B:	BIOCRYST PHARMACEUTICALS, INC

Transaction 1 consisting of 21 Tranche(s), subject to the Cancellation Option defined in the Other Provisions below:

Trade Date:	9 March 2011
Buyer:	Party B
Seller.	Party A
Currency Option Style:	European
Currency Option Type:	Put JPY / Call USD
Put Currency Amount:	For each Tranche(s) the Put Currency Amount(s) as defined in Appendix I below
Call Currency Amount:	For each Tranche(s) the Call Currency Amount(s) as defined in Appendix I below
Strike Price:	100.00
Expiration Time:	04:00 pm local time in London
Expiration Date(s):	For each Tranche(s) the Expiration Date(s) as defined in Appendix I below

Settlement Date(s):	For each Tranche(s) the Settlement Date(s) as defined in Appendix I below
Business Days:	New York, London and Tokyo
Business Day Convention for Expiration Date(s) and Settlement Date(s):	Modified Following

Settlement Terms with respect to a Tranche in Transaction 1:

Party B may choose any Tranche with respect to Transaction 1 to be settled, in whole or in part, by Cash Settlement in accordance with the Definitions (to be paid in USD) by providing written notice (if such Tranche is to be settled by Cash Settlement in part, specifying in such notice the amount to be subject to Cash Settlement) to Party A no later than 4.00 p.m., London time on the Business Day falling two Business Days prior to the relevant Expiration Date. If Party B fails to give such notice in respect of a Tranche, such Tranche with respect to Transaction 1, shall be deemed to be Deliverable for the purposes of the Definitions, if such Tranche is Exercised by the Buyer on the relevant Expiration Date at the Expiration Time. Any portion of a Tranche with respect to which Cash Settlement has not been elected shall be deemed to be Deliverable for purpose of the Definitions. Any Cash Settlement calculation will occur at the Expiration Time on the Expiration Date(s) where applicable.

Cash Settlement Amount (in USD) = Max { 0; [Put Currency Amount x (1/Strike Price - 1/ FX)]}

"FX" shall mean the currency exchange rate for USD/JPY foreign exchange transactions for spot settlement expressed as the amount of JPY per one USD calculated as the "bid" rate as shown at 4:00 p.m. London time on Reuters Page USDJPYFIX=WM (or on any other page that may replace this page on such service) on the relevant Expiration Date(s). If either of such rates ceases to be published by Reuters, then the Calculation Agent shall determine the exchange rate using the successor information source, as designated by Reuters, if any. If no such successor information source is designated, the Calculation Agent shall, acting in good faith and a commercially reasonable manner, determine the replacement rate.

Transaction 2 consisting of 7 Tranche(s), subject to the Cancellation Option defined in the Other Provisions below.

(a) General Terms with respect to a Tranche in Transaction 2:

Buyer.	Party A
Seller:	Party B
Currency Option Style:	European
Currency Option Type:	Binary
Settlement Amount:	As defined in Appendix II
Expiration Date(s):	For each Tranche(s) the Expiration Date(s) as defined in Appendix II below
Settlement Date(s)	For each Tranche(s) the Settlement Date(s) as defined in Appendix II below
Settlement Currency:	USD

(b) Other Terms and Conditions:

Barrier Event:	Applicable
Event Type:	One-Touch Binary
Spot Exchange Rate direction:	At or below the Barrier Level
Spot Exchange Rate:	The currency exchange rate for USD/JPY foreign exchange transactions for spot settlement expressed as the amount of JPY per one USD calculated as the arithmetic mean of the bid and ask rates (the "mid" rate) as shown at 4:00 p.m. London time on Reuters Page USDJPYFIX=WM (or on any other page that may replace this page on such service) on the relevant Expiration Date(s). If either of such rates ceases to be published by Reuters,

then the Calculation Agent shall determine the Spot Exchange Rate using the successor information source, as designated by Reuters, if any. If no such successor information source is designated, the Calculation Agent shall, acting in good faith and a commercially reasonable manner, determine the replacement rate.

Barrier Level:	100
Currency Pair:	USD / JPY
Event Period Start Date:	The relevant Expiration Date(s)
Event Period End Date:	The relevant Expiration Date(s)
Barrier Determination Agent:	Party A

Settlement Terms with respect to a Tranche for Transaction 2:

(i) If the Spot Exchange Rate meets the Spot Exchange Rate Direction condition with respect to Barrier Level on the relevant Expiration Date(s), as determined by the Barrier Determination Agent, the Transaction 2 Seller shall pay the relevant Settlement Amount to the Transaction 2 Buyer on the relevant Settlement Date(s).

Business Days:	New York, London and Tokyo
Business Day Convention for Expiration Date(s) and Settlement Date(s):	Modified Following

Other Provisions:
As Follows

Cancellation Option:

Party B may cancel both the Transaction 1 and Transaction 2, for the Tranches with Expiration Dates of 18 May 2016, 18 August 2016, 18 May 2017, 18 August 2017, 18 May 2018, 18 August 2018, 18 May 2019, 18 August 2019, 18 May 2020, 18 August 2020 and 18 November 2020, on the "Cancellation Date" by giving notice to Party A no later than 4:00 pm London time on the day that is 10 New York, London and Tokyo Business Days prior to the Cancellation Date. The rights and obligations of both parties will cease, but without prejudice to any such rights and obligations which have already become due and payable in respect of either party. Upon exercise of the Cancellation Option, Party B shall pay to Party A an amount equal to USD 1,950,000 for value 18 May 2014. For the avoidance of doubt, all payments due on any Settlement Date(s) from and including 18 May 2011 to and including 18 August 2015 will not be subject to the provisions of the Cancellation Option and shall remain due and payable.

'Cancellation Date' means 18 May 2014, subject to adjustment in accordance with the Modified Following Business Day Convention. Business Days for 'Cancellation Date' are New York, London *and* Tokyo Business Days.

This Confirmation and the agreements of the parties contained herein and, as it relates to this Confirmation, in the ISDA Master Agreement shall be subject to the terms of the letter agreement, dated as of [the date hereof] (the "Side Letter"), among Party B, Morgan Stanley Capital Services Inc., the Issuer (as defined below) and the Note Trustee (as defined below).

Calculation Agent:	Party A
Account Details:	
Account for payments to Party A:	
Account for payments in USD:	As per Standard Settlement Instructions
Account for payments in JPY:	As per Standard Settlement Instructions
Account for payments to Party B:	
Account for payments in USD:	Please supply details
Account for payments in JPY:	Please supply details

Morgan Stanley

Documentation and Operations Contacts:

Documentation:	Telephone London (020) 7677 2175 Facsimile London (020) 7056 4853 Return Confirmations to: Derivative.Confirms.Europeemorganstanlev.com Telex 8812564 MORSTN G
Operations:	Telephone London (020) 7677 7699 Facsimile London (020) 7677 7264 Telex 8812564 MORSTN G

This Confirmation supersedes and replaces any other confirmation (including a SWIFT MT300, a SWIFT 305 or phone confirmation), if any, sent in connection with this Transaction on or prior to the date hereof.

Party B represents and warrants that it is an "eligible swap participant" as that term is defined by the United States Commodity Future Trading Commission in 17 C.F.R Sec. 35.1.

Relationship Between Parties. Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

(i) Non-Reliance. It is acting for its own account, and it has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary, It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into this Transaction, and the other party is not acting with respect to any communication (written or oral) as a "municipal advisor," as such term is defined in Section 975 of the U.S. Dodd-Frank Wall Street Reform & Consumer Protection Act; it being understood that information and explanations related to the terms and conditions of this Transaction shall not be considered investment advice, advice provided by a municipal advisor or a recommendation to enter into this Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of this Transaction.

(ii) Assessment and Understanding. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the term's conditions and risks of this Transaction. It is also capable of assuming, and assumes, the risks of this Transaction.

(iii) Status of Parties. The other party is not acting as a fiduciary for, or an advisor to, it in respect of this Transaction.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Confirmation and returning it to us, or by sending to us a facsimile or telex substantially similar to this facsimile which sets forth the material terms of the Transaction to which this Confirmation relates and indicates agreement to those terms. We are delighted to have executed this Transaction with you and look forward to working with you again.

Yours sincerely,

By: /s/ Oliver Stuart
Name: Oliver Stuart
Title: Managing Director

Morgan Stanley & Co. International plc acting as introducing broker for MORGAN STANLEY CAPITAL SERVICES INC.

Morgan Stanley

Confirmed as of the date first written above: BIOCRYST PHARMACEUTICALS, INC

By: /s/ Alane Barnes
Alane Barnes
VP, General Counsel & Corporate Secretary

MORGAN STANLEY & CO. INTERNATIONAL PLC Is Authorised and regulated by the Financial Services Authority.

Appendix I

The dates below are subject to adjustment in accordance with the Modified Following Business Day Convention

Tranche(s)	Expiration Date(s)	Settlement Date(s)	Put Currency Amount(s) in JPY	Call Currency Amount(s) in USD
1	18 May 2011	20 May 2011	308,681,241	3,086,812.41
2	18 August 2011	20 August 2011	23,941,314	239,413.14
3	18 May 2012	20 May 2012	577,911,514	5,779,115.14
4	18 August 2012	20 August 2012	35,362,260	353,622.60
5	18 May 2013	20 May 2013	820,614,422	8,206,144.22
6	18 August 2013	20 August 2013	55,377,495	553,774.95
7	18 May 2014	20 May 2014	926,409,313	9,264,093.13
8	18 August 2014	20 August 2014	55,160,182	551,601.82
9	18 May 2015	20 May 2015	922,494,888	9,224,948.88
10	18 August 2015	20 August 2015	55,257,480	552,574.80
11	18 May 2016	20 May 2016	923,851,574	9,238,515.74
12	18 August 2016	20 August 2016	55,005,574	550,055.74
13	18 May 2017	20 May 2017	919,378,096	9,193,780.96
14	18 August 2017	20 August 2017	55,068,534	550,685.34
15	18 May 2018	20 May 2018	920,175,611	9,201,756.11
16	18 August 2018	20 August 2018	54,784,532	547,845.32
17	18 May 2019	20 May 2019	915,178,892	9,151,788.92
18	18 August 2019	20 August 2019	54,814,873	548,148.73
19	18 May 2020	20 May 2020	915,440,846	9,154,408.46
20	18 August 2020	20 August 2020	54,500,547	545,005.47
21	18 November 2020	20 November 2020	2,980,318	29,803.18

Appendix II

Tranche(s)	Expiration Date(s)	Settlement Date(s)	Settlement Amount in USD
1	18 May 2014	20 May 2014	1,950,000
2	18 May 2015	20 May 2015	1,950,000
3	18 May 2016	20 May 2016	1,950,000
4	18 May 2017	20 May 2017	1,950,000
5	18 May 2018	20 May 2018	1,950,000
6	18 May 2019	20 May 2019	1,950,000
7	18 May 2020	20 May 2020	1,950,000

Exhibit 31.1

CERTIFICATIONS

I, Jon P. Stonehouse, certify that:

1. I have reviewed this quarterly report on Form 10-Q of BioCryst Pharmaceuticals, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: May 6, 2011

/s/ JON P. STONEHOUSE
Jon P. Stonehouse
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATIONS

I, Stuart Grant, certify that:

1. I have reviewed this quarterly report on Form 10-Q of BioCryst Pharmaceuticals, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2011

/s/ STUART GRANT
Stuart Grant
Chief Financial Officer

Exhibit 32.1

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

In connection with the Quarterly Report of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2011 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 result of operations of the Company.

/s/ Jon P. Stonehouse
Jon P. Stonehouse
President and Chief Executive Officer
Date: May 6, 2011

Exhibit 32.2

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

In connection with the Quarterly Report of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stuart Grant, 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 result of operations of the Company.

/s/ Stuart Grant
Stuart Grant
Chief Financial Officer
Date: May 6, 2011