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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 SEPTEMBER 30, 2009

OR

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

FOR THE TRANSITION PERIOD FROM TO

COMMISSION FILE NUMBER 000-19319

VERTEX PHARMACEUTICALS INCORPORATED

(Exact name of registrant as specified in its charter)

MASSACHUSETTS (State or other jurisdiction of incorporation or organization)	**04-3039129** (I.R.S. Employer Identification No.)
130 WAVERLY STREET **CAMBRIDGE, MASSACHUSETTS** (Address of principal executive offices)	**02139-4242** (zip code)

(617) 444-6100
(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 (§232.405 of this chapter) 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, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒	Accelerated filer o	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 ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock, par value $0.01 per share Class	**181,189,886** Outstanding at November 4, 2009

VERTEX PHARMACEUTICALS INCORPORATED
FORM 10-Q
FOR THE QUARTER ENDED SEPTEMBER 30, 2009

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"We," "us," the "Company" and "Vertex" as used in this Quarterly Report on Form 10-Q refer to Vertex Pharmaceuticals Incorporated, a Massachusetts corporation, and its subsidiaries.

Part I. Financial Information

Item 1. Financial Statements

Vertex Pharmaceuticals Incorporated

Condensed Consolidated Balance Sheets

(unaudited)

(in thousands, except share and per share amounts)

	September 30, 2009	December 31, 2008
Assets		
Current assets:		
Cash and cash equivalents	$ 559,133	$ 389,115
Marketable securities, available-for-sale	297,477	442,986
Receivable related to sale of potential future milestone payments	32,783	—
Accounts receivable	10,173	23,489
Prepaid expenses and other current assets	14,500	11,991
Total current assets	914,066	867,581
Restricted cash	30,313	30,258
Property and equipment, net	62,444	68,331
Intangible assets	525,900	—
Goodwill	26,102	—
Other assets	14,666	14,309
Total assets	$ 1,573,491	$ 980,479
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 19,962	$ 51,760
Accrued expenses and other current liabilities	108,297	94,203
Accrued interest	855	5,349
Deferred revenues, current portion	74,609	37,678
Accrued restructuring expense, current portion	6,407	6,319
Other obligations	21,236	21,255
Total current liabilities	231,366	216,564
Accrued restructuring expense, excluding current portion	26,951	27,745
Convertible senior subordinated notes (due February 2013)	144,000	287,500
Secured notes (due October 2012)	118,840	—
Liability related to sale of potential future milestone payments	36,160	—
Deferred revenues, excluding current portion	244,927	209,796
Deferred tax liability	162,503	—
Total liabilities	964,747	741,605
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.01 par value; 1,000,000 shares authorized; none issued and outstanding at September 30, 2009 and December 31, 2008	—	—
Common stock, $0.01 par value; 300,000,000 shares authorized at September 30, 2009 and December 31, 2008; 180,898,858 and 151,245,384 shares issued and outstanding at September 30, 2009 and December 31, 2008, respectively	1,791	1,494
Additional paid-in capital	3,138,207	2,281,817
Accumulated other comprehensive (loss) income	(115)	3,168
Accumulated deficit	(2,531,139)	(2,047,605)
Total stockholders' equity	608,744	238,874
Total liabilities and stockholders' equity	$ 1,573,491	$ 980,479

The accompanying notes are an integral part of these condensed consolidated financial statements.

Vertex Pharmaceuticals Incorporated

Condensed Consolidated Statements of Operations

(unaudited)

(in thousands, except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Revenues:				
Royalty revenues	$ 7,834	$ 7,763	$ 19,891	$ 28,355
Collaborative and other research and development revenues	17,123	23,846	48,109	114,338
Total revenues	24,957	31,609	68,000	142,693
Costs and expenses:				
Royalty expenses	3,712	4,194	10,555	11,471
Research and development expenses	132,132	131,728	415,044	377,574
Sales, general and administrative expenses	36,572	25,430	97,618	71,810
Restructuring expense	774	885	4,283	2,683
Acquisition-related expenses	—	—	7,793	—
Total costs and expenses	173,190	162,237	535,293	463,538
Loss from operations	(148,233)	(130,628)	(467,293)	(320,845)
Interest income	595	4,396	4,683	12,885
Interest expense	(1,927)	(3,812)	(8,630)	(9,559)
Loss on exchange of convertible subordinated notes	—	—	(12,294)	—
Net loss	$ (149,565)	$ (130,044)	$ (483,534)	$ (317,519)
Basic and diluted net loss per common share	$ (0.84)	$ (0.93)	$ (2.86)	$ (2.30)
Basic and diluted weighted-average number of common shares outstanding	178,735	140,109	169,137	137,788

The accompanying notes are an integral part of these condensed consolidated financial statements.

Vertex Pharmaceuticals Incorporated

Condensed Consolidated Statements of Cash Flows

(unaudited)

(in thousands)

	Nine Months Ended September 30,	
	2009	2008
Cash flows from operating activities:		
Net loss	$ (483,534)	$ (317,519)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	21,724	23,621
Stock-based compensation expense	68,996	44,150
Other non-cash based compensation expense	4,585	3,757
Loss on disposal of property and equipment	2,233	—
Loss on exchange of convertible subordinated notes	12,294	—
Realized gain on marketable securities	—	(633)
Changes in operating assets and liabilities, excluding the effect of an acquisition:		
Accounts receivable	13,328	9,354
Prepaid expenses and other current assets	(2)	(6,325)
Accounts payable	(32,104)	(1,285)
Accrued expenses and other current liabilities	(1,740)	(11,174)
Accrued restructuring expense	(706)	(910)
Accrued interest	(2,395)	1,859
Deferred revenues	72,062	125,848
Net cash used in operating activities	(325,259)	(129,257)
Cash flows from investing activities:		
Purchases of marketable securities	(374,767)	(508,983)
Sales and maturities of marketable securities	517,240	244,777
Payment for the acquisition of ViroChem, net of cash acquired	(87,422)	—
Expenditures for property and equipment	(15,918)	(25,568)
Increase in restricted cash	(55)	—
Increase in other assets	(33)	(361)
Net cash provided by (used in) investing activities	39,045	(290,135)
Cash flows from financing activities:		
Issuances of common stock from employee benefit plans, net	24,960	18,351
Issuances of common stock from stock offerings, net	313,250	330,062
Issuance of secured notes (due October 2012)	122,217	—
Issuances of convertible senior subordinated notes (due February 2013), net	—	278,607
Repayment of collaborator development loan	—	(19,997)
Debt exchange costs	(85)	—
Net cash provided by financing activities	460,342	607,023
Effect of changes in exchange rates on cash	(4,110)	(418)
Net increase in cash and cash equivalents	170,018	187,213
Cash and cash equivalents—beginning of period	389,115	355,663
Cash and cash equivalents—end of period	$ 559,133	$ 542,876
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 10,248	$ 6,676
Exchange of convertible subordinated notes for common stock	$ 143,500	$ —
Accrued interest offset to additional paid-in capital on exchange of convertible subordinated notes	$ 2,099	$ —
Unamortized debt issuance costs of exchanged convertible subordinated notes offset to additional paid-in capital	$ 3,476	$ —
Fair value of common stock issued to acquire ViroChem	$ 290,557	$ —

The accompanying notes are an integral part of these condensed consolidated financial statements.

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements

(unaudited)

1. Basis of Presentation

The accompanying condensed consolidated financial statements are unaudited and have been prepared by Vertex Pharmaceuticals Incorporated ("Vertex" or the "Company") in accordance with accounting principles generally accepted in the United States of America.

The condensed consolidated financial statements reflect the operations of the Company and its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated.

Certain information and footnote disclosures normally included in the Company's annual financial statements have been condensed or omitted. The interim financial statements, in the opinion of management, reflect all normal recurring adjustments (including accruals) necessary for a fair presentation of the financial position and results of operations for the interim periods ended September 30, 2009 and 2008.

The results of operations for the interim periods are not necessarily indicative of the results of operations to be expected for the fiscal year, although the Company expects to incur a substantial loss for the year ending December 31, 2009. These interim financial statements should be read in conjunction with the audited financial statements for the year ended December 31, 2008, which are contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 that was filed with the Securities and Exchange Commission on February 17, 2009.

On March 12, 2009, Vertex acquired ViroChem Pharma Inc. ("ViroChem"). The Company consolidated ViroChem's operating results with those of Vertex beginning on the date of the acquisition. See Note 10, "Acquisition of ViroChem Pharma Inc.," for additional information regarding the acquisition.

The Company has evaluated subsequent events through November 9, 2009, the date of issuance of the condensed consolidated financial statements. During this period, the Company did not have any material recognizable subsequent events.

2. Accounting Policies

Reclassification in the Preparation of Financial Statements

Certain amounts in prior period condensed consolidated financial statements have been reclassified to conform to the current presentation. The reclassifications had no effect on the reported net loss.

Basic and Diluted Net Loss per Common Share

Basic net loss per common share is based upon the weighted-average number of common shares outstanding during the period, excluding restricted stock that has been issued but is not yet vested. Diluted net loss per common share is based upon the weighted-average number of common shares outstanding during the period plus additional weighted-average common equivalent shares outstanding during the period when the effect is dilutive. Common equivalent shares result from the assumed exercise of outstanding stock options (the proceeds of which are then assumed to have been used to repurchase outstanding stock using the treasury stock method), the assumed conversion of convertible notes and vesting of unvested restricted shares of common stock. Common equivalent shares have not

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

2. Accounting Policies (Continued)

been included in the net loss per common share calculations because the effect would have been anti-dilutive. Total potential gross common equivalent shares consisted of the following:

	At September 30,	
	2009	2008
	(in thousands, except per share amounts)	
Stock options	19,087	17,355
Weighted-average exercise price (per share)	$ 30.59	$ 28.71
Convertible notes	6,223	12,425
Conversion price (per share)	$ 23.14	$ 23.14
Unvested restricted shares	1,823	1,980

Stock-based Compensation Expense

The Company expenses the fair value of employee stock options and other forms of stock-based employee compensation over the employees' service periods or the derived service period for awards with market conditions. Compensation expense is determined based on the fair value of the award at the grant date, including estimated forfeitures, and is adjusted to reflect actual forfeitures and the outcomes of certain conditions. Please refer to Note 3, "Stock-based Compensation Expense," for further information.

Research and Development Expenses

All research and development expenses, including amounts funded by research and development collaborations, are expensed as incurred. The Company defers and capitalizes nonrefundable advance payments made by the Company for research and development activities until the related goods are delivered or the related services are performed.

Research and development expenses are comprised of costs incurred by the Company in performing research and development activities, including salary and benefits; stock-based compensation expense; laboratory supplies and other direct expenses; contractual services, including clinical trial and pharmaceutical development costs; commercial supply investment in telaprevir; and infrastructure costs, including facilities costs and depreciation expense. The Company evaluates periodically whether a portion of its commercial supply investment may be capitalized as inventory. Generally, inventory may be capitalized if it is probable that future revenues will be generated from the sale of the inventory and that these revenues will exceed the cost of the inventory. The Company is continuing to expense all of its commercial supply investment due to the high risk inherent in drug development.

The Company's collaborators have funded portions of the Company's research and development programs related to specific drug candidates and research targets, including telaprevir, in the three and nine months ended September 30, 2009 and 2008. The Company's collaborative and other research and development revenues were $17.1 million and $23.8 million, respectively, for the three months ended September 30, 2009 and 2008. The Company's collaborative and other research and development revenues were $48.1 million and $114.3 million, respectively, for the nine months ended September 30,

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

2. Accounting Policies (Continued)

2009 and 2008. The Company's research and development expenses allocated to programs in which a collaborator funded at least a portion of the research and development expenses were approximately $33 million and approximately $41 million, respectively, for the three months ended September 30, 2009 and 2008, and approximately $119 million and approximately $111 million, respectively, for the nine months ended September 30, 2009 and 2008.

Restructuring Expense

The Company records costs and liabilities associated with exit and disposal activities based on estimates of fair value in the period the liabilities are incurred. In periods subsequent to initial measurement, changes to the liability are measured using the credit-adjusted risk-free discount rate applied in the initial period. Liabilities are evaluated and adjusted as appropriate at least on a quarterly basis for changes in circumstances.

Revenue Recognition

Collaborative Arrangements

The Company's revenues are generated primarily through collaborative research, development and/or commercialization agreements. The terms of these agreements typically include payment to the Company of one or more of the following: nonrefundable, up-front license fees; funding of research and/or development efforts; milestone payments; and royalties on product sales.

Agreements containing multiple elements are divided into separate units of accounting if certain criteria are met, including whether the delivered element has stand-alone value to the collaborator and whether there is objective and reliable evidence of the fair value of the undelivered obligation(s). The consideration received is allocated among the separate units either on the basis of each unit's fair value or using the residual method, and the applicable revenue recognition criteria are applied to each of the separate units.

The Company recognizes revenues from nonrefundable, up-front license fees on a straight-line basis over the contracted or estimated period of performance, which is typically the research or development term. Research and development funding is recognized as earned, ratably over the period of effort.

Substantive milestones achieved in collaboration arrangements are recognized as earned when the corresponding payment is reasonably assured, subject to the following policies in those circumstances where the Company has obligations remaining after achievement of the milestone:

- In those circumstances where collection of a substantive milestone payment is reasonably assured, the Company has remaining obligations to perform under the collaboration arrangement and the Company has sufficient evidence of the fair value of its remaining obligations, management considers the milestone payment and the remaining obligations to be separate units of accounting. In these circumstances, the Company uses the residual method to allocate revenues among the milestones and the remaining obligations.

- In those circumstances where collection of a substantive milestone payment is reasonably assured and the Company has remaining obligations to perform under the collaboration arrangement,

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

2. Accounting Policies (Continued)

but the Company does not have sufficient evidence of the fair value for its remaining obligations, management considers the milestone payment and the remaining obligations under the contract as a single unit of accounting. If the collaboration does not require specific deliverables at specific times or at the end of the contract term, but rather, the Company's obligations are satisfied over a period of time, substantive milestone payments are recognized over the period of performance. This typically results in a portion of the milestone payment being recognized as revenue on the date the milestone is achieved equal to the applicable percentage of the performance period that has elapsed as of the date the milestone is achieved, with the balance being deferred and recognized over the remaining period of performance.

At the inception of each agreement that includes milestone payments, the Company evaluates whether each milestone is substantive on the basis of the contingent nature of the milestone, specifically reviewing factors such as the scientific and other risks that must be overcome to achieve the milestone, as well as the level of effort and investment required. Milestones that are not considered substantive and that do not meet the separation criteria are accounted for as license payments and recognized on a straight-line basis over the remaining period of performance.

Payments received or reasonably assured after performance obligations are met completely are recognized as earned.

Royalty revenues typically are recognized based upon actual and estimated net sales of licensed products in licensed territories, as provided by the licensee, and generally are recognized in the period the sales occur. The Company reconciles and adjusts for differences between actual royalty revenues and estimated royalty revenues in the quarter they become known. These differences have not historically been significant.

Sale of Future Royalties

In the circumstance where the Company has sold its rights to future royalties under a license agreement and also maintains continuing involvement in the royalty arrangement (but not significant continuing involvement in the generation of the cash flows due to the purchaser), the Company defers recognition of the proceeds it receives for the royalty stream and recognizes these deferred revenues over the life of the license agreement. The Company recognizes these deferred revenues pursuant to the units-of-revenue method. Under this method, the amount of deferred revenues to be recognized as royalty revenues in each period is calculated by multiplying the following: (1) the royalty payments due to the purchaser for the period by (2) the ratio of the remaining deferred revenue amount to the total estimated remaining royalty payments due to the purchaser over the term of the agreement.

Debt and Financing Issuance Costs and Royalty Sale Transaction Expenses

Issuance costs incurred to complete the Company's convertible senior subordinated note offering and the financial transactions that the Company entered into in September 2009 are deferred and included in other assets on the condensed consolidated balance sheets. The issuance costs are amortized using the effective interest rate method over the term of the related debt or financing instrument. The amortization expense related to the issuance costs is included in interest expense on the condensed consolidated statements of operations.

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

2. Accounting Policies (Continued)

The Company defers direct and incremental costs associated with the sale of its rights to future HIV royalties. These costs are included in other assets on the condensed consolidated balance sheets and are amortized in the same manner and over the same period in which the related deferred revenues are recognized as royalty revenues. The amortization expense related to these transaction expenses is included in royalty expenses on the condensed consolidated statements of operations.

Business Combinations

The Company assigns the value of the consideration transferred to acquire a business to the tangible assets and identifiable intangible assets acquired and liabilities assumed on the basis of their fair values at the date of acquisition. The Company assesses the fair value of assets, including intangible assets such as in-process research and development, using a variety of methods including present-value models. Each asset is measured at fair value from the perspective of a market participant. The method used to estimate the fair values of in-process research and development assets incorporates significant assumptions regarding the estimates a market participant would make in order to evaluate an asset, including a market participant's assumptions regarding the probability of completing in-process research and development projects, which would require obtaining regulatory approval for marketing of the associated drug candidate; a market participant's estimates regarding the timing of and the expected costs to complete in-process research and development projects; a market participant's estimates of future cash flows from potential product sales; and the appropriate discount rates for a market participant. Transaction costs and restructuring costs associated with the transaction are expensed as incurred.

In-process Research and Development Assets

In-process research and development assets acquired in a business combination initially are recorded at fair value and accounted for as indefinite-lived intangible assets. These assets are maintained on the Company's condensed consolidated balance sheets until either the project underlying them is completed or the assets become impaired. If a project is completed, the carrying value of the related intangible asset is amortized over the remaining estimated life of the asset beginning in the period in which the project is completed. If a project becomes impaired or is abandoned, the carrying value of the related intangible asset is written down to its fair value and an impairment charge is taken in the period in which the impairment occurs. In-process research and development assets will be tested for impairment on an annual basis during the fourth quarter, or earlier if impairment indicators are present.

Goodwill

The difference between the purchase price and the fair value of assets acquired and liabilities assumed in a business combination is allocated to goodwill. Goodwill will be evaluated for impairment on an annual basis during the fourth quarter, or earlier if impairment indicators are present.

Derivative Instruments and Embedded Derivatives

The Company has entered into financial transactions involving a free-standing derivative instrument and embedded derivatives. The embedded derivatives are required to be bifurcated from the

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

2. Accounting Policies (Continued)

host instruments because the derivatives are not clearly and closely related to the host instruments. These financial transactions include transactions involving convertible notes, secured notes and the sale of potential future milestone payments. The Company determines the fair value of each derivative instrument or embedded derivative on the date of issuance. The estimates of the fair value of these derivatives, particularly with respect to derivatives related to the achievement of milestones in the development of specific drug candidates, include significant assumptions regarding the estimates a market participant would make in order to evaluate the asset. Changes in the fair value of these instruments are evaluated on at least a quarterly basis. Please refer to Note 13, "September 2009 Financial Transactions," for further information.

3. Stock-based Compensation Expense

At September 30, 2009, the Company had four stock-based employee compensation plans: the 1991 Stock Option Plan (the "1991 Plan"), the 1994 Stock and Option Plan (the "1994 Plan"), the 1996 Stock and Option Plan (the "1996 Plan") and the 2006 Stock and Option Plan (the "2006 Plan" and together with the 1991 Plan, the 1994 Plan and the 1996 Plan, collectively, the "Stock and Option Plans") and one Employee Stock Purchase Plan (the "ESPP"). On May 15, 2008, the Company's stockholders approved an increase in the number of shares of common stock authorized for issuance under the 2006 Plan of 6,600,000, to a total of 13,902,380 shares of common stock, and an increase in the number of shares of common stock authorized for issuance under the ESPP of 2,000,000. On May 14, 2009, the Company's stockholders approved an increase in the number of shares of common stock authorized for issuance under the 2006 Plan of 7,700,000, to a total of 21,602,380 shares of common stock. In connection with the Stock and Option Plans, the Company issues stock options and restricted stock awards with service conditions, which are generally the vesting periods of the awards. The Company also issues to certain members of senior management restricted stock awards that vest upon the earlier of the satisfaction of (i) a market or performance condition or (ii) a service condition ("PARS").

The Company recognizes share-based payments to employees as compensation expense using the fair value method. The fair value of stock options and shares purchased pursuant to the ESPP is calculated using the Black-Scholes valuation model. The fair value of restricted stock awards typically is based on intrinsic value on the date of grant. Stock-based compensation, measured at the grant date based on the fair value of the award, is recognized as expense ratably over the service period. The expense recognized over the service period includes an estimate of awards that will be forfeited.

For PARS awards granted in 2008, 2007 and 2006, which vest upon the earlier of the achievement of a market condition or a service condition, a portion of the fair value of the common stock on the date of grant is recognized ratably over a derived service period that is equal to the estimated time to satisfy the market condition. The portion of the fair value of the common stock that is recognized over the derived service period is determined on the basis of the estimated probability that the PARS award will vest as a result of satisfying the market condition. For the PARS awards granted in 2008, 2007 and 2006, the derived service period relating to each market condition is shorter than the four-year service-based vesting period of the PARS. The difference between the fair value of the common stock on the date of grant and the value recognized over the derived service period is recognized ratably over the four-year service-based vesting period of the PARS. The stock-based compensation expense recognized

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

3. Stock-based Compensation Expense (Continued)

over each of the derived service periods and the four-year service periods includes an estimate of awards that will be forfeited prior to the end of the derived service periods or the four-year service periods, respectively. For PARS awards granted in 2009, the shares vest on the fourth anniversary of the grant date, subject to accelerated vesting upon achievement of performance conditions. Stock-based compensation expense associated with the PARS issued in 2009 is being expensed ratably over the four-year service period.

The effect of stock-based compensation expense during the three and nine months ended September 30, 2009 and 2008 was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
	(in thousands)			
Stock-based compensation expense by type of award:				
Stock options	$ 14,180	$ 9,874	$ 51,044	$ 29,901
Restricted stock (including PARS)	4,901	3,649	14,606	11,574
ESPP issuances	1,053	962	3,346	2,675
Total stock-based compensation expense	$ 20,134	$ 14,485	$ 68,996	$ 44,150
Effect of stock-based compensation expense by line item:				
Research and development expenses	$ 13,048	$ 11,423	$ 50,942	$ 35,392
Sales, general and administrative expenses	7,086	3,062	18,054	8,758
Total stock-based compensation expense included in net loss	$ 20,134	$ 14,485	$ 68,996	$ 44,150

Stock Options

All stock options awarded during the nine months ended September 30, 2009 and 2008 were awarded with exercise prices equal to the fair market value of the Company's common stock on the date the award was granted by the Company's board of directors. Under amendments to the 2006 Plan adopted on May 15, 2008, no options can be issued under the 2006 Plan with an exercise price less than the fair market value on the date of grant.

The stock options granted during the nine months ended September 30, 2008 included options to purchase 536,625 shares of common stock (the "Contingent Options") at an exercise price of $18.93 per share that were granted to the Company's executive officers on February 7, 2008, subject to ratification by the Company's stockholders. At the Company's 2008 Annual Meeting of Stockholders, the stockholders ratified the Contingent Options as part of the Company's proposal to increase the number of shares authorized for issuance under the 2006 Plan. The Contingent Options are deemed for accounting purposes to have been granted on May 15, 2008 (the date of ratification by the Company's stockholders), and the grant-date fair value of the Contingent Options is based on a Black-Scholes valuation model based on the fair market value of the Contingent Options on May 15, 2008.

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

3. Stock-based Compensation Expense (Continued)

The options granted during the three and nine months ended September 30, 2009 had a weighted-average grant-date fair value per share of $18.37 and $18.51, respectively. The options granted during the three and nine months ended September 30, 2008 had a weighted-average grant-date fair value per share of $16.97 and $14.33, respectively.

The Company recorded stock-based compensation expense related to stock options of $14.2 million and $9.9 million, respectively, for the three months ended September 30, 2009 and 2008. The Company recorded stock-based compensation expense related to stock options of $51.0 million and $29.9 million, respectively, for the nine months ended September 30, 2009 and 2008. The stock-based compensation expense related to stock options for the three and nine months ended September 30, 2009 included $2.0 million and $12.7 million, respectively, related to stock options that were accelerated and modified in connection with transition arrangements and severance arrangements with certain of the Company's former executive officers. As of September 30, 2009, there was $99.4 million of total unrecognized stock-based compensation expense, net of estimated forfeitures, related to unvested options granted under the Company's Stock and Option Plans. That expense is expected to be recognized over a weighted-average period of 2.84 years.

Restricted Stock

The Company recorded stock-based compensation expense of $4.9 million and $3.6 million, respectively, for the three months ended September 30, 2009 and 2008, and $14.6 million and $11.6 million, respectively, for the nine months ended September 30, 2009 and 2008 related to restricted stock, including PARS, outstanding during those periods. The stock-based compensation expense related to restricted stock, including PARS, for the three and nine months ended September 30, 2009 included $0.6 million and $2.2 million, respectively, related to accelerated vesting of restricted stock awards in connection with transition arrangements and severance arrangements with certain of the Company's former executive officers. The stock-based compensation expense for restricted stock for the nine months ended September 30, 2008 included $0.6 million related to accelerated vesting of restricted stock awards in connection with an executive officer's separation from the Company.

As of September 30, 2009, there was $34.3 million of total unrecognized stock-based compensation expense, net of estimated forfeitures, related to unvested restricted stock, including PARS, granted under the Company's Stock and Option Plans. That expense is expected to be recognized over a weighted-average period of 2.68 years.

Employee Stock Purchase Plan

The stock-based compensation expense related to the ESPP was $1.1 million and $1.0 million, respectively, for the three months ended September 30, 2009 and 2008 and $3.3 million and $2.7 million, respectively, for the nine months ended September 30, 2009 and 2008. As of September 30, 2009, there was $1.1 million of total unrecognized stock-based compensation expense, net of estimated forfeitures, related to ESPP shares. That expense is expected to be recognized during the nine month period ending June 30, 2010.

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

3. Stock-based Compensation Expense (Continued)

During the nine months ended September 30, 2009, the Company issued 208,000 shares to employees under the ESPP at an average price paid of $23.07 per share. During the nine months ended September 30, 2008, the Company issued 185,000 shares to employees under the ESPP at an average price paid of $22.55 per share. There were no shares issued to employees under the ESPP during the three months ended September 30, 2009 and 2008.

4. Marketable Securities

A summary of cash, cash equivalents and marketable securities is shown below:

September 30, 2009	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
		(in thousands)		
Cash and cash equivalents				
Cash and money market funds	$ 553,053	$ —	$ —	$ 553,053
Government-sponsored enterprise securities	6,082	—	(2)	6,080
Total cash and cash equivalents	$ 559,135	$ —	$ (2)	$ 559,133
Marketable securities				
Government-sponsored enterprise securities (due within 1 year)	$ 297,376	$ 109	$ (8)	$ 297,477
Total marketable securities	$ 297,376	$ 109	$ (8)	$ 297,477
Total cash, cash equivalents and marketable securities	$ 856,511	$ 109	$ (10)	$ 856,610
December 31, 2008				
Cash and cash equivalents				
Cash and money market funds	$ 389,115	$ —	$ —	$ 389,115
Total cash and cash equivalents	$ 389,115	$ —	$ —	$ 389,115
Marketable securities				
Government-sponsored enterprise securities (due within 1 year)	$ 347,982	$ 2,713	$ —	$ 350,695
Corporate debt securities (due within 1 year)	91,863	428	—	92,291
Total marketable securities	$ 439,845	$ 3,141	$ —	$ 442,986
Total cash, cash equivalents and marketable securities	$ 828,960	$ 3,141	$ —	$ 832,101

The Company had marketable securities of $297.5 million and $443.0 million that were all classified as current assets on the condensed consolidated balance sheets as of September 30, 2009 and December 31, 2008, respectively.

The Company reviews investments in marketable securities for other-than-temporary impairment whenever the fair value of an investment is less than amortized cost and evidence indicates that an investment's carrying amount is not recoverable within a reasonable period of time. To determine whether an impairment is other-than-temporary, the Company considers the intent to sell, or whether it is more likely than not that the Company will be required to sell, the investment before recovery of the investment's amortized cost basis. Evidence considered in this assessment includes reasons for the impairment, compliance with the Company's investment policy, the severity and the duration of the impairment and changes in value subsequent to period end. As of September 30, 2009, the Company

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4. Marketable Securities (Continued)

had one government-sponsored enterprise security that was in an unrealized loss position of $2,000 and five government-sponsored enterprise securities that were in an unrealized loss position of $8,000. As of December 31, 2008, the Company did not have any securities with unrealized losses.

In the three and nine months ended September 30, 2009, the Company had proceeds of $171.8 million and $517.2 million, respectively, from sales and maturities of available-for-sale securities. In the three and nine months ended September 30, 2008, the Company had proceeds of $160.4 million and $244.8 million, respectively, from sales and maturities of available-for-sale securities.

Realized gains and losses are determined using the specific identification method and are included in interest income on the condensed consolidated statements of operations. There were no gross realized gains and losses for the three and nine months ended September 30, 2009. Gross realized gains and losses for the three months ended September 30, 2008 were $418,000 and $4,000, respectively. Gross realized gains and losses for the nine months ended September 30, 2008 were $943,000 and $310,000, respectively.

5. Fair Value of Financial Instruments and Nonfinancial Assets

The fair value of the Company's financial assets and liabilities reflects the Company's estimate of amounts that it would have received in connection with the sale of the assets or paid in connection with the transfer of the liabilities in an orderly transaction between market participants at the measurement date. In connection with measuring the fair value of its assets and liabilities, the Company seeks to maximize the use of observable inputs (market data obtained from sources independent from the Company) and to minimize the use of unobservable inputs (the Company's assumptions about how market participants would price assets and liabilities). The following fair value hierarchy is used to classify assets and liabilities based on the observable inputs and unobservable inputs used in order to value the assets and liabilities:

Level 1: Quoted prices in active markets for identical assets or liabilities. An active market for an asset or liability is a market in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis.

Level 2: Observable inputs other than Level 1 inputs. Examples of Level 2 inputs include quoted prices in active markets for similar assets or liabilities and quoted prices for identical assets or liabilities in markets that are not active.

Level 3: Unobservable inputs based on the Company's assessment of the assumptions that market participants would use in pricing the asset or liability.

The Company's investment strategy is focused on capital preservation. The Company invests in instruments that meet credit quality standards as outlined in the Company's investment policy guidelines. These guidelines also limit the amount of credit exposure to any one issue or type of instrument. Beginning in the fourth quarter of 2007, the Company began to shift its investments to instruments that carry less exposure to market volatility and liquidity pressures. As of September 30, 2009, the Company's investments are in money market funds and short-term government guaranteed or supported securities.

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(unaudited)

5. Fair Value of Financial Instruments and Nonfinancial Assets (Continued)

As of September 30, 2009, all of the Company's financial assets that were subject to fair value measurements were valued using observable inputs. The Company's financial assets valued based on Level 1 inputs consisted of a money market fund and government-sponsored enterprise securities, which are government-supported. The Company's money market fund also invests in government-sponsored enterprise securities. The Company's financial liabilities that were subject to fair value measurement related to the financial transactions that the Company entered into in September 2009 are valued based on Level 3 inputs. Please refer to Note 13, "September 2009 Financial Transactions." During the nine months ended September 30, 2009 and 2008, the Company did not record an other-than-temporary impairment charge related to its investments.

The following table sets forth the Company's financial assets and liabilities subject to fair value measurements as of the end of the third quarter of 2009:

	Fair Value Measurements as of September 30, 2009			
		Fair Value Hierarchy		
	Total	Level 1	Level 2	Level 3
		(in thousands)		
Financial assets carried at fair value:				
Cash equivalents	$ 535,384	$ 535,384	$ —	$ —
Marketable securities, available-for-sale	297,477	297,477	—	—
Restricted cash	30,313	30,313	—	—
Total	$ 863,174	$ 863,174	$ —	$ —
Financial liabilities carried at fair value:				
Embedded derivative related to 2012 Notes	$ 10,652	$ —	$ —	$ 10,652
Liability related to sale of potential future milestone payments	36,160	—	—	36,160
Total	$ 46,812	$ —	$ —	$ 46,812

Intangible assets acquired in connection with the Company's acquistion of ViroChem were accounted for as described in Note 10, "Acquisition of ViroChem Pharma Inc." The estimated fair value of these nonfinancial assets was based on Level 3 inputs.

The Company had $144.0 million outstanding in aggregate principal amount of 4.75% convertible senior subordinated notes due 2013 included on the condensed consolidated balance sheet as of September 30, 2009. At September 30, 2009, these 2013 Notes had a fair value of $238.1 million as obtained from a quoted market source.

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Notes to Condensed Consolidated Financial Statements (Continued)

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6. Comprehensive Loss

For the three and nine months ended September 30, 2009 and 2008, comprehensive loss was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
	(in thousands)			
Net loss	$ (149,565)	$ (130,044)	$ (483,534)	$ (317,519)
Changes in other comprehensive income (loss):				
Unrealized holding gains (losses) on marketable securities	(206)	823	(3,042)	1,455
Reclassification adjustment for realized gain on marketable securities included in net loss	—	(414)	—	(1,243)
Foreign currency translation adjustment	(327)	(381)	(241)	(418)
Total change in other comprehensive income (loss)	(533)	28	(3,283)	(206)
Total comprehensive loss	$ (150,098)	$ (130,016)	$ (486,817)	$ (317,725)

7. Income Taxes

At September 30, 2009 and December 31, 2008, the Company had no material unrecognized tax benefits and no adjustments to liabilities or operations were required pursuant to the applicable accounting interpretation regarding accounting for uncertainty in income taxes. The Company does not expect that its unrecognized tax benefits will materially increase within the next twelve months. The Company did not recognize any material interest or penalties related to uncertain tax positions at September 30, 2009 and December 31, 2008.

The Company files United States federal income tax returns and income tax returns in various state, local, and foreign jurisdictions. The Company is no longer subject to any tax assessment from an income tax examination in the United States before 2007 and any other major taxing jurisdiction for years before 2005, except where the Company has net operating losses or tax credit carryforwards that originate before 2005. The Company completed an examination by the Internal Revenue Service with respect to 2006 in June 2009 with no material change. The Company currently is not under examination by any jurisdiction for any tax year.

8. Restructuring Expense

In June 2003, Vertex adopted a plan to restructure its operations to coincide with its increasing internal emphasis on advancing drug candidates through clinical development to commercialization. The restructuring was designed to re-balance the Company's relative investments in research and development to better support the Company's long-term strategy. The restructuring plan included a workforce reduction, write-offs of certain assets and a decision not to occupy approximately 290,000 square feet of specialized laboratory and office space in Cambridge, Massachusetts under lease to Vertex (the "Kendall Square Lease"). The Kendall Square Lease commenced in January 2003 and has a 15-year term. In the second quarter of 2005, the Company revised its assessment of its real estate requirements and decided to use approximately 120,000 square feet of the facility subject to the Kendall Square Lease (the "Kendall Square Facility") for its operations, beginning in 2006. The remaining rentable square footage of the Kendall Square Facility currently is subleased to third parties.

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Notes to Condensed Consolidated Financial Statements (Continued)

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8. Restructuring Expense (Continued)

The restructuring expense incurred in the three and nine months ended September 30, 2009 and 2008 relates only to the portion of the building that the Company is not occupying and does not intend to occupy for its operations. The remaining lease obligations, which are associated with the portion of the Kendall Square Facility that the Company occupies and uses for its operations, are recorded as rental expense in the period incurred.

In estimating the expense and liability under its Kendall Square Lease obligation, the Company estimated (i) the costs to be incurred to satisfy rental and build-out commitments under the lease (including operating costs), (ii) the lead-time necessary to sublease the space, (iii) the projected sublease rental rates and (iv) the anticipated durations of subleases. The Company uses a credit-adjusted risk-free rate of approximately 10% to discount the estimated cash flows. The Company reviews its estimates and assumptions on at least a quarterly basis, and intends to continue such reviews until the termination of the Kendall Square Lease, and will make whatever modifications the Company believes necessary, based on the Company's best judgment, to reflect any changed circumstances. The Company's estimates have changed in the past, and may change in the future, resulting in additional adjustments to the estimate of the liability, and the effect of any such adjustments could be material. Changes to the Company's estimate of the liability are recorded as additional restructuring expense/(credit). In addition, because the Company's estimate of the liability includes the application of a discount rate to reflect the time-value of money, the Company will record imputed interest costs related to the liability each quarter. These costs are included in restructuring expense on the Company's condensed consolidated statements of operations.

For the three months ended September 30, 2009, the Company recorded restructuring expense of $0.8 million, which was primarily the result of the imputed interest cost relating to the restructuring liability. The activity related to the restructuring liability for the three months ended September 30, 2009 was as follows (in thousands):

	Liability as of June 30, 2009	Cash payments in the third quarter of 2009	Cash received from subleases in the third quarter of 2009	Charge in the third quarter of 2009	Liability as of September 30, 2009
Lease restructuring liability	$ 34,050	$ (3,772)	$ 2,306	$ 774	$ 33,358

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Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

8. Restructuring Expense (Continued)

For the three months ended September 30, 2008, the Company recorded restructuring expense of $0.9 million, which was primarily the result of the imputed interest cost relating to the restructuring liability. The activity related to the restructuring liability for the three months ended September 30, 2008 was as follows (in thousands):

	Liability as of June 30, 2008	Cash payments in the third quarter of 2008	Cash received from subleases in the third quarter of 2008	Charge in the third quarter of 2008	Liability as of September 30, 2008
Lease restructuring liability	$ 34,490	$ (3,597)	$ 2,604	$ 885	$ 34,382

For the nine months ended September 30, 2009, the Company recorded restructuring expense of $4.3 million, which was the result of incremental lease obligations related to the revision of certain key estimates and assumptions about facility operating costs as well as the imputed interest cost relating to the restructuring liability. The activity related to the restructuring liability for the nine months ended September 30, 2009 was as follows (in thousands):

	Liability as of December 31, 2008	Cash payments in the first nine months of 2009	Cash received from subleases in the first nine months of 2009	Charge in the first nine months of 2009	Liability as of September 30, 2009
Lease restructuring liability	$ 34,064	$ (11,529)	$ 6,540	$ 4,283	$ 33,358

For the nine months ended September 30, 2008, the Company recorded restructuring expense of $2.7 million, which was primarily the result of the imputed interest cost relating to the restructuring liability. The activity related to the restructuring liability for the nine months ended September 30, 2008 was as follows (in thousands):

	Liability as of December 31, 2007	Cash payments in the first nine months of 2008	Cash received from subleases in the first nine months of 2008	Charge in the first nine months of 2008	Liability as of September 30, 2008
Lease restructuring liability	$ 35,292	$ (10,430)	$ 6,837	$ 2,683	$ 34,382

Vertex Pharmaceuticals Incorporated

Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

9. Equity and Debt Offerings and Debt Exchanges

On February 24, 2009, the Company completed an offering of 10,000,000 shares of common stock (the "February 2009 Equity Offering"), which were sold at a price of $32.00 per share. This offering resulted in $313.3 million of net proceeds to the Company. The underwriting discount of $6.4 million and other expenses of $0.4 million related to the February 2009 Equity Offering were recorded as an offset to additional paid-in capital.

On September 23, 2008, the Company completed an offering of 8,625,000 shares of common stock (the "September 2008 Equity Offering"), which were sold at a price of $25.50 per share. This offering resulted in $217.4 million of net proceeds to the Company. The underwriting discount of $2.2 million and other expenses of $0.3 million related to the September 2008 Equity Offering were recorded as an offset to additional paid-in capital.

On February 19, 2008, the Company completed concurrent offerings of $287.5 million in aggregate principal amount of 4.75% convertible senior subordinated notes due 2013 (the "2013 Notes") and 6,900,000 shares of common stock (the "February 2008 Equity Offering"), which were sold at a price of $17.14 per share.

The convertible debt offering resulted in net proceeds of $278.6 million to the Company. The underwriting discount of $8.6 million and other expenses of $0.3 million related to the convertible debt offering were recorded as debt issuance costs and are included in other assets on the Company's condensed consolidated balance sheets. The February 2008 Equity Offering resulted in net proceeds of $112.7 million to the Company. The underwriting discount of $5.3 million and other expenses of $0.2 million related to the February 2008 Equity Offering were recorded as an offset to additional paid-in capital.

The 2013 Notes are convertible, at the option of the holder, into common stock at a price equal to approximately $23.14 per share, subject to adjustment. The 2013 Notes bear interest at the rate of 4.75% per annum, and the Company is required to make semi-annual interest payments on the outstanding principal balance of the 2013 Notes on February 15 and August 15 of each year. The 2013 Notes will mature on February 15, 2013.

On or after February 15, 2010, the Company may redeem the 2013 Notes at its option, in whole or in part, at the redemption prices stated in the indenture, plus accrued and unpaid interest, if any, to, but excluding, the redemption date. Holders may require the Company to repurchase some or all of their 2013 Notes upon the occurrence of certain fundamental changes of Vertex, as set forth in the indenture, at 100% of the principal amount of the 2013 Notes to be repurchased, plus any accrued and unpaid interest, if any, to, but excluding, the repurchase date.

If a fundamental change occurs that is also a specific type of change of control under the indenture, the Company will pay a make-whole premium upon the conversion of the 2013 Notes in connection with any such transaction by increasing the applicable conversion rate on such 2013 Notes. The make-whole premium will be in addition to, and not in substitution for, any cash, securities or other assets otherwise due to holders of the 2013 Notes upon conversion. The make-whole premium will be determined by reference to the indenture and is based on the date on which the fundamental change becomes effective and the price paid, or deemed to be paid, per share of the Company's common stock in the transaction constituting the fundamental change, subject to adjustment.

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Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

9. Equity and Debt Offerings and Debt Exchanges (Continued)

The indenture provides the holders of the 2013 Notes with certain remedies if a default occurs under the indenture. If an event of default under the indenture relates solely to the Company's failure to comply with its reporting obligations pursuant to the 2013 Notes, at the election of the Company, the sole remedy of the holders of the 2013 Notes for the first 180 days following such event of default would consist of the right to receive special interest at an annual rate equal to 1.0% of the outstanding principal amount of the 2013 Notes.

Based on the Company's evaluation of the 2013 Notes, the Company determined that the 2013 Notes contain a single embedded derivative. This embedded derivative relates to potential penalty interest payments that could be imposed on the Company for a failure to comply with its reporting obligations pursuant to the 2013 Notes. This embedded derivative required bifurcation as the feature was not clearly and closely related to the host instrument. The Company has determined that the value of this embedded derivative was nominal as of February 19, 2008, December 31, 2008 and September 30, 2009.

On June 10, 2009, the Company exchanged 6,601,000 shares of newly-issued common stock for $143.5 million in aggregate principal amount of the 2013 Notes, plus accrued interest. In the exchanges, the Company issued 46 shares of common stock for each $1,000 in principal amount of 2013 Notes. As a result of the exchanges, the Company incurred a non-cash charge of $12.3 million in the second quarter of 2009. This charge is related to the incremental shares issued in the transaction over the number that would have been issued upon conversion of the 2013 Notes under their original terms, at the original conversion rate of approximately 43.22 shares of common stock per $1,000 in principal amount of the 2013 Notes. In addition, accrued interest of $2.1 million and unamortized debt issuance costs of exchanged convertible notes of $3.5 million were recorded as an offset to additional paid-in capital on the Company's condensed consolidated balance sheet.

10. Acquisition of ViroChem Pharma Inc.

On March 12, 2009, the Company acquired 100% of the outstanding equity of ViroChem, a privately-held biotechnology company based in Canada, for $100.0 million in cash and 10,733,527 shares of the Company's common stock. Vertex acquired ViroChem in order to add two clinical-development stage HCV polymerase inhibitors to Vertex's HCV drug development portfolio. In addition at the time of the acquisition, ViroChem was engaged in additional research stage activities related to viral diseases and was developing an early-stage drug candidate for the treatment of patients with HIV.

The transaction is being accounted for under the acquisition method of accounting. All of the assets acquired and liabilities assumed in the transaction are recognized at their acquisition-date fair values, while transaction costs and restructuring costs associated with the transaction are expensed as incurred.

Purchase Price

The $390.6 million purchase price for ViroChem is based on the acquisition-date fair value of the consideration transferred, which was calculated based on the opening price of the Company's common

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Notes to Condensed Consolidated Financial Statements (Continued)

(unaudited)

10. Acquisition of ViroChem Pharma Inc. (Continued)

stock of $27.07 per share on March 12, 2009. The acquisition-date fair value of the consideration consisted of the following:

	Fair Value of Consideration *(in thousands)*
Cash	$ 100,000
Common stock	290,557
Total	$ 390,557

Allocations of Assets and Liabilities

The Company has allocated the purchase price for ViroChem to net tangible assets and intangible assets, goodwill and a deferred tax liability. The difference between the aggregate purchase price and the fair value of assets acquired and liabilities assumed was allocated to goodwill. The following table summarizes the fair values of the assets acquired and liabilities assumed at the acquisition date:

	Fair Values as of March 12, 2009 *(in thousands)*
Cash and cash equivalents	$ 12,578
Other tangible assets	2,701
Intangible assets	525,900
Goodwill	26,102
Accounts payable and accrued expenses	(14,221)
Deferred tax liability	(162,503)
Net assets	$ 390,557

All $525.9 million of the intangible assets acquired in the ViroChem acquisition relate to in-process research and development assets. These in-process research and development assets primarily relate to ViroChem's two clinical-development stage HCV polymerase inhibitors, VX-222 (formerly VCH-222) and VX-759 (formerly VCH-759), which had estimated fair values of $412.9 million and $105.8 million, respectively. The fair values of VX-222 and VX-759 were measured from the perspective of a market participant. In addition, the Company considered ViroChem's other clinical drug candidates and determined that VCH-286, ViroChem's lead HIV drug candidate, had an estimated fair value of $7.2 million, based on development costs through the acquisition date, and that the other clinical drug candidates had no fair value because the clinical and non-clinical data for those drug candidates did not support further development as of the acquisition date. The Company also considered ViroChem's preclinical programs and other technologies and determined that because of uncertainties related to the safety, efficacy and commercial viability of the potential drug candidates, market participants would not ascribe value to these assets.

If a project is completed, the carrying value of the related intangible asset will be amortized over the remaining estimated life of the asset beginning in the period in which the project is completed. If a project becomes impaired or is abandoned, the carrying value of the related intangible asset will be written down to its fair value and an impairment charge will be taken in the period in which the

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Notes to Condensed Consolidated Financial Statements (Continued)

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10. Acquisition of ViroChem Pharma Inc. (Continued)

impairment occurs. The ViroChem intangible assets will be tested for impairment on an annual basis during the fourth quarter, or earlier if impairment indicators are present.

The deferred tax liability primarily relates to the tax impact of future amortization or impairments associated with the identified intangible assets acquired, which are not deductible for tax purposes.

The difference between the consideration transferred to acquire the business and the fair value of assets acquired and liabilities assumed was allocated to goodwill. This goodwill relates to the potential synergies from the possible development of combination therapies involving telaprevir and the acquired drug candidates. None of the goodwill is expected to be deductible for income tax purposes. During the third quarter of 2009, goodwill was reduced and other tangible assets were increased by $781,000 as a result of an adjustment to ViroChem's balance sheet that was recorded as of the acquisition date.

Acquisition-related Expenses, Including Restructuring

The Company incurred $0 and $7.8 million, respectively, in expenses that are reflected as acquisition-related expenses on the condensed consolidated statements of operations for the three and nine months ended September 30, 2009. These costs include transaction expenses and a restructuring charge that was incurred in March 2009 when Vertex determined it would restructure ViroChem's operations in order to focus ViroChem's activities on its HCV development programs. As a result of this restructuring plan, Vertex recorded a $2.1 million expense related to employee severance, benefits and related costs in the first quarter of 2009 when the liability was incurred. The accrued liability of $2.1 million, which was included in accrued expenses and other current liabilities on the condensed consolidated balance sheet as of March 31, 2009, was paid in the second quarter of 2009.

ViroChem Financial Information

The results of operations of ViroChem have been included in the condensed consolidated financial statements since the acquisition date. ViroChem had no revenues in the period from the acquisition date to September 30, 2009, and ViroChem's net loss in the period from the acquisition date to September 30, 2009 was immaterial to the Company's condensed consolidated financial results. Pro forma results of operations for the three and nine months ended September 30, 2009 and 2008 assuming the acquisition of ViroChem had taken place at the beginning of each period would not differ significantly from Vertex's actual reported results.

11. Sale of HIV Protease Inhibitor Royalty Stream

In December 1993, the Company and GlaxoSmithKline plc ("GlaxoSmithKline") entered into a collaboration agreement to research, develop and commercialize HIV protease inhibitors, including Agenerase (amprenavir) and Lexiva/Telzir (fosamprenavir calcium). Under the collaboration agreement, GlaxoSmithKline agreed to pay the Company royalties on net sales of drugs developed under the collaboration.

The Company began earning a royalty from GlaxoSmithKline in 1999 on net sales of Agenerase, in the fourth quarter of 2003 on net sales of Lexiva, and in the third quarter of 2004 on net sales of Telzir. GlaxoSmithKline has the right to terminate its arrangement with the Company without cause upon twelve months' notice. Termination of the collaboration agreement by GlaxoSmithKline will relieve it of its obligation to make further payments under the agreement and will end any license

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11. Sale of HIV Protease Inhibitor Royalty Stream (Continued)

granted to GlaxoSmithKline by the Company under the agreement. In June 1996, the Company and GlaxoSmithKline obtained a worldwide, non-exclusive license under certain G.D. Searle & Co. ("Searle," now owned by Pharmacia/Pfizer) patents in the area of HIV protease inhibition. Searle is paid royalties based on net sales of Agenerase and Lexiva/Telzir.

On May 30, 2008, the Company entered into a purchase agreement (the "Purchase Agreement") with Fosamprenavir Royalty, L.P. ("Fosamprenavir Royalty") pursuant to which the Company sold, and Fosamprenavir Royalty purchased, the Company's right to receive royalty payments, net of royalty amounts to be earned and due to Searle, arising from sales of Lexiva/Telzir and Agenerase under the Company's 1993 agreement with GlaxoSmithKline, from April 1, 2008 to the end of the term of the collaboration agreement, for a one-time cash payment of $160.0 million. In accordance with the Purchase Agreement, GlaxoSmithKline will make all royalty payments, net of the subroyalty amounts payable to Searle, directly to Fosamprenavir Royalty. The Purchase Agreement also contains other representations, warranties, covenants and indemnification obligations. The Company continues to be obligated for royalty amounts earned and that are due to Searle. The Company has instructed GlaxoSmithKline to pay such amounts directly to Searle as they become due.

The Company classified the proceeds received from Fosamprenavir Royalty as deferred revenues, to be recognized as royalty revenues over the life of the collaboration agreement, because of the Company's continuing involvement in the royalty arrangement over the term of the Purchase Agreement. Such continuing involvement, which is required pursuant to covenants contained in the Purchase Agreement, includes overseeing GlaxoSmithKline's compliance with the collaboration agreement, monitoring and defending patent infringement, adverse claims or litigation involving the royalty stream, undertaking to cooperate with Fosamprenavir Royalty's efforts to find a new license partner if GlaxoSmithKline terminates the collaboration agreement, and complying with the license agreement with Searle, including the obligation to make future royalty payments to Searle. Because the transaction was structured as a non-cancellable sale, the Company has no significant continuing involvement in the generation of the cash flows due to Fosamprenavir Royalty and there are no guaranteed rates of return to Fosamprenavir Royalty, the Company has recorded the proceeds as deferred revenues.

The Company recorded $155.1 million, representing the proceeds of the transaction less the net royalty payable to Fosamprenavir Royalty for the period from April 1, 2008 through May 30, 2008, as deferred revenues to be recognized as royalty revenues over the life of the collaboration agreement based on the units-of-revenue method. The amount of deferred revenues to be recognized as royalty revenues in each period is calculated by multiplying the following: (1) the net royalty payments due to Fosamprenavir Royalty for the period by (2) the ratio of the remaining deferred revenue amount to the total estimated remaining net royalties that GlaxoSmithKline is expected to pay Fosamprenavir Royalty over the term of the collaboration agreement. On May 31, 2008, the Company began recognizing these deferred revenues. In addition, the Company will continue to recognize royalty revenues for the portion of the royalty earned that is due to Searle.

The Company will recognize royalty expenses in each period based on (i) deferred transaction expenses in the same manner and over the same period in which the related deferred revenues are recognized as royalty revenues plus (ii) the subroyalty paid by GlaxoSmithKline to Searle on net sales of Agenerase and Lexiva/Telzir for the period.

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12. Collaborative Arrangements

Janssen Pharmaceutica, N.V.

In June 2006, the Company entered into a collaboration agreement with Janssen Pharmaceutica, N.V. ("Janssen") for the development, manufacture and commercialization of telaprevir, the Company's lead investigative HCV protease inhibitor. Under the agreement, Janssen has agreed to be responsible for 50% of the drug development costs incurred under the development program for the parties' territories (North America for the Company, and the rest of the world, other than the Far East, for Janssen) and has exclusive rights to commercialize telaprevir in its territories including Europe, South America, the Middle East, Africa and Australia. Under the development program for telaprevir, each party is incurring reimbursable drug development costs. Reimbursable costs incurred by Janssen are offset against reimbursable costs incurred by the Company. Amounts that Janssen pays to the Company for reimbursement, after the offset, are recorded as revenues. Accordingly, as Janssen incurs increased costs under the development program, the Company's revenues attributable to the reimbursement are reduced.

Janssen made a $165.0 million up-front license payment to the Company in July 2006. The up-front license payment is being amortized over the Company's estimated period of performance under the collaboration agreement. Under the agreement, Janssen agreed to make contingent milestone payments, which could total up to $380.0 million if telaprevir is successfully developed, approved and launched as a product. As of September 30, 2009, the Company had earned $100.0 million of these contingent milestone payments under the agreement. The remaining $280.0 million in milestones under the Company's agreement with Janssen include $100.0 million related to filing and approval for telaprevir from the European Medicines Evaluation Agency and $150.0 million related to the launch of telaprevir in the European Union. On September 30, 2009, the Company entered into two financial transactions related to the $250.0 million in milestones related to the filing, approval and launch of telaprevir in the European Union. Please refer to Note 13, "September 2009 Financial Transactions."

The collaboration agreement with Janssen also provides the Company with royalties on any sales of telaprevir in the Janssen territories, with a tiered royalty averaging in the mid-20% range, as a percentage of net sales in the Janssen territories, depending upon successful commercialization of telaprevir. Each of the parties will be responsible for drug supply in their respective territories. However, the agreement provides for the purchase by Janssen from the Company of materials required for Janssen's manufacture of the active pharmaceutical ingredient. In addition, Janssen will be responsible for certain third-party royalties on net sales in its territories. Janssen may terminate the agreement without cause at any time upon six months' notice to the Company.

During the three and nine months ended September 30, 2009, the Company recognized $10.2 million and $40.2 million, respectively, in revenues under the Janssen agreement, which included an amortized portion of the up-front payment and net reimbursements from Janssen for telaprevir development costs. During the three months ended September 30, 2008, the Company recognized $15.2 million in revenues under the Janssen agreement, which included an amortized portion of the up-front payment and net reimbursements from Janssen for telaprevir development costs. During the nine months ended September 30, 2008, the Company recognized $98.7 million in revenues under the Janssen agreement, which included an amortized portion of the up-front payment, a milestone of $45.0 million in connection with the commencement of a Phase 3 clinical trial of telaprevir, a milestone of $10.0 million in connection with the commencement of the Phase 2 clinical trial of telaprevir in

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12. Collaborative Arrangements (Continued)

patients with genotype 2 and genotype 3 HCV infection and net reimbursements from Janssen for telaprevir development costs.

Mitsubishi Tanabe Pharma Corporation

In June 2004, the Company entered into a collaboration agreement (the "MTPC Agreement") with Mitsubishi Tanabe Pharma Corporation ("Mitsubishi Tanabe"), pursuant to which Mitsubishi Tanabe agreed to provide financial and other support for the development and commercialization of telaprevir. Under the terms of the agreement, Mitsubishi Tanabe has the right to develop and commercialize telaprevir in Japan and certain other Far East countries. The MTPC Agreement provided for payments by Mitsubishi Tanabe to the Company through Phase 2 clinical development, including an up-front license fee, development stage milestone payments and reimbursement of certain drug development costs for telaprevir.

On July 30, 2009, the Company amended the MTPC Agreement. Under the amended agreement, the Company received $105.0 million in the third quarter of 2009, and will be eligible to receive further contingent milestone payments, which if realized would range between $15.0 million and $65.0 million in the aggregate. The amended agreement provides to Mitsubishi Tanabe a fully-paid license to commercialize telaprevir to treat HCV infection in Japan and specified other countries in the Far East, as well as rights to manufacture telaprevir for sale in its territory. Mitsubishi Tanabe is responsible for its own development and manufacturing costs in its territory. Mitsubishi Tanabe may terminate the agreement at any time without cause upon 60 days' prior written notice to the Company.

Prior to the amendment, the Company recognized revenues based on an amortized portion of the up-front payment, milestones, if any, and reimbursement of certain of the Company's expenses incurred in telaprevir development. The $105.0 million payment that the Company received in the third quarter of 2009 pursuant to the amended agreement is a nonrefundable, up-front license fee and revenues related to this payment are being recognized on a straight-line basis over the Company's estimated period of performance under the agreement. The Company recognized revenues from Mitsubishi Tanabe of $6.9 million and $7.7 million, respectively, in the three and nine months ended September 30, 2009, and $2.1 million and $7.9 million, respectively, in the three and nine months ended September 30, 2008.

Merck & Co., Inc.

In June 2004, the Company entered into a global collaboration with Merck & Co., Inc. ("Merck") to develop and commercialize Aurora kinase inhibitors for the treatment of cancer. Merck is responsible for worldwide clinical development and commercialization of all compounds developed under the collaboration and will pay the Company royalties on any product sales. Merck may terminate the agreement at any time without cause upon 90 days' advance written notice, except that six months' advance written notice is required for termination at any time when a product has marketing approval in a major market and the termination is not the result of a safety issue. In the third quarter of 2008, the Company recognized a milestone payment from Merck for $6.0 million. The Company recognized $0 and $6.0 million, respectively, of revenues related to this collaboration in the nine months ended September 30, 2009 and 2008, respectively.

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13. September 2009 Financial Transactions

2012 Notes

On September 30, 2009, the Company sold $155.0 million in aggregate principal amount of secured notes due 2012 (the "2012 Notes") for an aggregate of $122.2 million pursuant to a note purchase agreement with Olmsted Park S.A. (the "Purchaser"). The 2012 Notes were issued pursuant to, and the 2012 Notes are governed by the terms of, an indenture entered into on September 30, 2009 between the Company and U.S. Bank National Association, as trustee and collateral agent.

The 2012 Notes were issued at a discount and do not pay current interest prior to maturity. The 2012 Notes will mature on October 31, 2012, subject to earlier mandatory redemption to the extent milestone events set forth in the Company's collaboration with Janssen are achieved prior to October 31, 2012. $100.0 million of these potential milestone payments relate to the filing and approval of telaprevir in the European Union and $55.0 million relate to the launch of telaprevir in the European Union. The Company will be required to redeem the portion of the 2012 Notes equal to each milestone payment as each such milestone payment is earned under the Janssen collaboration.

The holders of the 2012 Notes have the right to cause the Company to repay all or any part of the 2012 Notes at 100% of the principal amount of the 2012 Notes to be repurchased if a change of control of the Company occurs. The Company may also redeem all or any part of the 2012 Notes at any time at 100% of the principal amount of the 2012 Notes to be redeemed. Upon certain events of default occurring and continuing, either the trustee or the holders of not less than 25% in aggregate principal amount of the 2012 Notes then outstanding may declare the principal of the 2012 Notes immediately due and payable. In the case of certain events of bankruptcy, insolvency or reorganization relating to the Company, the principal amount of the 2012 Notes shall automatically become and be immediately due and payable.

The Company has determined that the 2012 Notes contain an embedded derivative related to the potential mandatory redemption or early repayment of the 2012 Notes at the principal amount prior to their maturity date. The Company bifurcated the embedded derivative from the 2012 Notes because the features of the embedded derivative were not clearly and closely related to the 2012 Notes.

In connection with the issuance of the 2012 Notes, the Company granted a security interest with respect to $155.0 million of future telaprevir milestone payments that the Company is eligible to receive from Janssen for the potential future filing, approval and launch of telaprevir in the European Union.

The Company determined that the 2012 Notes had a residual value upon issuance of $108.2 million, which excludes the $10.7 million value of the embedded derivative. In future periods, the Company expects that it will record a quarterly interest expense determined using the effective interest rate method, which will increase the amount of the liability for the 2012 Notes each quarter by an amount corresponding to this interest expense through the stated maturity date, unless redeemed or repaid earlier. The Company determined that the fair value of the embedded derivative as of September 30, 2009 was $10.7 million based on a probability-weighted model of the discounted value that a market participant would ascribe to the potential mandatory redemption and early repayment features of the 2012 Notes. The fair value of this embedded derivative will be evaluated quarterly, with any changes in the fair value of the embedded derivative resulting in a corresponding loss or gain. The liabilities related to the 2012 Notes, including the embedded derivative, are reflected together on the Company's condensed consolidated balance sheet as a long-term liability.

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Notes to Condensed Consolidated Financial Statements (Continued)

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13. September 2009 Financial Transactions (Continued)

Sale of Potential Milestone Payments

On September 30, 2009, the Company entered into two purchase agreements with the Purchaser pursuant to which the Company sold its rights to an aggregate of $95.0 million in potential future milestone payments pursuant to the Janssen collaboration related to the launch of telaprevir in the European Union for non-refundable payments totaling $32.8 million. The $32.8 million cash payment was received on October 1, 2009. The purchase agreements contain representations, warranties, covenants and indemnification obligations of each party, including the obligation of the Company to make the milestone payments to the Purchaser when the underlying milestone events are achieved if the Janssen collaboration had been terminated.

The Company determined that this sale of a potential future revenue stream should be accounted for as a liability related to the sale of the future milestone payments because the Company has significant continuing involvement in the generation of the potential revenues pursuant to its collaboration agreement with Janssen. As a result, the Company recorded a liability on its condensed consolidated balance sheet equal to the fair value of the purchase agreements. No revenues or deferred revenues have been recorded on account of the $32.8 million that the Company received from the Purchaser pursuant to these purchase agreements. In addition, the Company determined that the purchase agreements are free-standing derivative instruments. The Company determined that the initial aggregate fair value of the free-standing derivative created by the sale of the rights to future milestone payments to the Purchaser pursuant to the purchase agreements was $36.2 million based on a probability-weighted model of the discounted value that a market participant would ascribe to these rights. The models used to estimate the fair value of the rights sold to the Purchaser pursuant to the purchase agreements require the Company to make estimates regarding, among other things, the assumptions a market participant would make regarding the timing and probability of achieving the milestones and the appropriate discount rates. The fair value of the rights sold to the Purchaser pursuant to the purchase agreements will be evaluated each reporting period, with any changes in the fair value of the derivative instruments based on the probability of achieving the milestones, the timing of achieving the milestones or discount rates resulting in a corresponding gain or loss. Because the Company's estimate of the fair value of the rights to the future milestone payments includes the application of a discount rate to reflect the time-value of money, the Company expects to record interest costs related to this liability balance each quarter.

14. Management Transition

Matthew W. Emmens, one of the Company's directors, became the Company's Chairman and Chief Executive Officer in May 2009. On February 5, 2009, the Company entered into a transition arrangement with Dr. Joshua S. Boger. The benefits to Dr. Boger under the transition arrangement include: (i) a lump sum payment of $2.9 million payable in November 2009, (ii) 18 months' accelerated vesting of his outstanding stock options, which will remain exercisable until December 31, 2010, subject to specified limitations, (iii) 18 months' accelerated vesting of each outstanding restricted stock award, treating each award as if it vests ratably over the term of the grant rather than the end of the service period and (iv) reimbursement for certain expenses. The Company recorded expenses of $0 and $2.9 million, respectively, in the three and nine months ended September 30, 2009 in connection with the lump sum payable in November 2009. In the three and nine months ended September 30, 2009, the

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Notes to Condensed Consolidated Financial Statements (Continued)

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14. Management Transition (Continued)

Company recorded non-cash charges of $0 and $10.5 million, respectively, due to the acceleration and extended exercisability of Dr. Boger's equity awards under the transition arrangement.

15. Guarantees

As permitted under Massachusetts law, the Company's Articles of Organization and Bylaws provide that the Company will indemnify certain of its officers and directors for certain claims asserted against them in connection with their service as an officer or director. The maximum potential amount of future payments that the Company could be required to make under these indemnification provisions is unlimited. However, the Company has purchased directors' and officers' liability insurance policies that could reduce its monetary exposure and enable it to recover a portion of any future amounts paid. No indemnification claims are currently outstanding and the Company believes the estimated fair value of these indemnification arrangements is minimal.

The Company customarily agrees in the ordinary course of its business to indemnification provisions in agreements with clinical trial investigators and sites in its drug development programs, in sponsored research agreements with academic and not-for-profit institutions, in various comparable agreements involving parties performing services for the Company in the ordinary course of business, and in its real estate leases. The Company also customarily agrees to certain indemnification provisions in its drug discovery, development and commercialization collaboration agreements. With respect to the Company's clinical trials and sponsored research agreements, these indemnification provisions typically apply to any claim asserted against the investigator or the investigator's institution relating to personal injury or property damage, violations of law or certain breaches of the Company's contractual obligations arising out of the research or clinical testing of the Company's compounds or drug candidates. With respect to lease agreements, the indemnification provisions typically apply to claims asserted against the landlord relating to personal injury or property damage caused by the Company, to violations of law by the Company or to certain breaches of the Company's contractual obligations. The indemnification provisions appearing in the Company's collaboration agreements are similar, but in addition provide some limited indemnification for its collaborator in the event of third-party claims alleging infringement of intellectual property rights. In each of the cases above, the indemnification obligation generally survives the termination of the agreement for some extended period, although the obligation typically has the most relevance during the contract term and for a short period of time thereafter. The maximum potential amount of future payments that the Company could be required to make under these provisions is generally unlimited. The Company has purchased insurance policies covering personal injury, property damage and general liability that reduce its exposure for indemnification and would enable it in many cases to recover a portion of any future amounts paid. The Company has never paid any material amounts to defend lawsuits or settle claims related to these indemnification provisions. Accordingly, the Company believes the estimated fair value of these indemnification arrangements is minimal.

On February 12, 2008, the Company entered into underwriting agreements with Merrill Lynch, Pierce, Fenner & Smith Incorporated, on September 18, 2008, the Company entered into an underwriting agreement with Goldman, Sachs & Co. and on February 18, 2009, the Company entered into an underwriting agreement with Merrill Lynch, Pierce, Fenner & Smith Incorporated (collectively, the "Underwriting Agreements"), as the representative of the several underwriters, if any, named in such agreements, relating to the public offering and sale of shares of the Company's common stock or

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Notes to Condensed Consolidated Financial Statements (Continued)

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15. Guarantees (Continued)

convertible senior subordinated notes. The Underwriting Agreement relating to each offering requires the Company to indemnify the underwriters against any loss they may suffer by reason of the Company's breach of representations and warranties relating to that public offering, the Company's failure to perform certain covenants in those agreements, the inclusion of any untrue statement of material fact in the prospectus used in connection with that offering, the omission of any material fact needed to make those materials not misleading, and any actions taken by the Company or its representatives in connection with the offering. The representations, warranties and covenants in the Underwriting Agreements are of a type customary in agreements of this sort. The Company believes the estimated fair value of these indemnification arrangements is minimal.

16. Contingencies

The Company has certain contingent liabilities that arise in the ordinary course of its business activities. The Company accrues a reserve for contingent liabilities when it is probable that future expenditures will be made and such expenditures can be reasonably estimated. There were no contingent liabilities accrued as of September 30, 2009 or December 31, 2008.

17. Recent Accounting Pronouncements

In September 2009, the Financial Accounting Standards Board ("FASB") provided updated guidance (1) on whether multiple deliverables exist, how the deliverables in a revenue arrangement should be separated, and the consideration allocated; (2) requiring an entity to allocate revenue in an arrangement using estimated selling prices of deliverables if a vendor does not have vendor-specific objective evidence or third-party evidence of selling price; and (3) eliminating the use of the residual method and requiring an entity to allocate revenue using the relative selling price method. The update is effective for fiscal years beginning on or after June 15, 2010, with early adoption permitted. Adoption may either be on a prospective basis or by retrospective application. The Company is currently evaluating the effect of this update to its accounting and reporting systems and processes; however, at this time the Company is unable to quantify the impact on its condensed consolidated financial statements of its adoption or determine the timing and method of its adoption.

In June 2009, the FASB issued an update to the accounting and disclosure requirements for the consolidation of variable interest entities ("VIE"s). This update requires a qualitative approach to identifying a controlling financial interest in a VIE, and requires ongoing assessment of whether an entity is a VIE and whether an interest in a VIE makes the holder the primary beneficiary of the VIE. This update will be effective for the Company on January 1, 2010. The Company is evaluating the effect of the pending adoption of this update on the Company's condensed consolidated financial statements.

In June 2009, the FASB issued an update to the accounting and disclosure requirements for transfers of financial assets. This update is intended to improve the relevance, representational faithfulness, and comparability of the information that a reporting entity provides in its financial reports about a transfer of financial assets; the effects of a transfer on its financial position, financial performance, and cash flows; and a transferor's continuing involvement in transferred financial assets. The recognition and measurement provisions of this update shall be applied to transfers that occur on or after January 1, 2010, which is the date upon which this accounting update becomes effective for the Company. The Company is evaluating the effect of the pending adoption of this update on the Company's condensed consolidated financial statements.

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

Overview

We are in the business of discovering, developing and commercializing small molecule drugs for the treatment of serious diseases. Telaprevir, our lead drug candidate, is an oral hepatitis C protease inhibitor and one of the most advanced of a new class of antiviral treatments in clinical development that targets hepatitis C virus, or HCV, infection. Telaprevir is being evaluated in a fully-enrolled registration program focused on treatment-naïve and treatment-failure patients with genotype 1 HCV. We currently intend to submit a new drug application, or NDA, for telaprevir in the United States in the second half of 2010, assuming the successful completion of the registration program. We also are developing, among other compounds, VX-770 and VX-809, drug candidates for the treatment of patients with cystic fibrosis, or CF, and VX-509, a Janus kinase 3, or JAK3, inhibitor designed for the treatment of immune-mediated inflammatory diseases including rheumatoid arthritis. In the second quarter of 2009, we began a registration program for VX-770 that focuses on patients with CF who have the G551D mutation in the gene responsible for CF. We intend to continue investing in our research programs with the goal of adding to our pipeline drug candidates designed to address significant unmet medical needs and provide substantial benefits to patients.

Business Focus

Over the upcoming years, we expect to focus a substantial portion of our resources on the development and commercialization of telaprevir. Our clinical development program is designed to support registration by us of telaprevir in North America for treatment-naïve and treatment-failure patients with genotype 1 HCV, and by our collaborators, Janssen Pharmaceutica, N.V., a Johnson & Johnson company, and Mitsubishi Tanabe Pharma Corporation, in international markets.

In the second quarter of 2009, we initiated a registration program for VX-770 focused on patients with CF who have the G551D mutation. We also expect to continue the development of VX-809, an investigational corrector compound that is being evaluated in a Phase 2a clinical trial in patients with CF. As a result, we expect that over the next several years we will need to substantially increase resources focused on the development of our CF drug candidates. We plan to leverage the infrastructure that we are building in preparation for the potential launch of telaprevir to support the potential launch of VX-770.

In addition to the registration programs for telaprevir and VX-770, we plan to continue investing in our research and development programs and to develop selected drug candidates that emerge from those programs, alone or with third-party collaborators. We believe that meaningful information will be provided by ongoing and planned Phase 2 clinical trials for a number of our earlier-stage drug candidates, including a planned combination clinical trial in patients with HCV of telaprevir with VX-222, our recently acquired HCV polymerase inhibitor, ongoing and planned Phase 2 clinical trials of VX-809 in patients with the most common CF mutation, and a planned Phase 2a clinical trial of VX-509 in patients with moderate to severe rheumatoid arthritis, allowing us to make decisions regarding future development activities in these programs.

Drug Discovery and Clinical Development

Discovery and development of a new pharmaceutical product is a lengthy and resource-intensive process, which may take 10 to 15 years or more. Throughout this entire process, potential drug candidates are subjected to rigorous evaluation, driven in part by stringent regulatory considerations, designed to generate information concerning efficacy, side-effects, proper dosage levels and a variety of other physical and chemical characteristics that are important in determining whether a drug candidate should be approved for marketing as a pharmaceutical product. The toxicity characteristics and profile of drug candidates at varying dose levels administered for varying periods of time also are monitored

and evaluated during the nonclinical and clinical development process. Most chemical compounds that are investigated as potential drug candidates never progress into formal development, and most drug candidates that do advance into formal development never become commercial products. A drug candidate's failure to progress or advance may be the result of any one or more of a wide range of adverse experimental outcomes including, for example, the lack of sufficient efficacy against the disease target, the lack of acceptable absorption characteristics or other physical properties, difficulties in developing a cost-effective manufacturing or formulation method, or the discovery of toxicities or side-effects that are unacceptable for the disease indication being treated or that adversely affect the competitive commercial profile of the drug candidate.

Designing, coordinating and conducting large-scale clinical trials to determine the efficacy and safety of drug candidates and to support the submission of an NDA requires significant financial resources, along with extensive technical and regulatory expertise and infrastructure. Prior to commencing a late-stage clinical trial of any drug candidate, we must work collaboratively with regulatory authorities, including the United States Food and Drug Administration, or FDA, in order to identify the specific scientific issues that need to be addressed by the clinical trials in order to support continued development and approval of the drug candidate. These discussions with regulatory authorities typically occur over a period of months and can result in significant changes to planned clinical trial designs or timelines. In addition, even after agreement with respect to a clinical trial design has been reached, regulatory authorities may request additional clinical trials or changes to existing clinical trial protocols. If the data from our ongoing clinical trials or nonclinical studies regarding the safety or efficacy of our drug candidates are not favorable, we may be forced to delay or terminate the clinical development program, which, particularly in the case of telaprevir, would materially harm our business. Further, even if we obtain marketing approvals from the FDA and comparable foreign regulatory authorities in a timely manner, we cannot be sure that the drug will be commercially successful.

Our investments are subject to the considerable risk that one or more of our drug candidates will not progress to product registration due to a wide range of adverse experimental outcomes. We monitor the results of our clinical trials, discovery research and our nonclinical studies and frequently evaluate our portfolio investments in light of new data and scientific, business and commercial insights with the objective of balancing risk and potential. This process can result in relatively abrupt changes in focus and priority as new information becomes available and is analyzed and we gain additional insights into ongoing programs and potential new programs. Although we believe that our development activities and the clinical trial data we have obtained to date have reduced the risks associated with obtaining marketing approval for telaprevir, we cannot be sure that our development of telaprevir will lead successfully to regulatory approval of telaprevir on a timely basis, or at all, or that obtaining regulatory approval will lead to commercial success of telaprevir. With respect to our other drug candidates, we have more limited data from clinical trials and nonclinical studies and as a result it is difficult to predict which, if any, of these drug candidates will result in pharmaceutical products.

Drug Candidates

HCV

Telaprevir

Telaprevir, our oral HCV protease inhibitor, is being investigated in a registration program focused on patients with genotype 1 HCV that includes ADVANCE and ILLUMINATE, which are Phase 3 clinical trials in treatment-naïve patients, and REALIZE, which is a Phase 3 clinical trial in treatment-failure patients. Enrollment in ADVANCE, ILLUMINATE and REALIZE was completed in October 2008, January 2009 and February 2009, respectively. Telaprevir dosing is complete in all three of these Phase 3 clinical trials. We expect to have sustained viral response, or SVR, data from the ADVANCE

and ILLUMINATE clinical trials in the first half of 2010 and SVR data from the REALIZE clinical trial in mid-2010. We currently intend to submit an NDA for telaprevir in the second half of 2010, assuming the successful completion of our ongoing registration program. In addition to the clinical trials in our registration program, several additional clinical trials are being conducted by us and our collaborators.

The successful development and commercialization of telaprevir is critical to the success of our business as currently conducted. While we are devoting significant resources, time and attention to the development, potential regulatory approval and a successful commercial launch of telaprevir, all of these efforts involve significant scientific and execution risks and can be adversely affected by events, such as competitive activities, adverse trial results and regulatory actions, outside of our direct control.

PROVE Phase 2b Clinical Trials

We have completed three Phase 2b clinical trials of telaprevir-based combination therapy in patients with genotype 1 HCV, which enrolled an aggregate of approximately 580 treatment-naïve patients and 440 patients who did not achieve an SVR with a previous treatment with pegylated-interferon, or peg-IFN, and ribavirin, or RBV. The SVR rates on an intent-to-treat basis of the patients in the 24-week telaprevir-based treatment arms and the control arms of PROVE 1 and PROVE 2, the two Phase 2b clinical trials that evaluated treatment-naïve patients, are set forth in the table below:

	PROVE 1	PROVE 2
24-week telaprevir-based treatment arm:		
telaprevir in combination with peg-IFN and RBV for 12 weeks, followed by peg-IFN and RBV alone for 12 weeks	61%	69%
48-week control arm:		
48 weeks of therapy with peg-IFN and RBV	41%	46%

The SVR rates of the patients on an intent-to-treat basis in the 24-week telaprevir-based triple-therapy treatment arm, the 48-week telaprevir-based treatment arm and the control arm of PROVE 3, the Phase 2b clinical trial that evaluated treatment-failure patients, are set forth in the table below:

	Non-responders	Relapsers	Breakthroughs	Total
24-week telaprevir-based triple-therapy treatment arm:				
telaprevir in combination with peg-IFN and RBV for 12 weeks, followed by peg-IFN and RBV alone for 12 weeks	39% (n=66)	69% (n=42)	57% (n=7)	51% (n=115)
48-week telaprevir-based treatment arm:				
telaprevir in combination with peg-IFN and RBV for 24 weeks, followed by peg-IFN and RBV alone for 24 weeks	38% (n=64)	76% (n=41)	50% (n=8)	52% (n=113)
48-week control arm:				
48 weeks of therapy with peg-IFN and RBV	9% (n=68)	20% (n=41)	40% (n=5)	14% (n=114)

The adverse event profile of telaprevir generally has been consistent across our Phase 2 clinical trials, which have principally involved clinical trial sites in North America and Europe. Safety data from our Phase 2 clinical trials indicated that the most common adverse events, regardless of treatment assignment, were fatigue, rash, headache and nausea. The most common adverse events reported more frequently in patients receiving telaprevir than in the control arms were gastrointestinal events, skin events—rash and pruritus—and anemia. There have been reports of severe rashes in clinical trials involving telaprevir-based treatments, including several reports from the clinical trials being conducted by Mitsubishi Tanabe in Japan, where telaprevir has advanced into Phase 3 clinical trials in combination with peg-IFN and RBV. Rash resulted in treatment discontinuations in the telaprevir-based treatment arms in approximately 7% of patients in PROVE 1 and PROVE 2 and 5% of patients in PROVE 3. Other adverse events reported in our Phase 2 clinical trials generally were similar in type and frequency to those seen with peg-IFN and RBV treatment.

Additional Phase 2 Clinical Trials of Telaprevir

In October 2009, we announced data from the C208 trial, which was an exploratory open-label clinical trial that enrolled 161 treatment-naïve patients infected with genotype 1 HCV. The purpose of the C208 trial was to compare twice-daily dosing regimens of telaprevir—1,125 mg every 12 hours—in combination with peg-IFN and RBV, with three-times daily dosing regimens—750 mg every 8 hours—in combination with peg-IFN and RBV. A three-times daily dosing regimen is being used in the ongoing registration program for telaprevir and has also been used in the other clinical trials for telaprevir.

Patients received telaprevir, peg-IFN and RBV for 12 weeks followed by an additional 12 or 36 weeks of peg-IFN and RBV alone in a response-guided trial design. Patients who achieved undetectable HCV RNA—<25 IU/mL, undetectable per Roche COBAS TaqMan HCV test—at week 4, which is referred to as a rapid viral response, or RVR, and who maintained undetectable HCV RNA through week 20, were able to stop all treatment after 24 weeks. Patients who did not meet the response-guided criteria received a total of 48 weeks of peg-IFN and RBV therapy. 18% of patients across the treatment arms were required to continue treatment for 48 weeks.

The following table summarizes the RVR and SVR data on an intent-to-treat basis from the C208 trial.

Telaprevir Dosing	Combination Therapy	Total Number of Patients	RVR (undetectable at week 4 on treatment)	SVR (undetectable 24 weeks after end-of-treatment)
1,125 mg every 12 hours	alfa-2a (PEGASYS)/RBV	40	83% (n=33)	83% (n=33)
1,125 mg every 12 hours	alfa-2b (PEGINTRON)/RBV	39	67% (n=26)	82% (n=32)
750 mg every 8 hours	alfa-2a (PEGASYS)/RBV	40	80% (n=32)	85% (n=34)
750 mg every 8 hours	alfa-2b (PEGINTRON)/RBV	42	69% (n=29)	81% (n=34)

The frequency and severity of adverse events and the rate of treatment discontinuations were similar to those reported in prior telaprevir trials. The most common adverse events reported in patients in this clinical trial were pruritis, nausea, rash, anemia, flu-like illness, fatigue and headache, and the adverse events were similar overall between the patient groups receiving three-times daily dosing and those receiving twice-daily dosing. Serious adverse events leading to permanent treatment discontinuation of all drugs occurred in 5% of patients and were mainly related to rash, which resulted in discontinuation of 4 out of 161, or 3%, of patients and anemia, which resulted in discontinuation of 3 out of 161, or 2%, of patients.

In October 2009, we also announced interim data from a clinical trial, referred to as the 107 Trial, in patients who did not achieve an SVR in the control arms of the PROVE 1, PROVE 2 or PROVE 3 clinical trials. In the open-label 107 Trial, treatment-experienced patients with genotype 1 HCV were

treated with telaprevir triple combination therapy for 12 weeks followed by 12 or 36 weeks of treatment with peg-IFN and RBV alone. In 2008, the protocol for the 107 Trial underwent several amendments, including important amendments that affected prior null-responders.

The table below sets forth the interim data from 94 of the 117 patients enrolled in the 107 Trial, including SVR data and data regarding patients who relapsed in the 24 weeks after end-of-treatment.

Patient Group	Treatment Regimen	SVR	Viral Relapse Rates
Prior Null Responders	telaprevir triple combination for 12 weeks, followed by peg-IFN and RBV alone for 36 weeks	57% (16/28)	20% (4/20)
Prior Partial Responders	25 patients treated with telaprevir triple combination therapy for 12 weeks, followed by peg-IFN and RBV alone for 12 weeks 3 patients treated with telaprevir triple combination therapy combination for 12 weeks, followed by peg-IFN and RBV alone for 36 weeks 1 patient who discontinued prior to completing 12 weeks of telaprevir triple combination therapy	55% (16/29)	22% (5/23)
Prior Relapsers	25 patients treated with telaprevir triple combination therapy for 12 weeks, followed by peg-IFN and RBV alone for 12 weeks 3 patients treated with telaprevir triple combination therapy for 12 weeks, followed by peg-IFN and RBV alone for 36 weeks 1 patient who discontinued prior to completing 12 weeks of telaprevir triple combination therapy	90% (26/29)	4% (1/28)
Prior Viral Breakthroughs	7 patients treated with telaprevir triple combination therapy for 12 weeks, followed by peg-IFN and RBV alone for 12 weeks 1 patient treated with telaprevir triple combination therapy for 12 weeks, followed by peg-IFN and RBV alone for 36 weeks	75% (6/8)	0% (0/6)

The interim results reported in the table above reflect data from all prior partial responders, relapsers and viral breakthroughs and from the prior null responders who we considered to have received an appropriate treatment regimen based on their prior response to peg-IFN and RBV, consistent with certain amendments made during the conduct of the 107 Trial. The table does not include data from 23 prior null responders, who, prior to protocol amendments, were designated to receive only 24 weeks of therapy, and a portion of whom met the strict stopping rule criteria at week 4 that were in effect at that time. When the 107 Trial began, all patients were to receive 12 weeks of telaprevir in combination with peg-IFN and RBV followed by an additional 12 weeks of peg-IFN and RBV. Stopping rules required any patient who did not achieve undetectable HCV RNA by week 4 to stop all treatment. In 2008, the 107 Trial protocol was amended in several respects. The most important change to the protocol was to the week 4 stopping rules, as it became evident that treatment-failure patients had a somewhat slower viral response to treatment with telaprevir triple-combination therapy than did treatment-naïve patients. Therefore, following the protocol amendment patients who had detectable HCV RNA at week 4 were permitted to continue therapy. In addition, while the initial study protocol specified 24 weeks of total treatment for all patients, a longer total treatment duration of 48 weeks was determined to be warranted in prior null responders to provide a higher likelihood of achieving an SVR.

Discontinuation of all therapy due to adverse events occurred in eight patients in the 107 Trial. A complete safety analysis is still being performed and will be reported when the full data are presented at a medical conference expected in 2010.

HCV Polymerase Inhibitors

HCV polymerase inhibitors, including our HCV polymerase inhibitors VX-222 (formerly VCH-222) and VX-759 (formerly VCH-759), are direct-acting antivirals that inhibit the ability of the HCV to replicate through a mechanism distinct from HCV protease inhibitors such as telaprevir. VX-222 and VX-759 were evaluated by ViroChem Pharma, Inc., or ViroChem, in Phase 1 clinical trials prior to our acquisition of ViroChem in March 2009. In a Phase 1 viral kinetics clinical trial involving five treatment-naïve patients with genotype 1 HCV infection, VX-222 dosed at 750 mg twice daily resulted in a median 3.7 log10 decrease in HCV RNA—equivalent to a 5,000-fold reduction in virus in the blood—at the end of three days of dosing. The results were consistent from patient to patient, and across HCV genotype 1 subtypes. In clinical evaluations of VX-222 to date, no serious adverse events have been observed.

We are conducting a multi-dose viral kinetics clinical trial to evaluate the antiviral activity, safety, tolerability and pharmacokinetics of VX-222 in patients with genotype 1 HCV infection. This ongoing multi-dose clinical trial of VX-222 will evaluate the antiviral activity of VX-222 dosed as monotherapy for three days in approximately 32 treatment-naïve patients with HCV genotype 1 infection. We also are conducting a drug-drug interaction clinical trial of VX-222 and telaprevir in healthy volunteers. We expect data from these clinical trials in the fourth quarter of 2009, which could enable the initiation of a combination trial of telaprevir and VX-222 in patients with genotype 1 HCV as early as the fourth quarter of 2009, depending on the trial results. There currently are no ongoing clinical trials of VX-759.

Cystic Fibrosis

VX-770

In May 2009, we initiated a registration program, referred to as ENDEAVOR, for VX-770, which is an investigational cystic fibrosis transmembrane conductance regulator, or CFTR, potentiator that targets the defective CFTR protein that causes CF. The VX-770 registration program focuses on patients with the G551D mutation, which is present in approximately 4% of the CF population in the United States. ENDEAVOR consists of three clinical trials, which have opened for enrollment.

The primary clinical trial, which is referred to as STRIVE, is a Phase 3 clinical trial of VX-770 in patients 12 years and older with the G551D mutation on at least one of the patient's two *CFTR* genes, or alleles. We expect STRIVE to be fully enrolled in the first quarter of 2010. The second clinical trial, which is referred to as ENVISION, is a two-part Phase 3 clinical trial of VX-770 in patients between 6 to 11 years of age with the G551D mutation on at least one allele. The third clinical trial, which is referred to as DISCOVER, is a Phase 2 exploratory clinical trial of VX-770 in patients with CF who are 12 years and older and homozygous for the F508del mutation. The DISCOVER clinical trial opened to patient enrollment in the third quarter of 2009.

In October 2008, we completed a Phase 2a clinical trial of VX-770 in 39 patients with CF with the G551D mutation. Patients in the Phase 2a clinical trial received VX-770 over 14-day and 28-day dosing periods. The primary endpoint for this clinical trial was safety, and no serious adverse events attributable to VX-770 were observed. The promising lung function data from this Phase 2a clinical trial, as measured by improvements in FEV_1, and the observed changes in biomarkers that seek to measure the activity of the CFTR protein, were used to design the ENDEAVOR registration program.

VX-809

We have conducted Phase 1 clinical trials of VX-809, a CFTR corrector compound, in healthy volunteers and an escalating single-dose pharmacokinetics and safety clinical trial of VX-809 in patients with CF who carry the F508del mutation on the *CFTR* gene, the most common mutation in CF patients, on at least one allele. In the first quarter of 2009, we initiated a Phase 2a clinical trial primarily designed to evaluate the safety and tolerability of multiple doses of VX-809 in approximately 90 patients with CF homozygous for the F508del mutation in the *CFTR* gene. In addition to assessing safety, this Phase 2a trial will evaluate the effect of VX-809 on biomarkers of CFTR function and whether VX-809 has an effect on FEV_1. Enrollment in the trial is complete, and we expect to obtain data from this clinical trial in early 2010.

We have initiated a drug-drug interaction clinical trial of VX-809 and VX-770. Based on *in vitro* data, we believe that there is a rationale to explore the clinical potential for combining VX-809 and VX-770 and may seek to commence a combination clinical trial in patients with CF in the second half of 2010.

Immune-mediated Inflammatory Disease

VX-509 is a novel oral JAK3 inhibitor that we believe has the potential to be used in multiple immune-mediated inflammatory disease, or IMID, indications. We have completed the Phase 1 clinical trials of VX-509, including a Phase 1 single and multiple, 14-day, dose-ranging clinical trial of VX-509 in healthy volunteers. We expect to initiate a Phase 2a clinical trial of VX-509 in patients with moderate to severe rheumatoid arthritis in the first quarter of 2010. This double-blind, randomized, placebo-controlled 12-week trial is expected to enroll approximately 200 patients, and we expect that initial clinical data from this trial, including measurements of safety, tolerability and clinical activity, will be available in the second half of 2010. We plan to continue to pursue collaborative opportunities for VX-509 with major pharmaceutical companies, but expect that no collaboration would be entered into until after the receipt of clinical data from the Phase 2a trial.

Corporate Collaborations

Corporate collaborations have been and will continue to be an important component of our business strategy. Under our agreement with Janssen, we have retained exclusive commercial rights to telaprevir in North America, and we are leading the global clinical development program. Janssen agreed to be responsible for 50% of the drug development costs under the development program for telaprevir in North America and the Janssen territories, to pay us contingent milestone payments based on successful development, approval and launch of telaprevir, to be responsible for the commercialization of telaprevir outside of North America and the Far East and to pay us royalties on any sales of telaprevir in its territories. The principal remaining milestones under our agreement with Janssen relate to marketing authorization for telaprevir from the European Medicines Evaluation Agency and the launch of telaprevir in the European Union. These milestones include $100.0 million related to regulatory submission and approval and $150.0 million related to launch of telaprevir. As a result of financial transactions discussed below that we entered into on September 30, 2009, the first $155.0 million of these milestone payments will trigger obligations to redeem a corresponding portion of a $155.0 million promissory note that we issued at a discount in September 2009, and the rights to

receive the remaining $95.0 million of these milestone payments have been sold to a third party. Our collaboration with Janssen was unchanged by these transactions, and we continue to be eligible to receive a royalty on future product sales in Janssen's commercial territories, including the European Union.

We also have a collaboration with Mitsubishi Tanabe with respect to the development of telaprevir in Japan and specified other countries in the Far East. Mitsubishi Tanabe is conducting Phase 3 registration trials in Japan of telaprevir in combination with peg-IFN and RBV in approximately 300 patients with genotype 1 HCV. This registration program is fully enrolled. On July 30, 2009, we amended our license, development and commercialization agreement with Mitsubishi Tanabe. Under the amended agreement, we received $105.0 million in the third quarter of 2009, and will be eligible to receive further contingent milestone payments, which if realized would range between $15.0 million and $65.0 million in the aggregate. The amended agreement provides to Mitsubishi Tanabe a fully-paid license to commercialize telaprevir to treat HCV infection in Japan and specified other countries in the Far East, as well as rights to manufacture telaprevir for sale in its territory.

Our drug candidate pipeline also includes Aurora kinase inhibitors that are being investigated by Merck & Co., Inc. for oncology indications. In the second quarter of 2008, Merck initiated a Phase 1 clinical trial of MK-5108 (VX-689) alone and in combination with docetaxel in patients with advanced and/or refractory tumors. In the third quarter of 2008, Merck selected additional Aurora kinase inhibitors for potential development.

We will not have the resources for some time to develop and commercialize all drug candidates for which we have rights, and therefore we will need to rely on corporate collaborations for the development and commercialization of some or all of our new drug candidates. Historically, we have been successful in initiating and concluding productive collaborations, but we will need to continue to do so in the future, even though economic and competitive conditions may be different than in the past.

Financial Transactions Related to Potential Future Telaprevir Milestone Payments

On September 30, 2009, we entered into two financial transactions related to potential future milestone payments pursuant to our collaboration with Janssen that resulted in aggregate payments to us of $155.0 million. Of the aggregate payments, we received $122.2 million on September 30, 2009 and $32.8 million on October 1, 2009. In the first transaction, we received $122.2 million in cash for the issuance of secured notes due October 2012, referred to as the 2012 Notes. The 2012 Notes have a face value of $155.0 million, were issued at a discount and do not carry an explicit interest rate. The 2012 Notes mature on October 31, 2012, subject to earlier mandatory redemption as specified milestone events under our Janssen collaboration relating to the filing, approval and launch of telaprevir in the European Union are achieved, if at all, prior to October 31, 2012. The 2012 Notes are secured by $155.0 million in potential telaprevir milestone payments we are eligible to receive from Janssen upon specified milestone events. In the second transaction, we received non-refundable payments totalling $32.8 million in cash for the sale of rights to $95.0 million of potential future milestone payments that we are eligible to receive from Janssen for the launch of telaprevir in the Europe Union.

Financing Strategy

We have incurred losses from our inception and expect to continue to incur losses at least until we obtain approval for and successfully commercialize a product, if we ever do. Therefore, we are dependent in large part on our continued ability to raise significant funding to finance our research and development operations, to create a commercial infrastructure, and to meet our overhead costs and long-term contractual commitments and obligations. To date, we have secured funds principally through

capital market transactions, strategic collaborative agreements, proceeds from the disposition of assets, investment income and the issuance of common stock under our employee benefit plans.

We expect that we will need additional capital in order to complete the development and commercialization of telaprevir while at the same time continuing the development of our other drug candidates. We may raise additional capital from public offerings or private placements of our securities or other methods of financing. We cannot be sure that any such financing opportunities will be available on acceptable terms, if at all. If adequate funds are not available on acceptable terms, or at all, we may be required to curtail significantly or discontinue one or more of our research, drug discovery or development programs, including clinical trials, incur significant cash exit costs, or attempt to obtain funds through arrangements with collaborators or others that may require that we relinquish rights to certain of our technologies or drug candidates.

As part of our strategy for managing our capital structure, we have from time to time adjusted the amount and maturity of our debt obligations through new issues, privately negotiated transactions and market purchases, depending on market conditions and our perceived needs at the time. For example, in the second quarter of 2009, we exchanged 6.6 million shares of newly-issued common stock for $143.5 million in aggregate principal amount of our 4.75% convertible senior subordinated notes due 2013, or 2013 Notes, plus accrued interest. We expect to continue pursuing a general financial strategy that may lead us to undertake one or more additional transactions with respect to our outstanding debt obligations, and the amounts involved in any such transactions, individually or in the aggregate, may be material. Any such transactions may or may not be similar to transactions in which we have engaged in the past.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations is based upon our condensed consolidated financial statements prepared in accordance with generally accepted accounting principles in the United States. The preparation of these financial statements requires us to make certain estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reported periods. These items are monitored and analyzed by management for changes in facts and circumstances, and material changes in these estimates could occur in the future. Changes in estimates are reflected in reported results for the period in which they become known. We base our estimates on historical experience and various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from our estimates if past experience or other assumptions do not turn out to be substantially accurate. There were no material changes during the nine months ended September 30, 2009 to our critical accounting policies as reported in our Annual Report on Form 10-K for the year ended December 31, 2008. We have added a critical accounting policy regarding business combinations as a result of our acquisition of ViroChem in March 2009 and a critical accounting policy regarding the accounting for the September 2009 financial transactions, and have supplemented our critical accounting policy regarding up-front license fees.

Business Combinations

In March 2009, we acquired ViroChem for $100.0 million in cash and common stock with a fair market value of $290.6 million. We assign the value of the consideration transferred to acquire a business to the tangible assets and identifiable intangible assets acquired and liabilities assumed, on the basis of their fair values at the date of acquisition. For purposes of the condensed consolidated balance sheet, we allocated the purchase price for ViroChem to net tangible assets and intangible assets. The difference between the purchase price and the fair value of assets acquired and liabilities assumed was allocated to goodwill. This goodwill relates to the potential synergies from the possible development of

combination therapies involving telaprevir and the acquired drug candidates. The allocations recorded on our condensed consolidated balance sheet included $525.9 million of intangible assets related to in-process research and development and a $162.5 million deferred tax liability.

The intangible assets are in-process research and development assets relating to the drug candidates being developed by ViroChem, primarily VX-222 and VX-759, each of which was in Phase 1 clinical development at the date of acquisition. VX-222 and VX-759 had estimated fair values of $412.9 million and $105.8 million, respectively. In addition, we considered ViroChem's other clinical drug candidates and determined that VCH-286, ViroChem's lead HIV drug candidate, had an estimated fair value of $7.2 million, based on development costs through the acquisition date, and that the other clinical drug candidates had no fair value because the clinical and non-clinical data for those drug candidates did not support further development as of the acquisition date. We also considered ViroChem's preclinical programs and other technologies and determined that because of uncertainties related to the safety, efficacy and commercial viability of the potential drug candidates, market participants would not ascribe value to those assets.

We assess the fair value of assets, including intangible assets such as in-process research and development, using a variety of methods, including present-value models that are based upon multiple probability-weighted scenarios involving the development and potential commercialization of the acquired drug candidates. The present-value models used to estimate the fair values of VX-222 and VX-759 reflect significant assumptions regarding the estimates a market participant would make in order to evaluate a drug development asset, including the probability of completing in-process research and development projects, which requires successfully completing clinical trials and obtaining regulatory approval for marketing of the associated drug candidate; estimates regarding the timing of and the expected costs to complete in-process research and development projects; estimates of future cash flows from potential product sales; and appropriate discount rates. The estimated fair value ascribed to VX-222 and VX-759 was based on the estimated fair value that would be ascribed to each of these compounds by a market participant that acquired both compounds in a single transaction. The assumed probability of advancing VX-222 and VX-759 through various phases of development reflects the understanding among market participants that most drug candidates that enter Phase 2 clinical trials are not ultimately approved for commercial sale. While, on the date of acquisition, each of the HCV polymerase inhibitors was at a similar stage of development, we attributed a significantly higher value to VX-222 than to VX-759 because the clinical and non-clinical data from the VX-222 research program was significantly more promising than the clinical and non-clinical data from the VX-759 research program. In addition, the fair value estimate incorporates our determination that a market participant would not be likely to continue development of VX-759 unless future data from clinical trials or non-clinical studies of VX-222 resulted in a delay or discontinuation of the VX-222 development program. Finally, while the duration and cost of non-clinical studies and clinical trials vary significantly over the life of a project and are difficult to predict, a market participant would assume that it would take several years to complete each phase of clinical trials for a drug candidate for the treatment of patients with HCV and that future cash flows, if any, would not be generated until a drug candidate had completed all required phases of clinical trials and had obtained regulatory approval. The risk-adjusted discount rate for each of these projects was approximately 28%.

Initially, the in-process research and development assets were recorded at fair value and accounted for as indefinite-lived intangible assets. We will maintain each of these assets on our condensed consolidated balance sheets until either the research and development project underlying it is completed or the asset becomes impaired. If a project is completed, the carrying value of the related intangible asset would be amortized over the remaining estimated life of the asset. If a project becomes impaired or is abandoned, the carrying value of the related intangible asset would be written down to its fair value and an impairment charge would be taken in the period in which the impairment occurs. In order to complete an acquired research and development project, the related drug candidate must

be evaluated in later-stage clinical trials, which are subject to all of the risks and uncertainties associated with the development of pharmaceutical products. If the fair value of any of these drug candidates, and in particular VX-222, becomes impaired as the result of unfavorable safety or efficacy data from any ongoing or future clinical trial or because of any other information regarding the prospects of successfully developing or commercializing the drug candidate, we could incur significant charges in the period in which the impairment occurs. These intangible assets will be tested for impairment on an annual basis during the fourth quarter, or earlier if impairment indicators are present. Post-acquisition research and development expenses related to the in-process research and development projects will be expensed as incurred.

September 2009 Financial Transactions

The two financial transactions that we entered into in September 2009 involved the issuance of the 2012 Notes, which are secured by $155.0 million of potential future telaprevir milestone payments that we are eligible to receive from Janssen, and the sale of $95.0 million in additional potential future telaprevir milestone payments that we are eligible to receive from Janssen. We sold the 2012 Notes, which have a face value of $155.0 million and do not carry an explicit interest rate, for $122.2 million. The 2012 Notes contain an embedded derivative related to their potential early repayment or redemption. The liability related to the separate sale of the potential $95.0 million in future milestone payments for $32.8 million is accounted for as a free-standing derivative instrument.

In order to account for the 2012 Notes and the sale of the rights to the potential future milestone payments, we were required to estimate the fair value of the derivative embedded in the 2012 Notes and of the rights to the $95.0 million in potential future milestones. The models we used to estimate these fair values require estimates regarding, among other things, the assumptions a market participant would make regarding the timing and probability of achieving the milestones and the appropriate discount rates.

2012 Notes

The 2012 Notes have an estimated initial residual value of $108.2 million, which excludes the value of the embedded derivative. The embedded derivative associated with the 2012 Notes has an estimated fair value of $10.7 million. In future periods, we expect that we will record a quarterly interest expense determined using the effective interest rate method, which will increase the amount of the liability for our 2012 Notes each quarter by an amount corresponding to this interest expense through the stated maturity date, unless redeemed or repaid earlier. In addition, we will evaluate the embedded derivative for changes in fair value on at least a quarterly basis. We expect that the net expense related to the 2012 Notes that we will recognize based on interest expense and gains and losses on the embedded derivative over the period between October 1, 2009 and October 31, 2012 will equal $36.2 million, which is the difference between the $155.0 million face value of the 2012 Notes and the $118.8 million initial estimated value of the 2012 Notes, including the value of the embedded derivative, on the issuance date. However, the timing of these expenses or any gains will depend on a number of factors related to the probability and timing of achieving the relevant milestone events and discount rates and could result in material expenses or gains in any quarterly period.

Sale of Potential Future Milestones

The fair value of the free-standing derivative instrument created by the sale of the rights to the $95.0 million of future milestone payments was estimated to be $36.2 million. We will evaluate this free-standing derivative for changes in fair value on at least a quarterly basis. Any change in the value of this free-standing derivative will be recorded as a loss or gain in the period in which it becomes known. If these milestone events are achieved, we expect that we will recognize net expenses over the period between October 1, 2009 and the date the milestones are achieved equal to $58.8 million, which

is the difference between the $95.0 million the purchaser would receive if all the milestone events are achieved and the fair value of the free-standing derivative on the issuance date. Because our estimate of the fair value of the free-standing derivative includes the application of a discount rate to reflect the time-value of money, we expect to record interest costs related to this liability balance each quarter. However, the timing of other expenses or any gains will depend on a number of factors related to the probability and timing of achieving the relevant milestone events and discount rates and could result in material expenses or gains in any quarterly period.

Up-front License Fees

We recognize revenues from nonrefundable, up-front license fees related to collaboration agreements, including the $165.0 million we received from Janssen in 2006 and the $105.0 million we received from Mitsubishi Tanabe in the third quarter of 2009, on a straight-line basis over the contracted or estimated period of performance. The period of performance over which the revenues are recognized is typically the period over which the research and/or development is expected to occur. As a result, we often are required to make estimates regarding drug development and commercialization timelines for compounds being developed pursuant to a collaboration agreement. Because the drug development process is lengthy and our collaboration agreements typically cover activities over several years, this approach often has resulted in the deferral of significant amounts of revenue into future periods. In addition, we periodically evaluate our estimates in light of changes and anticipated changes in the development plans for our drug candidates and because of the many risks and uncertainties associated with the development of drug candidates, our estimates regarding the period of performance have changed in the past and may change in the future. Our estimates regarding the period of performance under the Janssen collaboration agreement were adjusted in 2007 and in the third quarter of 2009 as a result of changes in the global development plan for telaprevir, including activities that are expected to be conducted in the post-approval period. These adjustments were made on a prospective basis beginning in the period in which the change was identified. These adjustments resulted in a decrease in the amount of revenues we were recognizing from the Janssen collaboration by $2.6 million per quarter for the first adjustment and $1.1 million per quarter for the second adjustment. Any future adjustment in our estimates of the period of performance under our collaborations could result in substantial changes to the period over which the revenues from an up-front license fee related to each such collaboration are recognized. If we adjust our estimates as of October 1, 2009 to increase the period of performance under the Janssen agreement by one year, it would result in a decrease in the amount of deferred revenues we recognize from our Janssen collaboration of approximately $0.8 million per quarter beginning in the fourth quarter of 2009.

Results of Operations—Three and Nine Months Ended September 30, 2009 Compared with Three and Nine Months Ended September 30, 2008

	Three Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)	Nine Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)
	2009	2008	$	%	2009	2008	$	%
		(in thousands)				*(in thousands)*		
Revenues	$ 24,957	$ 31,609	$ (6,652)	(21)%	$ 68,000	$ 142,693	$ (74,693)	(52)%
Costs and expenses	173,190	162,237	10,953	7%	535,293	463,538	71,755	15%
Other income (expense)	(1,332)	584	(1,916)	n/a	(16,241)	3,326	(19,567)	n/a
Net loss	$ (149,565)	$ (130,044)	$ 19,521	15%	$ (483,534)	$ (317,519)	$ 166,015	52%

Net Loss

In the three months ended September 30, 2009 as compared to the three months ended September 30, 2008, our net loss increased by $19.5 million, or 15%. In the nine months ended September 30, 2009 as compared to the nine months ended September 30, 2008, our net loss increased by $166.0 million, or 52%. The increases in net loss in the three and nine months ended September 30, 2009 as compared to the three and nine months ended September 30, 2008 were the result of significant increases in costs and expenses combined with decreases in our revenues. Our lower revenues in the three and nine months ended September 30, 2009 were primarily the result of milestone payments that we recognized in the 2008 periods for which there were no corresponding milestone payments in 2009 periods. The increased expenses included increased operating expenses related to the increased size of our workforce and to our late-stage clinical programs and increased stock-based compensation expense. In addition, in the second quarter of 2009, we had a $12.3 million non-cash expense on the exchange of a portion of the 2013 Notes into our common stock and in the first half of 2009 we had $7.8 million of acquisition-related expenses from our acquisition of ViroChem and additional expenses related to our management transition.

Net Loss per Share

Our net loss for the three months ended September 30, 2009 was $0.84 per basic and diluted common share compared to $0.93 per basic and diluted common share for the three months ended September 30, 2008. Our net loss for the nine months ended September 30, 2009 was $2.86 per basic and diluted common share compared to $2.30 per basic and diluted common share for the nine months ended September 30, 2008. The decrease in net loss per common share in the third quarter of 2009 compared to the third quarter of 2008 was the result of an increase in the basic and diluted weighted-average number of common shares outstanding in the third quarter of 2009 compared to the third quarter of 2008 partially offset by an increased net loss in the third quarter of 2009 compared to the third quarter of 2008. The increase in net loss per common share in the nine months ended September 30, 2009 compared to the same period in 2008 was the result of the increased net loss in the nine months ended September 30, 2009 partially offset by an increase in the basic and diluted weighted-average number of common shares outstanding in 2009. The increases in the weighted-average number of common shares outstanding in 2009 were primarily the result of the equity offerings in September 2008 and February 2009, the issuance of shares for our acquisition of ViroChem in March 2009 and the issuance of shares in the debt exchange we conducted in June 2009. Our basic and diluted weighted-average number of common shares outstanding increased from 140.1 million in the three months ended September 30, 2008 to 178.7 million in the three months ended September 30, 2009 and from 137.8 million in the nine months ended September 30, 2008 to 169.1 million in the nine months ended September 30, 2009.

Stock-based Compensation, Restructuring and Acquisition-related Expenses and 2013 Note Exchange

The comparison of our costs and expenses in the 2009 periods and the 2008 periods is affected by increases in our stock-based compensation expense and our restructuring expense as well as expenses related to our acquisition of ViroChem in March 2009, and the exchange of a portion of the 2013 Notes into our common stock in June 2009. Our costs and expenses in the three and nine months ended September 30, 2009 and 2008 included:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
	(in thousands)			
Stock-based compensation expense	$ 20,134	$ 14,485	$ 68,996	$ 44,150
Restructuring expense	774	885	4,283	2,683
Acquisition-related expenses	—	—	7,793	—
Loss on exchange of a portion of the 2013 Notes	—	—	12,294	—

Revenues

	Three Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %	Nine Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %
	2009	2008			2009	2008		
	(in thousands)				*(in thousands)*			
Royalty revenues	$ 7,834	$ 7,763	$ 71	1%	$ 19,891	$ 28,355	$ (8,464)	(30)%
Collaborative and other research and development revenues	17,123	23,846	(6,723)	(28)%	48,109	114,338	(66,229)	(58)%
Total revenues	$ 24,957	$ 31,609	$ (6,652)	(21)%	$ 68,000	$ 142,693	$ (74,693)	(52)%

Our total revenues in recent periods have consisted primarily of collaborative and other research and development revenues. On a quarterly basis our collaborative and other research and development revenues have fluctuated significantly based on the timing of recognition of significant milestone payments and the level of reimbursement we have received under our collaboration agreements for our development programs. If we are able to successfully commercialize telaprevir in accordance with current development timelines, we anticipate revenues and cash flows from the sales of telaprevir to commence in 2011.

Collaborative and Other Research and Development Revenues

The table presented below is a summary of revenues from collaborative arrangements for the three and nine months ended September 30, 2009 and 2008:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
	(in thousands)			
Janssen	$ 10,232	$ 15,239	$ 40,157	$ 98,725
Mitsubishi Tanabe	6,891	2,129	7,734	7,889
Merck	—	6,000	—	6,000
Other	—	478	218	1,724
Total collaborative and other research and development revenues	$ 17,123	$ 23,846	$ 48,109	$ 114,338

Our revenues from the Janssen collaboration in each period consist of:

- development milestone payments, if any, recognized in the period;
- net reimbursements from Janssen for development costs of telaprevir; and
- an amortized portion of the $165.0 million up-front payment.

The $5.0 million, or 33%, decrease in our revenues from Janssen in the third quarter of 2009 compared to the third quarter of 2008 was primarily the result of our decreased reimbursable expenses related to the telaprevir clinical development program. The $58.6 million, or 59%, decrease in our revenues from Janssen in the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 was primarily the result of a decrease in milestone payments from our Janssen collaboration. We recognized a total of $55.0 million in milestone payments in the nine months ended September 30, 2008 for which there were no corresponding milestone payments in the nine months ended September 30, 2009. In the third quarter of 2009, we entered into two financial transactions related to $250.0 million in potential future milestone payments associated with the regulatory filing and approval for telaprevir from the European Medicines Evaluation Agency and the launch of telaprevir in the European Union. We expect that, when and if earned, these milestones will result in collaborative revenues of which the proceeds from the first $155.0 million would be used to redeem the 2012 Notes and the remaining $95.0 million would be provided to the purchaser of these milestone payments.

In the three months ended September 30, 2009, our collaborative revenues from sources other than Janssen related primarily to our collaboration with Mitsubishi Tanabe. On July 30, 2009, we entered into an amendment to our license, development and commercialization agreement with Mitsubishi Tanabe that provided for a $105.0 million payment in connection with the execution of the amendment. This payment was initially classified as deferred revenues and is being recognized over our expected period of performance. In the three months ended September 30, 2009, we recognized a total of $6.9 million of revenues from Mitsubishi Tanabe, including the amortized portion of the $105.0 million upfront payment. In the three months ended September 30, 2008, our collaborative revenue from sources other than Janssen related primarily to the $6.0 million milestone we achieved pursuant to our collaboration with Merck for which there was no corresponding milestone payment in the three months ended September 30, 2009.

Royalty Revenues

Our royalty revenues relate to sales of the HIV protease inhibitors Lexiva/Telzir and Agenerase by GlaxoSmithKline plc. Until May 30, 2008, these royalty revenues were based on actual and estimated worldwide net sales of Lexiva/Telzir and Agenerase. On May 30, 2008, we sold our right to receive future royalties from GlaxoSmithKline plc with respect to these HIV protease inhibitors, excluding the portion allocated to pay a subroyalty on these net sales to a third party, in return for a one-time cash payment of $160.0 million. We deferred the recognition of $155.1 million of revenues from this sale. We are recognizing these deferred revenues over the term of our agreement with GlaxoSmithKline plc under the units-of-revenue method. We will also continue to recognize royalty revenues equal to the amount of the third-party subroyalty and an offsetting royalty expense for the third-party subroyalty payment.

Our royalty revenues were $7.8 million in both the third quarter of 2009 and the third quarter of 2008. The $8.5 million, or 30%, decrease in royalty revenues in the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 resulted primarily from this sale of our future HIV royalties in the second quarter of 2008. In 2009, we expect that we will continue to recognize as royalty revenues a portion of the remaining deferred revenues from the sale of our HIV royalty stream plus the full amount of the third-party subroyalty.

Costs and Expenses

	Three Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %	Nine Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %
	2009	2008			2009	2008		
		(in thousands)				*(in thousands)*		
Royalty expenses	$ 3,712	$ 4,194	$ (482)	(11)%	$ 10,555	$ 11,471	$ (916)	(8)%
Research and development expenses	132,132	131,728	404	0%	415,044	377,574	37,470	10%
Sales, general and administrative expenses	36,572	25,430	11,142	44%	97,618	71,810	25,808	36%
Restructuring expense	774	885	(111)	(13)%	4,283	2,683	1,600	60%
Acquisition-related expenses	—	—	—	n/a	7,793	—	7,793	n/a
Total costs and expenses	$ 173,190	$ 162,237	$ 10,953	7%	$ 535,293	$ 463,538	$ 71,755	15%

Our operating costs and expenses primarily relate to our research and development expenses and our sales, general and administrative expenses. Our research and development expenses fluctuate on a quarterly basis due to the timing of activities related to the development of clinical drug candidates. Our sales, general and administrative expenses generally have been increasing as a result of expanding our commercial capabilities in preparation for the potential commercial launch of telaprevir.

Research and Development Expenses

	Three Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %	Nine Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %
	2009	2008			2009	2008		
		(in thousands)				*(in thousands)*		
Research expenses	$ 42,663	$ 41,567	$ 1,096	3%	$ 129,418	$ 123,382	$ 6,036	5%
Development expenses	89,469	90,161	(692)	(1)%	285,626	254,192	31,434	12%
Total research and development expenses	$ 132,132	$ 131,728	$ 404	0%	$ 415,044	$ 377,574	$ 37,470	10%

Our total research and development expenses were similar in the third quarter of 2009 and the third quarter of 2008 as increases in the expenses related to our workforce were offset by decreases in third-party contractual services and investment in commercial supply of telaprevir. The $37.5 million increase in our total research and development expenses in the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 was primarily the result of increases in expenses related to our workforce.

Our research and development expenses include internal and external costs incurred for our drug candidates, including telaprevir and VX-770. We do not assign to individual drug candidates our internal costs such as salary and benefits, stock-based compensation expense, laboratory supplies and infrastructure costs because the employees within our research and development groups typically are deployed across multiple research and development programs. These internal costs are significantly greater than our external costs, such as the costs of services provided to us by clinical research organizations and other outsourced research, which we do allocate by individual drug development program. All research and development costs for our drug candidates are expensed as incurred.

To date, we have incurred in excess of $3.2 billion in research and development expenses associated with drug discovery and development. The successful development of our drug candidates is highly uncertain and subject to a number of risks. In addition, the duration of clinical trials may vary substantially according to the type, complexity and novelty of the drug candidate. The FDA and comparable agencies in foreign countries impose substantial requirements on the introduction of

therapeutic pharmaceutical products, typically requiring lengthy and detailed laboratory and clinical testing procedures, sampling activities and other costly and time-consuming procedures. Data obtained from nonclinical and clinical activities at any step in the testing process may be adverse and lead to discontinuation or redirection of development activity. Data obtained from these activities also are susceptible to varying interpretations, which could delay, limit or prevent regulatory approval. The duration and cost of discovery, nonclinical studies and clinical trials may vary significantly over the life of a project and are difficult to predict. Therefore, accurate and meaningful estimates of the ultimate costs to bring our drug candidates to market are not available.

Our lead drug candidate telaprevir represents the largest portion of our development costs for our clinical drug candidates. Based on the completion of enrollment of our Phase 3 clinical trials of telaprevir in February 2009, we anticipate that our ongoing Phase 3 clinical trials will be completed in mid-2010, but that development costs associated with other clinical trials of telaprevir may continue after the completion of the registration trials. If we are able to successfully commercialize telaprevir in accordance with current development timelines, we anticipate revenues and cash flows from the sales of telaprevir to commence in 2011. Our other drug candidates are less advanced and as a result any estimates regarding development timelines for these drug candidates are highly subjective and subject to change, and we cannot at this time make a meaningful estimate when, if ever, these drug candidates, including the drug candidates we acquired from ViroChem, will generate revenues and cash flows.

Research Expenses

	Three Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %	Nine Months Ended September 30,		Increase/ (Decrease) $	Increase/ (Decrease) %
	2009	2008			2009	2008		
	(in thousands)				*(in thousands)*			
Research Expenses:								
Salary and benefits	$ 16,631	$ 14,372	$ 2,259	16%	$ 46,751	$ 41,287	$ 5,464	13%
Stock-based compensation expense	5,152	4,660	492	11%	18,757	14,288	4,469	31%
Laboratory supplies and other direct expenses	6,266	5,792	474	8%	20,549	18,120	2,429	13%
Contractual services	1,498	1,683	(185)	(11)%	3,844	6,232	(2,388)	(38)%
Infrastructure costs	13,116	15,060	(1,944)	(13)%	39,517	43,455	(3,938)	(9)%
Total research expenses	$ 42,663	$ 41,567	$ 1,096	3%	$ 129,418	$ 123,382	$ 6,036	5%

The $1.1 million and $6.0 million increases in total research expenses in the three and nine months ended September 30, 2009, respectively, compared to the same periods in 2008 were the result of increased expenses related to our workforce partially offset by decreased contractual services and infrastructure costs.

Development Expenses

	Three Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)	Nine Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)
	2009	2008	$	%	2009	2008	$	%
		(in thousands)				*(in thousands)*		
Development Expenses:								
Salary and benefits	$ 26,963	$ 20,878	$ 6,085	29%	$ 73,399	$ 57,034	$ 16,365	29%
Stock-based compensation expense	7,896	6,763	1,133	17%	32,185	21,104	11,081	53%
Laboratory supplies and other direct expenses	6,996	7,483	(487)	(7)%	20,819	22,684	(1,865)	(8)%
Contractual services	25,526	28,214	(2,688)	(10)%	88,703	81,800	6,903	8%
Commercial supply investment in telaprevir	4,179	6,461	(2,282)	(35)%	14,290	15,268	(978)	(6)%
Infrastructure costs	17,909	20,362	(2,453)	(12)%	56,230	56,302	(72)	0%
Total development expenses	$ 89,469	$ 90,161	$ (692)	(1)%	$ 285,626	$ 254,192	$ 31,434	12%

Our development expenses decreased by $0.7 million in the third quarter of 2009 compared to the third quarter of 2008 primarily because increases in expenses related to our workforce were offset by decreases in our other development expenses as external expenses related to the registration program for telaprevir decreased. Our development expenses increased in the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 primarily as a result of increased expenses related to our workforce. The number of employees in our development group increased by approximately 15% from the third quarter of 2008 to the third quarter of 2009 and by approximately 19% from the first nine months of 2008 compared to the first nine months of 2009. Our contractual services expenses, which fluctuate significantly from quarter to quarter based on the timing of activities related to our clinical trials, decreased in the third quarter of 2009 compared to the third quarter of 2008, but increased in the first nine months of 2009 compared to the first nine months of 2008. We expect our contractual services expenses to continue to fluctuate significantly because as the contractual services costs associated with our telaprevir registration program decrease we expect the contractual services costs associated with our other drug development candidates will increase.

Sales, General and Administrative Expenses

	Three Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)	Nine Months Ended September 30,		Increase/ (Decrease)	Increase/ (Decrease)
	2009	2008	$	%	2009	2008	$	%
		(in thousands)				*(in thousands)*		
Sales, general and administrative expenses	$ 36,572	$ 25,430	$ 11,142	44%	$ 97,618	$ 71,810	$ 25,808	36%

The increases in sales, general and administrative expenses in the three and nine months ended September 30, 2009 compared to the same periods in 2008 are the result of increased headcount as we advance our drug candidates, particularly telaprevir, into late-stage development and prepare for the potential commercial launch of telaprevir. In the three months ended September 30, 2009 and 2008, our sales, general and administrative expenses included $7.1 million and $3.1 million, respectively, of stock-based compensation expense. In the nine months ended September 30, 2009 and 2008, our sales, general and administrative expenses included $18.1 million and $8.8 million, respectively, of stock-based compensation expense.

Royalty Expenses

Royalty expenses decreased in the three and nine months ended September 30, 2009 as compared to the three and nine months ended September 30, 2008. Royalty expenses primarily relate to a subroyalty payable to a third party on net sales of Lexiva/Telzir and Agenerase. The subroyalty results in both a royalty expense and corresponding royalty revenues. We expect to continue to recognize this subroyalty as an expense in future periods.

Restructuring Expense

We recorded restructuring expense of $0.8 million for the three months ended September 30, 2009 compared to $0.9 million for the three months ended September 30, 2008. We recorded restructuring expense of $4.3 million for the nine months ended September 30, 2009 compared to $2.7 million for the nine months ended September 30, 2008. The restructuring expense in all periods includes imputed interest cost related to the restructuring liability associated with our Kendall Square lease. The increase in restructuring expense for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 was primarily the result of a revision, in the first quarter of 2009, of certain key estimates and assumptions about facility operating costs for the remaining period of the lease commitment, for which there was no corresponding revision in the nine months ended September 30, 2008. The lease restructuring liability was $33.4 million as of September 30, 2009.

We review our estimates and assumptions with respect to the Kendall Square lease on at least a quarterly basis, and will make whatever modifications we believe are necessary to reflect any changed circumstances, based on our best judgment, until the termination of the lease. Our estimates have changed in the past, and may change in the future, resulting in additional adjustments to the estimate of the liability, and the effect of any such adjustments could be material.

Acquisition-related Expenses

We incurred $7.8 million of expenses in the nine months ended September 30, 2009, all in the first quarter, in connection with our acquisition of ViroChem, including $5.7 million in transaction expenses and $2.1 million related to a restructuring of ViroChem's operations that we undertook in March 2009 in order to focus ViroChem's activities on its HCV assets. We did not have corresponding acquisition-related expenses in the nine months ended September 30, 2008.

Non-operating Items—Other Income (Expense)

Interest income decreased by $3.8 million, or 86%, to $0.6 million for the three months ended September 30, 2009 from $4.4 million for the three months ended September 30, 2008. Interest income decreased by $8.2 million, or 64%, to $4.7 million for the nine months ended September 30, 2009 from $12.9 million for the nine months ended September 30, 2008. The decrease was a result of lower portfolio yields during the 2009 periods as compared to the 2008 periods. Our cash, cash equivalents and marketable securities yielded approximately 0% on an annual basis in the third quarter of 2009 compared to approximately 2% on an annual basis in the third quarter of 2008.

Interest expense decreased by $1.9 million, or 49%, to $1.9 million for the three months ended September 30, 2009 from $3.8 million for the three months ended September 30, 2008. Interest expense was $8.6 million and $9.6 million, respectively, for the nine months ended September 30, 2009 and 2008. We recorded interest expense of $2.1 million on the $143.5 million in aggregate principal amount of 2013 Notes that were exchanged in June 2009 through the date on which we entered into the exchange agreements with respect to such 2013 Notes. Our outstanding principal amount of 2013 Notes decreased from $287.5 million on March 31, 2009 to $144.0 million on September 30, 2009. In future periods, we expect that we will incur interest expense related to the 2012 Notes that we issued in September 2009 and potential gains or losses on the embedded derivative related to the 2012 Notes and the free-standing derivative related to the sale of the potential future milestones.

In the nine months ended September 30, 2009, we incurred a non-cash charge of $12.3 million in connection with the exchange of $143.5 million in aggregate principal amount of the 2013 Notes for 6.6 million newly-issued shares of our common stock. The charge related to the additional approximately 400,000 shares of common stock that we issued in excess of the number of shares of common stock into which such 2013 Notes were convertible prior to the exchange.

Liquidity and Capital Resources

We have incurred operating losses since our inception and have financed our operations principally through public and private offerings of our equity and debt securities, strategic collaborative agreements that include research and/or development funding, development milestones and royalties on the sales of products, strategic sales of assets or businesses, investment income and proceeds from the issuance of common stock under our employee benefit plans. We expect that we will require additional capital in order to commercialize telaprevir and continue our planned activities in other areas.

At September 30, 2009, we had cash, cash equivalents and marketable securities of $856.6 million, which was an increase of $24.5 million from $832.1 million at December 31, 2008. The increase was primarily the result of financing activities, financial transactions and payments from collaborators that occurred in the nine months ended September 30, 2009, including $313.3 million of net proceeds from the offering of common stock that we completed in February 2009, $122.2 million of gross proceeds that we received from a third party in September 2009 for the sale of our 2012 Notes, the $105.0 million payment we received from Mitsubishi Tanabe in the third quarter of 2009 and $25.0 million from the issuance of common stock under our employee benefits plans. These cash inflows were offset by cash expenditures we made in the nine months ended September 30, 2009 related to, among other things, research and development expenses and sales, general and administrative expenses, $100.0 million in cash that we paid for ViroChem, and the timing of payments to our vendors. Capital expenditures for property and equipment during the nine months ended September 30, 2009 were $15.9 million.

During the nine months ended September 30, 2009, we reduced the aggregate principal amount of our 2013 Notes outstanding from $287.5 million to $144.0 million. The 2013 Notes bear interest at the rate of 4.75% per annum, and we are required to make semi-annual interest payments on the outstanding principal balance of the 2013 Notes on February 15 and August 15 of each year. The 2013

Notes will mature on February 15, 2013. The 2013 Notes are convertible, at the option of the holder, into our common stock at a price equal to approximately $23.14 per share, subject to adjustment. On or after February 15, 2010, we may redeem the 2013 Notes at our option, in whole or in part, at the redemption prices stated in the indenture related to the 2013 Notes, plus accrued and unpaid interest, if any, to, but excluding, the redemption date.

As a result of a financial transaction entered into on September 30, 2009, we have outstanding $155.0 million in aggregate principal amount of 2012 Notes that mature on October 31, 2012, subject to earlier mandatory redemption as specified milestone events under our collaboration with Janssen are achieved, if at all, prior to October 31, 2012. In addition, on September 30, 2009, we sold our rights to receive an additional $95.0 million of potential future milestone payments that we are eligible to receive from Janssen for the launch of telaprevir in the Europe Union. As a result of these transactions, the $250.0 million of potential milestone payments from Janssen related to the filing, approval and launch of telaprevir in the European Union will not provide us with liquidity in the future, if and when earned, except to the extent that they provide for the mandatory redemption of $155.0 million in principal amount of our 2012 Notes.

Our accrued restructuring expense of $33.4 million at September 30, 2009 relates to the portion of the facility that we lease in Kendall Square that we do not intend to occupy and includes other related lease obligations, recorded at net present value. In the nine months ended September 30, 2009, we made cash payments of $11.5 million against the accrued expense and received $6.5 million in sublease rental payments. During the fourth quarter of 2009, we expect to make additional cash payments of $3.7 million against the accrued expense and receive $2.0 million in sublease rental payments.

We expect to continue to make significant investments in our development pipeline, particularly in clinical trials of telaprevir, in our effort to prepare for potential registration, regulatory approval and commercial launch of telaprevir, and in clinical trials for our other drug candidates, including VX-770, VX-809, VX-222 and VX-509. We also expect to maintain our substantial investment in research. As a result, we expect to incur future losses on a quarterly and annual basis. The adequacy of our available funds to meet our future operating and capital requirements will depend on many factors, including the number, breadth and prospects of our discovery and development programs, the costs and timing of obtaining regulatory approvals for any of our drug candidates and our decisions regarding manufacturing and commercial investments.

We believe that our current cash, cash equivalents and marketable securities, in addition to amounts we expect to receive from our collaborators under existing contractual obligations, will be sufficient to fund our operations for at least the next twelve months. We expect that we will need additional capital in order to complete the development and commercialization of telaprevir and to continue the development of our other drug candidates, including VX-770. We may raise additional capital through public offerings or private placements of our securities, securing new collaborative agreements, or other methods of financing. Any such capital transactions may or may not be similar to transactions in which we have engaged in the past. We also will continue to manage our capital structure and consider all financing opportunities, whenever they may occur, that could strengthen our long-term liquidity profile. There can be no assurance that any such financing opportunities will be available on acceptable terms, if at all. If adequate funds are not available, we may be required to curtail significantly or discontinue one or more of our research, drug discovery or development programs or attempt to obtain funds through arrangements that may require us to relinquish rights to certain of our technologies or drug candidates.

Contractual Commitments and Obligations

Our commitments and obligations were reported in our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the Securities and Exchange Commission, or SEC, on

February 17, 2009. There have been no material changes from the contractual commitments and obligations previously disclosed in that Annual Report on Form 10-K, except that:

- As a result of the exchanges of $143.5 million of our outstanding 2013 Notes for 6.6 million newly-issued shares of our common stock in June 2009, the principal amount on the 2013 Notes that we are obligated to repay in 2013 has been reduced to $144.0 million from $287.5 million. In addition, the interest payments on the 2013 Notes we are obligated to make in 2010, 2011, 2012 and 2013 have been reduced by $6.8 million, $6.8 million, $6.8 million and $3.4 million, respectively; and

- As a result of our September 2009 financial transactions, we are obligated to pay $155.0 million in October 2012 to retire the 2012 Notes. As specified milestone events under our Janssen collaboration relating to the filing, approval and launch of telaprevir in the European Union are achieved, if at all, prior to October 31, 2012, we will be required to redeem the portion of the 2012 Notes equal to each milestone payment as each such milestone payment is earned under the Janssen collaboration, until the 2012 Notes are redeemed in full. The holders of the 2012 Notes will have the right to cause the repurchase all or any part of the 2012 Notes at 100% of the principal amount of the 2012 Notes to be repurchased if we experience a change of control.

Recent Accounting Pronouncements

Refer to Note 17, "Recent Accounting Pronouncements," in the accompanying notes to the condensed consolidated financial statements for a discussion of recent accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

As part of our investment portfolio, we own financial instruments that are sensitive to market risks. The investment portfolio is used to preserve our capital until it is required to fund operations, including our research and development activities. None of these market risk-sensitive instruments are held for trading purposes. We do not have derivative financial instruments in our investment portfolio.

Interest Rate Risk

We invest our cash in a variety of financial instruments, principally securities issued by the United States government and its agencies, investment grade commercial paper and money market funds. These investments are denominated in United States dollars. All of our interest-bearing securities are subject to interest rate risk, and could decline in value if interest rates fluctuate. Substantially all of our investment portfolio consists of marketable securities with active secondary or resale markets to help ensure portfolio liquidity, and we have implemented guidelines limiting the term-to-maturity of our investment instruments. Due to the conservative nature of these instruments, we do not believe that we have a material exposure to interest rate risk.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our chief executive officer and chief financial officer, after evaluating the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this Quarterly Report on Form 10-Q, have concluded that, based on such evaluation, as of September 30, 2009 our disclosure controls and procedures were effective and designed to provide reasonable assurance that the information required to be disclosed is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. In designing and evaluating our disclosure controls and procedures, our management recognized that any controls and procedures, no matter how well

designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Changes in Internal Controls Over Financial Reporting

We completed two financial transactions on September 30, 2009 that involved the issuance of the 2012 Notes and a sale of potential future milestone payments. The accounting for these two transactions is material to our financial position as of September 30, 2009 and we believe the internal controls and procedures relating to the accounting for the derivatives resulting from the transactions have a material effect on our internal control over financial reporting. See Note 13, "September 2009 Financial Transactions", to our unaudited condensed consolidated financial statements contained in this Quarterly Report for further details on these transactions.

We have expanded our Section 404 compliance program under the Sarbanes-Oxley Act of 2002 and the applicable rules and regulations under this act to include current and on-going accounting for these derivatives. Except for the accounting for these derivatives, no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended) occurred during the third quarter of 2009 that has materially affected, or is reasonably likely to materially affect, our internal controls over financial reporting.

Part II. Other Information

Item 1A. Risk Factors

Information regarding risk factors appears in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 17, 2009, as updated by our Quarterly Report on Form 10-Q for the three months ended March 31, 2009, which was filed with the SEC on May 11, 2009. There have been no material changes from the risk factors previously disclosed in the Form 10-K as updated by the Form 10-Q.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q and, in particular, our Management's Discussion and Analysis of Financial Condition and Results of Operations set forth in Part I—Item 2, contain or incorporate a number of forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including statements regarding:

- our expectations regarding clinical trials, development timelines and regulatory authority filings for telaprevir, VX-770, VX-809, VX-509, VX-222 and other drug candidates under development by us and our collaborators including our intention to submit an NDA for telaprevir in the United States in the second half of 2010;

- our expectations regarding the number of patients that will be evaluated, the trial design that will be utilized, and the expected date by which SVR data, interim data and/or final data will be available and/or publicly announced for our ADVANCE, REALIZE and ILLUMINATE trials, the other ongoing or planned clinical trials of telaprevir, the ENDEAVOR registration program for VX-770, including the STRIVE, ENVISION and DISCOVER trials, the planned and ongoing clinical trials of VX-809, VX-222 and VX-509, and the clinical trial being conducted by Merck;

- expectations regarding the amount of, timing of and trends with respect to our revenues, the costs and expenses and other gains and losses, including those related to the intangible assets associated with the ViroChem acquisition and to the liabilities we recorded in connection with the financial transactions that we entered into in September 2009;

- our belief that if we are able to successfully commercialize telaprevir in accordance with current development timelines, we will begin receiving cash flows from the sale of telaprevir in 2011;

- the data that will be generated by ongoing and planned clinical trials, and the ability to use that data for the design and initiation of further clinical trials and to support regulatory filings, including potentially applications for marketing approval for telaprevir and VX-770;

- our plan to begin clinical evaluation of novel combination regimens of telaprevir with VX-222 as early as the fourth quarter of 2009 and the possibility that we will begin evaluation of combination regimens of VX-770 and VX-809 in patients with CF in the second half of 2010;

- our expectation that we will conduct several significant clinical trials that we believe will provide meaningful information regarding a number of our earlier-stage drug candidates;

- our expectations regarding the future market demand and medical need for telaprevir and our other drug candidates;

- our beliefs regarding the support provided by clinical trials and preclinical and nonclinical studies of our drug candidates for further investigation, clinical trials or potential use as a treatment of those drug candidates;

- our ability to successfully market telaprevir and VX-770 or any of our other drug candidates if we are able to obtain regulatory approval;
- the focus of our drug development efforts and our financial and management resources and our plan to invest significant resources in telaprevir and our other drug candidates;
- the establishment, development and maintenance of collaborative relationships;
- potential business development activities, including with respect to our JAK3 program;
- our ability to use our research programs to identify and develop new drug candidates to address serious diseases and significant unmet medical needs;
- our estimates regarding obligations associated with a lease of a facility in Kendall Square, Cambridge, Massachusetts; and
- our liquidity and our expectations regarding our needs for and ability to raise additional capital.

Without limiting the foregoing, the words "believes," "anticipates," "plans," "intends," "expects" and similar expressions are intended to identify forward-looking statements. Any or all of our forward-looking statements in this Quarterly Report on Form 10-Q may turn out to be wrong. They can be affected by inaccurate assumptions we might make or by known or unknown risks and uncertainties. Many factors mentioned in our discussion in this Quarterly Report on Form 10-Q will be important in determining future results. Consequently, no forward-looking statement can be guaranteed. Actual future results may vary materially from expected results. We also provide a cautionary discussion of risks and uncertainties under "Risk Factors" in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 17, 2009, and updated and supplemented by "Part II—Item 1A—Risk Factors" of our Quarterly Report on Form 10-Q for the quarter ended March 31, 2009, which was filed with the SEC on May 11, 2009. These are factors that we think could cause our actual results to differ materially from expected results. Other factors besides those listed could also adversely affect us. In addition, the forward-looking statements contained herein represent our estimate only as of the date of this filing and should not be relied upon as representing our estimate as of any subsequent date. While we may elect to update these forward-looking statements at some point in the future, we specifically disclaim any obligation to do so to reflect actual results, changes in assumptions or changes in other factors affecting such forward-looking statements.

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

Issuer Repurchases of Equity Securities

The table set forth below shows all repurchases of securities by us during the three months ended September 30, 2009:

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as part of publicly announced Plans or Programs	Maximum Number of Shares that may yet be purchased under publicly announced Plans or Programs
July 1, 2009 to July 31, 2009	12,177	$ 0.01	—	—
August 1, 2009 to August 31, 2009	11,316	$ 0.01	—	—
September 1, 2009 to September 30, 2009	9,418	$ 0.01	—	—

The repurchases were made under the terms of our 1996 Stock and Option Plan and 2006 Stock and Option Plan. Under these plans, we award shares of restricted stock that typically are subject to a lapsing right of repurchase by us. We may exercise this right of repurchase in the event that a restricted stock recipient's service to us is terminated. If we exercise this right, we are required to repay the

purchase price paid by or on behalf of the recipient for the repurchased restricted shares, which typically is the par value per share of $0.01. Repurchased shares are returned to the applicable Stock and Option Plan under which they were issued. Shares returned to the 2006 Stock and Option Plan are available for future awards under the terms of that plan.

Item 6. Exhibits

Exhibit No.	Description
4.1	Indenture dated as of September 30, 2009 by and between Vertex Pharmaceuticals Incorporated and U.S. Bank National Association, as trustee and collateral agent.†
4.2	Secured Note due 2012.
10.1	License, Development and Commercialization Agreement between Mitsubishi Tanabe Pharma Corporation and Vertex Pharmaceuticals Incorporated, dated June 11, 2004.†
10.2	Second Amendment dated July 30, 2009 to License, Development and Commercialization Agreement between Mitsubishi Tanabe Pharma Corporation and Vertex Pharmaceuticals Incorporated.†
10.3	Note Purchase Agreement dated September 30, 2009 by and between Vertex Pharmaceuticals Incorporated and Olmsted Park S.A.†
10.4	Security Agreement dated September 30, 2009 between Vertex Pharmaceuticals Incorporated and U.S. Bank National Association, as collateral agent.†
10.5	Purchase Agreement Regarding Milestone #9 dated September 30, 2009 by and between Vertex Pharmaceuticals Incorporated and Olmsted Park S.A.†
10.6	Purchase Agreement Regarding Milestone #10 dated September 30, 2009 by and between Vertex Pharmaceuticals Incorporated and Olmsted Park S.A.†
31.1	Certification of the Chief Executive Officer under Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Chief Financial Officer under Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

† Confidential portions of this exhibit have been filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

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.

November 9, 2009 VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ IAN F. SMITH

Ian F. Smith
Executive Vice President and Chief Financial Officer
(principal financial officer and duly authorized officer)

Exhibit 4.1

EXECUTION COPY

Confidential Treatment Requested.

Confidential portions of this document have been redacted and have been separately filed with the Commission.

VERTEX PHARMACEUTICALS INCORPORATED

$155,000,000

SECURED NOTES DUE 2012

INDENTURE

DATED AS OF SEPTEMBER 30, 2009

U.S. BANK NATIONAL ASSOCIATION,

AS TRUSTEE AND COLLATERAL AGENT

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Table of Contents

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LIST OF EXHIBITS

CROSS-REFERENCE TABLE

Reconciliation and tie between the Trust Indenture Act of 1939, as amended, and the Indenture, dated as of September 30, 2009.

TRUST INDENTURE ACT SECTION	INDENTURE SECTION
§310(a)(l)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	7.10
(b)	7.03; 7.08; 7.10
(c)	N.A.
§311(a)	7.11
(b)	7.11
(c)	N.A.
§312(a)	2.05
(b)	13.03
(c)	13.03
§313(a)	7.06
(b)	7.06
(c)	7.06
(d)	7.06
§314(a)	4.04; 4.11
(b)	11.02
(c)(1)	13.04
(c)(2)	13.04
(c)(3)	11.03
(d)	11.03
(e)	13.05
(f)	13.14
§315(a)	7.01 (b)
(b)	7.05
(c)	7.01 (a)
(d)	7.01 (c)
(e)	6.11
§316(a)	2.08
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.

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(b)	6.07
(c)	N.A.
§317(a)(1)	6.08
(a)(2)	6.09
(b)	2.04
§318(a)	13.01

Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

INDENTURE

THIS INDENTURE is dated as of September 30, 2009 (this "Indenture"), by and among VERTEX PHARMACEUTICALS INCORPORATED, a Massachusetts corporation (the "Company"), the corporations and other entities, if any, from time to time parties hereto as Guarantors (each, a "Guarantor" and collectively, the "Guarantors", as more fully defined below) and U.S. BANK NATIONAL ASSOCIATION, as trustee (the "Trustee") and as collateral agent (the "Collateral Agent").

RECITALS

The Company has duly authorized the creation and issue of its Secured Notes due 2012 (the "Notes") of substantially the tenor and amount hereinafter set forth, and to provide therefor, the Company has duly authorized the execution and delivery of this Indenture.

All things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee hereunder and duly issued by the Company, the valid obligations of the Company and this Indenture a valid instrument of the Company, in accordance with their respective terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that, for and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Notes, as follows:

ARTICLE I.

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01. Definitions.

"144A Global Note" means a global note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount at maturity of the Notes sold in reliance on Rule 144A.

"Accreted Value" means an amount per $1,000 principal amount at maturity of the Notes that is equal to (a) as of any date prior to October 31, 2012, $788.49 accreted at the daily compounding rate equivalent to 8% per year from the Issue Date through the date of determination, computed on the basis of a 365-day year, and (b) as of October 31, 2012, or any date thereafter, $1,000.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

"Affiliate" of any specified Person shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. For purposes of this definition, "control" (or its derivatives) shall mean the possession, direct or indirect, of the power or ability to direct or cause the direction of the management and policies of a Person, whether through ownership of equity, voting securities or beneficial interest, by contract or otherwise.

"Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer or exchange.

"Authentication Order" has the meaning set forth in Section 2.02 hereof

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors as now or hereinafter constituted.

"Board of Directors" means (1) with respect to a corporation, the board of directors of the corporation, (2) with respect to a partnership, the Board of Directors of the general partner of the partnership or, if the partnership has more than one general partner, the managing general partner of the partnership and (3) with respect to any other Person, the board or committee of such Person serving a similar function.

"Board Resolution" means a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors of the Company and to be in full force and effect on the date of such certification.

"Business Day" means any day other than a Legal Holiday.

"Capital Stock" means (i) in the case of a corporation, corporate stock, (ii) in the case of an association or other business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Change of Control" means the occurrence of any of the following events from and after the Issue Date:

(i) any "person" or "group" (as such terms are used in Section 13(d)(3) of the Exchange Act or any successor provision to the foregoing), including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d—5(b)(1) under the

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Exchange Act, other than the Company, any of its Subsidiaries or any of its employee benefit plans, is or becomes the "beneficial owner" (as defined in Rule 13d—3 under the Exchange Act), directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of 50% or more of the total voting power of all classes of the Company's Voting Stock;

(ii) the Company consolidates with, or merges with or into, another person (as such term is used in Sections 13(d)(3) of the Exchange Act) or any person consolidates or merges with or into the Company, or the Company conveys, transfers, leases or otherwise disposes of all or substantially all of its assets to any person, other than (x) any transaction that (A) does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of the Company's Capital Stock, and (B) pursuant to which holders of the Company's Capital Stock immediately prior to the transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of the Voting Stock of the continuing or surviving entity of such transaction; or (y) any merger solely for the purpose of changing the Company's jurisdiction of formation and resulting in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock of the surviving entity;

(iii) during any consecutive two-year period, individuals who at the beginning of that two-year period constituted the Board of Directors (together with any new directors whose election to such Board of Directors, or whose nomination for election by stockholders of the Company, was approved by a vote of a majority of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason (other than death) to constitute a majority of the Board of Directors then in office; or

(iv) the Company's stockholders approve a plan of liquidation or dissolution.

"Change of Control Offer" has the meaning set forth in Section 4.08 hereof.

"Change of Control Payment" has the meaning set forth in Section 4.08 hereof.

"Change of Control Payment Date" has the meaning set forth in Section 4.08 hereof.

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"Clearstream" means Clearstream, société anonyme Luxembourg (or any successor securities clearing agency).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

"Collateral" means, collectively, the assets and property (and rights and interests in assets and property), now owned or hereafter acquired, of any Person, subject to, or intended or required to be subject to, the Liens created by the Collateral Documents.

"Collateral Agent" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Collateral Documents" means, collectively, the Security Agreement and all other pledges, agreements, financing statements, mortgages or other filings or documents that create or perfect or purport to create or perfect a Lien in any property or assets in favor of the Collateral Agent (for the benefit of the Trustee and the Holders of Notes), as they may be amended, modified, supplemented, restated, amended and restated or replaced from time to time, and any instruments of assignment or other instruments or agreements executed pursuant to the foregoing.

"Commission" means the United States Securities and Exchange Commission.

"Company" means Vertex Pharmaceuticals Incorporated, a Massachusetts corporation, its successors and assigns.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Company.

"Covenant Defeasance" has the meaning set forth in Section 8.03 hereof.

"Custodian" means any receiver, trustee, assignee, liquidator, sequester or similar official under any Bankruptcy Law.

"Debtor Relief Laws" means the Title 11 of the U.S. Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of the Notes attached hereto as Exhibit A and that does not include the information called for by footnotes 1, 2 and 4 thereof.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and, thereafter, "Depositary" shall mean or include such successor.

"Documents" has the meaning set forth in Section 13.15 hereof.

"DTC" has the meaning set forth in Section 2.03 hereof.

"Euroclear" means Euroclear Bank, SA/NV as operator of the Euroclear Clearance System (or any successor securities clearing agency).

"Event of Default" has the meaning set forth in Section 6.01 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor statute.

"Existing Notes" shall mean Vertex's 4.75% Convertible Senior Subordinated Notes due 2013.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, (2) the statements and pronouncements of the Financial Accounting Standards Board and (3) such other statements by such other entity as approved by a significant segment of the accounting profession.

"Global Note" means a Note that contains the information called for by footnote 1, the paragraphs referred to in footnote 2 and the additional schedule referred to in footnote 4 to the form of the Note attached hereto as Exhibit A.

"Global Note Legend" means the legend set forth in Section 2.06(g)(iv), which is required to be placed on all Global Notes issued under this Indenture.

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"Government Securities" means securities that are direct obligations of the United States of America for the timely payment of which its full faith and credit are pledged.

"Governmental Authority" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"Guarantee" means, as to any Person, a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness of another Person.

"Guarantor" means any Subsidiary that executes a Note Guarantee in accordance with the provisions of this Indenture, and its respective successors and assigns until released from its obligations under its Note Guarantee and this Indenture in accordance with the terms of this Indenture. As of the Issue Date, there are no Guarantors.

"Holder" means a Person in whose name a Note is registered.

"IAI Global Note" mean the global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued on the Issue Date or thereafter in a denomination equal to the outstanding principal amount at maturity of the Notes sold to Institutional Accredited Investors.

"Indebtedness" when used with respect to any Person, and without duplication, means:

(i) all indebtedness, obligations and other liabilities (contingent or otherwise) of such Person for borrowed money (including obligations of such person in respect of overdrafts and any loans or advances from banks, whether or not evidenced by notes or similar instruments) or evidenced by bonds, notes or other instruments for the payment of money, or incurred in connection with the acquisition of any property, services or assets (whether or not the recourse of the lender is to the whole of the assets of such Person or to only a portion thereof), other than any account payable or other accrued current liability or obligation to trade creditors incurred in the ordinary course of business in connection with the obtaining of goods, materials or services;

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(ii) all reimbursement obligations and other liabilities (contingent or otherwise) of such Person with respect to letters of credit, bank guarantees, bankers' acceptances, surety bonds, performance bonds or other guaranty of contractual performance;

(iii) all obligations and liabilities (contingent or otherwise) in respect of (a) leases of such Person required, in conformity with GAAP, to be accounted for as capitalized lease obligations on the balance sheet of such Person and (b) any lease or related documents, including a purchase agreement, in connection with the lease of real property which provides that such Person is contractually obligated to purchase or cause a third party to purchase the leased property and thereby guarantee a minimum residual value of the leased property to the landlord and the obligations of such Person under such lease or related document to purchase or to cause a third party to purchase the leased property;

(iv) all obligations of such Person (contingent or otherwise) with respect to an interest rate or other swap, cap or collar agreement or other similar instrument or agreement or foreign currency hedge, exchange, purchase or similar instrument or agreement;

(v) all direct or indirect guaranties or similar agreements by such Person in respect of, and obligations or liabilities (contingent or otherwise) of such Person to purchase or otherwise acquire or otherwise assure a creditor against loss in respect of, indebtedness, obligations or liabilities of another Person of the kind described in clauses (i) through (iv);

(vi) any indebtedness or other obligations described in clauses (i) through (iv) secured by any mortgage, pledge, lien or other encumbrance existing on property which is owned or held by such Person, regardless of whether the indebtedness or other obligation secured thereby shall have been assumed by such Person; and

(vii) any and all deferrals, renewals, extensions, refinancings, replacements, restatements and refundings of, or amendments, modifications or supplements to, any indebtedness, obligation or liability of the kind described in clauses (i) through (vi).

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

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"Institutional Accredited Investor" means an institution that is an "accredited investor" as defined in Rule 501 (a) (1), (2), (3), (7) under the Securities Act, who is not also a QIB.

"Issue Date" means the date of original issuance of the Notes under this Indenture.

"Janssen" shall mean Janssen Pharmaceutica, N.V., a Belgium corporation, including its successors and assigns.

"Janssen Agreement" shall mean the License, Development, Manufacturing and Commercialization Agreement by and between the Company and Janssen effective as of June 30, 2006, as such agreement is amended and in effect on the date hereof, together with the Janssen Consent, except as expressly set forth herein, as each may be amended and/or restated from time to time after the date hereof in accordance with the terms of this Indenture and any new, substitute or amended agreement by and between the Company and Janssen relating to the Milestone Payments to be made after the date hereof in accordance with the terms of this Indenture.

"Janssen Consent" means all consents and other agreements necessary under the Jansen Agreement for the Company to grant a security interest in favor of the Collateral Agent in accordance with the terms of this Indenture and the Collateral Documents and the consummation of the other transactions contemplated by the Indenture and the Collateral Documents, including any consents required under Section 15.2 of the Janssen Agreement.

"Legal Defeasance" has the meaning set forth in Section 8.02 hereof.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in The City of New York, The Grand Duchy of Luxembourg or at a place of payment are authorized or required by law, regulation or executive order to remain closed.

"Lien" shall mean any lien, hypothecation, charge, instrument, license, preference, priority, security agreement, security interest, mortgage, option, right of first refusal, privilege, pledge, liability, covenant or order, or any encumbrance, restriction, right or claim of any other Person or Governmental Authority of any kind whatsoever, whether choate or inchoate, filed or unfiled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, provided that nothing herein shall prohibit any of the above created solely in favor of the Collateral Agent for the benefit of the Trustee and the Holders by the Collateral Documents.

"Liquidated Damages" means as of the respective date of determination, a Dollar amount that is equal to (a) as of any date prior to October 31, 2012, an

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amount calculated using the formula "1000 times (1-(1/e^{rt}))" where "e" and "r" have the meaning given such term in Section 4.14 hereof and "t" is a number that is equal to 1/365th of the difference between (i) 1,127 and (ii) the total number of days elapsed from the Issue Date to the date of determination and (b) as of October 31, 2012, or any date thereafter, $0.

"Maturity Date" means October 31, 2012.

[***].

[***].

[***].

[***].

"Milestone Payments" shall mean collectively **[***]**; (ii) (a) all additional amounts added to any of the milestone payments described above in clauses (i)(a) and (b) under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the milestone payments described above in clauses (i)(a) and (b) pursuant to Section 9.10 of the Janssen Agreement and (b) the Holders' Pro Rata Portion of all additional amounts added to the milestone payment described above in clause (i)(c) under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the milestone payment described above in clause (i)(c) pursuant to Section 9.10 of the Janssen Agreement; (iii) all accounts (as defined under the UCC) evidencing the rights to the payments and amounts described in clauses (i) and (ii) above; and (iv) all proceeds (as defined under the UCC) of the foregoing.

"Note Custodian" means the Trustee, as custodian with respect to the Global Notes, or any successor entity thereto.

"Note Guarantee" means a Guarantee of the Notes pursuant to Article X hereof, including a notation in the Notes substantially in the form included in Exhibit E, and any supplemental indenture pursuant to which any Person becomes a Guarantor.

"Note Purchase Agreement" means the note purchase agreement dated as of the date of this Indenture by and between the Company and Olmsted Park S.A., as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.

"Note Obligations" means (i) all Accreted Value of, interest (including, without limitation, any interest which accrues after the commencement of any proceeding under any Debtor Relief Law with respect to any of the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding), and Liquidated Damages, if any, on any Note, (ii) all fees, expenses, indemnification obligations and other amounts of whatever nature now or hereafter payable by the Company or any

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Guarantor (including, without limitation, any amounts which accrue after the commencement of any proceeding under any Debtor Relief Law with respect to the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding) pursuant to this Indenture, the Notes or any Collateral Document, (iii) all expenses of the Trustee or the Collateral Agent (or any agent or sub-agent thereof) under this Indenture as to which the Trustee or the Collateral Agent or one or more of such agents have a right to reimbursement or under any other similar provision of any Collateral Document, including, without limitation, any and all sums advanced by the Trustee or the Collateral Agent to preserve the Collateral or preserve its security interests, mortgages or Liens in the Collateral to the extent permitted under this Indenture, the Notes or any other Collateral Document or applicable law, and (iv) in the case of each Guarantor, all amounts now or hereafter payable by such Guarantor and all other obligations or liabilities now existing or hereafter arising or incurred (including, without limitation, any amounts which accrue after the commencement of any proceeding under any Debtor Relief Law with respect to the Company or such Guarantor, whether or not allowed or allowable as a claim in any such proceeding) on the part of such Guarantor pursuant to the Notes, this Indenture, the Note Guarantees or any other Collateral Document, together in each case with all renewals, modifications, consolidations or extensions thereof.

"Obligations" means any principal, interest, penalties, fees, expenses, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, the Assistant Secretary or any Senior Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by at least two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the controller, the treasurer, the assistant treasurer or the principal accounting officer of the Company, that meets the requirements of Section 13.05 hereof.

"Opinion of Counsel" means an opinion from legal counsel (who may be counsel to, in-house counsel for or an employee of the Company) that meets the requirements of Section 13.05 hereof.

"Participant" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Paying Agent" has the meaning set forth in Section 2.03 hereof.

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"Payment Default" has the meaning set forth in Section 6.01 hereof.

"Payments from Collateral" has the meaning set forth in Section 14.02(b).

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind.

"Private Placement Legend" means the legend set forth in Section 2.06(g)(iii) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Prohibited Amendment" shall mean any amendment, modification, restatement or supplement of any provision of the Janssen Agreement that changes in any way (i) the event underlying any of the Milestone Events, (ii) the amount of any of the Milestone Payments or (iii) the timing of the payment of any of the Milestone Payments by Janssen after achievement of the applicable Milestone Event by Janssen. For avoidance of doubt, any termination of the Janssen Agreement shall not be deemed a Prohibited Amendment.

"Pro Rata Portion" shall mean, with respect to the Holders**[***]** and, with respect to the Company**[***].**

"Purchase Documents" means the Note Purchase Agreement and all related documents.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Registrar" has the meaning set forth in Section 2.03 hereof.

"Regulations S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a Global Note bearing the Private Placement Legend and deposited with or on behalf of the Depositary and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount at maturity of the Notes initially sold in reliance on Rule 903 of Regulation S.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with

respect to a particular corporate trust matter, any other officer or employee to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"Section 9.2.2 Notice" shall have the meaning set forth in Section 4.12(b).

"Securities Act" means the Securities Act of 1933, as amended, or any successor statute.

"Security Agreement" means the security agreement, dated as of the Issue Date, among the Company, the other parties thereto from time to time, and the Collateral Agent, substantially in the form of Exhibit G, as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.

"Senior Debt" shall mean the principal of, premium, if any, interest (including interest, to the extent allowable, accruing subsequent to the filing of a petition initiating any proceeding under any state, federal or foreign bankruptcy law, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding) and rent payable on or termination payments with respect to or in connection with, and all fees, costs, expenses and other amounts accrued or due on or in connection with, Indebtedness of the Company or any of its Subsidiaries, whether outstanding on the date of this Indenture or thereafter created, incurred, assumed, guaranteed or in effect guaranteed by the Company or any of its Subsidiaries (including all deferrals, renewals, extensions or refundings of, or amendments, modifications or supplements to, the foregoing), except for: (i) the Existing Notes; (ii) Indebtedness that by its terms expressly provides that it shall not be senior in right of payment to the Notes or the Existing Notes or expressly provides that such Indebtedness is equal in right of payment with or junior in right of payment to the Notes or Existing Notes; and (iii) Indebtedness between or among the Company and any of its Subsidiaries.

"Significant Subsidiary" means any Subsidiary that would constitute a "significant subsidiary" within the meaning of Article 1 of Regulation S-X of the Securities Act, as in effect on the Issue Date.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which such payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" or "Subsidiaries" shall mean with respect to any Person (i) any corporation of which the outstanding Capital Stock having at least a majority of votes entitled to be cast in the election of directors (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time be owned, directly or indirectly, by such Person or by another subsidiary of such Person or (ii) any other Person of which at least a majority voting interest (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another subsidiary of such Person.

"Surviving Entity" has the meaning set forth in Section 5.01 hereof.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C.ss.ss.77aaa-77bbbb) as in effect on the date of this Indenture.

"Transfer Restricted Securities" means securities that bear or are required to bear the legend set forth in Section 2.06(g)(iii) hereof.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent Global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Increases and Decreases of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing a series of Notes that do not bear the Private Placement Legend.

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"Voting Stock" of a Person means all classes of Capital Stock or other interests (including partnership interests) of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency within the control of such person to satisfy) to vote in the election of directors, managers or trustees thereof.

Section 1.02. Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes and the Note Guarantees;

"indenture security Holder" means a Holder of a Note;

"indenture trustee" or "institutional trustee" means the Trustee;

"obligor" on the Notes means the Company and any successor obligor upon the Notes or any Guarantor.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by Commission rule under the TIA have the meanings so assigned to them.

Section 1.03. Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) words in the singular include the plural, and in the plural include the singular;

(d) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the Commission from time to time;

(e) references to "property and assets" or "property" or "assets" means any right or interest in or to property or assets of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including Capital Stock; and

(f) unless otherwise specifically provided by the terms of this Indenture, references to approvals, consents, or directions of the Holders of the Notes shall be deemed to refer to approvals, consent or directions of the Holders of a majority in principal amount at maturity of the Notes outstanding on the applicable date.

ARTICLE II.

THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the certificate of authentication of the Trustee thereon shall be substantially in the form included in Exhibit A hereto, which is incorporated in and expressly made a part of this Indenture. The notations of the Note Guarantees shall be substantially in the form of Exhibit E hereto, the terms of which are incorporated in and made part of this Indenture. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of $50,000 of principal amount at maturity and integral multiples of $1,000 in excess thereof.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

The aggregate principal amount of the Notes that may be authenticated and delivered under this Indenture is $155,000,000 in principal amount at maturity of Notes, except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to the terms of this Indenture.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the text referred to in footnotes 1, 2 and 4 thereto). Notes issued in certificated form shall be substantially in the form of Exhibit A attached hereto (but without including the text referred to in footnotes 1, 2 and 4 thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate amount of outstanding Notes from time to time endorsed thereon and that the aggregate amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Note Custodian, at the

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direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Euroclear and Clearstream Procedures Applicable. The provisions of Euroclear and Clearstream shall be applicable to transfers of beneficial interests in Global Notes that are held by Participants through Euroclear or Clearstream.

Section 2.02. Execution and Authentication.

Two Officers shall sign the Notes for the Company by manual or facsimile signature. If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by two Officers ("Authentication Order"), authenticate the Notes in an aggregate principal amount at maturity of $155,000,000. The aggregate principal amount of Notes outstanding at any time may not exceed such amount except as provided in Sections 2.07 and 9.05 hereof. The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with the Company or an Affiliate of the Company.

Section 2.03. Registrar and Paying Agent.

The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar"). The Company appoints the Trustee to, and the Trustee agrees to, maintain an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Registrar without notice to any Holder but may only change the Paying Agent or appoint additional Paying Agents with the prior written consent of the Holders of a majority in aggregate principal amount at maturity of Notes outstanding. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee to act as Depositary with respect to the Global Notes; *provided*, that upon the request of Holders of at least 25% in aggregate principal amount at maturity of the then outstanding Notes, the Company shall appoint The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes and shall take all actions required by DTC in connection therewith.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Note Custodian with respect to the Global Notes.

Section 2.04. Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of Accreted Value, Liquidated Damages, if any, or interest on the Notes, and will notify the Trustee of any default by the Company or any Guarantor in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money received from the Company or a Subsidiary. If the Company or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company or a Guarantor, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA §312(a). If the Trustee is not the Registrar, the Company shall, or shall cause the Registrar to, furnish to the Trustee at least seven Business Days before each interest payment date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company and the Guarantors shall otherwise comply with TIA §312(a).

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. Global Notes will not be exchanged by the Company for Definitive Notes unless (i) the Depositary (A) notifies the Company that it is unwilling or

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unable to continue as depositary for the Global Notes and the Company fails to appoint a successor depositary within ninety (90) days of delivery of such notice or (B) has ceased to be a clearing agency registered under the Exchange Act, and the Company fails to appoint a successor depositary within ninety (90) days of delivery of such notice or (ii) there shall have occurred and be continuing a Default or Event of Default with respect to the Notes. Beneficial interests in a Global Note may also be exchanged for Certificated Notes upon prior written notice given to the Trustee by or on behalf of the Depositary in accordance with this Indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depositary (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in

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accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof , and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act; and

(C) if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the

certifications and certificates and opinion of counsel required by item (3) thereof, if applicable.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in the Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (iv), if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(v) Euroclear or Clearstream. Through and including the 40th day after the Issue Date, beneficial interests in the Regulation S Global Note may be held only through Euroclear or Clearstream, unless transferred to a person that takes delivery through a Rule 144A Global Note.

If any such transfer is effected at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount at maturity of beneficial interests transferred.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest

to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an

opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and opinion of counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount.

Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery

thereof in the form of an Unrestricted Definitive Note only if the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (ii), if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions an Unrestricted Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so

registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2) (b) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an

opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and opinion of counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof;

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof;

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the

case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(1) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(2) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery

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thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (ii), if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount at maturity equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the

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requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof, and if the Registrar or the Company so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and opinion of counsel required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(1) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1) (d) thereof; or

(2) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (ii), if the Registrar or the Company so requests, an opinion of counsel in form reasonably acceptable to the Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) [Reserved]

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) [Reserved]

(ii) Tax Legend.

Each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

THIS NOTE WAS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS NOTE WAS 78.8494% OF ITS PRINCIPAL AMOUNT; THE TOTAL AMOUNT OF ORIGINAL ISSUE DISCOUNT IS $211.51 PER NOTE WITH A PRINCIPAL AMOUNT OF $1,000; THE ISSUE DATE IS SEPTEMBER 30, 2009; AND THE YIELD TO MATURITY IS 8.00% PER YEAR.

(iii) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in

exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF VERTEX PHARMACEUTICALS INCORPORATED (THE “COMPANY”) THAT (A) SUCH SECURITY MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) INSIDE THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A FOREIGN PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS), (c) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144

THEREUNDER (IF APPLICABLE) (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS) OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS), (2) TO THE COMPANY OR (3) PURSUANT TO AN EFFECTIVE

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REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE SECURITY EVIDENCED HEREBY."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), or (e)(iii) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(iv) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06(h) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY."

Furthermore, if DTC is the Depository of the Global Notes, each Global Note shall bear a legend in substantially the following form:

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY, BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF

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THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount at maturity of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge

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payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.07, 3.08, 4.08 and 9.05 hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, or (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(viii) All certifications, certificates and opinions of counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

(ix) The Trustee shall have no obligation or duty to monitor, determine of inquire as to compliance with any restrictions on transfer that may be imposed under this Indenture with respect to the Notes or under applicable law, other than to require delivery of such certificates, documentation or other evidence as are expressly required by, and to do so if and when expressly required by, this Indenture. The Trustee shall have no responsibility for any actions taken or not taken by the Depositary.

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Section 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee, or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon the written order of the Company signed by two Officers of the Company, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company and the Trustee each may charge for their respective expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section 2.08. Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those cancelled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, such Note ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, the Note ceases to be outstanding, its Accreted Value will cease to accrete and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

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Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, any Guarantor or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Trustee knows are so owned shall be so disregarded.

Section 2.10. Temporary Notes.

Until definitive Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes upon a written order of the Company signed by two Officers of the Company. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee (and no one else) shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy cancelled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all cancelled Notes shall be delivered to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of Accreted Value, Liquidated Damages, if any, or any other Note Obligation, the Company shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed

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each such special record date and payment date; *provided*, that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

ARTICLE III.

REDEMPTION AND PREPAYMENT

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, the Company shall furnish to the Trustee, at least 5 Business Days (or such shorter period as shall be acceptable to the Trustee) before the applicable redemption date, an Officers' Certificate setting forth (i) the clause of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount at maturity of Notes to be redeemed and (iv) the redemption price, including the Accreted Value and Liquidated Damages components of the redemption price. If the Company is required to redeem Notes pursuant to the mandatory redemption provisions of Section 3.08(b) hereof, the Company shall furnish to the Trustee, at least 2 Business Days before the applicable redemption date (or such shorter period as shall be acceptable to the Trustee), an Officers' Certificate setting forth (i) the redemption date, (ii) the principal amount at maturity of Notes to be redeemed and (iii) the redemption price, including the Accreted Value and Liquidated Damages components of the redemption price.

Section 3.02. Selection of Notes to Be Redeemed.

If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes for redemption as follows:

(1) in compliance with the requirements of the principal national securities exchange or the Nasdaq Stock Market, as the case may be, on which the Notes are listed; or

(2) if the Notes are not so listed, on a pro rata basis, by lot or by such method as the Trustee shall deem fair and appropriate.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption. No Notes of $50,000 or less shall be redeemed in part. Notices of redemption shall be electronically delivered or mailed by first class mail at least 2 but

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not more than 5 Business Days before the redemption date to each Holder to be redeemed at its registered address. Notices of redemption may not be conditional.

If any Note is to be redeemed in part only, the notice of redemption that relates to that Note shall state the portion of the principal amount at maturity thereof to be redeemed. A new Note in principal amount at maturity equal to the unredeemed portion of the original Note will be issued in the name of the Holder thereof upon cancellation of the original Note. Notes called for redemption will become due on the date fixed for redemption. On and after the redemption price is paid to the Holder thereof, Accreted Value will cease to accrete and interest will cease to accrue on such Notes or portions of them called for redemption.

Section 3.03. Notice of Redemption.

At least 2 Business Days but not more than 5 Business Days before a redemption date (which redemption date must be on or before the Maturity Date), the Company shall electronically deliver or cause to be electronically delivered or mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address.

The notice shall identify the Notes to be redeemed and shall state:

(a) the redemption date;

(b) the redemption price;

(c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(f) that, unless the Company defaults in making such redemption payment, Accreted Value on Notes called for redemption ceases to accrete and interest on Notes called for redemption ceases to accrue, in each case, on and after the redemption date and Liquidated Damages shall be calculated as of the redemption date;

(g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

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(h) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided*, *however*, that the Company shall have delivered to the Trustee, at least 5 Business Days prior to the redemption date (unless a shorter period shall be satisfactory to the Trustee), an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

Section 3.05. Deposit of Redemption Price.

On or prior to the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of (including any Liquidated Damages) and accrued interest on all Notes to be redeemed on that date. If the Company or a Subsidiary is the Paying Agent, any deposit with the Paying Agent shall not be deemed to be made unless the Company deposits the applicable amount in the separate trust fund established pursuant to Section 2.04. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest, if any, on, all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, Accreted Value shall cease to accrete, Liquidated Damages shall be calculated as of the redemption date, and interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid Accreted Value and Liquidated Damages, if any, from the redemption date until such Accreted Value

and Liquidated Damages, if any, is paid, and to the extent lawful on any interest not paid on such unpaid Accreted Value and Liquidated Damages, if any, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Payments made hereunder shall be made to the Trustee or Paying Agent no later than 11 a.m. on the applicable redemption date.

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Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07. Optional Redemption.

The Company may redeem the Notes at its option, in whole at any time or in part from time to time, upon not less than 2 nor more than 5 Business Days' prior notice electronically delivered or mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the Accreted Value of the Notes redeemed plus Liquidated Damages, if any, and accrued and unpaid interest, if any, as of the applicable redemption date.

Any redemption pursuant to this Section 3.07 shall be made in accordance with the provisions of Sections 3.01 through 3.06.

Section 3.08. Mandatory Redemption.

(a) Except as set forth in subsection (b) below and except with respect to Change of Control Offers, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

(b) Upon the occurrence of a Milestone Event as defined in the Janssen Agreement as in effect on the date of this Indenture (whether or not the Janssen Agreement is still in effect or has been terminated or amended after the Issue Date and regardless of whether the Milestone Event is achieved by Janssen, the Company or a licensee or successor of the Company or an acquirer of assets from the Company) , the Company shall redeem for cash, no later than the earlier of (i) five (5) Business Days after the Company's receipt of the applicable Milestone Payment or (ii) 45 days after the occurrence of the applicable Milestone Event, the maximum principal amount at maturity of Notes that may be redeemed with the amount of the applicable Milestone Payment achieved, under the Janssen Agreement as in effect on the date of this Indenture, upon the occurrence of the applicable Milestone Event, at a redemption price in cash in an amount equal to 100% of the Accreted Value thereof, plus Liquidated Damages, if any to the date fixed for the closing of such redemption in accordance with the procedures set forth in this Indenture. In the event the Company redeems Notes pursuant to clause (ii) on a date before Janssen delivers the applicable Milestone Payment to the Company (or to the Trustee or Collateral Agent pursuant to the terms of the Collateral Documents) that otherwise would have been used to redeem such Notes, the Company shall be entitled to any amounts subsequently paid by Janssen to the Company (or to the Trustee or Collateral Agent pursuant to the terms of the Collateral Documents) with respect to such

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Milestone Payment and, (i) the Trustee and the Collateral Agent shall assign their respective rights to receive such Milestone Payment from Janssen to the Company and shall instruct Janssen in writing to pay such Milestone Payment directly to the Company, (ii) such amount owed or paid by Janssen shall not be used to redeem any portion of the Notes under this Section 3.08 nor shall such amount be considered Collateral under this Indenture or the Collateral Documents and (iii) if Janssen pays any such amounts with respect to such Milestone Payment to the Trustee or the Collateral Agent under the Collateral Documents, the Trustee or Collateral Agent shall promptly turn over such amount to the Company by wire transfer of immediately available funds to an account designated by the Company.

Any redemption pursuant to this Section 3.08 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

ARTICLE IV.

COVENANTS

Section 4.01. Payment of Notes.

The Company shall pay or cause to be paid the Accreted Value of, Liquidated Damages, if any, and interest on the Notes, if any, on the dates and in the manner provided in the Notes. Accreted Value, Liquidated Damages, if any, and interest, if any, shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all Accreted Value, Liquidated Damages, if any, and interest then due.

The Company shall pay interest (and any Guarantor shall be obligated for the payment of any interest which accrues after the commencement of any proceeding under any Debtor Relief Law with respect to the Company, whether or not allowed or allowable as a claim against the Company in such proceeding) on overdue Accreted Value and Liquidated Damages, if any, at the rate equal to 12% per annum to the extent lawful. The Company shall pay interest (and any Guarantor shall be obligated for the payment of any such interest which accrues after the commencement of any proceeding under any Debtor Relief Law with respect to the Company, whether or not allowed or allowable as a claim against the Company in such proceeding) on overdue installments of interest, if any, (without regard to any applicable grace period) at the same rate to the extent lawful.

All payments under this Indenture and the Notes shall be made in the City and State of New York except as otherwise provided in the Notes or as otherwise agreed by the Company and the recipient of such payment.

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Section 4.02. Maintenance of Office or Agency.

The Company shall maintain in the Borough of Manhattan, The City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company 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 Corporate Trust Office of the Trustee.

The Company also from time to time may designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and from time to time may rescind such designations; *provided*, *however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, The City of New York for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

Section 4.03. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, a certificate signed by the Company's principal executive officer, principal financial officer or principal accounting officer stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture and further stating, as to the officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

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(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon the Company or any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.04. [Reserved.]

Section 4.05. Stay, Extension and Usury Laws.

The Company and each Guarantor covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each Guarantor (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power granted herein (or in any Collateral Document) to the Trustee or the Collateral Agent, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.06. Collateral.

Except as permitted by Section 4.12(d) hereof, the Company shall not, directly or indirectly, sell, transfer, assign, lease, license, sublicense, convey or otherwise directly or indirectly dispose of any of the Collateral or any interest therein, or create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind on or with respect to any of the Collateral or any interest therein, or enter into any agreement to do any of the foregoing , *provided*, *however*, that in no event shall the termination of the Janssen Agreement for any reason be a violation or breach of this Section 4.06 or any other term of this Indenture, the Note Purchase Agreement or the Collateral Documents or constitute an Event of Default under this Indenture.

Section 4.07. Corporate Existence.

Subject to Article V hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; *provided*, *however*, that the Company shall not be required to preserve any such right or

franchise if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

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Section 4.08. Offer to Repurchase upon Change of Control.

(a) If a Change of Control occurs, each Holder shall have the right to require the Company to repurchase all or any part (equal to $50,000 or an integral multiple of $1,000 in excess thereof) of such Holder's Notes pursuant to an offer (a "Change of Control Offer") on the terms set forth in this Indenture. In the Change of Control Offer, the Company shall offer payment (a "Change of Control Payment") in cash equal to 100% of the aggregate Accreted Value of Notes repurchased plus accrued and unpaid interest and Liquidated Damages, if any, thereon, to the date of repurchase (the "Change of Control Payment Date," which date shall be no earlier than the date of such Change of Control). No later than 30 days following any Change of Control, the Company shall mail a notice to each Holder stating that a Change of Control has occurred and offering to repurchase Notes on the Change of Control Payment Date specified in such notice, which date shall be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by this Section 4.08 and described in such notice.

The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Change of Control Offer and shall state:

(i) that the Change of Control Offer is being made pursuant to this Section 4.08;

(ii) the amount of the Change of Control Payment and the Change of Control Payment Date;

(iii) that any Note not tendered or accepted for payment shall continue to accrue interest;

(iv) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date;

(v) that Holders electing to have a Note purchased pursuant to any Change of Control Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Change of Control Payment Date;

(vi) that Holders shall be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the Change of Control Payment Date, a telegram, telex, facsimile transmission or

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letter setting forth the name of the Holder, the Accreted Value of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased; and

(vii) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount at maturity to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer); *provided* that each such new Note shall be in a principal amount at maturity of $50,000 or an integral multiple of $1,000 in excess thereof.

(b) On the Change of Control Payment Date, the Company shall, to the extent lawful:

(1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

The Paying Agent shall promptly (but in any case not later than five days after the Change of Control Payment Date) mail or wire transfer to each Holder so tendered the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note shall be in a principal amount at maturity of $50,000 or an integral multiple of $1,000 in excess thereof. If the Change of Control Payment Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such record date, and Accreted Value will cease to accrete and no additional interest shall be payable to Holders who tender Notes pursuant to the Change of Control Offer. The Company shall, if required under applicable securities laws, publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date. The provisions described herein that require the Company to make a Change of Control Offer following a Change of Control shall be applicable regardless of whether any other provisions of this Indenture are applicable.

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Section 4.09. Guarantees.

(a) The Company shall provide to the Trustee, within 30 days following the date that any Person becomes a Subsidiary that Guarantees (or grants Liens to secure) the Existing Notes, a supplemental indenture to this Indenture substantially in the form set forth in Exhibit F hereto and a joinder or accession agreement or agreements related to (and if specified in a Collateral Document, in the form required by) the Collateral Documents, accompanied by an Opinion of Counsel, executed by such new Subsidiary, providing for a full and unconditional guarantee by such new Subsidiary of the Company's obligations under the Notes and this Indenture.

(b) The Company shall not permit any of its Subsidiaries, directly or indirectly, to Guarantee (or grant any Liens to secure) the Existing Notes unless contemporaneously such Subsidiary executes and delivers to the Trustee a supplemental indenture to this Indenture substantially in the form set forth in Exhibit F hereto, accompanied by an Opinion of Counsel, providing for the full and unconditional Guarantee of the payment of the Notes by such Subsidiary.

(c) A Note Guarantee provided pursuant to Section 4.10(a) or (b) shall be subject to release in accordance with the provisions of Section 10.04 of this Indenture.

(d) A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, except in accordance with the provisions of Section 10.03 of this Indenture.

Section 4.10. Reports.

(a) The Company and the Guarantors have agreed that, for so long as any Notes remain outstanding, they will furnish to the Holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act during any period that the Company and/or any Guarantor is an issuer from which such information is required to be available under Rule 144A(d)(4), *provided*, *however*, that the obligations of the Company and the Guarantors under this Section 4.10 shall terminate upon the occurrence of a Change of Control.

(b) The Company shall comply with is obligations, if any, under TIA §314(a).

Section 4.11. Creation and Perfection of Liens Securing Collateral; Further Assurances.

The Company shall comply with the requirements of Section 4.02 of the Security Agreement.

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Section 4.12. Janssen Agreement.

(a) The Company shall not, without the prior written consent of the Holders of a majority in principal amount at maturity of the Notes then outstanding effectuate a Prohibited Amendment.

(b) Subject to Section 4.12(e), the Company will, within five calendar days following the receipt by the Company from Janssen of notice received under Section 9.2.2 of the Janssen Agreement of the occurrence (or deemed occurrence) of a Milestone Event (a "Section 9.2.2 Notice"), (a) deliver to the Trustee and the Collateral Agent a copy of such Section 9.2.2 Notice and (b) invoice Janssen for the full amount of the Milestone Payment resulting therefrom.

(c) Subject to Section 4.12(e), if the Company receives notice from Janssen or any other Person, terminating the Janssen Agreement, in whole or in part, then the Company shall no later than ten Business Days following receipt of such notice give a written notice to the Trustee and the Collateral Agent including a copy of any written notice received from Janssen or the other relevant Person.

(d) Without the prior written consent of the Holders of a majority in principal amount at maturity of the Notes then outstanding, the Company shall not, directly or indirectly, sell, assign, hypothecate or otherwise transfer the Janssen Agreement or any of its rights or obligations thereunder to any third party, including by operation of law or otherwise; *provided*, *however*, that the Company may, without the consent of the Holders of a majority in principal amount at maturity of the Notes then outstanding, directly or indirectly assign the Janssen Agreement or any of its rights or obligations thereunder to any third party with which it may merge or consolidate or to which it may sell all or substantially all of its assets.

(e) Notwithstanding anything to the contrary in this Indenture and the Collateral Documents, the Company shall have no obligation under this Indenture or the Collateral Documents to provide the Trustee or the Collateral Agent with any information (whether part of a report, notice or otherwise) if disclosure by the Company to the Trustee or the Collateral Agent of such information would constitute a breach by the Company of any confidentiality obligation to Janssen or any other Person pursuant to the Janssen Agreement, as in effect on the date hereof.

Section 4.13. Indemnification.

The Company and each Guarantor shall pay and hereby indemnifies the Trustee, each Holder, the Collateral Agent and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and shall hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any

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Indemnitee if the Company does not assume the defense of the applicable claim), incurred by any Indemnitee or asserted against any Indemnitee by any third party arising out of, in connection with, or as a result of (i) the execution or delivery of this Indenture, the Notes, any Purchase Document, any Collateral Document, any amendments, supplements, amendment and restatements, modifications or waivers of the provisions hereof or thereof, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) the use or proposed use of the proceeds of the Notes, (iii) any actual or alleged presence or release of hazardous materials on or from any property owned or operated by the Company, any Guarantor or any of their respective Affiliates, or any environmental liability related in any way to the Company, any Guarantor or any of their respective Affiliates, or (iv) any actual or prospective claim, litigation, investigation (by any Governmental Authority or otherwise) or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, brought by a third party, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; *provided* that (i) such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee if the Company or such Note Guarantor has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction and (ii) such indemnity shall not be available to any Holder or Related Party thereof or former Holder or Related Party thereof with respect to (a) any tax, including any interest and penalties thereon, (1) required by law, or alleged to be required by law, to be paid by a Holder or former Holder or (2) withheld in accordance with Section 4.14 from any payment to a Holder or former Holder, (b) any failure by the Holder or any Related Party thereof or of a former Holder or any Related Party thereof to comply with applicable law or (c) any claim, litigation, investigation or proceeding relating to the foregoing. The Company shall pay any amount due under this Section 4.13 upon demand by the Trustee or any Holder, *provided* that such amounts may be escrowed by the Company with a third-party escrow agent if the Company has asserted that such losses, claims, damages, liabilities or related expenses have resulted from the gross negligence or willful misconduct of such Indemnitee and a final and nonaapealable judgment on such claim has not yet been obtained.

The Company and each Guarantor shall pay or reimburse, within ten (10) days of demand, all reasonable out-of-pocket expenses incurred by the Trustee and the Collateral Agent (including the reasonable fees, charges and disbursements of any such Person's counsel), in connection with the enforcement or protection of its rights following an Event of Default (A) in connection with this Indenture, the Notes and the Collateral Documents (whether in any action, suit or litigation, or any bankruptcy, insolvency or other similar proceedings affecting creditors' rights generally) or (B) in

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connection with the Note Obligations, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Note Obligations.

Section 4.14. Tax Matters.

(a) The following terms shall have the meaning ascribed to them in this Section 4.14(a) for purposes of this Section 4.14:

(i) "Aggregate Issue Price" means $122,216,581.

(ii) "Annual Equivalent Accretion Rate" means 8%. (i.e., the implied interest rate on the Notes, on an annualized basis).

(iii) "Day Basis" means 365.

(iv) "e" means Euler's number, i.e., the base of the natural logarithm (approximated at 2.7182818).

(v) "Imputed Principal" means (a) if at any Payment Date, the Payment Amount minus the Regular Interest is less than or equal to zero, then zero; or (b) if at any Payment Date, the Payment Amount minus the Regular Interest is greater than zero, then the ratio of (1) the difference between the Payment Amount as of such Payment Date and the Regular Interest as of such Payment Date over (2) the Imputed Principal Factor as of such Payment Date.

(vi) "Imputed Principal Factor" as of any Payment Date, means 1 plus the ratio of (a) the Remaining Face Value as of such Payment Date minus the Total Accreted Value as of such Payment Date over (b) the Remaining Aggregate Issue Price as of such Payment Date. For the avoidance of doubt, on the first Payment Date (a) the Remaining Face Value referred to in the immediately preceding sentence shall be the Initial Face Value and (b) the Remaining Aggregate Issue Price referred to in the immediately preceding sentence shall be the Aggregate Issue Price.

(vii) "Initial Face Value" means the face value of the Notes where the Aggregate Issue Price is accreted at the Annual Equivalent Accretion Rate from the Issue Date to the Maturity Date computed on the basis of a 365-day year. The formula shall be: Pe^{rt} where P is the Aggregate Issue Price.

(viii) "Interest Factor" means e^{rt}.

(ix) "Issue Date" means September 30, 2009.

(x) "Maturity Date" means October 31, 2012.

(xi) "Payment" means any payment on the Notes.

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(xii) "Payment Amount" means any amount paid on the Notes.

(xiii) "Payment Date" means the date of any Payment.

(xiv) "Pre-payment Interest" means on any Payment Date, (a) the Payment Amount as of such Payment Date minus (b) the sum of the Regular Interest as of such Payment Date and the Imputed Principal as of such Payment Date.

(xv) "r" means ln(1+Annual Equivalent Accretion Rate).

(xvi) "Regular Interest" as of any Payment Date, means the lesser of (a) the Payment Amount and (b) the Total Accreted Value as of such Payment Date minus the Remaining Aggregate Issue Price as of such Payment Date. For the avoidance of doubt, on the first Payment Date the Remaining Aggregate Issue Price referred to in the immediately preceding sentence shall be the Aggregate Issue Price.

(xvii) "Remaining Aggregate Issue Price" means (a) immediately after the first Payment Date, the Aggregate Issue Price minus the Imputed Principal calculated as of such first Payment Date; (b) immediately after any subsequent Payment Date, the immediately preceding Remaining Aggregate Issue Price minus the Imputed Principal calculated as of such subsequent Payment Date. For the avoidance of doubt, prior to and including the first Payment Date, the Remaining Aggregate Issue Price shall be equal to the Aggregate Issue Price.

(xviii) "Remaining Face Value" as of any Payment Date, means (a) immediately after the first Payment Date, the Initial Face Value minus the Payment Amount as of such first Payment Date, and (b) immediately after any subsequent Payment Date, the immediately preceding Remaining Face Value minus the Payment Amount as of such subsequent Payment Date. For the avoidance of doubt, prior to and including the first Payment Date, the Remaining Face Value shall be equal to the Initial Face Value.

(xix) "t" means the number of days that have elapsed from the Issue Date to the relevant Payment Date divided by the Day Basis.

(xx) "Total Accreted Value" as of any date, means the value of the Remaining Aggregate Issue Price at such date accreted at the Annual Equivalent Accretion Rate from the Issue Date to such date computed on the basis of a 365-day year. The formula shall be: $P_n e^{rt}$ where P_n means the Remaining Aggregate Issue Price. For the avoidance of doubt, prior to and on the first Payment Date, the Remaining Aggregate Issue Price in the first two sentences of this clause 4.14(a)(xx) shall be equal to the Aggregate Issue Price.

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(b) Unless there is a change in applicable law or pursuant to an agreement described in sections 7(c) or 7(e) of the Note Purchase Agreement, for all U.S. federal, state and local tax purposes, all parties will treat (i) the Notes as debt of the Company for all tax purposes, (ii) any Imputed Principal as a repayment of principal and (iii) any Regular Interest as "portfolio interest" within the meaning of Section 871(h) of the Code.

(c) Unless there is a change in applicable law or pursuant to an agreement described in sections 7(c) or 7(e) of the Note Purchase Agreement, the Company, the Paying Agent and each Guarantor will pay all Imputed Principal and Regular Interest Payments on the Notes (including any such Payment made under a Note Guarantee) free of any withholding taxes, *provided* that, with respect to U.S. federal withholding taxes, each Holder provides to the Company (i) a properly executed IRS Form W-9 or applicable IRS Form W-8, as the case may be, and (ii) to the extent applicable, a certificate claiming the exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code.

(d) Unless there is a change in applicable law or pursuant to an agreement described in sections 7(c) or 7(e) of the Note Purchase Agreement, with respect to payments of amounts that are Pre-Payment Interest:

(i) to a U.S. Holder that submits a properly executed IRS Form W-9 or a non-U.S. Holder that submits a properly executed IRS Form W-8ECI (in either case, either directly or accompanying a properly executed W-8IMY), the Company, the Paying Agent and each Guarantor (including any such amounts paid under a Note Guarantee) will pay such amounts free of any withholding taxes; and

(ii) to any other non-U.S. Holder, the Company, the Paying Agent and each Guarantor (including any such amounts paid under a Note Guarantee) may withhold from such amounts any amounts required to be withheld for U.S. federal income tax purposes (taking into account any lower withholding rates available under a treaty if a properly executed IRS Form W-8BEN claiming treaty benefits is provided).

(e) Unless there is a change in applicable law or pursuant to an agreement described in sections 7(c) or 7(e) of the Note Purchase Agreement, the Company and each Guarantor agree to report consistently with this Section 4.14 for U.S. federal, state and local tax purposes.

(f) Amounts withheld from a payment on a Note by the Company, the Paying Agent or any Guarantor pursuant to this Section shall not affect the treatment of the applicable payment as paid in full for purposes of the applicable Note and this Indenture.

(g) For purposes of this Section, a "change in applicable law" includes a change in regulations, a change in judicial interpretation or a change in other controlling legal authority.

ARTICLE V.

SUCCESSORS

Section 5.01. Merger, Consolidation or Sale of Assets.

The Company shall not: (i) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation) or (2) sell, assign, transfer, convey, lease or otherwise dispose of all or substantially all of the properties and assets of the Company, in one or more related transactions, to another Person, unless at the time and after giving effect thereto:

(1) either: (a) the Company is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition will have been made (the "Surviving Entity") assumes all the obligations of the Company under the Notes, this Indenture and the Collateral Documents;

(2) immediately after giving effect to such transaction on a *pro forma* basis, no Default or Event of Default exists;

(3) each Guarantor, unless such Guarantor is the Person with which the Company has entered into a transaction under this Section 5.01, will have by amendment to its Note Guarantee confirmed that its Note Guarantee will apply to the obligations of the Company or the Surviving Entity in accordance with the Notes and this Indenture;

(5) the Company delivers to the Trustee an Officers' Certificate stating that such transaction and such agreement comply with this Section 5.01 and that all conditions precedent provided for herein relating to such transaction have been complied with;

(6) immediately following such transaction, the Collateral will continue to be subject to the Lien in favor of the Collateral Agent for the benefit of the Trustee and the Holders of the Notes and not be subject to any other Liens.

Clauses (2) and (4) of this Section 5.01 will not apply to any merger, consolidation or sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and any of its wholly-owned Subsidiaries.

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Section 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the assets of the Company or the Company and its Subsidiaries taken as a whole, in accordance with Section 5.01 hereof, the Surviving Entity will succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the Surviving Entity and not to the Company), and may exercise every right and power of, the Company under this Indenture with the same effect as if such Surviving Entity had been named as the Company herein. In any such event (other than any transfer by way of lease), the predecessor Company shall be released and discharged from all liabilities and obligations in respect of the Notes and this Indenture and the predecessor Company may be dissolved, wound up or liquidated at any time thereafter.

ARTICLE VI.

DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

Each of the following shall constitute an "Event of Default":

(a) default for 30 days in the payment when due of interest on the Notes or any other Note Obligation (other than the Note Obligations specified in Section 6.01(b) below), in each case whether or not prohibited by the subordination provisions of this Indenture;

(b) default in payment when due (whether at maturity, upon acceleration, redemption or otherwise) of the principal or Accreted Value of, or Liquidated Damages, if any, on the Notes, whether or not prohibited by the subordination provisions of this Indenture;

(c) failure by the Company or any of its Subsidiaries to comply with any of the provisions described under Sections 4.07, 4.08, 4.12(a) or Article V;

(d) the Company:

(i) commences a voluntary case under any Bankruptcy Law,

(ii) consents to the entry of an order for relief against it in an involuntary case under any Bankruptcy Law,

(iii) consents to the appointment of a Custodian of it or for all or substantially all of its property,

(iv) makes a general assignment for the benefit of its creditors, or

(v) generally is not paying its debts as they become due;

(e) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company in an involuntary case;

(ii) appoints a Custodian of the Company or for all or substantially all of the property of the Company; or

(iii) orders the liquidation of the Company;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (d) or (e) of Section 6.01 hereof with respect to the Company occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount at maturity of the then outstanding Notes may declare all the Notes to be due and payable immediately by notice in writing to the Company specifying the Event of Default(s). Upon any such declaration, the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (d) or (e) of Section 6.01 hereof occurs with respect to the Company, all outstanding Notes shall become due and payable immediately without further action, notice or declaration on the part of the Trustee or any Holder.

After a declaration of acceleration, but before any exercise of remedies by the Trustee, the Holders of a majority in aggregate principal amount at maturity of Notes outstanding, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if (a) the Company has paid or deposited with the Trustee a sum sufficient to pay (1) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, (2) all overdue interest on all Notes then outstanding, (3) the Accreted Value of, and Liquidated Damages, if any, on any Notes then outstanding which have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by the Notes and (4) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the Notes, (b) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (c) all Events of Default, other than the non-payment of Accreted Value of, Liquidated Damages, if any, and interest on the Notes which have become due solely by such declaration of acceleration, have been cured or waived as provided in this Indenture. No

such rescission shall affect any subsequent default or impair any right consequent thereon.

Upon any Note becoming due and payable under this Section 6.02, whether automatically or by declaration, such Note will forthwith mature and the entire unpaid Accreted Value of such Note, plus (1) all accrued and unpaid interest thereon and (2) Liquidated Damages, if any, determined in respect of such Accreted Value, shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each Holder has the right to maintain its investment in the Notes free from repayment by the Company prior to the Maturity Date, which would deprive each Holder of its full bargained for investment, and that each Holder's investment decision was based upon its reasonable expectation of maintaining its investment in the Notes without any redemption or other principal payment prior to the Maturity Date. In order to accommodate the request of the Company to allow for optional redemptions prior to the Maturity Date and in order to mitigate risks associated with allowing the Company to receive and retain Milestone Payments prior to the Maturity Date, the Holders have agreed to permit certain optional redemptions and mandatory redemptions under this Indenture. However, in order to compensate the Holders for damages associated with any such redemption prior to the Maturity Date, whether by optional redemption or by mandatory redemption, the Holders have required, as a material and integral part of their investment decision, and the Company has agreed, that the Company must pay Liquidated Damages with respect to the redeemed Notes as well as the Accreted Value of the redeemed Notes. In addition, in order to mitigate risks associated with the occurrence of Events of Default and Changes of Control, the Holders have provided for acceleration of the Note Obligations in connection with Events of Default and mandatory offers to repurchase the Notes following a Change of Control. However, in order to compensate the Holders for damages associated with any payment of principal prior to the Maturity Date arising out of any such acceleration of the Note Obligations or repurchase prior to the Maturity Date, whether by optional acceleration or by mandatory acceleration, the Holders have required, as a material and integral part of their investment decision, and the Company has agreed, that the Company must pay Liquidated Damages as well as the Accreted Value of the Notes. Any such acceleration (whether automatically or by declaration) or acceptance of a Change of Control Offer is necessary to protect the Holders' investment in the Notes and does not constitute an election of remedies or a waiver of the right to receive Liquidated Damages. In each such case described in this paragraph, the Liquidated Damages are intended to provide compensation to the Holders for the damages associated with a redemption, repurchase or other payment of principal prior to the Maturity Date and the deprivation of the right to maintain the investment in the Notes free from repayment prior to the Maturity Date. The Company and the Holders agree that the actual amount of damages may be difficult to determine, and that the Liquidated Damages constitute a reasonable determination of such damages. Upon acceleration of the Notes, Accreted Value shall cease to accrete and

Liquidated Damages will be calculated as of the date of such acceleration, but interest will accrue on the Accreted Value and the Liquidated Damages at the rate provided for overdue Accreted Value and Liquidated Damages on the Notes in Section 1 of the Notes and Section 4.01 hereof until such Accreted Value and Liquidated Damages are paid.

Section 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal or Accreted Value, Liquidated Damages, if any, and interest on the Notes or to enforce the performance of any provision of the Notes, this Indenture or any Collateral Document.

The 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. A delay or omission by the Trustee, the Collateral Agent or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04. Waiver of Past Defaults.

Subject to Section 6.07 and 9.02 hereof, the Holders of a majority in aggregate principal amount at maturity of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under this Indenture or the Collateral Documents except a continuing Default or Event of Default in the payment of Accreted Value, Liquidated Damages or any interest on, the Notes (including in connection with an offer to purchase); *provided*, *however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. 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.

Section 6.05. Control by Majority.

Holders of a majority in aggregate principal amount at maturity of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it; *provided*, *however*, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that may involve the Trustee in personal liability or that the Trustee determines in good faith may be unduly prejudicial to the rights of Holders of Notes not joining in the giving of such direction and may take any other action

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it deems proper that is not inconsistent with any such direction received from Holders of Notes.

Section 6.06. Limitation on Suits.

Holders of the Notes may not enforce this Indenture or the Notes except as provided herein. A Holder of a Note may not pursue any remedy with respect to this Indenture or the Notes unless:

(a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(c) such Holder of a Note or Holders of Notes offer the Trustee indemnity satisfactory to the Trustee against any costs, liability or expense;

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

(e) during such 60-day period, the Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture (including Section 6.06) or any Collateral Document, the right of any Holder of a Note to receive payment of Accreted Value of, Liquidated Damages, if any, or interest on, such Note or to bring suit for the enforcement of any such payment, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), shall be absolute and unconditional and shall not be impaired or affected without the consent of such Holder, except to the extent that the institution or prosecution thereof or the entry of judgment thereon would, under applicable law, result in the surrender, impairment, waiver or loss of any Lien of a Collateral Document upon any property subject to such Lien.

Section 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee

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of an express trust against the Company or any Guarantor for the whole amount of Accreted Value of, Liquidated Damages, if any, and interest remaining unpaid on the Notes and interest on overdue Accreted Value, Liquidated Damages, if any and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

If the Trustee collects any money pursuant to this Article VI, it shall pay out the money in the following order:

FIRST: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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SECOND: to Holders of Notes for amounts due and unpaid on the Notes for the Accrued Value of, Liquidated Damages, if any, and interest on the Notes, and all other Note Obligations, ratably, without preference or priority of any kind, according to the aggregate of such amounts due and payable; and

THIRD: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11. Undertaking for Costs.

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 a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

Section 6.12. Restoration of Rights and Remedies.

If the Trustee or any Holder 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 Trustee or to such Holder, then and in every such case the Company, the Trustee and the Holders 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 Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.13. Rights and Remedies Cumulative; Limitation on Damages.

Except as otherwise provided in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or

remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy. Notwithstanding anything to the contrary in this Indenture, the Note Purchase Agreement or the Collateral Documents, the Company shall not be liable for any indirect, special,

incidental or consequential damages (included but not limited to lost profits) whatsoever under this Indenture, the Note Purchase Agreement or the Collateral Documents, even if it has been informed of the likelihood thereof and regardless of the form of action; provided, however, that this Section 6.13 shall not apply to or in any way prevent a claim for, or payment of, any Liquidated Damages due hereunder.

Section 6.14. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VI or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

ARTICLE VII.

TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture.

However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section. No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holder, unless such Holder shall have offered to the Trustee security and indemnity reasonably satisfactory to it against any loss, liability or expense.

(e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(f) The Trustee shall not be deemed to have knowledge of any Default or Event of Default unless (i) the Trustee or a Responsible Officer shall have actual knowledge of a Default or an Event of Default, (ii) the Trustee or a Responsible Officer shall have received notice of a Default or an Event of Default in accordance with the provisions of this Indenture or (iii) a Default or an Event of Default occurred or is occurring pursuant to Section 4.01 hereof.

Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. Except as provided in Section 7.01(b), the Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, the Trustee may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

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(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care. 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 the rights or powers conferred upon it by this Indenture; *provided*, that the Trustee's conduct does not constitute willful misconduct or negligence.

(d) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company or Guarantor shall be sufficient if signed by an Officer of the Company or such Guarantor.

(e) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order, demand or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or reasonable indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request, order, demand or direction.

(f) Except with respect to Section 4.01, the Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article IV. In addition, the Trustee shall not be deemed to have knowledge of an Event of Default except (i) any Default or Event of Default occurring pursuant to Sections 4.01, 6.01(a) or 6.01(b) or (ii) any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge.

(g) Delivery of reports, information and documents to the Trustee under Section 4.11 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee; *provided*, *however*, in the event that the Trustee acquires any conflicting interest, the Trustee must (a) eliminate such conflict within 90 days, (b) if a registration statement with respect to the Notes is effective, apply to the Commission for permission to continue as Trustee or (c) resign as Trustee. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

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Section 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 5 days after it occurs. Except in the case of a Default or Event of Default in payment of Accreted Value of, Liquidated Damages, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after May 15 of each year commencing with the year 2010, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA §313(a) (but if no event described in TIA §313(a) has occurred within the 12 months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA §313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA §313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the Commission and each stock exchange on which the Notes are listed in accordance with TIA §313(d). The Company shall promptly notify the Trustee when the Notes are listed on any stock exchange.

Section 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the

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compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (other than claims asserted by the Company or any Holder) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek reasonable indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder (except to the extent such failure prejudices the Company). The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel, and the Company shall pay the reasonable fees and expenses of one such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(h) or (i) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The Trustee shall comply with the provisions of TIA §313(b)(2) to the extent applicable.

Section 7.08. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of Notes of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so

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notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10 hereof;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a Custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 90 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of Notes of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.10, such Holder of a Note may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; *provided*, all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09. Successor Trustee by Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; *provided*, that such

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corporation shall be otherwise qualified and eligible under this Article VII and under the TIA, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In the event that any Notes shall not have been authenticated by such predecessor Trustee, any such successor Trustee may authenticate and deliver such Notes, in either its own name or that of its predecessor Trustee, with the full force and effect which this Indenture provides for the certificate of authentication of the Trustee.

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee and a Collateral Agent hereunder that, in each case, is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus (with its affiliates) of at least $100.0 million as set forth in its most recent published annual report of condition.

If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 7.10, 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 condition so published. None of the Company or any of its Affiliates shall serve as Trustee or Collateral Agent. If at any time the Trustee shall cease to be eligible to serve as Trustee hereunder pursuant to the provisions of this Section 7.10, it shall resign immediately in the manner and with the effect specified in this Article VII. If at any time the Collateral Agent shall cease to be eligible to serve as Collateral Agent hereunder pursuant to the provisions of this Section 7.10, it shall resign by providing (30) days prior written notice to the Trustee and the Company, such resignation to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent.

This Indenture shall always have a Trustee who satisfies the requirements of TIA §310(a)(1), (2) and (5). The Trustee is subject to TIA §310(b).

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA §311(a), excluding any creditor relationship listed in TIA §311(b). A Trustee who has resigned or been removed shall be subject to TIA §311(a) to the extent indicated therein.

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ARTICLE VIII.

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article VIII.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes (and the Guarantors shall be deemed to have been discharged from their Note Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture, and all Obligations of the Guarantors with respect to their Note Guarantees shall be discharged (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive from the trust fund described in Section 8.04 hereof, and as more fully set forth in such

Section, payments in respect of the Accreted Value of or interest or Liquidated Damages, if any, on such Notes when such payments are due; (b) the Company's obligations with respect to such Notes under Article II and Section 4.02 hereof; (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and the Company's and the Guarantors' obligations in connection therewith; and (d) this Article VIII (and applicable provisions of Article III insofar as the Notes are to be defeased through a redemption date). Subject to compliance with this Article VIII, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from their

obligations under the covenants contained in Sections 4.06, 4.08, 4.09, 4.11 and 4.12 hereof with respect to the outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Section 6.01(c) hereof shall not constitute an Event of Default. Notwithstanding any Covenant Defeasance hereunder, however, the rights, powers, trusts, duties and immunities of the Trustee, and the Company's and the Guarantors' obligations in connection therewith, shall survive until otherwise terminated or discharged hereunder.

Section 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

(a) the Company must irrevocably deposit or cause to be deposited with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the maximum Accreted Value of, Liquidated Damages, if any, and interest, if any, on the outstanding Notes on the Stated Maturity or any prior redemption date selected by the Company, and on any potentially applicable prior redemption date pursuant to Section 3.08(b), and the Company must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(b) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders and beneficial owners of the

outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders and the beneficial owners of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing either (i) on the date of such deposit or (ii) insofar as Sections 6.01(h) or 6.01(i) hereof are concerned, at any time in the period ending on the 91st day after the date of deposit;

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that (i) assuming no intervening bankruptcy of the Company or any Guarantor between the date of deposit and the 91st day following the deposit and assuming that no Holder is an "insider" of the Company under applicable bankruptcy law, after the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, including Section 547 of the United States Bankruptcy Code and Section 15 of the New York Debtor and Creditor Law, and (ii) the creation of the defeasance trust does not violate the Investment Company Act of 1940;

(g) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding creditors of the Company or others;

(h) if the Notes are to be redeemed prior to their Stated Maturity, the Company shall deliver to the Trustee irrevocable instructions to redeem all of the Notes on the specified redemption date; and

(i) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

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Section 8.05. Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of Accreted Value, Liquidated Damages, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article VIII to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or noncallable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06. Repayment to Company.

Any money deposited with the Trustee, the Collateral Agent or any Paying Agent, or then held by the Company, in trust for the payment of the principal or Accreted Value of, Liquidated Damages, if any, or interest on any Note and remaining unclaimed for two years after such principal, and Liquidated Damages, if any, or interest has become due and payable shall be paid to the Company on its request (unless any abandoned property law designates that such amounts be paid to another Person) or, if then held by the Company, shall be discharged from such trust; and the Holder of such Note shall thereafter, as a secured creditor, look only to the Company for payments thereof (unless any abandoned property law designates another Person), and all liability of the Trustee, the Collateral Agent or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided*, *however*, that the Trustee, the Collateral Agent or such Paying Agent, before being required to make any such repayment to the Company, may at the expense of the

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Company cause to be published once, in *The New York Times* and *The Wall Street Journal* (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided*, *however*, that, if the Company makes any payment of Accreted Vaue of, Liquidated Damages, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE IX.

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes, the Note Guarantees or any of the Collateral Documents without the consent of any Holder of a Note:

(a) to cure any ambiguity, defect or inconsistency;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(c) to provide for the assumption of the Company's or any Guarantor's obligations to Holders of Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Guarantor's assets;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under this Indenture or any Collateral Document of any such Holder;

(e) to comply with the provisions of Section 4.09;

(f) to comply with the rules of any applicable securities depositary;

(g) to evidence and provide for the acceptance of appointment by a successor Trustee;

(h) to mortgage, pledge, hypothecate or grant a security interest in favor of the Collateral Agent for the benefit of the Trustee and the Holders of the Notes as additional security for the payment and performance of the Company's and any Guarantor's obligations under this Indenture, in any property, or assets, including any of which are required to be mortgaged, pledged or hypothecated, or in which a security interest is required to be granted to the Trustee or the Collateral Agent pursuant to this Indenture or otherwise;

(i) to provide for the release or addition of Collateral or Guarantees in accordance with the terms of this Indenture and the Collateral Documents; or

(j) to comply with the requirements of the Commission in order to effect or maintain the qualification of this Indenture under the TIA.

Upon the request of the Company and the Guarantors accompanied by a resolution of their respective Boards of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, this Indenture, any of the Collateral Documents, the Notes and the Note Guarantees may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount at maturity of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the Accreted Value of, Liquidated Damages, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without

limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes).

Upon the request of the Company and the Guarantors accompanied by a resolution of their respective Boards of Directors authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company and the Guarantors in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental Indenture. It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Trustee and the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver.

However, without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder):

(a) reduce the percentage of principal amount at maturity of Notes whose Holders must consent to an amendment, supplement or waiver of this Indenture or the Collateral Documents; reduce the principal of, Accreted Value of or Liquidated Damages of or change the fixed maturity of any Note or alter the provisions, or waive any payment, with respect to the redemption of the Notes;

(b) reduce the rate of or change the time for payment of interest on any Note;

(c) waive a Default or Event of Default in the payment of Accreted Value of, or interest, or Liquidated Damages, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes at maturity and a waiver of the payment Default that resulted from such acceleration);

(d) make any Note payable in money other than U.S. dollars;

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(e) make any change in the provisions of this Indenture or the Collateral Documents relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of Accreted Value of, or interest or Liquidated Damages, if any, on, the Notes;

(f) release all or substantially all of the value of the Note Guarantees of the Guarantors from any of their obligations under their Note Guarantees or this Indenture, except in accordance with the terms of this Indenture;

(g) impair the right to institute suit for the enforcement of any payment on or with respect to the Notes or the Note Guarantees;

(h) except as explicitly set forth in Section 14.01, subordinate, in right of payment, the Notes, any Note Guarantee or any Note Obligation to any other Indebtedness of the Company or any Guarantor, or subordinate in priority any Lien or other right granted by this Indenture or any Collateral Document;

(i) make any change in this Section 9.02, except to increase any such percentage required for such actions or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Note affected thereby; or

(j) make any change in any provision of Section 11.03 which change permits a release of Collateral, or, except to the extent permitted under Section 11.03, release any Collateral.

Collateral may be released only in accordance with this Indenture (including without limitation Section 11.03). Notwithstanding anything to the contrary in this Article IX, any Guarantor that is a Significant Subsidiary may not be released from any of its obligations under its Note Guarantee or this Indenture (except in accordance with the terms of this Indenture) without the consent of Holders of the Notes representing at least 75% of the aggregate principal amount of the outstanding Notes.

Upon the execution of any supplemental indenture under this Article IX, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.03. Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture, the Note Guarantees or the Notes shall be set forth in an amended or supplemental Indenture that complies with the TIA as then in effect.

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Section 9.04. Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, Etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company and each Guarantor may not sign an amendment or supplemental Indenture until each of their respective Boards of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be entitled to receive and (subject to Section 7.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE X.

NOTE GUARANTEES

Section 10.01. Note Guarantees.

Any Guarantor, by executing a Note Guarantee, jointly and severally, fully and unconditionally, guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (a) the Accreted Value of, Liquidated Damages, if any and

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interest (including without limitation any interest which accrues under any Debtor Relief Law with respect to the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding) on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including without limitation any interest which accrues under any Debtor Relief Law with respect to the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding) on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture and as otherwise provided in this Indenture. If any Holder or the Trustee is required by any court or otherwise to return to the Company or Guarantors, or any Custodian, Trustee, liquidator or other similar official acting in relation to either the Company or Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VI for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article VI, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

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Section 10.02. Execution and Delivery of Note Guarantee.

To evidence its Note Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form included in Exhibit E hereto shall be endorsed by an officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 10.01, shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

If an officer or Officer whose signature is on this Indenture or on the Note Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Note Guarantee is endorsed, the Subsidiary Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Note Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 10.03. Guarantors May Consolidate or Merge on Certain Terms.

(a) A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to that transaction, no Event of Default exists; and

(2) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (if other than the Guarantor) assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee pursuant to a supplemental

indenture satisfactory to the Trustee and under the Collateral Documents pursuant to a joinder or accession agreement or agreements satisfactory to the Collateral Agent.

(b) Nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety, to the Company.

(c) Except as set forth in Section 10.04, in the case of any consolidation, merger, sale or conveyance of a Guarantor pursuant to Section 10.03(a)(2), upon the

assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Note Guarantees so issued shall in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Section 10.04. Releases of Note Guarantees.

(a) The Note Guarantee of a Guarantor will be released automatically in connection with any sale or other disposition of all of the Capital Stock, or all or substantially all of the assets, of such Guarantor to a Person that is not (either before or after giving effect to such transaction) a Subsidiary of the Company, if the sale of all such Capital Stock, or all or substantially all of the assets, of that Guarantor complies with this Indenture and the Collateral Documents.

(b) If all or substantially all of the assets of any Guarantor or all of the capital stock of any Guarantor are sold or disposed of in compliance with Section 10.04(a), then such Guarantor (in the event of a sale or other disposition of all of the capital stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of a Guarantor) shall be released and relieved of its obligations under its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture and the Collateral Documents, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(c) Any Guarantor not released from its obligations under its Note Guarantee pursuant to this Section 10.04 shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article X.

Section 10.05. Trustee to Include Paying Agent.

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article X, shall in such case (unless the context shall otherwise require) be construed

as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named, in this Article X, in place of the Trustee.

Section 10.06. Limits on Note Guarantees.

Notwithstanding anything to the contrary in this Article X, the aggregate amount of the Obligations guaranteed under this Indenture by any Guarantor shall be reduced to the extent necessary to prevent the Note Guarantee of such Guarantor from violating or becoming voidable under any law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors.

Section 10.07. Article XIV Not To Prevent Events of Default or Limit Right To Demand Payment.

The failure of a Guarantor to make a payment pursuant its Note Guarantee by reason of any provision in Article XIV hereof shall not be construed as preventing the occurrence of a default by such Guarantor under its Note Guarantee. Nothing in Article XIV hereof shall have any effect on the right of the Holders or the Trustee to make a demand for payment on a Note Guarantee pursuant to this Article X.

Section 10.08. Trustee Not Fiduciary for Holders of Senior Indebtedness of Note Guarantors.

The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt of a Guarantor and shall not be liable to any such holders if it shall mistakenly pay over or distribute to Holders or such Guarantor or any other Person, money or assets to which any holders of Senior Debt of such Guarantor shall be entitled by virtue of Article XIV hereof or otherwise.

ARTICLE XI.

Section 11.01. Collateral Documents.

The due and punctual payment of the Accreted Value of, Liquidated Damages, if any, on and interest, if any, on, the Notes (including, without limitation, any interest which accrues after the commencement of any proceedings under any Debtor Relief Laws with respect to any of the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding) when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest (including, without limitation, any interest which accrues after the commencement of any proceedings under any Debtor

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Relief Laws with respect to any of the Company or any Guarantor, whether or not allowed or allowable as a claim in any such proceeding) on the overdue Accreted Value of, Liquidated Damages, if any, and interest, on the Notes and any other Note Obligations and performance of all other Obligations of the Company and the Guarantors to the Holders of Notes, the Trustee or the Collateral Agent under this Indenture, the Notes (including, without limitation, the Note Guarantees) or the Collateral Documents according to the terms hereunder or thereunder, are secured as provided in the Security Agreement, which the Company has entered into simultaneously with the execution of this Indenture, and the other Collateral Documents in effect from time to time. Each Holder, by its acceptance thereof, consents and agrees to the terms of the Collateral Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral) as the same may be in effect or may be amended, supplemented or otherwise modified from time to time in accordance with their terms and authorizes and directs the Collateral Agent and/or the Trustee (as the case may be) to enter into the Collateral Documents and to perform their obligations and exercise their rights thereunder in accordance therewith. The Company and the Guarantors will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Collateral Documents, and will do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Collateral Documents, to assure and confirm to the Trustee and the Collateral Agent the security interest or other Lien in the Collateral contemplated hereby or by the Collateral Documents, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Notes secured hereby, according to the intent and purposes herein expressed. The Company and the Guarantors shall comply with the terms and provisions of the Collateral Documents and shall take, upon request of the Trustee or the Collateral Agent, any and all actions reasonably required to cause the Collateral Documents to create and maintain, as security for the Note Obligations of the Company and the Guarantors hereunder, a valid and enforceable perfected Lien in and on all the Collateral, in favor of the Collateral Agent for the benefit of the Trustee and the Holders of Notes, superior to and prior to the rights of all third Persons and subject to no other Liens. The provisions of this Section and Article shall apply only to the security interests and other Liens on the Collateral in favor of the Collateral Agent, and shall not impose or be interpreted as imposing any duty on the Company or any Guarantor to act in a manner that preserves the Collateral (including without limitation Janssen's obligation to make the Milestone Payments or the amount of any Milestone Payment or the date on which a Milestone Payment is due) or to refrain from acting in a manner that adversely impacts the Collateral (including without limitation Janssen's obligation to make the Milestone Payments or the amount of any Milestone Payment or the date on which a Milestone Payment is due); *provided* that the foregoing provisions of this sentence shall not limit the Company's obligations under Section 4.15 of this Indenture.

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Section 11.02. Recording and Opinions.

The Company shall comply with the provisions of TIA §314(b) (including, without limitation, the provision of an initial and annual Opinion of Counsel under TIA §314(b)); *provided* that the Company shall not be required to comply with TIA §314(b)(1) until this Indenture is qualified pursuant to the TIA. Following such qualification, to the extent the Company is required to furnish to the Trustee an Opinion of Counsel pursuant to TIA §314(b)(2), the Company shall furnish such opinion within three months following each anniversary date of such qualification.

Section 11.03. Release of Collateral.

(a) The Collateral Agent's Liens upon the Collateral will no longer secure the Notes and Note Guarantees outstanding under this Indenture or any other Obligations under this Indenture, and the right of the Holders of the Notes and such Obligations to the benefits and proceeds of the Collateral Agent's Liens on the Collateral will terminate and be discharged:

(1) in whole, as to all property subject to such Liens, upon:

(A) payment in full of the Accreted Value of, accrued and unpaid interest and Liquidated Damages, if any, on the Notes; or

(B) satisfaction and discharge of this Indenture as set forth in Article XII hereof; or

(C) Legal Defeasance or Covenant Defeasance of this Indenture as set forth in Article VIII hereof; or

(2) in whole or in part, in accordance with the applicable provisions of the Collateral Documents.

Upon receipt of an Officers' Certificate and an Opinion of Counsel certifying that all conditions precedent under this Indenture and the Collateral Documents, if any, to such release have been met and any necessary or proper instruments of termination, satisfaction or release prepared by the

Company, the Trustee shall, or shall cause the Collateral Agent to, execute, deliver or acknowledge (at the Company's expense) such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Collateral Documents. Neither the Trustee nor the Collateral Agent shall be liable for any such release undertaken in good faith in reliance upon any such Officers' Certificate or Opinion of Counsel, and notwithstanding any term hereof or in any Collateral Document to the contrary, the Trustee and Collateral Agent shall not be under any obligation to release any such Lien and security interest, or execute and deliver any such instrument of

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release, satisfaction or termination, unless and until it receives such Officers' Certificate and Opinion of Counsel.

(b) To the extent applicable, the Company shall cause TIA §313(b), relating to reports, and TIA §314(d), relating to the release of property or securities or relating to the substitution therefore of any property or securities to be subjected to the Lien created by the Collateral Documents, to be complied with. Any certificate or opinion required by TIA §314(d) may be made by an Officer of the Company except in cases where TIA §314(d) requires that such certificate or opinion be made by an independent Person, which Person shall be an independent engineer, appraiser or other expert reasonably satisfactory to the Trustee. Notwithstanding anything to the contrary in this Section 11.03, the Company shall not be required to comply with all or any portion of TIA §314(d) if it determines, in good faith based on advice of counsel, that under the terms of TIA §314(d) and/or any interpretation or guidance as to the meaning thereof of the Commission and its staff, including "no action" letters or exemptive orders, all or any portion of TIA §314(d) is inapplicable to released Collateral.

(c) To the extent applicable, the Company shall furnish to the Trustee and the Collateral Agent, prior to each proposed release of Collateral pursuant to the Collateral Documents:

(i) all documents required by TIA §314(d); and

(ii) an Opinion of Counsel to the effect that such accompanying documents constitute all documents required by TIA §314(d).

(d) The release of any Collateral from the terms of the Collateral Documents, or the release, in whole or in part, of the Liens created by the Collateral Documents, will not be deemed to impair the security under this Indenture in contravention of the provisions hereof and of the Collateral Documents if and to the extent that the Collateral is released pursuant to this Indenture and the Collateral Documents. In connection with the release of Collateral, the Trustee shall determine whether it has received all documentation required by TIA §314(d) to permit such release.

Section 11.04. Authorization of Actions to Be Taken by the Trustee and the Collateral Agent Under the Collateral Documents.

(a) Subject to the provisions of the Collateral Documents, the Trustee may (but without any obligation to do so), in its sole discretion and without the consent of the Holders of Notes, direct, on behalf of the Holders of Notes, the Collateral Agent to, take all actions it deems necessary or appropriate in order to:

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(1) enforce any of the terms of the Security Agreement and any other Collateral Document; and

(2) collect and receive any and all amounts payable in respect of the Note Obligations of the Company and the Guarantors hereunder.

(b) Subject to the provisions of the Collateral Documents, the Trustee will have power (but without any obligation) to institute and maintain, or to direct, on behalf of the Holders of the Notes, the Collateral Agent to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Lien on the Collateral by any acts that may be unlawful or in violation of this Indenture or any of the Collateral Documents, and such suits and proceedings as the Trustee may deem expedient to preserve or protect its interests and the interests of the Holders of Notes in the Lien on the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of the Holders of Notes or of the Trustee).

(c) Unless otherwise provided herein, all instructions to the Trustee are to be made pursuant to the vote of the Holders of a majority in aggregate principal amount of Notes.

Section 11.05. Authorization of Receipt of Funds by the Trustee or the Collateral Agent under the Security Agreement.

Each of the Trustee and the Collateral Agent is authorized to receive any funds for the benefit of the Holders of Notes distributed under any of the Collateral Documents, and the Collateral Agent, in accordance with the terms of the Security Agreement, is and the Trustee is authorized to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture.

Section 11.06. Limitation on Duty of Trustee and Collateral Agent in Respect of Collateral.

(a) Beyond the exercise of reasonable care in the custody thereof, the Trustee and the Collateral Agent shall have no duty as to any Collateral in their possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee and the Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Trustee and the Collateral Agent shall be

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deemed to have exercised reasonable care in the custody of the Collateral in their possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any agent or bailee selected by the Trustee or the Collateral Agent in good faith.

(b) The Trustee and the Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Trustee or the Collateral Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Company or any Guarantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Trustee and the Collateral Agent shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or the Collateral Documents by the Company, the Guarantors or the Collateral Agent (if the Trustee is not the Collateral Agent).

Section 11.07. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XI upon the Company or a Guarantor with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or a Guarantor or of any officer or officers thereof required by the provisions of this Article XI; and if the Trustee shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee.

Section 11.08. Collateral Agent.

(a) The Trustee and each of the Holders by acceptance of the Notes hereby designates and appoints the Collateral Agent as its agent under this Indenture and the Collateral Documents and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorizes the Collateral Agent to take such action on its behalf under the provisions of this Indenture and the Collateral Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture and the Collateral Documents, together with such powers as are reasonably incidental thereto. The Collateral Agent agrees to act as such on the express conditions contained in this Section 11.08 and Section 7.10. The provisions of this Section 11.08 are solely for the benefit of the Collateral Agent and none of the Trustee, any of the Holders nor any of the Grantors shall have any rights as a third party

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beneficiary of any of the provisions contained herein other than as expressly provided in this Section 11.08. Notwithstanding any provision to the contrary contained elsewhere in this Indenture and the Collateral Documents, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in Section 7.10, nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with the Trustee, any Holder, the Company or any Guarantor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture and the Collateral Documents or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Except as expressly otherwise provided in this Indenture, the Collateral Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions which the Collateral Agent is expressly entitled to take or assert under this Indenture and the Collateral Documents, including the exercise of remedies pursuant to Article VI, and any action so taken or not taken shall be deemed consented to by the Trustee and the Holders.

(b) The Collateral Agent may execute any of its duties under this Indenture or the Collateral Documents by or through agents, employees, attorneys-in-fact or through its Affiliates and shall be entitled to an Officers' Certificate or an Opinion of Counsel or both concerning all matters pertaining to such duties. The Collateral Agent shall not be responsible for the negligence or misconduct of any agent, employee, attorney-in-fact or Affiliate that it selects as long as such selection was made without negligence or willful misconduct.

(c) None of the Collateral Agent or any of its Affiliates shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Indenture or the transactions contemplated hereby (except for its own negligence or willful misconduct) or under or in connection with the Collateral Documents or the transactions contemplated thereby (except for its own negligence or willful misconduct), or (ii) be responsible in any manner to any of the Trustee or any Holder for any recital, statement, representation, warranty, covenant or agreement made by the Company or Guarantor, or any officer thereof, contained in this Indenture, or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture or the Collateral Documents, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture or the Collateral Documents, or for any failure of the Company any Guarantor or any other party to this

Indenture or the Collateral Documents to perform its obligations hereunder or thereunder. None of the Collateral Agent or any of its Affiliates shall be under any

obligation to the Trustee or any Holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture or the Collateral Documents or to inspect the properties, books, or records of the Company, any Guarantor or their respective Affiliates.

(d) The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex, or other document believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Company), independent accountants and other experts and advisors selected by the Collateral Agent. The Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture or the Collateral Documents unless it shall first receive such advice or concurrence of the Trustee as it deems appropriate and, if it so requests, it shall first be indemnified to its reasonable satisfaction by the Holders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Indenture or the Collateral Documents in accordance with a request or consent of the Trustee and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Holders.

(e) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the Collateral Agent shall have received written notice from the Trustee, Holders of Notes, the Company or a Guarantor referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article VI (subject to this Section 11.08); *provided*, *however*, that unless and until the Collateral Agent has received any such request, the Collateral Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

(f) U.S. Bank National Association and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with the Company, any Guarantor or their respective Affiliates as though it was not the Collateral Agent hereunder and without notice to or consent of the Trustee. The Trustee and the Holders acknowledge that, pursuant to such activities, U.S. Bank National Association or its respective Affiliates may receive information regarding the Company or any Guarantor or any of their Affiliates (including information that may be subject to confidentiality obligations in favor of the Company or any Guarantor or any of their Affiliates) and acknowledge that the Collateral Agent shall

not be under any obligation to provide such information to the Trustee or the Holders. Nothing herein shall impose or imply any obligation on the part of U.S. Bank National Association to advance funds.

(g) The Collateral Agent may resign at any time upon thirty (30) days prior written notice to the Trustee and the Company, such resignation to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent. If the Collateral Agent resigns under this Indenture, the Trustee, subject to the consent of the Company (which shall not be unreasonably withheld and which shall not be required during a continuing Default or Event of Default), shall appoint a successor collateral agent. If no successor collateral agent is appointed prior to the intended effective date of the resignation of the Collateral Agent (as stated in the notice of resignation), the Collateral Agent may appoint, after consulting with the Trustee, subject to the consent of the Company (which shall not be unreasonably withheld and which shall not be required during a continuing Default or Event of Default), a successor collateral agent. If no successor collateral agent is appointed and consented to by the Company pursuant to the preceding sentence within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the Collateral Agent shall be entitled to petition a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor collateral agent hereunder, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Collateral Agent, and the term "Collateral Agent" shall mean such successor collateral agent, and the retiring Collateral Agent's appointment, powers and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent's resignation hereunder, the provisions of this Section 11.08 (and Section 7.07) shall continue to inure to its benefit and the retiring Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Indenture.

(h) The Trustee shall initially act as Collateral Agent and shall be authorized to appoint co-Collateral Agents as necessary in its sole discretion. Except as otherwise explicitly provided herein or in the Collateral Documents, neither the Collateral Agent nor any of its respective officers, directors, employees or agents or other Affiliates shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Collateral Agent nor any of its officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own willful misconduct, gross negligence or bad faith.

(i) The Trustee, as such and as Collateral Agent, is authorized and directed to (i) enter into the Collateral Documents, (ii) bind the Holders on the terms as set forth in the Collateral Documents and (iii) perform and observe its obligations under the Collateral Documents.

(j) The Trustee agrees that it shall not (and shall not be obliged to), and shall not instruct the Collateral Agent to, unless specifically requested to do so by a majority of the Holders, take or cause to be taken any action to enforce its rights under this Indenture or against the Company or the Guarantors, including the commencement of any legal or equitable proceedings, to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral.

If at any time or times the Trustee shall receive (i) by payment, foreclosure, set-off or otherwise, any proceeds of Collateral or any payments with respect to the obligations arising under, or relating to, this Indenture, except for any such proceeds or payments received by the Trustee from the Collateral Agent pursuant to the terms of this Indenture, or (ii) payments from the Collateral Agent in excess of the amount required to be paid to the Trustee pursuant to Article VII, the Trustee shall promptly turn the same over to the Collateral Agent, in kind, and with such endorsements as may be required to negotiate the same to the Collateral Agent.

(k) The Trustee is each Holder's agent and the Collateral Agent is the Trustee's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the Uniform Commercial Code can be perfected only by possession or control. Should the Trustee obtain possession of any such Collateral, upon request from the Company, the Trustee shall notify the Collateral Agent thereof, and, promptly upon the Collateral Agent's request therefor shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent's instructions.

(l) The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by any Grantor or is cared for, protected, or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all or any part of the Grantor's property constituting collateral intended to be subject to the Lien and security interest of the Collateral Documents has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto, or to exercise at all or in any particular manner or under any duty of care, disclosure, or fidelity, or to continue exercising, any of the rights, authorities, and powers granted or available to the Collateral Agent pursuant to this Indenture or any Collateral Document, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, the

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Collateral Agent may act in any manner it may deem appropriate, in its sole discretion given the Collateral Agent's own interest in the Collateral and that the Collateral Agent shall have no other duty or liability whatsoever to the Trustee or any Holder as to any of the foregoing.

(m) No provision of this Indenture or any Collateral Document shall require the Collateral Agent (or the Trustee) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action hereunder or thereunder or take any action at the request or direction of Holders (or the Trustee in the case of the Collateral Agent) if it shall have reasonable grounds for believing that repayment of such funds is not assured to it.

(n) The Collateral Agent (i) shall not be liable for any action it takes or omits to take in good faith which it reasonably believes to be authorized or within its rights or powers, or for any error of judgment made in good faith by a an officer thereof, unless it is proved that the Collateral Agent was negligent in ascertaining the pertinent facts, (ii) shall not be liable for interest on any money received by it except as the Collateral Agent may agree in writing with the Company or any Guarantor (and money held in trust by the Collateral Agent need not be segregated from other funds except to the extent required by law) and (iii) may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it in good faith and in accordance with the advice or opinion of such counsel. The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. The Collateral Agent shall be indemnified by the Company and the Guarantors to the same extent as the indemnification of the Trustee herein.

(o) Neither the Collateral Agent nor the Trustee shall be liable for delays or failures in performance resulting from acts beyond its control. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters. Neither the Collateral Agent nor the Trustee shall be liable for any indirect, special, incidental or consequential damages (included but not limited to lost profits) whatsoever, even if it has been informed of the likelihood thereof and regardless of the form of action.

(p) The Collateral Agent shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holder, unless such Holder shall have offered to the Collateral Agent security and indemnity satisfactory to it against any loss, liability or expense.

(q) Notwithstanding anything herein to the contrary, in acting as Collateral Agent, the Collateral Agent may rely upon and enforce each and all of the

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rights, powers, immunities, indemnities and benefits of the Trustee under Article VII hereof.

ARTICLE XII.

SATISFACTION AND DISCHARGE

Section 12.01. Satisfaction And Discharge Of Indenture.

This Indenture will be discharged and will cease to be of further effect as to all outstanding Notes hereunder, and the Trustee, upon receipt from the Company of an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent to satisfaction and discharge have been satisfied, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when either

(1) all Notes that have been authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation; or

(2) (A) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for Accreted Value, Liquidated Damages if any, and accrued interest to the date of maturity or redemption;

(B) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(C) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture and not provided for by the deposit required by clause (A) above; and

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(D) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

Notwithstanding the satisfaction and discharge hereof, the rights, powers, trusts, duties and immunities of the Trustee, and the Company's and the Guarantors' obligations in connection therewith, the obligations of the Company to the Trustee under Section 7.07 and, if United States dollars shall have been deposited with the Trustee pursuant to subclause (2) of subsection (a) of this Section 12.01, the obligations of the Trustee under Section 12.02 and Section 8.06, shall survive.

Section 12.02. Application of Trust Money.

Subject to the provisions of Section 8.06, all United States dollars deposited with the Trustee pursuant to Section 12.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the Accreted Value of, Liquidated Damages, if any, and interest on, the Notes for whose payment such United States dollars have been deposited with the Trustee.

ARTICLE XIII.

MISCELLANEOUS

Section 13.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA §318(c), the imposed duties shall control. If any provision of this Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

Section 13.02. Notices.

Any notice or communication by the Company, a Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company or a Guarantor:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Philippe Tinmouth
Head, Business Development & Licensing
Facsimile: 617-444-6632
Email: phil_tinmouth@vrtx.com

with a copy (which shall not constitute notice) to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Kenneth S. Boger, Esq.
Senior Vice President and General Counsel
Facsimile: 617-444-7117
Email: ken_boger@vrtx.com

If to the Trustee:

U.S. Bank National Association
c/o U.S. Bank Corporate Trust Services
100 Wall Street
Suite 1600
New York, NY 10005
Facsimile: 617-603-6667
Attention: Karen R. Beard
Email: karen.beard@usbank.com

The Company, a Guarantor or the Trustee, by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar.

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Any notice or communication shall also be so mailed to any Person described in TIA §313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 13.03. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA §312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Guarantors, the Trustee, the Registrar and anyone else shall have the protection of TIA §312(c).

Section 13.04. Certificate and Opinion As to Conditions Precedent.

Upon any request or application by the Company and/or any Guarantor to the Trustee to take any action or refrain from taking any action under this Indenture, the Company and/or such Guarantor, as the case may be, shall furnish to the Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such

Person may certify or give an opinion with respect to some matters and one or more other such eligible and qualified Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know,

that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer or Officers of the Company stating the information on which counsel is relying unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Section 13.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA §314(a)(4)) shall comply with the provisions of TIA §314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(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 such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 13.06. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions; *provided*, that no such rule shall conflict with the terms of this Indenture or the TIA.

Section 13.07. No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator, stockholder, member, manager or partner of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

Section 13.08. Governing Law.

THE INDENTURE, THE NOTES, ANY NOTE GUARANTEES AND THE COLLATERAL DOCUMENTS WILL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PRINCIPLES THEREOF.

Section 13.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture, the Notes or the Note Guarantees.

Section 13.10. Successors.

All agreements of the Company and the Guarantors in this Indenture, the Note Guarantees and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 13.11. Severability.

In case any provision in this Indenture, the Note Guarantees or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 13.12. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 13.13. Table of Contents, Headings, Etc.

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 of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 13.14. Further Instruments and Acts.

Upon request of the Trustee, the Company and the Guarantors will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

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Section 13.15. Limitation on Agreements.

It is the intention of the Company and each Holder that each Holder shall conform strictly to applicable usury laws. Accordingly, if the transactions contemplated hereby or by the Notes, any Collateral Document or any other agreement, instrument or document evidencing, securing or otherwise pertaining to the Note Obligations (collectively, the "Documents") would be usurious as to any Holder under any applicable law (including any law mandatorily applicable to such Person notwithstanding the other provisions of this Indenture), then, in that event, notwithstanding anything to the contrary in this Indenture or any other Document, it is agreed that (i) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, taken, reserved, charged or received by any Holder under the Documents shall under no circumstances exceed the maximum nonusurious amount allowed by applicable law and (ii) any sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding principal of the Note Obligations or, at the recipient's option, promptly returned to the Company. In determining whether or not interest exceeds the maximum permitted amount, the Company and any such Holder agree, to the extent necessary, (a) to recharacterize any non-principal payment as principal, fee, expense, premium or other amount rather than as interest, and (b) to amortize, prorate, allocate and spread the total amount of interest throughout the entire contemplated term of the Note Obligations so that the rate or amount of interest does not exceed the legal limit. If at any time the amount of interest is limited by the foregoing, then the amount of interest payable at all times thereafter shall continue to be computed at the maximum nonusurious rate allowed by applicable law until the total amount of interest payable shall equal the total amount of interest that would have been payable under the Documents without such limitation (assuming such interest had been permitted by applicable law). Notwithstanding anything to the contrary contained in this Indenture or the Collateral Documents, the Trustee and the Paying Agent shall have no obligations or liabilities under this Section 13.15.

ARTICLE XIV.

SUBORDINATION

Section 14.01. Subordination.

(a) The Company agrees, and each Holder by accepting a Note agrees, that the Notes rank *pari passu* in right of payment with the Existing Notes. The Company agrees, and each Holder by accepting a Note agrees, that the Notes and the Note Obligations are hereby expressly subordinated, to the extent and in the manner set forth in this Section 14.01 and except as otherwise provided in Section 14.02, in right of payment to the prior payment in full of all Senior Debt.

(b) In the event of any payment or distribution of assets of the Company upon any dissolution, winding-up, liquidation or reorganization of the Company, whether

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in bankruptcy, insolvency, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise, the Holders shall be entitled to receive and indefeasibly retain all Payments from Collateral. The holders of all Senior Debt shall be entitled to receive payment of the full amount due thereon in respect of all such Senior Debt and all other amounts due or provision shall be made for such amount in cash, or other payments satisfactory to the holders of Senior Debt, and such payment or provision shall be made to or for the holders of Senior Debt before the Holders are entitled to receive any payment or distribution of any character, whether in cash, securities or other property, on account of the Deficiency Claim.

(c) In the event of any acceleration of the Notes because of an Event of Default, unless the full amount due in respect of all Senior Debt is paid in cash or other form of payment satisfactory to the holders of Senior Debt, no payment, other than Payments from Collateral, shall be made by the Company with respect to the Accreted Value of, Liquidated Damages, if any, or interest, if any, on the Notes or to acquire any of the Notes (including any redemption or Change of Control Payment) or with respect to any Note Obligations, and the Company shall give prompt written notice of such acceleration to such holders of Senior Debt.

(d) In the event of and during the continuance of any default in payment of the principal of or premium, if any, or interest on, rent or other payment obligations in respect of, any Senior Debt, unless all such payments due in respect of such Senior Debt have been paid in full in cash or other payments satisfactory to the holders of Senior Debt, Payments from Collateral may be made to Holders but no other payment shall be made by the Company

with respect to the Notes or the Note Obligations. In the event of any default under any Senior Debt or under any agreement pursuant to which Senior Debt may have been issued, the Company promptly (and in any event no later than five Business Days following such default) shall provide written notice to the Trustee of such default; *provided*, *however*, that the failure to give such notice shall not in any way limit the effect of this Section 14.01.

(e) In the event that, notwithstanding the foregoing provisions of Section 14.01(b), (c) or (d), any payment on account of the Notes, other than Payments from Collateral, shall be made by or on behalf of the Company and received by the Trustee or any Holder:

(i) after the occurrence of an event specified in Section 14.01(b) or (c), then, unless all Senior Debt is paid in full in cash, or provision shall be made therefor; or

(ii) after the happening of an event of default of the type specified in Section 14.01(d) above;

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then, unless the amount of such Senior Debt then due shall have been paid in full, or provision made therefor or such event of default shall have been cured or waived, such payment shall be held in trust for the benefit of, and shall be immediately paid over to, the holders of Senior Debt or their representative or representatives or the trustee or trustees under any indenture under which any instruments evidencing any of the Senior Debt may have been issued, as their interests may appear.

(f) Each Guarantor's Note Guarantee of the Deficiency Claim is hereby expressly subordinated in right of payment to all Senior Debt to the same extent as set forth above with respect to the Company's obligations in respect of the Deficiency Claim.

Section 14.02. Absolute and Unconditional Obligation; Realizations from Collateral Not Subordinated.

(a) Nothing contained in Section 14.01 or elsewhere in this Indenture or the Notes is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Debt, and the Holders, the obligation of the Company, which is absolute and unconditional, to pay to the Holders the Note Obligations as and when the same shall become due and payable in accordance with this Indenture, the Notes and the Collateral Documents, or is intended to or shall affect the relative rights of the Holders and creditors of the Company other than the holders of Senior Debt, nor shall anything contained herein prevent the Collateral Agent, the Trustee or the Holders from exercising all rights and remedies otherwise permitted by applicable law, including all rights and remedies specified in Section 14.02(b) below.

(b) Nothing in this Article XIV or elsewhere in this Indenture, the Notes or any Collateral Document is intended to or shall directly or indirectly impair, impede, bar, limit, or hinder any of the following, each of which is absolute and unconditional:

(i) all rights, remedies, powers and privileges that the Collateral Agent, the Trustee or any Holder has or may have against the Collateral or the direct and indirect proceeds thereof under this Indenture, the Collateral Documents, at law, equity or otherwise;

(ii) the rights of the Collateral Agent and the Trustee to receive the Collateral and all proceeds and other funds attributable to the Collateral and the direct and indirect proceeds thereof and of the exercise of any such rights, remedies, powers and privileges (collectively, including the Collateral, "Payments from Collateral", *provided* that payments made by the Company upon the occurrence of any Milestone Event from sources other than Milestone Payments shall not constitute "Payments from Collateral");

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(iii) the rights of the Collateral Agent and the Trustee to distribute Payments from Collateral to the Holders in full or partial satisfaction of the Note Obligations; and

(iv) the rights of the Holders to receive and indefeasibly retain Payments from Collateral, free and clear of the trust and turnover obligation described in Section 14.01(e), and free and clear of all rights and claims of the holders of Senior Debt and their representative or representatives or the trustee or trustees under any indenture under which any instruments evidencing any Senior Debt may have been issued.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Section 14.03. Article XIV Not To Prevent Events of Default or Limit Right To Accelerate. The failure to make a payment pursuant to the Notes by reason of any provision in this Article XIV shall not be construed as preventing the occurrence of a Default. Nothing in this Article XIV shall have any effect on the right of the Holders or the Trustee to accelerate the maturity of the Notes.

Section 14.04. Trustee Not Fiduciary for Holders of Senior Debt of the Issuer.The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt and shall not be liable to any such holders if it shall mistakenly pay over or distribute to Holders or the

Company or any other Person, money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article XIV or otherwise.

Section 14.05. Rights of Holders of Senior Debt Not Impaired. No right of any present or future holder of any Senior Debt to enforce the subordination herein shall at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any noncompliance by the Company with the terms, provisions and covenants of the Indenture, regardless of any knowledge thereof any such holder may have or be otherwise charged with.

Section 14.06. Modification of Terms of Senior Debt. Any renewal or extension of the time of payment of any Senior Debt or the exercise by the holders of Senior Debt of any of their rights under any instrument creating or evidencing Senior Debt, including, without limitation, the waiver of default thereunder, may be made or done all without notice to or assent from the Holders or the Trustee. No compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action in respect of, any liability or obligation under or in respect of, or of any of the terms, covenants or conditions of any indenture or other instrument under which any Senior Debt is outstanding or of such Senior Debt, whether or not such compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action is in accordance with the provisions or any applicable document, shall in any way alter or affect any of the provisions of this Article or of the Notes relating to the subordination thereof.

[Signatures on following pages]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COMPANY:

VERTEX PHARMACEUTICALS INCORPORATED, a Massachusetts corporation

By: /s/ Matthew Emmens
Name: Matthew Emmens
Title: Chief Executive Officer

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Karen Beard
Name: Karen Beard
Title: Authorized Signatory

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Exhibit 4.2

(Face of Note)

VERTEX PHARMACEUTICALS INCORPORATED

SECURED NOTES DUE 2012

No. 1

$155,000,000

VERTEX PHARMACEUTICALS INCORPORATED, a Massachusetts corporation, for value received, hereby promises to pay to OLMSTED PARK S.A. or registered assigns, the principal sum of One Hundred Fifty-Five Million Dollars on October 31, 2012.

[Remainder of this page left intentionally blank]

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Ian F. Smith
Name: Ian F. Smith
Title: Executive VP and CFO

This is one of the Notes referred
to in the within mentioned Indenture:

Dated: September 30, 2009

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: /s/ Karen Beard
Authorized Signatory

(Back of Note)

VERTEX PHARMACEUTICALS INCORPORATED

SECURED NOTES DUE 2012

THIS NOTE WAS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS NOTE WAS 78.8494 % OF ITS PRINCIPAL AMOUNT; THE TOTAL AMOUNT OF ORIGINAL ISSUE DISCOUNT IS $211.51 PER NOTE WITH A PRINCIPAL AMOUNT OF $1,000; THE ISSUE DATE IS SEPTEMBER 30, 2009; AND THE YIELD TO MATURITY IS 8.00% PER YEAR.

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF VERTEX PHARMACEUTICALS INCORPORATED (THE "COMPANY") THAT (A) SUCH SECURITY MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) INSIDE THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A FOREIGN PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS), (c) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF APPLICABLE) (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS) OR (d) IN ACCORDANCE WITH

ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY IF THE COMPANY SO REQUESTS), (2) TO THE COMPANY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY

STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE SECURITY EVIDENCED HEREBY.

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated. The Notes are general obligations of the Company, secured by Liens on the Collateral as described in the Indenture. This Note is entitled to the benefits of the Note Guarantees by the Guarantors on the terms set forth in the Indenture.

1. Accreted Value; Interest. The Accreted Value of this Note is the amount per $1,000 principal amount at maturity of this Note that is equal to (a) as of any date prior to October 31, 2012, $788.49 accreted at the daily compounding rate equivalent to 8% per year from the Issue Date through the date of determination, computed on the basis of a 365-day year, and (b) as of October 31, 2012, or any date thereafter, $1,000. Vertex Pharmaceuticals Incorporated, a Massachusetts corporation (such corporation, and its successors and assigns under the Indenture, being herein called the "Company") promises to pay the Accreted Value of this Note, and, in the circumstances provided in the Indenture, Liquidated Damages, if any. The Company further promises to pay interest (including post-petition interest to the extent permitted in any proceeding under any Bankruptcy Law) on overdue Accreted Value and Liquidated Damages, if any, from time to time on demand at a rate of 12% per annum, and the Company shall also pay interest (including to the extent permitted post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 365-day year.

2. Method of Payment. The Notes will be payable as to Accreted Value, Liquidated Damages, if any, and interest, if any, at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and

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provided that payment by wire transfer of immediately available funds will be required with respect to Accreted Value of and interest, and Liquidated Damages, if any, on all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent and Registrar. Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity; *provided* that if the Company or such Subsidiary is acting as Paying Agent, the Company or such Subsidiary shall segregate all funds held by it as Paying Agent and hold them in a separate trust fund for the benefit of the Holders.

4. Indenture. The Company issued the Notes under an Indenture dated as of September 30, 2009 (as supplemented from time to time, the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms.

The summary of the terms of this Note contained herein does not purport to be complete and is qualified by reference to the Indenture. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Indenture restricts, among other things, the Company's and the Guarantors' ability to sell or incur liens on Collateral or merge or consolidate with any other person.

5. Optional Redemption.

The Company may redeem the Notes at its option, in whole at any time or in part from time to time, upon not less than 2 nor more than 5 Business Days' prior notice electronically delivered or mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the Accreted Value of the Notes redeemed plus Liquidated Damages, if any, and accrued and unpaid interest, if any, to, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

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6. Mandatory Redemption.

Except as set forth below, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

Upon the occurrence of a Milestone Event as defined in the Janssen Agreement as in effect on the date of the Indenture (whether or not the Janssen Agreement is still in effect or has been subsequently amended, sold or assigned), the Company shall redeem for cash the maximum principal amount at maturity of Notes that may be redeemed with the amount of the Milestone Payment due, under the terms of the Janssen Agreement as in effect on the date of the Indenture, upon the occurrence of the applicable Milestone Event, at a redemption price in cash in an amount equal to 100% of the Accreted Value thereof, plus accrued and unpaid interest and Liquidated Damages, if any, to the date fixed for the closing of such redemption in accordance with the procedures set forth in the Indenture. Any such redemption shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

7. Repurchase at Option of Holder. If a Change of Control occurs, each Holder will have the right to require the Company to repurchase all or any part (equal to $50,000 or an integral multiple of $1,000 in excess thereof) of that Holder's Notes pursuant to an offer (a "Change of Control Offer") on the terms set forth in the Indenture. In the Change of Control Offer, the Company shall offer payment (a "Change of Control Payment") in cash equal to 100% of the aggregate Accreted Value of Notes repurchased plus accrued and unpaid interest and Liquidated Damages thereon to the date of repurchase (the "Change of Control Payment Date," which date will be no earlier than the date of such Change of Control). No later than 30 days following any Change of Control, the Company shall mail a notice to each Holder stating that a Change of Control has occurred and offering to repurchase Notes on the Change of

Control Payment Date specified in such notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the Indenture and described in such notice.

8. Notice of Redemption. Notice of redemption will be electronically delivered or mailed at least 2 days but not more than 5 Business Days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than $50,000 may be redeemed in part but only in whole multiples of $1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date, interest ceases to accrue on Notes or portions thereof called for redemption.

9. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of $50,000 principal amount at maturity

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and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part.

10. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

11. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture, the Notes, the Note Guarantees and the Collateral Documents may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a tender offer or exchange offer for the Notes), and, subject to the terms of the Indenture, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the Accreted Value of, Liquidated Damages, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a tender offer or exchange offer for the Notes). Certain provisions in the Indenture, Notes, Notes Guarantees and Collateral Documents may be amended or supplemented without the consent of any Holder of a Note. Certain provisions in the Indenture, Notes, Notes Guarantees and Collateral Documents may not be amended or supplemented without the consent of every Holder affected thereby.

12. Defaults and Remedies. The Indenture contains certain Events of Default.

If any Event of Default (other than an Event of Default specified in clause (d) or (e) of Section 6.01 with respect to the Company) occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount at maturity of the then outstanding Notes may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (d) or (e) of Section 6.01 occurs with respect to the Company, all outstanding Notes will become due and immediately payable without further action or notice. Upon any Note becoming due and payable under the Indenture, whether automatically or by declaration, such Note will forthwith mature and the entire unpaid Accreted Value of such Note, plus (1) all accrued and

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unpaid interest thereon and (2) Liquidated Damages, if any, determined in respect of such Accreted Value shall all be immediately due and payable. Upon acceleration of the Notes, Accreted Value shall cease to accrete and Liquidated Damages will be calculated as of the date of such acceleration, but interest will accrue on the Accreted Value and the Liquidated Damages at the rate provided for overdue Accreted Value and Liquidated Damages on the Notes in Section 1 hereof and Section 4.01 of the Indenture until such Accreted Value and Liquidated Damages are paid. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount at maturity of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. Trustee and Collateral Agent Dealings with Company. Each of the Trustee and the Collateral Agent, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee and/or the Collateral Agent, as the case may be.

14. No Recourse Against Others. No director, officer, employee, incorporator, stockholder, member, manager or partner of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or the Guarantors under the Notes, the Indenture, the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. Collateral. The due and punctual payment of the Accreted Value of, Liquidated Damages, if any, on and interest on, the Notes and all other Note Obligations are secured as provided in the Security Agreement, which the Company and the Guarantors have entered into simultaneously with the execution of the Indenture, and the other Collateral Documents in effect from time to time. Each Holder, by its acceptance thereof, consents and agrees to the terms of the Collateral Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral) as the same may be in effect or may be amended, supplemented or otherwise modified from time to time in accordance with their terms and authorizes and directs the Collateral Agent or the Trustee (as

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the case may be) to enter into the Collateral Documents and to perform their obligations and exercise their rights thereunder in accordance therewith.

16. Subordination. The Company agrees, and each Holder by accepting a Note agrees, that the Note Obligations are expressly subordinated hereby, and as provided in the Indenture, in right of payment to the prior payment in full of all Senior Debt, *provided* that such subordination shall not apply to the rights of the Holders to receive Payments from Collateral, as defined in the Indenture, in accordance with Section 14.02 of the Indenture.

17. Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

18. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JE TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

19. CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Investor Relations

20. Unclaimed Money. Subject to certain conditions, if money for the payment of Accreted Value, Liquidated Damages, if any, or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its request in accordance with the Indenture, unless any abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment unless such abandoned property law designates another Person.

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21. Discharge and Defeasance. Subject to certain conditions, the Company at any time may terminate some or all of the obligations of the Company under the Notes and the Indenture if the Company irrevocably deposits in trust with the Trustee an amount in United States dollars sufficient to pay and discharge the entire Indebtedness on the Notes, not theretofore delivered for cancellation, including the Accreted Value of, Liquidated Damages, if any, and accrued interest on such Notes at such maturity, Stated Maturity or redemption date, as the case may be.

22. Governing Law. THE INDENTURE AND THIS NOTE WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PRINCIPLES THEREOF.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

_____
(Insert Assignee's legal name)

_____

_____
(Insert assignee's soc, sec, or tax I.D. no.)

_____

_____

_____
(Print or type assignee's name, address and zip code)

and irrevocably appoint

_____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee: _____

Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.08 of the Indenture, check the appropriate box below:

o Section 4.08.

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.08 of the Indenture, state the amount you elect to have purchased:

$ _____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: _____

Signature Guarantee*: _____

*Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Exhibit 10.1

Confidential Treatment Requested
Confidential portions of this document have been redacted and have been separately filed with the Commission

LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

between

Vertex Pharmaceuticals Incorporated

and

Mitsubishi Pharma Corporation

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission

TABLE OF CONTENTS

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission

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LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

THIS LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT (the "**Agreement**") is made and entered into as of June 11, 2004 between VERTEX PHARMACEUTICALS INCORPORATED (hereinafter "**VERTEX**"), a Massachusetts corporation with principal offices at 130 Waverly Street, Cambridge, MA 02139-4242, and MITSUBISHI PHARMA CORPORATION (hereinafter "**MITSUBISHI**"), a Japanese corporation with principal offices at 6-9, Hiranomachi 2-Chome, Chuo-ku, Osaka 541-0046, Japan. VERTEX and MITSUBISHI are sometimes referred to herein individually as the "**Party**" and collectively as the "**Parties**".

INTRODUCTION

WHEREAS, VERTEX has an ongoing antiviral drug discovery and development program targeting the hepatitis C virus (HCV) NS3 4A protease; and

WHEREAS, VERTEX's discovery and development program has produced a clinical candidate known as VX-950 that is currently in late preclinical development and a back-up compound VX-905 (the "**Compounds**"); and

WHEREAS, MITSUBISHI wishes to obtain an exclusive license to develop and commercialize the Compounds in Japan and certain Asian countries, and VERTEX is willing to grant such a license, all on the terms and subject to the conditions set forth herein; and

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants set forth herein, and other good and valuable consideration, the Parties agree as follows:

ARTICLE I — DEFINITIONS

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which controls, is controlled by, or is under direct or indirect common control with such Person. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Control will be presumed if one Person owns, either of record or beneficially, more than fifty percent (50%) of the voting stock of any other Person.

1.2 "Allocable Overhead" shall mean costs incurred by a party or for its account which are attributable to a party's costs of supervisory services, occupancy, payroll, information

systems, human resources and purchasing, as allocated to company departments based on space occupied, headcount or activity-based methods, in all cases as determined by such party in accordance with its accounting standards, including International Accounting Standards (IAS) and Generally Accepted Accounting Principles (GAAP), applied on a consistent basis. Without limitation, Allocable Overhead shall not include the costs of general corporate activities including, by way of example, executive management, investor relations, business development, legal and finance.

1.3 "Bulk Drug Substance" shall mean a Compound in bulk crystal, powder, solution or other form suitable for incorporation in a Drug Product, which if required in order to stabilize the Compound shall be formulated with stabilizing excipients.

1.4 "Combination Therapy" shall mean a therapy in which for full treatment efficacy a Drug Product is clinically and regulatorily required to be used together with one or more other anti-hepatitis C virus (HCV) agents, such as interferon products.

1.5 "Commercial Supply Agreement" shall have the meaning set forth in Section 4.2 hereof.

1.6 "Competing Product" shall mean any pharmaceutical product in finished dosage form that contains **[***]** (i) that falls within one or more of the claims of the published patent applications **[***]** in the Territory as of the Effective Date, or (ii) that falls within one or more of the claims of a patent application filed **[***]** having the priority date of **[***]**.

1.7 "Completion" with respect to a Phase II Clinical Trial or a Phase III Clinical Trial shall mean the finalization of the final report with respect to such clinical trial.

1.8 "Compound" shall mean either of VX-950 or VX-905.

1.9 "Confidential Information" shall have the meaning set forth in Section 9.1.

1.10 "Controlled" shall mean the legal authority or right of a party to grant a license or sublicense of intellectual property rights to another party, or to otherwise disclose proprietary or trade secret information to such other party, without breaching the terms of any agreement with a third party, misappropriating the proprietary or trade secret information of a third party or incurring any financial obligation or potential financial obligation to a third party.

1.11 "Core Development Activities" shall mean: **[***]**

1.12 "Core Development Plan" shall have the meaning set forth in Section 3.2.3

hereof.

1.13 "Core Development Costs" shall mean **[***]**

1.14 "Development Supply Agreement" shall have the meaning set forth in Section 4.1 hereof.

1.15 "Drug Product" shall mean a Compound in finished dosage form that is prepared from Bulk Drug Substance and is ready for administration to the ultimate consumer as a pharmaceutical product.

1.16 "Effective Date" shall mean the effective date of this Agreement as set forth on the first page hereof.

1.17 "FDA" shall mean the United States Food and Drug Administration.

1.18 "Field of Use" shall mean the treatment of any human condition, disorder or disease.

1.19 "First Commercial Sale" shall mean the first sale of a Drug Product by MITSUBISHI or an Affiliate or sublicensee of MITSUBISHI in a country in the Territory following Regulatory Approval of the Drug Product in that country, or if no such Regulatory Approval or similar marketing approval is required, the date upon which the Drug Product is first sold in such country by MITSUBISHI or an Affiliate or sublicensee of MITSUBISHI pursuant to a plan of commercial launch.

1.20 "IND" shall mean the investigational new drug application relating to the Drug Product filed with the FDA pursuant to 21 C.F.R. Part 312, including any amendments thereto, and equivalent applications with similar requirements in countries other than the United States.

1.21 "Indication" shall mean a generally acknowledged disease, disorder or condition, a significant manifestation of a disease, disorder or condition, or a symptom associated with a disease, disorder or condition for which use of a Drug Product is indicated, as would be identified in the Drug Product's label under applicable regulations of a Regulatory Authority.

1.22 "Infringement Claim" shall have the meaning set forth in Section 7.4.1 hereof.

1.23 "**Investigational Drug Product**" shall have the meaning set forth in Section 4.1 hereof.

1.24 "JDC" shall have the meaning set forth in Section 3.1 hereof.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

1.25 "Joint Know-How" shall have the meaning set forth in Section 7.1 hereof.

1.26 "Joint Patents" shall have the meaning set forth in Section 7.1 hereof.

1.27 "**Joint Steering Committee**" shall have the meaning set forth in Section 10.2.1 hereof.

1.28 "Know-How" shall mean all data, technical information, know-how, inventions, discoveries, trade secrets, processes, techniques, materials, compositions, methods, formulas or improvements that relate to the research, development, manufacture, use, sale, offer for sale or import of any Bulk Drug Substance, Compound, or Drug Product; provided, however, that the term "Know-How" shall not include VERTEX's proprietary and confidential drug discovery platform or techniques.

1.29 "Manufacturing Cost" shall mean the total of all costs incurred by or on behalf of VERTEX related to the manufacture of a batch or lot of Bulk Drug Substance, Compound, Drug Product, Investigational Drug Product or placebo, including direct material and labor, quality assurance/quality control and analytical costs, depreciation, as well as applicable Allocable Overhead and Third-Party costs relating to manufacturing, shipping and handling, duty, and insurance.

1.30 "MITSUBISHI Development Activities" shall mean all non-clinical and clinical activities performed by or on behalf of MITSUBISHI or its sublicensees in the Territory with respect to Bulk Drug Substance, a Compound and/or Drug Product, including non-clinical studies, clinical trials, formulation research, formulation development, process research, process development, manufacturing scale-up, analytical method development and validation, and regulatory activities, in order to obtain Regulatory Approval from a Regulatory Authority for marketing the corresponding Drug Product in the Territory for the Indications selected.

1.31 "MITSUBISHI Development Plan" shall have the meaning set forth in Section 3.2.1 hereof.

1.32 "MITSUBISHI Know-How" shall mean all Know-How Controlled by MITSUBISHI or any of its Affiliates, including any such Know-How invented, discovered or developed in the conduct of the MITSUBISHI Development Activities.

1.33 "MITSUBISHI Patents" shall mean all Patents Controlled by MITSUBISHI or any of its Affiliates claiming Bulk Drug Substance, a Compound or a Drug Product, or a method of making or using Bulk Drug Substance, a Compound or a Drug Product, or an improvement

to the subject matter of a Patent covering any of the foregoing that would be infringed by the research, development, manufacture, use, sale, offer for sale or import of Bulk Drug Substance, Compound(s) or Drug Product. As of the Effective Date, no MITSUBISHI Patents exist. **Schedule 1.33** hereto will be updated periodically to reflect additions thereto during the term of this Agreement.

1.34 "MITSUBISHI Technology" shall mean all MITSUBISHI Patents and all MITSUBISHI Know-How.

1.35 "Monotherapy" shall mean a therapy in which the Drug Product is used as a sole anti-hepatitis C virus (HCV) agent.

1.36 "Net Sales" shall mean the aggregate amount obtained by totaling for all countries in the Territory where Drug Products were sold in a given calendar quarter the Net Sales Price or Prices in such country multiplied by the total number of units of Drug Products sold in such country at such Net Sales Price or Prices.

1.37 "Net Sales Price" with respect to a Drug Product shall mean the gross amount invoiced in a given calendar quarter in a given country for such unit of the Drug Product sold to Third Parties in bona fide, arms-length transactions by MITSUBISHI and any MITSUBISHI Affiliate or its sublicensee, less (i) trade, quantity and/or cash discounts from the invoice price which are actually allowed or taken; (ii) freight, postage and insurance included in the invoice price; (iii) amounts repaid or credited by reason of rejection or return of goods or because of retroactive price reductions specifically identifiable to the Drug Product; (iv) amounts payable resulting from governmental (or agency thereof) mandated rebate programs; (v) Third-Party rebates to the extent actually allowed; (vi) invoiced custom duties and sales and use taxes (excluding income taxes), if any, actually paid and directly related to the sale; and (vii) any other specifically identifiable amounts included in the Drug Product's invoice price that should be credited for reasons substantially equivalent to those listed above; all as determined in accordance with MITSUBISHI's usual and customary accounting methods, which are in accordance with the Japanese equivalent of Generally Accepted Accounting Principles in the United States (GAAP), consistently applied.

(a) In the case of any sale or other disposal of a Drug Product between or among MITSUBISHI and its Affiliates and sublicensees for resale, the Net Sales Price shall be calculated as above only on the value charged or invoiced on the first arm's-length sale thereafter to a Third Party;

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(b) In the case of any sale or other disposal for value, such as barter or counter-trade, of a Drug Product, or part thereof, other than in an arm's-length transaction exclusively for money, the Net Sales Price shall be calculated as above on the higher of (i) the value of the consideration received for, or (ii) the fair market price of, the Drug Product in the country of sale or disposal;

(c) If a Drug Product is sold in a finished dosage form containing the Drug Product in combination with one or more other active ingredients (a "**Combination Product**"), the Net Sales Price of the Drug Product, for the purposes of determining payments hereunder, shall be determined by multiplying the Net Sales Price (as defined above in this Section) of the Combination Product by **[***]**; and

(d) In the case of any sale which is not invoiced, the Net Sales Price shall be calculated at the time of shipment or when the Drug Product is paid for, if paid for before shipment, based on the gross purchase price.

1.38 "Patents" shall mean all existing Japanese and U.S. patents and patent applications; all patent applications hereafter filed in Japan or the United States, including any continuation, continuation-in-part, division, provisional or any substitute applications; any patent issued with respect to any such patent applications; any reissue, reexamination, renewal or extension (including any patent term extension or supplementary protection certificate) of any such patent; and any confirmation patent or registration patent or patent of addition based on any such patent; and all foreign counterparts of any of the foregoing.

1.39 "Person" shall mean any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization or government or political subdivision thereof.

1.40 "Phase I Clinical Trial" shall mean an initial human clinical trial conducted for inclusion in (i) that portion of the FDA submission and approval process which provides for initial trials of a Compound in a small number of subjects to establish the safety profile of the Compound and to collect initial data on its pharmacokinetics and pharmacological effects, as more fully defined in 21 C.F.R. § 312.21(a), and (ii) equivalent submissions with similar requirements in countries other than the United States.

1.41 "Phase Ib Clinical Trial" shall mean an initial repeated dose, dose escalation Phase I Clinical Trial conducted in a small number of patients infected with the hepatitis C virus (HCV) to establish the safety profile of the Compound and to collect additional data on its pharmacokinetics and pharmacological effects, including antiviral activity.

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1.42 "Phase II Clinical Trial" shall mean a human clinical trial conducted for inclusion in (i) that portion of the FDA submission and approval process which provides for trials of a Compound on a limited number of patients for the purposes of collecting data on dosages, evaluating safety and collecting preliminary information regarding efficacy in the proposed therapeutic Indication, as more fully defined in 21 C.F.R. §312.21(b), and (ii) equivalent submissions with similar requirements in countries other than the United States.

1.43 "Phase IIa Clinical Trial" shall mean an initial Phase II Clinical Trial in any therapeutic Indication that is designed to evaluate safety and to demonstrate a meaningful trend of efficacy in patients who have the disease or condition that the Compound is intended to treat**.**

1.44 "Phase IIb Clinical Trial" shall mean a Phase II Clinical Trial in any therapeutic Indication that is designed to determine the doses to be used in the Phase III Clinical Trials and to evaluate the efficacy/safety properties of the Compound.

1.45 "Phase III Clinical Trial" shall mean a human clinical trial conducted for inclusion in (i) that portion of the FDA submission and approval process which provides for the continued trials of a Compound on sufficient numbers of patients to generate safety and efficacy data to support Regulatory Approval in the proposed therapeutic Indication, as more fully defined in 21 C.F.R. § 312.21(c), and (ii) equivalent submissions with similar requirements in countries other than the United States.

1.46 "Regulatory Approval" shall mean, with respect to any country, all authorizations by a Regulatory Authority or other appropriate governmental entity or entities necessary for commercial marketing and sale of a Drug Product in that country including, where applicable, approval of labeling, price, reimbursement and manufacturing.

1.47 "Regulatory Authority" shall mean (i) the FDA or (ii) any regulatory body with similar regulatory authority in any other jurisdiction anywhere in the world.

1.48 "Start" shall mean the first dosing of the first patient with respect to a Phase II Clinical Trial or Phase III Clinical Trial, or the starting date set forth in the final protocol for the applicable study with respect to non-clinical studies.

1.49 "Territory" shall mean all countries identified on **Schedule 1.49** hereto.

1.50 "Third Party" shall mean any Person that is not a Party or an Affiliate of any Party.

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1.51 "Valid Patent Claim" shall mean either (i) a claim of an issued and unexpired Patent which has not lapsed, been revoked or abandoned or held permanently unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, reexamination, disclaimer or otherwise, or (ii) a claim of a pending patent application which claim was filed in good faith and has not been abandoned or finally disallowed without the possibility of appeal or refilling of said application.

1.52 "VERTEX Development Activities" shall mean all non-clinical and clinical activities performed by or on behalf of VERTEX or a VERTEX Licensee in the VERTEX Territory with respect to Bulk Drug Substance, a Compound, and/or Drug Product, including non-clinical studies, clinical trials, formulation research, formulation development, process research, process development, manufacturing scale-up, analytical method development and validation, and regulatory activities, in order to obtain Regulatory Approval from a Regulatory Authority for marketing the corresponding Drug Product in the VERTEX Territory for the Indications selected. For the avoidance of doubt, the Core Development Activities set forth in Section 1.11 shall be included in the VERTEX Development Activities.

1.53 "VERTEX Development Plan" shall have the meaning set forth in Section 3.2.2 hereof.

1.54 "VERTEX Know-How" shall mean all Know-How Controlled by VERTEX or any of its Affiliates, including any such Know-How invented, discovered or developed in the conduct of the VERTEX Development Activities.

1.55 "VERTEX Licensee" shall mean any Person other than MITSUBISHI to which VERTEX grants a license under the VERTEX Technology.

1.56 "VERTEX Patents" shall mean all Patents Controlled by VERTEX or any of its Affiliates claiming Bulk Drug Substance, a Compound or a Drug Product, or a method of making or using Bulk Drug Substance, a Compound or a Drug Product, or an improvement to the subject matter of a Patent covering any of the foregoing that would be infringed by the research, development, manufacture, use, sale, offer for sale or import of Bulk Drug Substance, Compound(s) or Drug Product. A list of VERTEX Patents in the Territory is appended hereto as **Schedule 1.56** and will be updated periodically to reflect additions thereto during the term of this Agreement. Notwithstanding the foregoing, any Third-Party patent under which VERTEX

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obtains a license pursuant to Section 7.4.2 hereof shall not be deemed to be a VERTEX Patent.

1.57 "VERTEX Technology" shall mean all VERTEX Patents and all VERTEX Know-How.

1.58 "VERTEX Territory" shall mean all countries of the world except for the countries of the Territory.

1.59 "VX-905" shall mean the compound identified on **Schedule 1.59** hereto.

1.60 "VX-950" shall mean the compound identified on **Schedule 1.60** hereto.

ARTICLE II — LICENSE

2.1 Grant to MITSUBISHI.

2.1.1 License. Subject to the other provisions of this Agreement, VERTEX hereby grants to MITSUBISHI an exclusive license (or sublicense, as appropriate) in the Territory under the VERTEX Technology, with the right to sublicense, to exercise its rights and fulfill its obligations under this Agreement and to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import Drug Products and to import Bulk Drug Substance and use Bulk Drug Substance to manufacture Drug Products, in each case solely in the Field of Use. Notwithstanding the foregoing VERTEX shall retain the right to manufacture and have manufactured the Drug Product in the Territory for development, use, or sale of the Drug Product in the VERTEX Territory and for sale of the Drug Product to MITSUBISHI pursuant to this Agreement. In addition, in the event that pursuant to discussions in the JDC it is determined that VERTEX may conduct clinical trials of the Drug Product in the Territory, notwithstanding the foregoing license grant, VERTEX shall be allowed to conduct such clinical trials. Further, subject to the other provisions of this Agreement, VERTEX hereby grants to MITSUBISHI a non-exclusive license (or sublicense, as appropriate) in the VERTEX Territory under the VERTEX Technology, with the right to sublicense, to manufacture and/or have manufactured the Drug Product for development, use or sale of the Drug Product in the Territory.

2.1.2 Sublicensees and Subcontractors. MITSUBISHI shall notify VERTEX in writing of any sublicense it intends to grant pursuant to Section 2.1.1 **[***]**. Notwithstanding the foregoing, MITSUBISHI may sublicense its rights under the license granted in Section 2.1.1 to any of its Affiliates, with prior notice to but without the consent of VERTEX. MITSUBISHI shall

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guarantee and be responsible to VERTEX for the performance of any of its sublicensees or subcontractors under any sublicense or other agreement with respect to the rights granted to MITSUBISHI by VERTEX and the obligations assumed by MITSUBISHI hereunder. MITSUBISHI shall not permit any subcontractors or sublicensees to use VERTEX Technology without provisions safeguarding confidentiality equivalent to those provided in this Agreement. MITSUBISHI shall ensure that any such provisions allow VERTEX the right to directly enforce the obligations of confidentiality with respect to VERTEX Technology in the possession of the subcontractor or sublicensee.

2.2 Competing Product. In the event that VERTEX intends to license rights to develop and/or commercialize a Competing Product solely in the Territory (rather than as part of a worldwide license), VERTEX shall discuss with MITSUBISHI in good faith the terms and conditions for such a license prior to negotiating terms and conditions for such a license with any Third Party.

2.3 Grant to VERTEX.

2.3.1 License. Subject to the other provisions of this Agreement, MITSUBISHI hereby grants to VERTEX, in the VERTEX Territory and in those countries in the Territory where VERTEX may conduct clinical trials of the Drug Product or where VERTEX may manufacture and have manufactured Drug Product for development, use, or sale in the VERTEX Territory and for sale to MITSUBISHI pursuant to this Agreement, a royalty-free, non-exclusive license (or sublicense, as appropriate) under the MITSUBISHI Technology, with the right to sublicense, to exercise its rights and fulfill its obligations under this Agreement and, to the extent not inconsistent with MITSUBISHI's exclusive rights in the Territory, to research, develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import Bulk Drug Substance, Compounds and Drug Products in the Field of Use.

2.3.2 Sublicensees and Subcontractors. VERTEX shall notify MITSUBISHI in writing in advance of granting any sublicenses pursuant to Section 2.3.1. VERTEX shall guarantee and be responsible to MITSUBISHI for the performance of any of its sublicensees or subcontractors under any sublicense or other agreement with respect to the rights granted to VERTEX by MITSUBISHI and the obligations assumed by VERTEX hereunder. VERTEX shall not permit any subcontractors or sublicensees to use MITSUBISHI Technology without provisions safeguarding confidentiality equivalent to those provided in this Agreement. VERTEX will ensure that any such provisions will allow MITSUBISHI the right to directly enforce the obligations of confidentiality with respect to MITSUBISHI Technology in the possession of

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the subcontractor or sublicensee.

2.4 Transfer of Know-How. Each Party shall deliver to the other all Know-How Controlled by it or its Affiliates and requested by the other Party from time to time, pursuant to the exercise by such other Party of any of the licenses granted hereunder. The Know-How shall be delivered in a form that reasonably facilitates the use of such Know-How and shall also include copies of all MITSUBISHI Patents in the VERTEX Territory or all VERTEX Patents in the Territory, as applicable, and all other manifestations of the intellectual property licensed hereunder embodied in the Bulk Drug Substance, Compounds or Drug Products, whether in human or machine readable form.

2.5 No Implied Rights. Except as expressly provided in this Agreement, no right or license to use any intellectual property of either Party is granted hereunder by implication or otherwise.

ARTICLE III — DEVELOPMENT

3.1 Joint Development Committee.

3.1.1 Formation and Responsibilities. As soon as practicable after the Effective Date, VERTEX and MITSUBISHI will establish a Joint Development Committee (the "**JDC**") made up of equal numbers of VERTEX and MITSUBISHI personnel to be designated from time to time by each Party.

Each of VERTEX and MITSUBISHI shall have one vote on the JDC. The objective of the JDC shall be to reach agreement by consensus on all matters falling within its authority hereunder within the scope of this Agreement. The Chairperson of the JDC shall be designated by MITSUBISHI. Meetings of the JDC other than regularly scheduled quarterly meetings may be held only if a quorum of **[***]** representatives of each Party participates; except that lack of a quorum shall not prevent the scheduling and conduct of a meeting by either Party after that Party has made good faith but unsuccessful attempts for more than ninety (90) days to schedule and convene the meeting. Semi-annually, the JDC shall meet face-to-face, alternating between the offices of the Parties, unless otherwise agreed. There shall be a telephonic or video conference meeting of the JDC in each calendar quarter in which a face-to-face meeting is not held. The JDC shall meet as described above, or with such other frequency, and at such time and location, as may be established by the JDC, for the following purposes, among others:

(i) To review and comment on the MITSUBISHI Development Plan

as set forth in Section 3.2.1 below;

(ii) To review and comment on the Core Development Plan and the VERTEX Development Plan as set forth in Sections 3.2.2 and 3.2.3 below;

(iii) To receive and review reports by MITSUBISHI, which shall be prepared and submitted to VERTEX and the JDC no less than **[***]** days before each semi-annual face-to-face meeting, setting forth in reasonable detail, with supporting data, the results of work performed during the preceding six months under the MITSUBISHI Development Plan;

(iv) To receive and review reports by VERTEX, which shall be prepared and submitted to MITSUBISHI and the JDC no less than **[***]** days before each semi-annual face-to-face meeting, setting forth in reasonable detail, with supporting data, the results of work performed during the preceding six months under the Core Development Plan and the VERTEX Development Plan;

(v) To assist in coordinating scientific interactions and resolving disagreements between VERTEX and MITSUBISHI with respect to the development of Compounds;

(vi) To discuss matters relating to Patents claiming Bulk Drug Substance, the Compounds or Drug Products, methods of using or making the same, or improvements to the subject matter of a Patent covering any of the foregoing, including issues of inventorship and decisions relating to the filing, prosecution and maintenance of those Patents;

(vii) To discuss the budget for the Core Development Activities to be conducted pursuant to the Core Development Plan in the context of the standards in the pharmaceutical industry;

(viii) In the event VERTEX has notified the JDC in writing that VERTEX wishes to conduct clinical trials in the Territory, to discuss and approve (with such approval not to be unreasonably withheld or delayed) VERTEX's conducting such clinical trials in the Territory; and

(ix) To perform such other functions as appropriate to further the purposes of this Agreement as mutually determined by the Parties.

MITSUBISHI will prepare the initial draft of an agenda for each JDC meeting and will submit the draft to VERTEX for comments a reasonable period before the scheduled meeting

date. The Party hosting a particular JDC meeting shall prepare and deliver to the members of the JDC, within **[***]** days after the date of each meeting, minutes of such meeting setting forth, among other things, all decisions of the JDC, and including a summary of the status of development activities as reported to the JDC. The Party not preparing the minutes may suggest changes or amendments to the minutes, and may provide a supplement addressing activities at the meeting that are not reported in the minutes, which shall be distributed to the Parties and filed with the meeting minutes. In case the JDC meets by means of telephone or video conferences, the responsibility for preparing minutes shall lie with MITSUBISHI.

3.1.2 Retention of Rights. Notwithstanding the foregoing, each Party shall retain the rights, powers, and discretion expressly granted to it under this Agreement, and the JDC shall not be delegated or vested with any such rights, powers or discretion except as expressly provided in this Agreement. The JDC shall not have the power to amend or modify this Agreement, which may only be amended or modified as provided in Section 13.14 hereof.

3.1.3 Decision Making. If the JDC cannot reach consensus on a matter arising in connection with the Territory, such matter shall be referred to the Joint Steering Committee for resolution in accordance with the terms of Section 10.2.1. If the Joint Steering Committee is unable to resolve such matter, then MITSUBISHI shall have final authority to make the ultimate decision with respect thereto. If the JDC cannot reach consensus on a matter arising in connection with the VERTEX Territory, except for the matters set forth in Section 3.2.3, such matter shall be referred to the Joint Steering Committee for resolution in accordance with the terms of Section 10.2.1. If the Joint Steering Committee is unable to resolve such matter, then VERTEX shall have final authority to make the ultimate decision with respect thereto. If the JDC cannot reach consensus on any other matters, including the matters set forth in Section 3.2.3, such matters shall be referred to the Joint Steering Committee for resolution in accordance with the terms of Sections 10.2.1 and 10.2.2.

3.2 Development Plans.

3.2.1 MITSUBISHI Development Plan. As soon as practicable after the Effective Date, MITSUBISHI will prepare a development plan for the conduct of the MITSUBISHI Development Activities in the Territory (the "**MITSUBISHI Development Plan**"), and will provide a copy of such Plan to the JDC. The MITSUBISHI Development Plan will be updated by MITSUBISHI annually thereafter to describe the MITSUBISHI Development Activities that MITSUBISHI then intends will be conducted during the subsequent year and the remainder of the development period. Such MITSUBISHI Development Plan will be provided to

the JDC within **[***]** days of the date that the JDC will conduct one of its quarterly or semi-annual meetings. The MITSUBISHI Development Plan will be considered Confidential Information of MITSUBISHI subject to the confidentiality obligations of Article IX. The JDC shall have the opportunity to review and comment on the MITSUBISHI Development Plan within **[***]** days of its receipt.

3.2.2 VERTEX Development Plan. As soon as practicable after the Effective Date, VERTEX will prepare a development plan for the conduct of the VERTEX Development Activities in the VERTEX Territory, other than the Core Development Activities (the "**VERTEX Development Plan**"), and will provide a copy of such Plan to the JDC. The VERTEX Development Plan will be updated by VERTEX annually thereafter to describe the VERTEX Development Activities (other than Core Development Activities) that VERTEX then intends will be conducted during the subsequent year and the remainder of the development period. Such VERTEX Development Plan will be provided to the JDC within **[***]** days of the date that the JDC will conduct one of its quarterly or semi-annual meetings. The VERTEX Development Plan will be considered Confidential Information of VERTEX subject to the confidentiality obligations of Article IX. The JDC shall have the opportunity to review and comment on the VERTEX Development Plan within **[***]** days of its receipt.

3.2.3 Core Development Plan. As soon as practicable after the Effective Date, VERTEX will prepare a development plan for the conduct of the Core Development Activities (the "**Core Development Plan**"), including an accompanying budget, and will provide a copy of such Plan to the JDC. The Core Development Plan will be updated by VERTEX annually thereafter to describe the Core Development Activities that VERTEX then intends will be conducted during the subsequent year and the remainder of the development period. Such Core Development Plan will be provided to the JDC within **[***]** days of the date that the JDC will conduct one of its quarterly or semi-annual meetings. The Core Development Plan will be considered Confidential Information of VERTEX subject to the confidentiality obligations of Article IX. The JDC shall have the right to review and comment on the Core Development Plan within **[***]** days of its receipt. Within such **[***]** day period, the JDC shall also (i) confirm that the Core Development Activities described therein fall within the scope of such definition and (ii) agree upon the protocols for non-clinical studies, which agreement shall not be unreasonably withheld or delayed. In the event that the JDC cannot reach consensus with respect to a matter described in either clause (i) or (ii) above, such matter shall be referred to the Joint Steering Committee for resolution in accordance with the terms of Sections 10.2.1 and

10.2.2. In the event that the JDC does not agree upon the protocol for a particular non-clinical study, VERTEX shall also have the right to conduct such study independently and either (i) not to refer such dispute to the Joint Steering Committee for resolution, in which case MITSUBISHI may also not refer such dispute to the Joint Steering Committee and such study shall no longer be considered a Core Development Activity subject to cost sharing by MITSUBISHI pursuant to Section 3.3 below, or (ii) to refer such dispute to the Joint Steering Committee for resolution, and if the resolution process does not approve the protocol for such non-clinical study, such study shall not be considered a Core Development Activity subject to cost sharing by MITSUBISHI pursuant to Section 3.3 below, but if the resolution process does approve such protocol, then such study shall be considered a Core Development Activity subject to such cost sharing by MITSUBISHI.

3.3 Development Costs.

3.3.1 MITSUBISHI Cost-Sharing Obligations. MITSUBISHI will bear the cost of the MITSUBISHI Development Activities in the Territory. In addition to the above obligation, MITSUBISHI will pay to VERTEX **[***]** of the Core Development Costs incurred by or on behalf of VERTEX or a VERTEX Licensee. For the avoidance of doubt, MITSUBISHI shall have no obligation under this Section 3.3.1 to pay **[***]**. Not later than **[***]** after the end of each calendar quarter, VERTEX will submit to MITSUBISHI a summary of the Core Development Costs incurred during the calendar quarter just ended (with appropriate supporting information including a description of the time expended on the related Core Development Activities **[***]**, provided, however, that if the first invoice submitted under this Section 3.3.1 to MITSUBISHI reflects costs for activities that are subsequently not confirmed by the JDC to be Core Development Activities, then MITSUBISHI shall receive a credit for such costs against the next invoice submitted under this Section 3.3.1. The summary and supporting information shall be considered to be Confidential Information of VERTEX subject to the confidentiality obligations of Article IX. The books and records of VERTEX or a VERTEX Licensee relating to Core Development Costs will be subject to inspection by MITSUBISHI once in any calendar year upon reasonable notice, for the purpose of verifying the accuracy of the summary of Core Development Costs delivered hereunder. The books and records relating to a reported Core Development Cost shall be retained by VERTEX or a VERTEX Licensee for a period of not less than **[***]** after the year in which such cost was incurred.

3.3.2 Limitations on MITSUBISHI Cost-Sharing Obligations. MITSUBISHI'S obligation to share Core Development Costs incurred by or on behalf of VERTEX or a VERTEX

Licensee from the Effective Date through the Completion of Phase II Clinical Trials within the Core Development Activities and to pay VERTEX therefor shall be **[***].** Upon **[***]** the Parties shall begin to discuss in good faith the maximum amount of MITSUBISHI's cost-sharing obligation relating to Core Development Costs incurred by or on behalf of VERTEX or a VERTEX Licensee for the conduct of Phase III Clinical Trials. **[***]** This amount shall be payable in accordance with the terms and conditions set forth in Sections 3.3.1 and 3.3.3.

3.3.3 Timing and Method of Payments. All amounts payable under this Section 3.3 shall be made on or before the **[***]** following MITSUBISHI's receipt of invoices from VERTEX with respect thereto. All payments shall be made by wire transfer in U.S. dollars to the credit of such bank account as may be designated by VERTEX in writing to MITSUBISHI from time to time.

3.4 [***]. In the event that MITSUBISHI decides to file for Regulatory Approval for the Drug Product for a **[***]** in the Territory **[***]** then MITSUBISHI shall **[***].** The Parties shall discuss in good faith and agree **[***]**. For the purpose of this Section 3.4 **[***]**, In addition, in the event that MITSUBISHI determines that it will not file for Regulatory Approval for the Drug Product in the Territory for **[***]** but instead will file for Regulatory Authority for the Drug Product in the Territory for **[***]** then MITSUBISHI shall notify VERTEX of such decision no later than **[***]** and the parties shall discuss in good faith and agree upon the terms **[***]** which agreement in any event shall be reached prior to **[***].**

3.5 Data Transfer.

3.5.1 Preclinical and Non-clinical Data.

(a) MITSUBISHI shall provide to VERTEX all relevant preclinical and non-clinical data, assays and associated materials, protocols, methods, processes, techniques, commercial assessments of potential Indications, and any other relevant information or materials with respect to a Compound, that are Controlled by and in the possession of MITSUBISHI or its Affiliates and produced in the performance of the MITSUBISHI Development Activities during the term of this Agreement. Available information and materials shall be delivered by MITSUBISHI to the JDC, at MITSUBISHI's expense, within thirty (30) days after the end of each calendar quarter during the term of this Agreement in an orderly fashion and in a manner such that the value of the delivered information and materials is preserved in all material respects. Such information and materials shall be deemed Confidential Information of MITSUBISHI subject to the terms and conditions set forth in Article IX. MITSUBISHI shall enter

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into customary agreements with its sublicensees that provide that such sublicensees shall supply MITSUBISHI with relevant preclinical and non-clinical data, assays and associated materials, protocols, methods, processes, techniques, commercial assessments of potential Indications, and any other relevant information or materials with respect to a Compound produced in the performance of the MITSUBISHI Development Activities.

(b) VERTEX shall provide to MITSUBISHI all relevant preclinical and non-clinical data, assays and associated materials, protocols, methods, processes, techniques, commercial assessments of potential Indications, and any other relevant information or materials with respect to a Compound, that are Controlled by and in the possession of VERTEX or its Affiliates and produced in the performance of the VERTEX Development Activities before and during the term of this Agreement. Available information and materials shall be delivered by VERTEX to the JDC, at VERTEX's expense, within thirty (30) days after the end of each calendar quarter during the term of this Agreement in an orderly fashion and in a manner such that the value of the delivered information and materials is preserved in all material respects. Such information and materials shall be deemed Confidential Information of VERTEX subject to the terms and conditions set forth in Article IX. VERTEX shall enter into customary agreements with the VERTEX Licensees that provide that the VERTEX Licensees shall supply VERTEX with relevant preclinical and non-clinical data, assays and associated materials, protocols, methods, processes, techniques, commercial assessments of potential Indications, and any other relevant information or materials with respect to a Compound produced in the performance of the VERTEX Development Activities.

3.5.2 Clinical Data.

(a) MITSUBISHI shall provide to VERTEX all relevant materials, data and regulatory information that are Controlled by and in the possession of MITSUBISHI or its Affiliates and related to or generated in connection with any clinical trials of a Compound conducted, sponsored or funded by MITSUBISHI and/or its sublicensees (including investigator-sponsored trials and post-marketing clinical trials) pursuant to the performance of the MITSUBISHI Development Activities during the term of this Agreement, whether written or electronic, including all relevant clinical safety and efficacy data and all regulatory data and information related to the use and sale of a Drug Product for any Indication. Such materials, data and information shall be delivered to the JDC by MITSUBISHI, at MITSUBISHI's cost, promptly after completion of the analysis of such clinical trial data and information in an orderly fashion and in a manner such that the value of the accessed information is preserved in all

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material respects. Such information and materials shall be deemed Confidential Information of MITSUBISHI subject to the terms and conditions set forth in Article IX. MITSUBISHI shall enter into customary agreements with its sublicensees that provide that such sublicensees shall supply MITSUBISHI with relevant materials, data and regulatory information related to or generated in connection with any clinical trials of a Compound conducted, sponsored or funded by such sublicensees pursuant to the performance of the MITSUBISHI Development Activities.

(b) VERTEX shall provide to MITSUBISHI all relevant materials, data and regulatory information that are Controlled by and in the possession of VERTEX or its Affiliates and related to or generated in connection with any clinical trials of a Compound conducted, sponsored or funded by VERTEX and/or its VERTEX Licensees (including investigator-sponsored trials and post-marketing clinical trials) pursuant to the performance of the VERTEX Development Activities before and during the term of this Agreement, whether written or electronic, including all relevant clinical safety and efficacy data and all regulatory data and information related to the use and sale of a Drug Product for any Indication. Such materials, data and information shall be delivered to the JDC by VERTEX, at VERTEX's cost, promptly after completion of the analysis of such clinical trial data and information in an orderly fashion and in a manner such that the value of the accessed information is preserved in all material respects. Such information and materials shall be deemed Confidential Information of VERTEX subject to the terms and conditions set forth in Article IX. VERTEX shall enter into customary agreements with the VERTEX Licensees that provide that the VERTEX Licensees shall supply VERTEX with relevant materials, data and regulatory information related to or generated in connection with any clinical trials of a Compound conducted, sponsored or funded by such VERTEX Licensees pursuant to the performance of the VERTEX Development Activities.

3.6 Regulatory Matters.

3.6.1 Regulatory Approvals. Unless otherwise required by law in the relevant jurisdiction or set forth in this Agreement, MITSUBISHI shall have the sole right to obtain Regulatory Approvals in the Territory, which shall be held by and in the name of MITSUBISHI, and MITSUBISHI, its Affiliates or sublicensees shall own all submissions in connection therewith.

3.6.2 Interaction with Regulatory Authorities. MITSUBISHI, its Affiliates or sublicensees will be the principal contact for and will otherwise take the lead role in all

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interactions with Regulatory Authorities concerning a Drug Product in the Territory. VERTEX, its Affiliates or VERTEX Licensees will be the principal contact for and will otherwise take the lead role in all interactions with Regulatory Authorities concerning Bulk Drug Substance or a Drug Product in the VERTEX Territory. Each Party will provide the other Party with prompt notice of all material correspondence and filings with a Regulatory Authority regarding Bulk Drug Substance or a Drug Product and, at the other Party's request and at its expense, with copies of all such correspondence and filings.

3.6.3 Right of Cross Reference. MITSUBISHI hereby grants VERTEX and its Affiliates or VERTEX Licensees the right to cross reference, in their regulatory filings made in the VERTEX Territory or in the Territory, if any, covering Bulk Drug Substance, a Compound or Drug Product, all regulatory filings, and information contained therein, made in the Territory by MITSUBISHI or its Affiliates or sublicensees relative to such Bulk Drug Substance, Compounds or Drug Products. VERTEX hereby grants MITSUBISHI and its Affiliates or sublicensees the right to cross reference, in their regulatory filings made in the Territory covering a Compound or Drug Product, all regulatory filings, and information contained therein, made in the VERTEX Territory or in the Territory, if any, by VERTEX or its Affiliates or VERTEX Licensees relative to such Compounds or Drug Products.

3.6.4 Regulatory Reporting. During the term of this Agreement, in order to comply with applicable regulations of applicable Regulatory Authorities, the Parties agree that they shall establish procedures for reporting to such Regulatory Authorities any adverse events, technical complaints or other reportable events that may occur with respect to the manufacture, supply, use, sale or clinical testing of Bulk Drug Substance, a Compound or Drug Product hereunder. Details of such procedures shall be agreed upon by the Parties prior to the initiation of Phase I Clinical Trials by or on behalf of MITSUBISHI.

3.7 Conduct of the Development Activities.

3.7.1 Standards. MITSUBISHI and VERTEX agree to perform the MITSUBISHI Development Activities and the VERTEX Development Activities, respectively, in accordance with the terms and conditions of this Agreement and in conformity with generally accepted standards of good laboratory practices and good clinical practices and with all applicable national, state, regional and local laws, guidelines, rules and regulations.

3.7.2 Records. MITSUBISHI and VERTEX shall prepare and maintain, or have prepared and maintained, complete and accurate written records, accounts, notes, reports and

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data with respect to all laboratory work conducted in the performance of the MITSUBISHI Development Activities and the VERTEX Development Activities, respectively. MITSUBISHI and VERTEX shall prepare and maintain, or have prepared and maintained, complete and accurate written records, data and information with respect to all clinical trials performed in the conduct of the MITSUBISHI Development Activities and the VERTEX Development Activities, respectively, as required by all applicable national, state, regional and local laws, guidelines, rules and regulations.

3.8 Ownership of Technology.

3.8.1 No Ownership by Employees. All employees of MITSUBISHI who are expected to perform the MITSUBISHI Development Activities have signed, or before any such performance will sign, agreements with MITSUBISHI regarding proprietary information and inventions in a form reasonably considered by MITSUBISHI and its counsel to assure MITSUBISHI's Control of any intellectual property invented, discovered or developed by such employees. All employees of VERTEX who are expected to perform the VERTEX Development Activities have signed, or before any such performance will sign, agreements with VERTEX regarding proprietary information and inventions in a form reasonably considered by VERTEX and its counsel to assure VERTEX's Control of any intellectual property invented, discovered or developed by such employees.

3.8.2 Ownership by Agents or Licensees. MITSUBISHI shall enter into customary agreements with its agents and sublicensees that provide that all of such agents' or sublicensees' right, title and interest in, to and under any intellectual property invented, discovered or developed by such agents or sublicensees in the performance of the MITSUBISHI Development Activities shall be assigned or licensed to MITSUBISHI. VERTEX shall enter into customary agreements with its agents and VERTEX Licensees that provide that all of such agents' or VERTEX Licensees' right, title and interest in, to and under any intellectual property invented, discovered or developed by such agents or VERTEX Licensees in the performance of the VERTEX Development Activities shall be assigned or licensed to VERTEX.

ARTICLE IV— MANUFACTURE AND SUPPLY

4.1 Supply of Bulk Drug Substance and Drug Product for Development. Subject to Section 6.4, VERTEX shall be responsible for the manufacture and supply of all Bulk Drug Substance, and MITSUBISHI will be responsible for preparing the Drug Product from Bulk

Drug Substance, in each case as necessary for the conduct of the MITSUBISHI Development Activities in the Territory. Notwithstanding the above but subject to Section 6.4, at MITSUBISHI's request and upon no less than **[***]**, VERTEX agrees to supply that amount of Drug Product required for MITSUBISHI to conduct the Phase I Clinical Trials, Phase II Clinical Trials and Phase III Clinical Trials in the Territory ("**Investigational Drug Product**"). VERTEX will supply such Bulk Drug Substance and Investigational Drug Product to MITSUBISHI at the **[***]**. Supply of Bulk Drug Substance and Investigational Drug Product for development purposes shall be undertaken pursuant to the provisions of a supply agreement for the conduct of the MITSUBISHI Development Activities (the "**Development Supply Agreement**"), including such customary representations, warranties, covenants and conditions as are necessary or appropriate for transactions of this type, not inconsistent with the terms and conditions hereof and satisfactory in form and substance to the Parties and their legal advisors. Within **[***]** after the Effective Date, the Parties will negotiate in good faith and separately enter into the Development Supply Agreement.

4.2 Supply of Bulk Drug Substance and Drug Product for Commercial Purposes. Subject to Section 6.4, VERTEX will supply and MITSUBISHI shall purchase from VERTEX all of MITSUBISHI's requirements for Bulk Drug Substance for manufacture of Drug Product sold in the Territory pursuant to the provisions of a supply agreement for Bulk Drug Substance for commercial purposes (the "**Commercial Supply Agreement**"), including such customary representations, warranties, covenants and conditions as are necessary or appropriate for transactions of this type, not inconsistent with the terms and conditions hereof and satisfactory in form and substance to the Parties and their legal advisors. Promptly after the Start of the first Phase III Clinical Trial by MITSUBISHI, the Parties will commence good faith negotiations and separately enter into the Commercial Supply Agreement. MITSUBISHI shall purchase such Bulk Drug Substance from VERTEX in accordance with the terms of Section 6.3 hereof. VERTEX may contract with any Third Party as a manufacturing subcontractor.

4.3 Limitation on Supply Obligation. Notwithstanding Sections 4.1 or 4.2 hereof, VERTEX shall have no obligation to supply Bulk Drug Substance or Investigational Drug Product to MITSUBISHI with respect to a Drug Product unless VERTEX is developing or commercializing such Drug Product; provided, however, that if VERTEX has so supplied Bulk Drug Substance to MITSUBISHI for commercial purposes before VERTEX ceased development or commercialization of the corresponding Drug Product, then VERTEX shall be obligated to continue the supply of such Bulk Drug Substance to MITSUBISHI pursuant to the terms set forth

in Section 6.4 hereof; provided further, however, that in any other case where MITSUBISHI wishes to develop or commercialize a Drug Product that VERTEX is not itself developing or commercializing, VERTEX shall grant to MITSUBISHI a nonexclusive license (or sublicense, as appropriate) under the VERTEX Technology, with the right to sublicense, to manufacture and have manufactured Bulk Drug Substance with respect to such Drug Product to the extent required to use, sell, have sold, offer to sell and import such Drug Product in the Territory in the Field of Use. In such event, at MITSUBISHI's expense, VERTEX will also deliver to MITSUBISHI such VERTEX Technology as may then exist (if any) and provide to MITSUBISHI any applicable technical support in connection therewith that is reasonably necessary to enable MITSUBISHI to manufacture Bulk Drug Substance in compliance with any and all current Regulatory Approvals in the Territory. Such VERTEX Technology shall be delivered to MITSUBISHI in such a way as to communicate it to MITSUBISHI promptly, effectively and economically.

4.4 Second Source of Supply for Bulk Drug Substance. Within two (2) years after the receipt of Regulatory Approval for a Drug Product in the United States, VERTEX agrees to have at least **[***]**manufacturing sites, in different geographical locations, approved by the Regulatory Authorities for the supply of the corresponding Bulk Drug Substance to MITSUBISHI pursuant to the Commercial Supply Agreement.

4.5 Manufacturing Technology. Manufacturing technology which is Controlled by one Party and which would be useful to the other Party in discharging its manufacturing obligations hereunder shall be made available to the manufacturing Party for that purpose, subject to negotiation of a reasonable compensation arrangement. If either Party (a "**Contracting Party**") engages an Affiliate or a Third Party to provide assistance to the Contracting Party in the development of processes useful for the manufacture of Bulk Drug Substance or Drug Product, the Contracting Party will make reasonable efforts to provide that any processes belonging to that Affiliate or Third Party and made available to the Contracting Party will also be made available to the other Party on the same terms offered to the Contracting Party.

4.6 Packaging. MITSUBISHI will be responsible for packaging the Drug Product and Investigational Drug Product for development purposes and for commercial sale in the Territory.

ARTICLE V — COMMERCIALIZATION

5.1 Global Marketing and Sales. MITSUBISHI will prepare a marketing plan in reasonable detail for the launch of any Drug Product in each country of the Territory, and will provide the plan to VERTEX not later than ninety (90) days after submission of the initial application for Regulatory Approval of the Drug Product to a Regulatory Authority in such country of the Territory.

5.2 Co-Labeling. The labels, packaging and inserts for the Drug Product packaged for sale in the Territory, and any promotional materials therefor, will bear the company names and logos of both MITSUBISHI and VERTEX with such relative prominence and in such language as are permitted by the applicable laws, rules, regulations and custom of such country, with the preference that wherever possible such names and logos shall be of equal prominence and VERTEX's name shall be written in the English language. MITSUBISHI will permit VERTEX to review all material regulatory filings in the Territory that relate to product labeling, and all proposed labels, packaging, package inserts and promotional materials required under the foregoing provisions to bear VERTEX's name and logo, prior to the filing of any such material with any Regulatory Authority.

5.3 Trademarks. Each Party shall have the right to register and use its own trademark for a Drug Product, respectively. Notwithstanding the foregoing, in the event MITSUBISHI wishes to use VERTEX's trademark for a Drug Product, VERTEX hereby grants to MITSUBISHI an exclusive, royalty-free license to use VERTEX's trademark for a Drug Product for the advertising, promotion, marketing, distribution and sale of the Drug Product in the Field of Use in the Territory. MITSUBISHI shall have the right to grant sublicenses under the foregoing exclusive license to its sublicensees pursuant to Section 2.1.2 hereof.

5.4 Due Diligence. Following the First Commercial Sale of a Drug Product and until the expiration of this Agreement, MITSUBISHI shall use diligent and commercially reasonable efforts to keep the Drug Product reasonably available to the public in the Territory, devoting the same degree of attention and diligence to such efforts that it devotes to such activities for other of its products of comparable commercial potential. MITSUBISHI shall promptly notify VERTEX if it shall determine that the marketing and sale of the Drug Product in any country in the Territory is not commercially reasonable or economically profitable or if for other unforeseen reasons further commercial support of the Drug Product in any country is no longer prudent or practical. Within **[***]** of the receipt of such notice, VERTEX shall notify MITSUBISHI whether it wishes the marketing and sale of the Drug Product in such country in the Territory to continue. If VERTEX notifies MITSUBISHI that it does not wish such marketing

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and sale to continue, then MITSUBISHI may immediately stop the marketing and sale of the Drug Product in such country in the Territory. If VERTEX notifies MITSUBISHI that it does wish such marketing and sale to continue, then MITSUBISHI shall continue to market and sell the Drug Product in such country in the Territory for up to **[***]** from the date of MITSUBISHI's initial notice to VERTEX or such earlier date upon which VERTEX or a VERTEX Licensee begins to market and sell the Drug Product in such country. Upon the termination of MITSUBISHI's marketing and sale of the Drug Product in a country, this Agreement shall be deemed to be amended to delete such country from the Territory, all rights with respect to such country under this Agreement shall revert to VERTEX, and the rights and licenses granted by VERTEX to MITSUBISHI pursuant to this Agreement shall terminate with respect to such country. At such time MITSUBISHI, at the request of VERTEX, shall also assign or otherwise transfer to VERTEX all INDs, Regulatory Approvals, or applications therefor, with respect to a Compound or Drug Product in such country, and VERTEX shall have an irrevocable, fully paid-up nonexclusive license, with the right to sublicense, in such country under the MITSUBISHI Technology to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import Bulk Drug Substance, Compound and Drug Product. In addition, at the request of VERTEX, MITSUBISHI shall assign to VERTEX free of charge all of its or its Affiliates' right, title and interest in and to any trademarks used for a Drug Product in such country, and shall execute, or cause its Affiliates to execute, such documents of transfer or assignment and perform, or cause its Affiliates to perform, such acts as may be reasonably necessary to transfer ownership of such trademarks to VERTEX and to enable VERTEX to continue to maintain such trademarks at VERTEX's expense.

ARTICLE VI — PAYMENTS

6.1 License Fee. In consideration of the grant of the license set forth in Section 2.1 hereof and in recognition of VERTEX's investment in the Compounds prior to the Effective Date, MITSUBISHI will pay to VERTEX **[***]** on or before **[***]**.

6.2 Milestone Payments by MITSUBISHI.

6.2.1 Payments. In consideration of the grant of the license set forth in Section 2.1 hereof, MITSUBISHI will make the following payments to VERTEX upon the achievement of any of the following milestones with respect to a Compound, upon the further terms and conditions set forth below.

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Milestone		Payment
1. First dosing of the first Compound in a patient in a Phase Ib Clinical Trial in the VERTEX Territory	US $	4,000,000
2. First dosing of the Compound in a human in a Phase I Clinical Trial in the Territory	US $	3,000,000
3. First dosing of the Compound in a patient in a Phase II Clinical Trial in the Territory	US $	2,000,000

4. First dosing of the Compound in a patient in a Phase III Clinical Trial in the Territory	US $	2,000,000
5. First **[***]**	US $	**[***]**
6. First **[***]**	US $	**[***]**
	US $	**[***]**

6.2.2 Payments to be Made Only Once. Milestone payments are payable only once with respect to a Compound, but shall be payable with respect to each Compound that is developed. If any milestone is achieved with respect to the development of a Compound, any previously unpaid lower numbered milestone for the Compound will become immediately due and payable. Notwithstanding the foregoing, if one Compound is replaced in development by the other Compound after any one or more milestone payments have been paid with respect to the first Compound, then no comparable milestone payment shall be payable hereunder with respect to the replacement Compound if that milestone payment has already been paid with respect to the first Compound.

6.2.3 Timing and Method of Payments. Milestone payments shall be made on or before the **[***]** following the occurrence of the event giving rise to the milestone payment obligation hereunder. All payments shall be made by wire transfer in U.S. dollars to the credit of such bank account as may be designated by VERTEX in writing to MITSUBISHI from time to time. Any payment which falls due on a date which is a Saturday, Sunday, MITSUBISHI's non-working day or a legal holiday in Japan may be made on the next succeeding day which is not a Saturday, Sunday, MITSUBISHI's non-working day or a legal holiday in Japan.

6.3 Commercial Supply of Drug Product.

6.3.1 Purchase of Bulk Drug Substance. Except as otherwise provided herein, VERTEX shall supply and MITSUBISHI, its Affiliates and sublicensees shall purchase from VERTEX pursuant to the Commercial Supply Agreement all of their respective requirements of Bulk Drug Substance for manufacture of Drug Product for sale in the Territory.

6.3.2 Supply Price. In the Commercial Supply Agreement, the Parties shall determine the percentage of the Net Sales Price(s) for Drug Product(s) that shall be attributed to the price for Bulk Drug Substance supplied by VERTEX for the manufacture of such Drug Product(s) sold in the Territory.

6.3.3 Payment. Payments due to VERTEX for the supplied Bulk Drug Substance shall be made by MITSUBISHI within **[***]** of receipt from VERTEX of an invoice for the Bulk Drug Substance purchased by MITSUBISHI under the terms of the Commercial Supply Agreement, and annual adjustments shall be made within such time periods and applying such procedures as the Parties may agree to reflect the actual Net Sales Price(s) for the corresponding Drug Product(s) for each country for that year. Any net adjustments shall be remitted within **[***]** of determination to the Party to whom the adjustment is due.

6.4 Production of Bulk Drug Substance by MITSUBISHI. If VERTEX determines at any time that it does not wish to supply Bulk Drug Substance or Investigational Drug Product to MITSUBISHI, its Affiliates and sublicensees, VERTEX shall provide MITSUBISHI (i) **[***]** prior written notice of such determination if VERTEX has any Affiliate, subcontractor, or VERTEX Licensee that manufactures Bulk Drug Substance or Investigational Drug Product and agrees to supply Bulk Drug Substance or Investigational Drug Product to MITSUBISHI **[***]**, or (ii) in a case other than the case set forth in clause (i) above, **[***]** prior written notice; provided, however, that, in the case of clause (ii) set forth above, VERTEX shall stock sufficient Bulk Drug Substance to permit MITSUBISHI to manufacture Drug Products or to permit VERTEX to manufacture Investigational Drug Product for MITSUBISHI for a **[***]** and shall supply such Bulk Drug Substance or Investigational Drug Product to MITSUBISHI for such **[***]** at a price equal to **[***]**, but otherwise pursuant to the terms and conditions of the Commercial Supply Agreement or the Development Supply Agreement, as applicable. Following the expiration of VERTEX's obligation to supply Bulk Drug Substance or Investigational Drug Product to MITSUBISHI, the Commercial Supply Agreement or the Development Supply Agreement, as applicable, shall terminate. Upon VERTEX's notice pursuant to this Section 6.4 of its

determination to discontinue supply, MITSUBISHI shall have the sole right and responsibility, at its expense, for the manufacture of all Bulk Drug Substance to meet its, its Affiliates' and sublicensees' requirements in connection with the development and commercial sale of the Drug Product in the Territory; provided, however, that VERTEX shall have the right to so manufacture and supply Bulk Drug Substance pursuant to its obligation set forth in this Section 6.4. Upon providing such notice to MITSUBISHI, VERTEX shall grant to MITSUBISHI a nonexclusive license (or sublicense, as appropriate) under the VERTEX Technology, with the right to sublicense, to manufacture and have manufactured Bulk Drug Substance to the extent required to use, sell, have sold, offer to sell and import Drug Products in the Territory in the Field of Use. In such event, at MITSUBISHI's expense, VERTEX will also deliver to MITSUBISHI the VERTEX Technology and provide to MITSUBISHI the technical support in connection therewith reasonably necessary to enable MITSUBISHI to manufacture Bulk Drug Substance in compliance with any and all current Regulatory Approvals in the Territory. Such VERTEX Technology shall be delivered to MITSUBISHI in such a way as to communicate it to MITSUBISHI promptly, effectively and economically.

6.5 Royalties on Net Sales of Drug Product; Sales Reports.

6.5.1 Royalties. MITSUBISHI shall pay to VERTEX annual royalties at the rates set forth below, including the percentage of the Net Sales Price(s) for Drug Product(s) that shall be attributed to the supply price for Bulk Drug Substance determined by the Parties pursuant to Section 6.3.2:

(a) [***]
(b) [***]

(c) **[***]**

6.5.2 Royalties in the Event of Manufacture of Bulk Drug Substance Pursuant to Sections 4.3 or 6.4**.** Notwithstanding Section 6.5.1, in the event that Bulk Drug Substance is manufactured and supplied pursuant to Sections 4.3 or 6.4 hereof, the rates of the annual royalties to be paid by MITSUBISHI to VERTEX under this Agreement shall be changed from the rates set forth in Section 6.5.1 to the rates set forth below:

(a) **[***]** (**[***]**%) of the first $**[***]** of annual Net Sales;
(b) **[***]** (**[***]**%) of the annual Net Sales over $**[***]** and less than or equal to $**[***]**; and
(c) **[***]** (**[***]**%) of the annual Net Sales over $**[***]**.

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6.5.3 Discussion of Royalty Rate Reduction**.** (i) At least **[***]** prior to the expiration in a country in the Territory of all VERTEX Patents or (ii) upon **[***]** **[***]**

6.5.4 Reports. During the term of this Agreement and after the First Commercial Sale of a Drug Product in the Territory, MITSUBISHI shall furnish or cause to be furnished to VERTEX on a quarterly basis a written report covering such calendar quarter showing (i) the Net Sales Price(s) and total Net Sales in each country in the Territory during such calendar quarter; (ii) amounts due VERTEX under Sections 6.5.1 or 6.5.2 hereof with respect to such Net Sales, and the basis for calculating those amounts due; (iii) withholding taxes, if any, required by law to be deducted in respect of any such sales or payments, and evidence of payment thereof; and (iv) dispositions of the Drug Product other than pursuant to sales for cash. With respect to the Net Sales Price(s) of the Drug Product or Net Sales received in a currency other than U.S. dollars, the Net Sales Price(s) or Net Sales shall be expressed in the domestic currency of the party making the sale, together with the U.S. dollar equivalent of the amount, calculated using the rate reported in the *Wall Street Journal* for the purchase of U.S. dollars with such currency on the last business day for the calendar quarter for which the report is being prepared. The foregoing quarterly reports shall be due on or before the forty-fifth (45^{th}) day following the close of each calendar quarter. MITSUBISHI will also provide VERTEX, within ten (10) business days after the end of each calendar quarter, with a report showing MITSUBISHI's best estimate of total Net Sales for that calendar quarter based on information available to MITSUBISHI at the time of the report.

6.5.5 Audit. MITSUBISHI shall keep and shall cause to be kept accurate records in sufficient detail to enable the amounts due hereunder to be determined and to be verified by VERTEX. Upon the written request of VERTEX, at VERTEX's expense and not more than once in any calendar year, MITSUBISHI shall permit an independent accountant of national prominence selected by VERTEX, and approved by MITSUBISHI, to have access during normal business hours to those records of MITSUBISHI as may be reasonably necessary to verify the accuracy of the sales reports furnished by MITSUBISHI pursuant to this Section 6.5, in respect of any calendar year ending not more **[***]** prior to the date of such notice. Such accountant shall not disclose any information except that which should properly be contained in a sales report required under this Agreement. MITSUBISHI shall include in each sublicense entered into by it pursuant to this Agreement a provision requiring the sublicensee to keep and maintain adequate records of sales made pursuant to such sublicense and to grant access to such records by the aforementioned independent accountant for the

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reasons specified in this Section 6.5. Upon the expiration of three (3) years following the end of any calendar year, the calculation of amounts payable with respect to such calendar year, unless then in dispute, shall be binding and conclusive upon VERTEX, and MITSUBISHI and its Affiliates and sublicensees shall be released from any liability or accountability with respect to payments for such year. The report prepared by such independent accountant, a copy of which shall be sent or otherwise provided to MITSUBISHI by such independent accountant at the same time it is sent or otherwise provided to VERTEX, shall contain the conclusions of such independent accountant regarding the audit and will specify that the amounts paid to VERTEX pursuant thereto were correct or, if incorrect, the amount of any underpayment or overpayment. If such independent accountant's report shows any underpayment, MITSUBISHI shall remit or shall cause its Affiliates or sublicensees to remit to VERTEX within thirty (30) days after MITSUBISHI' receipt of such report, (i) the amount of such underpayment and (ii) if such underpayment exceeds five percent (5%) of the total amount owed for the calendar year then being audited, the reasonable and necessary fees and expenses of such independent accountant performing the audit, subject to reasonable substantiation thereof. Any overpayments shall be fully creditable against amounts payable in subsequent payment periods. VERTEX agrees that all information subject to review under this Section 6.5 or under any sublicense agreement is confidential and that VERTEX shall retain and cause its accountant to retain all such information in confidence.

6.5.6 Interest. In case of any delay in payment by one Party to the other hereunder, interest at **[***]** shall be assessed from the **[***]** day after the due date of the payment until the date paid, and shall be due from such Party upon prior written notice from the other Party. The applicable **[***]** shall be the rate in effect on the **[***]** day after the payment is due.

6.6 **Withholding Tax.** If during the term of this Agreement, withholding tax is required by law to be deducted from any payments required to be made by MITSUBISHI to VERTEX hereunder, (i) such tax will be deducted from the otherwise remittable royalty after applying for tax rate reduction under the applicable treaties for avoidance of double taxation, (ii) such tax will be paid to the proper tax authorities, and (iii) a certificate of tax will be sent to VERTEX promptly after receipt from the competent tax authority.

6.7 **Currency of Payment**. All payments hereunder shall be made in U.S. dollars. If at any time legal restrictions prevent the prompt remittance of any payments with respect to any country of the Territory where a Drug Product is sold, MITSUBISHI or its Affiliates or

sublicensees shall have the right and option to make such payments by depositing the amount thereof in local currency to VERTEX's account in a bank or depository in such country.

ARTICLE VII — TECHNOLOGY

7.1 Ownership. All Know-How invented, discovered or developed exclusively by either Party or its Affiliates (directly or through others acting on its behalf) shall be owned and Controlled by such Party, subject to the provisions of this Agreement. All Patents claiming Bulk Drug Substance, a Compound or a Drug Product, or a method of making or using the same or an improvement to a Patent covering any of the foregoing, invented by either Party or its Affiliates (directly or through others acting on its behalf) shall be owned and Controlled by such Party, subject to the provisions of this Agreement. All Know-How and Patents claiming Bulk Drug Substance, a Compound or a Drug Product, or a method of making or using the same or an improvement to a Patent covering any of the foregoing, invented, discovered, or developed, as applicable, jointly by the Parties or their Affiliates (directly or through others acting on their behalf) shall be owned and Controlled jointly. Such Know-How that is owned and Controlled jointly by the Parties or their Affiliates shall be "**Joint Know-How**," and such Patents that are owned and Controlled jointly by the Parties or their Affiliates shall be "**Joint Patents**." For the avoidance of doubt, either Party shall have the right, including the right to sublicense, to practice and use the Joint Know-How and the Joint Patents worldwide without any payment to the other Party.

7.2 Patent Procurement and Maintenance. VERTEX shall be responsible for the preparation, filing, prosecution and maintenance of all VERTEX Patents and any Joint Patents, and MITSUBISHI shall be responsible for the preparation, filing, prosecution and maintenance of all MITSUBISHI Patents. VERTEX, with the advice of MITSUBISHI, shall determine the countries in the Territory in which patent applications for VERTEX Patents will be filed. MITSUBISHI, with the advice of VERTEX, shall determine the countries in the VERTEX Territory in which patent applications for MITSUBISHI Patents will be filed. The Parties shall discuss and determine the countries in the Territory in which patent applications for Joint Patents will be filed. If VERTEX decides not to prosecute, and maintain any VERTEX Patent filed in a country in the Territory, without first having filed a substitute therefor, VERTEX shall assign its right, title and interest in and to such VERTEX Patent in such country to MITSUBISHI free of charge, if MITSUBISHI so desires, and shall execute such documents of transfer or assignment and perform such acts as may be reasonably necessary to transfer sole ownership

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of such VERTEX Patent to MITSUBISHI and to enable MITSUBISHI to continue prosecution or maintenance of such VERTEX Patent. In such case, such VERTEX Patents shall not be deemed to be VERTEX Patents thereafter with respect to such country. If MITSUBISHI decides not to prosecute, and maintain any MITSUBISHI Patent filed in a country in the VERTEX Territory, without first having filed a substitute therefor, MITSUBISHI shall assign its right, title and interest in and to such MITSUBISHI Patent in such country to VERTEX free of charge, if VERTEX so desires, and shall execute such documents of transfer or assignment and perform such acts as may be reasonably necessary to transfer sole ownership of such MITSUBISHI Patent to VERTEX and to enable VERTEX to continue prosecution or maintenance of such MITSUBISHI Patent. In such case, such MITSUBISHI Patents shall not be deemed to be MITSUBISHI Patents with respect to such country. VERTEX shall provide draft applications for Joint Patents to MITSUBISHI sufficiently in advance of filing for MITSUBISHI to have the opportunity to comment thereon. VERTEX shall furnish MITSUBISHI with copies of all substantive communications between VERTEX and applicable patent offices regarding the Joint Patents. VERTEX and MITSUBISHI shall each provide the JDC with periodic reports listing, by name, any VERTEX Patents or MITSUBISHI Patents, respectively, filed by it in the Territory or the VERTEX Territory, respectively, along with a general summary of the claims made and the jurisdictions of filing in the Territory or the VERTEX Territory, respectively. Each Party will provide such assistance as the other Party may reasonably request in order to protect the other Party's rights to the Patents for which it is responsible under this Section 7.2.

7.3 Costs. VERTEX shall be responsible for paying its costs incurred for preparation, filing, prosecution and maintenance of the VERTEX Patents worldwide and of the Joint Patents in the VERTEX Territory. MITSUBISHI shall be responsible for paying its costs incurred for preparation, filing, prosecution and maintenance of the MITSUBISHI Patents worldwide and of the Joint Patents in the Territory. Either Party may at any time elect, by written notice to the other Party, to discontinue support for one or more Joint Patents (a "**Discontinued Patent**") and shall not be responsible for any costs relating to a Discontinued Patent which are incurred more than sixty (60) days after receipt of that notice by the other Party. In such case, the other Party may elect at its sole discretion to continue preparation, filing, prosecution or maintenance of the Discontinued Patent at its sole expense. The Party so continuing shall own any such Discontinued Patent, and the Party electing to discontinue support shall execute such documents of transfer or assignment and perform such acts as may

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be reasonably necessary to transfer sole ownership of the Discontinued Patent to the other Party and enable that Party to file or to continue prosecution or maintenance of the Discontinued Patent, if the other Party elects to do so. Discontinuation may be on a country-by-country basis or for a Patent series in total.

7.4 Infringement Claims by Third Parties.

7.4.1 Notice. If the manufacture, import, use, offer to sell or sale of Bulk Drug Substance, a Compound and/or a Drug Product results in a claim or reasonable apprehension of a claim against a Party for patent infringement or for inducing or contributing to patent infringement ("**Infringement**

Claim"), the Party first having notice of an Infringement Claim shall promptly notify the other in writing. The notice shall set forth the facts of the Infringement Claim in reasonable detail. The Parties shall discuss how to respond to such Infringement Claim.

7.4.2 Third-Party Licenses. If practicing the VERTEX Technology in connection with the import, use, offer to sell or sale of a Compound and/or a Drug Product in any country in the Territory would require a license under a Third Party's patent, then VERTEX will use reasonable efforts to obtain a license, with a right to sublicense to MITSUBISHI, under the Third Party's patent, under terms reasonably acceptable to both VERTEX and MITSUBISHI. VERTEX shall grant a sublicense to MITSUBISHI under such Third Party's patent, subject to the financial obligation set forth in this Section 7.4.2. VERTEX and MITSUBISHI will equally bear any financial obligation payable pursuant to the license of a Third-Party patent in the Territory; provided, however, that VERTEX shall not be required to bear any financial obligation under any license of such Third-Party patents that together with any other such license and with any financial obligation pursuant to any voluntary final disposition of an action under Section 7.4.3 would effectively result in an aggregate reduction of the royalties on the Net Sales of Drug Products in the country or countries in the Territory to which such licenses relate by **[***]**.

7.4.3 Discontinued Sales, License or Defense of Suit. If the required license is either unavailable or its terms are unacceptable to either VERTEX or MITSUBISHI, then MITSUBISHI may elect in its sole discretion to discontinue sales of the Drug Product in such country in the Territory or to undertake the defense of an Infringement Claim or the prosecution of a declaratory judgment action with respect to the Third-Party patents. The Parties shall share equally all out-of-pocket costs and expenses incurred in conducting the defense of such Infringement Claims or the prosecution of such declaratory judgment actions, including the

investigation and settlement thereof; provided, however, no settlement or consent judgment or other voluntary final disposition of a suit under this Section 7.4.3 may be entered into without the joint consent of VERTEX and MITSUBISHI (which consent shall not be unreasonably withheld). If MITSUBISHI is conducting the defense of an Infringement Claim or the prosecution of a declaratory judgment action, and VERTEX is a party to the action, then VERTEX 's defense costs shall be reported to MITSUBISHI and credited against VERTEX's share of overall defense costs. VERTEX and MITSUBISHI will equally bear any financial obligation payable pursuant to a settlement, consent judgment or other voluntary final disposition of an action pursuant to this Section 7.4.3; provided, however, that VERTEX shall not be required to bear any financial obligation under any such voluntary final disposition of an action under this Section 7.4.3 that together with any other such voluntary final dispositions and any licenses of Third-Party patents pursuant to Section 7.4.2 would effectively result in an aggregate reduction of the royalties on the Net Sales of Drug Products in the country or countries in the Territory to which such licenses relate **[***]**

7.5 Infringement Claims against Third Parties.

7.5.1 Protection of Technology. VERTEX and MITSUBISHI each agree to take reasonable actions to protect the VERTEX Technology and the MITSUBISHI Technology, respectively, from infringement and from unauthorized possession or use.

7.5.2 Infringement of Technology. If any VERTEX Patents, MITSUBISHI Patents or Joint Patents are infringed or claimed to be invalid or VERTEX Know-How, MITSUBISHI Know-How or Joint Know-How is misappropriated, as the case may be, by a Third Party, the Party first having knowledge of such infringement, claim or misappropriation, or knowledge of a reasonable probability of such infringement, claim or misappropriation, shall promptly notify the other in writing. The notice shall set forth the facts of such infringement, claim or misappropriation in reasonable detail. The owner of the technology, or VERTEX, in the case of joint ownership between the Parties hereto, shall have the primary right, but not the obligation, to institute, prosecute, and control with its own counsel any action or proceeding with respect to infringement, claimed invalidity or misappropriation of such technology and the other Party shall have the right, at its own expense, to be represented in such action by its own counsel. If the Party having the primary right or responsibility to institute, prosecute, and control such action or proceeding fails to do so within a period of ninety (90) days after receiving notice of the infringement, claim or misappropriation, the other Party shall have the right to bring and control any such action or proceeding by counsel of its own choice; provided,

however, that such right shall only apply to MITSUBISHI with respect to VERTEX Technology, Joint Patents and/or Joint Know-How in the Territory and such right shall only apply to VERTEX with respect to MITSUBISHI Technology in the VERTEX Territory. In such circumstances, the Party which had the primary responsibility shall have the right, at its own expense, to be represented in any such action or proceeding by counsel of its own choice. If one Party brings any such action or proceeding, the second Party may be joined as a party plaintiff, and, in case of joining, the second Party agrees to give the first Party reasonable assistance and authority to file and to prosecute such suit. In any case the second Party shall provide all reasonable cooperation to the first Party in connection with such action or proceeding. The costs and expenses of all suits brought by a Party under this Section 7.5.2 shall be reimbursed to such Party and to the other Party, if it participates in or provides cooperation with respect to such suit, *pro rata*, out of any damages or other monetary awards recovered therein in favor of VERTEX or MITSUBISHI. If any balance remains, the Party taking such actions shall retain such balance. No settlement or consent judgment or other voluntary final disposition of a suit under this Section 7.5.2 may be entered into without the joint consent of VERTEX and MITSUBISHI (which consent shall not be unreasonably withheld).

7.6 Patent Term Extensions. The Parties shall cooperate in good faith with each other in gaining patent term extension in the Territory to VERTEX Patents, Joint Patents and MITSUBISHI Patents covering a Compound or Drug Product. MITSUBISHI and VERTEX shall mutually determine which patents shall be extended. All filings for such extension shall be made by the Party who owns the patent, and by VERTEX for Joint Patents.

ARTICLE VIII — REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of VERTEX. As of the Effective Date, VERTEX represents and warrants to MITSUBISHI as follows:

(a) Authorization**.** This Agreement has been duly executed and delivered by VERTEX and constitutes the valid and binding obligation of VERTEX, enforceable against VERTEX in accordance with its terms except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of VERTEX, its officers and directors. The execution, delivery and performance of this Agreement does not breach, violate, contravene or constitute a default under any contracts,

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arrangements or commitments to which VERTEX is a party or by which it is bound nor does the execution, delivery and performance of this Agreement by VERTEX violate any order, law or regulation of any court, governmental body or administrative or other agency having authority over it.

(b) No Third-Party Rights. VERTEX owns or possesses adequate licenses or other rights to use the VERTEX Technology in the Field of Use in the Territory and to grant the licenses and rights herein.

(c) Third-Party Patents. Except as disclosed in writing between the Parties, VERTEX is not aware of any issued patents or pending patent applications that, if issued, would be infringed by the development, manufacture, use, import, offer to sell or sale of any Compound, Bulk Drug Substance or Drug Product in the Territory pursuant to this Agreement.

(d) Chiron Patents. VERTEX's research activities that produced the Compounds are covered by a license granted to VERTEX by Chiron Corporation under certain intellectual property with respect to the hepatitis C virus (HCV). Vertex is not aware of any further license that would be required from Chiron Corporation to permit MITSUBISHI to develop and commercialize the Compounds and the Drug Products pursuant to this Agreement.

8.2 Representations and Warranties of MITSUBISHI. As of the Effective Date, MITSUBISHI represents and warrants to VERTEX that this Agreement has been duly executed and delivered by MITSUBISHI and constitutes the valid and binding obligation of MITSUBISHI, enforceable against MITSUBISHI in accordance with its terms except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of MITSUBISHI, its officers and directors. The execution, delivery and performance of this Agreement does not breach, violate, contravene or constitute a default under any contracts, arrangements or commitments to which MITSUBISHI is a party or by which it is bound nor does the execution, delivery and performance of this Agreement by MITSUBISHI violate any order, law or regulation of any court, governmental body or administrative or other agency having authority over it.

ARTICLE IX — CONFIDENTIALITY

9.1 Undertaking. Each Party shall keep confidential, and other than as provided

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herein, shall not use or disclose, directly or indirectly, any trade secrets, other knowledge, information, documents or materials, owned or Controlled by the other Party, which have been disclosed (in tangible or electronic form or as evidenced by meeting minutes or similar materials) to such Party after the Effective Date and designated confidential by the disclosing Party (any such information, "**Confidential Information**"). All VERTEX Know-How and VERTEX Patents shall be deemed Confidential Information of VERTEX; all MITSUBISHI Know-How and MITSUBISHI Patents shall be deemed Confidential Information of MITSUBISHI; and all Joint Know-How and Joint Patents shall be deemed Confidential Information of both Parties. Neither VERTEX nor MITSUBISHI shall use such Confidential Information of the other Party or jointly owned by the Parties for any purpose, including the filing of patent applications containing such information, without the other Party's consent (which shall not be unreasonably withheld), other than for conducting the MITSUBISHI Development Activities or VERTEX Development Activities or as otherwise permitted under this Agreement.

9.1.1 Nondisclosure and Nonuse. Each Party shall take any and all lawful measures to prevent the unauthorized use and disclosure of Confidential Information of the other Party or jointly owned by the Parties, and to prevent unauthorized Persons from obtaining or using such Confidential Information.

9.1.2 Disclosure to Affiliates and Agents. Each Party will refrain from directly or indirectly taking any action which would constitute or facilitate the unauthorized use or disclosure of Confidential Information of the other Party or jointly owned by the Parties. Each Party may disclose Confidential Information of the other Party or jointly owned by the Parties to its Affiliates, its and their officers, employees and agents, to authorized licensees and sublicensees and to subcontractors in connection with the development of a Compound or the manufacture of Bulk Drug Substance or a Drug Product, but only to the extent necessary to enable such parties to perform their obligations hereunder or under the applicable license, sublicense or subcontract, as the case may be; provided, that such officers, employees, agents, licensees, sublicensees and subcontractors have entered into appropriate confidentiality agreements for secrecy and non-use of such Confidential Information, which by their terms shall be enforceable by injunctive relief at the request of the disclosing Party.

9.1.3 Liability. Each Party shall be liable for any unauthorized use and disclosure of Confidential Information of the other Party or jointly owned by the Parties by its Affiliates, its and their officers, employees and agents and any licensees, sublicensees and subcontractors**.**

9.2 Exceptions. Notwithstanding the foregoing, the provisions of Section 9.1 hereof shall not apply to Confidential Information which the receiving Party can conclusively establish:

(i) has entered the public domain without such Party's or its Affiliates' breach of any obligation owed to the disclosing Party;

(ii) is permitted to be disclosed by the prior written consent of the disclosing Party;

(iii) has become known to the receiving Party or any of its Affiliates from a source other than the disclosing Party, other than by breach of an obligation of confidentiality owed to the disclosing Party;

(iv) is disclosed by the disclosing Party to a Third Party without restrictions on its disclosure;

(v) is independently developed by the receiving Party or its Affiliates without use of or reference to the Confidential Information, as evidenced by contemporary written records;

(vi) is required to be disclosed by the receiving Party to seek Regulatory Approval pursuant to this Agreement, provided that the receiving Party takes reasonable and lawful actions to avoid or minimize the degree of such disclosure and to have confidential treatment accorded to any Confidential Information disclosed; or

(vii) is required to be disclosed by the receiving Party to comply with applicable laws or regulations, or to defend or prosecute litigation, provided that the receiving Party takes reasonable and lawful actions to avoid or minimize the degree of such disclosure, to have confidential treatment accorded to any Confidential Information disclosed and provides prior written notice to the disclosing Party within a time period sufficiently prior to such disclosure to permit the disclosing Party to apply for a protective order or take other appropriate action to restrict disclosure. The receiving Party shall fully cooperate with the disclosing Party in connection with the disclosing Party's efforts to obtain any such remedy.

9.3 Publicity. The Parties will agree upon the timing and content of any initial press release or other public communications relating to this Agreement and the transactions contemplated herein. Except to the extent already disclosed in that initial press release or other public communication, no public announcement concerning the existence or the terms of this Agreement or concerning the transactions described herein shall be made, either directly or indirectly, by VERTEX or MITSUBISHI, except as may be required by applicable laws,

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regulations, or judicial order, without first obtaining the approval of the other Party and agreement upon the nature, text, and timing of such announcement, which approval and agreement shall not be unreasonably withheld.

9.4 Survival. The provisions of this Article IX shall survive the termination of this Agreement and shall extend for a period of five (5) years thereafter.

ARTICLE X — DISPUTE RESOLUTION

10.1 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York and of the United States of America, without giving effect to the doctrine of conflict of laws.

10.2 Dispute Resolution Process.

10.2.1 Joint Steering Committee. Except as otherwise explicitly provided herein, in the event of any controversy or claim arising out of or relating to any provision of this Agreement, or the collaborative effort contemplated hereby, the Parties shall, and either Party may, refer such dispute to the JDC, and failing resolution of the controversy or claim within thirty (30) days after such referral, the matter shall be referred to a joint steering committee (the "**Joint Steering Committee**") established by the Parties comprising one (1) representative of each Party, who shall be appointed (and may be replaced at any time) by such Party on notice to the other Party in accordance with this Agreement. Any matters originating with the JDC on which it is unable to reach consensus within thirty (30) days after the initial discussion thereof shall also be referred to the Joint Steering Committee. Each Party's representative to the Joint Steering Committee shall be an executive officer of the respective Party. The Joint Steering Committee will meet as needed and agreed by the Joint Steering Committee to resolve controversy or claims referred to it by the JDC and to conduct such other activities as the Joint Steering Committee may deem appropriate. Each member of the Joint Steering Committee shall have one vote in decisions, with decisions made by unanimous vote. If the Joint Steering Committee is unable to resolve the controversy or claim within thirty (30) days of its referral to it, then those matters with respect to which MITSUBISHI or VERTEX have final decision making authority as described in Section 3.1.3 shall be referred to the applicable Party for decision. All other matters shall be referred to the Chief Executive Officer of VERTEX and the Chief Executive Officer of MITSUBISHI for resolution pursuant to Section 10.2.2 hereof.

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10.2.2 Chief Executive Officer Resolution and Arbitration. Any matter that the Joint Steering Committee is unable to resolve pursuant to Section 10.2.1 that is not subject to resolution pursuant to Section 3.1.3 shall be referred to the Chief Executive Officer of VERTEX and the Chief Executive

Officer of MITSUBISHI who shall, as soon as practicable, attempt in good faith to resolve the controversy or claim. If such controversy or claim is not resolved within **[***]** of the date of initial referral of the dispute to the JDC or the initial discussion of the disputed matter by the JDC, as applicable, such controversy or claim shall be finally settled by arbitration in accordance with the rules of Conciliation and Arbitration of the International Chamber of Commerce (the "**Rules**"). Either Party may initiate such arbitration proceeding. Such arbitration shall be conducted in Cambridge, Massachusetts if such arbitration is requested by MITSUBISHI, or in Tokyo, Japan if such arbitration is requested by VERTEX, in either case, in English by a tribunal of three independent and impartial arbitrators, one of which will be appointed by each of VERTEX and MITSUBISHI, and the third of which shall have had both training and experience as a mediator of pharmaceutical industry licensing and other general commercial matters. If the parties to this Agreement cannot agree on the third arbitrator, then the third arbitrator will be selected in accordance with the Rules and the criteria set forth in the preceding sentence. Any award ordered by the tribunal must be rendered in a writing, which writing must include an explanation of the reasons for such award. All fees, costs and expenses of the arbitrators, and all other costs and expenses of the arbitration, will be shared equally by the Parties unless the tribunal in the award assesses such costs and expenses against one of the Parties or allocates such costs and expenses other than equally between such Parties. Pending the award of the arbitration tribunal, the Parties shall continue to perform their respective obligations under this Agreement. Notwithstanding the foregoing, either Party may, on good cause shown, seek a temporary restraining order and/or a preliminary injunction from a court of competent jurisdiction, to be effective pending the institution of the arbitration process or the deliberation and award of the arbitration tribunal.

ARTICLE XI — TERM AND TERMINATION

11.1 Term. The term of this Agreement shall extend with respect to a Drug Product in a particular country from the Effective Date until the later of: (a) the last to expire or be invalidated or abandoned of any VERTEX Patents containing a Valid Patent Claim covering the Drug Product, a Compound included in a Drug Product or a method of making or using the same in that country; or (b) ten (10) years from the date of First Commercial Sale of the Drug

Product in that country, unless the Agreement is terminated at an earlier date pursuant to Sections 11.2, 11.3 or 11.4 hereof.

11.2 Termination for Cause. In addition to rights of termination which may be granted to either Party under other provisions of this Agreement, either Party may terminate this Agreement upon sixty (60) days prior written notice to the other Party upon the breach by such other Party of any of its material obligations under this Agreement, provided that such termination shall become effective only if the breaching Party shall fail to remedy or cure the breach, or to initiate steps to remedy the same to the other Party's reasonable satisfaction, within such sixty (60) day period.

11.3 Termination for Bankruptcy. If at any time during the term of this Agreement, an Event of Bankruptcy (as defined below) relating to either Party (the "**Bankrupt Party**") occurs, the other Party (the "**Other Party**") shall have, in addition to all other legal and equitable rights and remedies available hereunder, the option to terminate this Agreement upon thirty (30) days' prior written notice to the Bankrupt Party. It is agreed and understood that if the Other Party does not elect to terminate this Agreement upon the occurrence of an Event of Bankruptcy, except as may otherwise be agreed with the trustee or receiver appointed to manage the affairs of the Bankrupt Party, the Other Party shall continue to make all payments required of it under this Agreement as if the Event of Bankruptcy had not occurred, and the Bankrupt Party shall not have the right to terminate any license granted herein. As used above, the term "**Event of Bankruptcy**" shall mean (a) dissolution, termination of existence, liquidation or business failure of either Party; (b) the appointment of a custodian or receiver for either Party who has not been terminated or dismissed within ninety (90) days of such appointment; (c) the institution by either Party of any proceeding under national, federal or state bankruptcy, reorganization, receivership or other similar laws affecting the rights of creditors generally or the making by either Party of a composition or any assignment or trust mortgage for the benefit of creditors or under any national, federal or state bankruptcy, reorganization, receivership or other similar law affecting the rights of creditors generally, which proceeding is not dismissed within ninety (90) days of filing.

11.4 Termination by MITSUBISHI. MITSUBISHI may terminate this Agreement at any time upon sixty (60) days' prior written notice to VERTEX. MITSUBISHI's obligation of sharing the Core Development Costs incurred by or on behalf of VERTEX or a VERTEX Licensee pursuant to Section 3.3 shall not apply to any non-clinical or clinical studies which Start after the date of such notice and **[***]** In the event of such termination, MITSUBISHI, at

the request of VERTEX, shall assign or otherwise transfer to VERTEX all INDs, Regulatory Approvals, or applications therefor, with respect to a Compound or Drug Product, and VERTEX shall have an irrevocable, worldwide, fully paid-up nonexclusive license, with the right to sublicense, under the MITSUBISHI Technology to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import Bulk Drug Substance, Compound and Drug Product. In addition, at the request of VERTEX, MITSUBISHI shall assign to VERTEX free of charge all of its or its Affiliates' right, title and interest in and to any trademarks used for a Drug Product in the Territory, and shall execute, or cause its Affiliates to execute, such documents of transfer or assignment and perform, or cause its Affiliates to perform, such acts as may be reasonably necessary to transfer ownership of such trademarks to VERTEX and to enable VERTEX to continue to maintain such trademarks at VERTEX's expense.

11.5 Effect of Termination. If this Agreement is not terminated at an earlier date, then upon its expiration in accordance with Section 11.1 hereof in a given country MITSUBISHI shall have an irrevocable, fully paid-up nonexclusive license, with the right to sublicense, in such country under the VERTEX Know-How to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import the Bulk Drug Substance, Compound and Drug Product. If this Agreement is not terminated at an earlier date, then upon its expiration in accordance with Section 11.1 hereof in all countries in the Territory, MITSUBISHI shall have an irrevocable, fully paid-up nonexclusive license, with the right to sublicense, in the Territory under the VERTEX Know-How to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import the Bulk Drug Substance, Compound and Drug Product. If this Agreement is not terminated at an earlier date, then upon its expiration in accordance with Section 11.1 hereof, VERTEX shall have an irrevocable,

worldwide fully paid-up nonexclusive license, with the right to sublicense, under the MITSUBISHI Know-How to develop, manufacture, have manufactured, use, sell, have sold, offer to sell and import the Bulk Drug Substance, Compound and Drug Product. Upon any termination of this Agreement pursuant to Sections 11.2 or 11.3 hereof, MITSUBISHI shall have the right to sell its inventory of Drug Product for a period of six (6) months from the date of termination provided MITSUBISHI complies with the provisions of Sections 6.5 through 6.7 hereof. If the license granted to MITSUBISHI under Section 2.1 hereof is terminated for any reason, at VERTEX's election, following good faith discussion with such sublicensee, any of MITSUBISHI's sublicensees at such time (other than an Affiliate of MITSUBISHI) shall continue to have the rights and license set forth in their sublicense agreements; provided, however, that such sublicensee agrees in writing that

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VERTEX is entitled to enforce all relevant terms and conditions of such sublicense agreement directly against such sublicensee. Termination of this Agreement for any reason, or expiration of this Agreement, will not affect: (i) obligations, including the obligation for payment of any supply payments or royalties, which have accrued as of the date of termination or expiration, and (ii) rights and obligations which, from the context thereof, are intended to survive termination or expiration of this Agreement including obligations pursuant to Articles VI, VII, IX, X, XI, XII and XIII, to the extent applicable. Any right to terminate this Agreement shall be in addition to and not in lieu of all other rights or remedies that the Party giving notice of termination may have at law or in equity or otherwise.

ARTICLE XII — INDEMNIFICATION

12.1 Indemnification by VERTEX. VERTEX shall indemnify and hold MITSUBISHI, its Affiliates, and their employees, officers, directors and agents harmless from and against any loss, damage, action, suit, claim, demand, liability, judgment, cost or expense (a "**Loss**"), that may be brought, instituted or arise against or be incurred by such Persons to the extent such Loss is based on or arises out of:

(a) the development, manufacture, use, sale, importation, offer to sell, storage or handling of Bulk Drug Substance, a Compound or a Drug Product by VERTEX, its Affiliates, the VERTEX Licensees or their representatives, agents, sublicensees or subcontractors under this Agreement, or any actual or alleged violation of law resulting therefrom (with the exception of Losses based on infringement or misappropriation of intellectual property rights); or

(b) the breach by VERTEX of any of its covenants, representations or warranties set forth in this Agreement;

provided, however, that the foregoing indemnification and hold harmless obligation shall not apply to any Loss to the extent such Loss is caused by the negligent or willful misconduct of MITSUBISHI, its Affiliates, or their employees, officers, directors, agents, representatives, licensees, sublicensees or subcontractors.

12.2 Indemnification by MITSUBISHI. MITSUBISHI shall indemnify and hold VERTEX, **[***]**, their Affiliates, and their and their Affiliates' employees, officers, directors and agents, harmless from and against any Loss that may be brought, instituted or arise against or be incurred by such Persons to the extent such Loss is based on or arises out of:

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(a) the development, manufacture, use, sale, importation, offer to sell, storage or handling of Bulk Drug Substance, a Compound or a Drug Product by MITSUBISHI, its Affiliates or their representatives, agents, licensees, sublicensees or subcontractors under this Agreement, or any actual or alleged violation of law resulting therefrom (with the exception of Losses based on infringement or misappropriation of intellectual property rights); or

(b) the breach by MITSUBISHI of any of its covenants, representations or warranties set forth in this Agreement;

provided, however, that the foregoing indemnification and hold harmless obligation shall not apply to any Loss to the extent such Loss is caused by the negligent or willful misconduct of VERTEX, its Affiliates the VERTEX Licensees or their employees, officers, directors, agents, representatives, sublicensees or subcontractors; and provided further, however, that **[***]**.

12.3 Claims Procedures. Each Party entitled to be indemnified by the other Party (an "**Indemnified Party**") pursuant to Section 12.1 or 12.2 hereof shall give notice to the other Party (an "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any threatened or asserted claim or demand as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or demand or any litigation resulting therefrom; provided that:

(a) Counsel for the Indemnifying Party, who shall conduct the defense of such claim, demand or any litigation resulting therefrom, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld) and the Indemnified Party may participate in such defense at such Party's expense (unless (i) the employment of counsel by such Indemnified Party has been authorized by the Indemnifying Party; or (ii) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the defense of such action, in each of which cases the Indemnifying Party shall pay the reasonable fees and expenses of one law firm serving as counsel for all Indemnified Parties, which law firm shall be subject to approval, not to be unreasonably withheld, by the Indemnifying Party);

(b) The failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Agreement to the extent that the failure to give notice did not result in harm to the Indemnifying Party;

(c) No Indemnifying Party, in the defense of any such claim. demand or litigation, shall, except with the approval of each Indemnified Party which approval shall not be unreasonably withheld, consent to entry of any judgment or enter into any settlement which (i)

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would result in injunctive or other relief being imposed against the Indemnified Party; or (ii) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation. The Indemnified Party shall have no right to settle or compromise any such claim, demand or litigation without the Indemnifying Party's prior written consent; and

(d) Each Indemnified Party shall furnish such information and assistance regarding itself or the claim or demand in question as an Indemnifying Party may reasonably request in writing and shall be reasonably required in connection with the defense of such claim, demand or litigation resulting therefrom.

12.4 Limitation of Liability. Except with respect to Third-Party actions, suits, claims or demands subject to indemnification pursuant to Sections 12.1 and 12.2 above, neither Party shall be liable to the other for indirect, incidental, special, punitive, exemplary or consequential damages arising out of or resulting from this Agreement.

12.5 Insurance. Each Party shall maintain and keep in force for the term of this Agreement insurance that shall be adequate to cover its indemnification obligations hereunder and that is commensurate with the insurance that such Party maintains with respect to other comparable pharmaceutical or biotechnology products it is developing and/or commercializing. It is understood that such insurance shall not be construed to limit a Party's liability with respect to such indemnification obligations. Such insurance shall be placed with a first class insurance carrier with at least a BBB rating by Standard & Poor.

ARTICLE XIII— MISCELLANEOUS PROVISIONS

13.1 Waiver. No provision of the Agreement may be waived except in writing by both Parties hereto. No failure or delay by either Party hereto in exercising any right or remedy hereunder or under applicable law will operate as a waiver thereof, or a waiver of that or any other right or remedy on any subsequent occasion.

13.2 Force Majeure. Neither Party will be in breach hereof by reason of its delay in the performance of or failure to perform any of its obligations hereunder, if that delay or failure is caused by fire, floods, embargoes, war, terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, sabotage, acts of God, omissions or delays in acting by any governmental authority, acts of a government or agency thereof or judicial orders or decrees, or any similar cause beyond its control and without its fault or negligence; provided,

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however, the Party claiming force majeure shall promptly notify the other Party of the existence of such force majeure, shall use its best efforts to avoid or remedy such force majeure and shall continue performance hereunder with the utmost dispatch whenever such force majeure is avoided or remedied.

13.3 Registration of License. MITSUBISHI may, at its expense, register the license granted under this Agreement in any country where the use, sale, importation, offer to sell or manufacture of a Drug Product in such country would be covered by a Valid Patent Claim. Upon request by MITSUBISHI, VERTEX agrees promptly to execute any "short form" licenses submitted to it by MITSUBISHI in order to effect the foregoing registration in such country, but such licenses shall in no way alter or affect the obligations of the Parties hereunder.

13.4 Severability. Should one or more provisions of this Agreement be or become invalid, then the Parties hereto shall attempt to agree upon valid provisions in substitution for the invalid provisions, which in their economic effect come so close to the invalid provisions that it can be reasonably assumed that the Parties would have accepted this Agreement with those new provisions. If the Parties are unable to agree on such valid provisions, the invalidity of such one or more provisions of this Agreement shall nevertheless not affect the validity of the Agreement as a whole, unless the invalid provisions are of such essential importance to this Agreement that it may be reasonably presumed that the Parties would not have entered into this Agreement without the invalid provisions.

13.5 Government Acts. In the event that any act, regulation, directive, or law of a country or its government, including its departments, agencies or courts, should make impossible or prohibit, restrain, modify or limit any material act or obligation of MITSUBISHI or VERTEX under this Agreement, the Party, if any, not so affected, shall have the right, at its option, to suspend or terminate this Agreement as to such country, if good faith negotiations between the Parties to make such modifications therein as may be necessary to fairly address the impact thereof are not successful after a reasonable period of time in producing mutually acceptable modifications to this Agreement.

13.6 Government Approvals. Each Party will obtain any government approval required in its country of domicile, or under any treaties or international agreements to which its country of domicile is a signatory, to enable this Agreement to become effective, or to enable any payment hereunder to be made, or any other obligation hereunder to be observed or performed. Each Party will keep the other informed of progress in obtaining any such government approval, and will cooperate with the other Party in any such efforts.

13.7 Assignment; Successors and Assigns. This Agreement may not be assigned or otherwise transferred by either Party without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement, without the consent of the other Party, (i) to any of its Affiliates, if the assigning Party guarantees the full performance of its Affiliates' obligations hereunder, or (ii) in connection with the transfer or sale of all or substantially all of its assets or business or the assets and business to which this Agreement relates or in the event of its merger or consolidation with another company. To the extent any rights and/or obligations of a Party are held by an Affiliate of such Party then any business transaction, change in control of a majority of the voting power or other event that, in each case, causes such Affiliate to cease to be an Affiliate of the Party, shall be deemed an assignment of the rights and/or obligations held by such former Affiliate and require prior written consent of the other Party. Any purported assignment in contravention of this Section 13.7 shall, at the option of the nonassigning Party, be null and void and of no effect. No assignment shall release either Party from responsibility for the performance of any of its accrued obligations hereunder. This Agreement shall be binding upon and enforceable against the successor to or any permitted assignee of either of the Parties hereto.

13.8 Export Controls. This Agreement is made subject to any restrictions concerning the export of materials and technology from the United States which may be imposed upon either Party to this Agreement from time to time by the United States Government. In the event any such restrictions are imposed after the Effective Date and thereby render any provisions of this Agreement invalid or unenforceable, the provisions of Section 13.4 of this Agreement shall be applicable to those provisions. MITSUBISHI will not export, directly or indirectly, any VERTEX Technology or any Bulk Drug Substance, Compounds or Drug Products utilizing such technology to any countries for which the United States Government or any agency thereof at the time of such export requires an export license or other governmental approval, without first obtaining the written consent to do so from the Department of Commerce or other applicable agency of the United States Government in accordance with the applicable statute or regulation.

13.9 Affiliates. Each Party may perform its obligations hereunder personally or through one or more Affiliates, although each Party shall nonetheless be solely responsible for the performance of its Affiliates. Neither Party shall permit any of its Affiliates to commit any act (including any act of omission) which such Party is prohibited hereunder from committing directly.

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13.10 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall constitute the same agreement.

13.11 No Agency. Nothing herein contained shall be deemed to create an agency, joint venture, amalgamation, partnership or similar relationship between MITSUBISHI and VERTEX. Notwithstanding any of the provisions of this Agreement, neither Party shall at any time enter into, incur, or hold itself out to Third Parties as having authority to enter into or incur, on behalf of the other Party, any commitment, expense, or liability whatsoever, and all contracts, expenses and liabilities in connection with or relating to the obligations of each Party under this Agreement shall be made, undertaken, incurred or paid exclusively by that Party on its own behalf, and not as an agent or representative of the other Party.

13.12 Notice. All communications between the Parties with respect to any of the provisions of this Agreement will be sent to the addresses set out below, or to other addresses as designated by one Party to the other by notice pursuant hereto, by air courier (which shall be deemed received by the other Party on the second (2nd) business day following deposit with the air courier company), or by facsimile transmission, or other electronic means of communication (which shall be deemed received when transmitted), with confirmation by air courier, sent by the close of business on or before the next following business day:

If to MITSUBISHI, at:

Mitsubishi Pharma Corporation
6-9, Hiranomachi 2 Chome, Chuo-ku
Osaka 541-0046, Japan
Fax: 81-6-6227-4702
Attention: General Manager of Corporate Licensing Department

If to VERTEX, at:

Vertex Pharmaceutical Incorporated
130 Waverly Street
Cambridge, MA U.S.A. 02139-4211
Fax: 617-444-7117
Attention: General Counsel

13.13 Headings. The article, section and paragraph headings are for convenience of reference only and will not be deemed to affect in any way the language of the provisions to which they refer.

13.14 Entire Agreement. This Agreement, including the Schedules appended hereto,

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contains the entire understanding of the Parties relating to the matters referred to herein and may only be amended by a written document referencing this Agreement, duly executed on behalf of the respective Parties.

13.15 Rules of Construction. The use in this Agreement of the terms "include" or "including" means "include, without limitation" or "including, without limitation," respectively.

[Signature Page Follows]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered by their duly authorized representatives as of the day and year first above written.

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Joshua S. Boger
Name: Joshua S. Boger, Ph.D.
Title: Chairman and Chief Executive Officer

Witness

By: /s/ Vicki L. Sato
Name: Vicki L. Sato, Ph.D.
Title: President

MITSUBISHI PHARMA CORPORATION

By: /s/ Teruo Kobori
Name: Teruo Kobori
Title: President & Chief Executive Officer

Witness

By: /s/ Akihiro Tobe
Name: Akihiro Tobe, Ph.D.
Title: Managing Executive Officer, Division Manager, Strategic Planning Division

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Schedule 1.33

MITSUBISHI Patents

None as of the Effective Date.

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Schedule 1.49

Territory

[***]

Japan

[***]

People's Republic of China

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Schedule 1.56

VERTEX Patents

DOCKET NO	SERIAL NO	PATENT NO	TITLE	COUNTRY	STATUS	FILED	ISSUED
VPI/00-131 CN	01815055.1		PEPTIDOMIMETIC PROTEASE INHIBITORS	CHINA	PENDING	8/31/01	
VPI/00-131 EA	200300318		PEPTIDOMIMETIC PROTEASE INHIBITORS	EURASIA	PENDING	8/31/01	
VPI/00-131 HK	Awaiting confirmation		PEPTIDOMIMETIC PROTEASE INHIBITORS	HONG KONG	PENIDNG	Awaiting confirmation	
VPI/00-131 ID	W-00 200300420		PEPTIDOMIMETIC PROTEASE INHIBITORS	INDONESIA	PENDING	8/31/01	
VPI/00-131 JP	2002-523884		PEPTIDOMIMETIC PROTEASE INHIBITORS	JAPAN	PENDING	8/31/01	
VPI/00-131 KR	10-2003-700-2880		PEPTIDOMIMETIC PROTEASE INHIBITORS	SOUTH KOREA	PENDING	8/31/01	
VPI/00-131 MY	PI20014137		PEPTIDOMIMETIC PROTEASE INHIBITORS	MALAYSIA	PENDING	9/3/01	
VPI/00-131 PH	1-2003-500074		PEPTIDOMIMETIC PROTEASE INHIBITORS	PHILIPPINES	PENDING	8/31/01	
VPI/00-131 SG	200300451-2		PEPTIDOMIMETIC PROTEASE INHIBITORS	SINGAPORE	PENDING	8/31/01	
VPI/00-131 TH	068019		PEPTIDOMIMETIC PROTEASE INHIBITORS	THAILAND	PENDING	8/30/01	
VPI/00-131 TW	90121629		PEPTIDOMIMETIC PROTEASE INHIBITORS	TAIWAN	PENDING	8/31/01	
VPI/00-131 VN	1-2003-00183		PEPTIDOMIMETIC PROTEASE INHIBITORS	VIET NAM	PENDING	8/31/01	
VPI/96-11 CN	97180151.7		INHIBITORS OF SERINE PROTEASES, PARTICULARLY HEPATITIS C VIRUS NS3 PROTEASE	CHINA	ALLOWED	10/17/1997	
VPI/96-11 EA	199900388	001915	INHIBITORS OF SERINE PROTEASES, PARTICULARLY HEPATITIS C VIRUS NS3 PROTEASE	EURASIAN PATENT OFFICE	ISSUED	10/17/1997	10/22/01

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Schedule 1.59

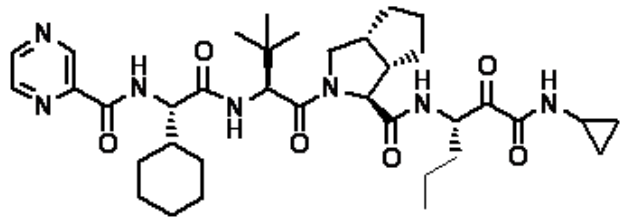
VX-905

[***]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Schedule 1.60

VX-950



Confidential Treatment Requested.
Confidential portions of this document have been redacted and have been separately filed with the Commission.

SECOND AMENDMENT TO LICENSE, DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

THIS SECOND AMENDMENT (this "Amendment") is made and entered into as of July 30, 2009 (the "Amendment Date") by and between Vertex Pharmaceuticals Incorporated ("VERTEX") and Mitsubishi Tanabe Pharma Corporation, as successor-in-interest to Mitsubishi Pharma Corporation (the successor, "MITSUBISHI"):

WHEREAS, VERTEX and MITSUBISHI are the parties to that certain License, Development and Commercialization Agreement dated effective as of June 11, 2004, as amended by the First Amendment dated July 27, 2004 and the letter dated December 9, 2004 (collectively the "Agreement"), with respect to, among other things, development and commercialization of VERTEX's hepatitis C protease inhibitor known as VX-950, or telaprevir (hereinafter, "telaprevir"); and

WHEREAS, the Parties wish to amend the Agreement to reflect the matters that have arisen in the conduct of discussions between them;

NOW, THEREFORE, the Parties hereto hereby agree as set forth below.

1. Definitions.

The terms defined in this Section 1 and parenthetically elsewhere, including in the "whereas" clauses, shall have the same meaning throughout in this Amendment. Capitalized terms used in this Amendment without specific definition shall have the same meaning set forth in the Agreement.

1.1 "Drug Product" for purposes of this Amendment shall mean Drug Product incorporating telaprevir.

1.2 "Drug Substance" shall mean telaprevir manufactured in bulk form **[***]**.

1.3 "Raw Materials" shall mean the materials incorporated into Drug Substance **[***]**, which are set forth on **Exhibit A**.

1.4 **[***]**.

2. Payments to VERTEX.

2.1 Initial Payment by MITSUBISHI. In consideration of the agreements between the Parties set forth in this Amendment, including but not limited to the agreement by VERTEX to provide clinical and CMC data as set forth in Articles 3 and 5 of this Amendment, MITSUBISHI shall pay to VERTEX (i) One Hundred and Five Million U.S. Dollars ($105,000,000) ("Initial Amount") on August 12, 2009, and (ii) an

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additional payment, if any, in the amount and at the time set forth in Section 2.2 below, in each case by wire transfer to VERTEX's designated bank account.

2.2 Additional Payment by MITSUBISHI. MITSUBISHI shall make an additional payment to VERTEX in the amount as set forth in the table below **[***]**. MITSUBISHI shall make this additional payment to VERTEX, if required, within **[***]**. **[***]**, MITSUBISHI shall make an additional payment to VERTEX in the amount of the difference between the amount of any payment previously made under this paragraph 2.2, and the amount set forth opposite **[***]**, in such case within **[***]**.

[***]	Payment to VERTEX (in U.S. dollars)
[***]	$15 million
[***]	**[***]**
[***]	**[***]**
[***]	**[***]**
[***]	$65 million

2.3 MITSUBISHI's Audit Right.

(a) VERTEX shall keep accurate records of the telaprevir development costs in the VERTEX Territory and shall permit MITSUBISHI to verify the amounts of such costs as provided in this Section 2.3. MITSUBISHI may exercise, at its option, such right of inspection and audit by giving VERTEX a written notice any time after the Amendment Date, provided that any such audit and inspection shall be completed in their entirety on or before July 30, 2010 and any payment to MITSUBISHI under Section 2.3(d) below shall be made on or before October 31, 2010. This right of inspection and audit may be exercised by MITSUBISHI one time only.

(b) Upon such notice from MITSUBISHI provided at least **[***]** before commencement of an audit under Section 2.3(a) above, VERTEX shall permit an independent accounting firm of national prominence selected by MITSUBISHI and approved by VERTEX, which approval shall not be unreasonably withheld or delayed, to have such access, during normal business hours and for not more than **[***]**, to VERTEX records as is reasonably necessary to verify the accuracy of VERTEX's costs to develop telaprevir for combination therapy incurred on or before December 31, 2008 (the "Cost Measurement Date") set forth on **Exhibit B** attached hereto. The records to be provided hereunder shall be limited to VERTEX records that are not subject to confidentiality obligations to Third Parties. The Parties acknowledge and agree that the amounts payable by MITSUBISHI under this Section 2 have been determined taking into

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consideration VERTEX's costs to develop telaprevir for combination therapy set forth on **Exhibit B** attached hereto.

(c) Any report prepared by such independent accounting firm, a copy of which shall be sent or otherwise provided to VERTEX at the same time it is provided to MITSUBISHI, shall contain the conclusions of such independent accounting firm regarding the audit and will specify in detail the discrepancies between the costs set forth on Exhibit B, and those determined in the audit.

(d) If the independent accounting firm's report shows that VERTEX's costs to develop telaprevir for combination therapy incurred on or before the Cost Measurement Date were **[***]**, VERTEX shall refund to MITSUBISHI **[***]**. This adjustment to be repaid to MITSUBISHI, if any, pursuant to this Section 2.3(d) shall be the sole remedy for breach by VERTEX of the representation set forth in Section 13(a) of this Amendment.

(e) The costs incurred in the conduct of any audit under this Section 2.3 shall be borne exclusively by MITSUBISHI, provided that, if the adjustment is made as a result of the audit findings pursuant to subsection (d) above, VERTEX shall reimburse MITSUBISHI for the reasonable costs and expenses of the audit.

3. MITSUBISHI Use of VERTEX Combination Therapy Clinical Data. On the Amendment Date, VERTEX shall provide to MITSUBISHI the clinical study reports for any telaprevir combination clinical trials that are complete**[***]**. VERTEX shall provide MITSUBISHI with any and all data to be provided pursuant to Sections 3.5.1(b) and 3.5.2(b) of the Agreement, including clinical data from VERTEX's or VERTEX Licensees' clinical investigation of telaprevir combination therapy, to the extent required or useful for or in connection with obtaining and maintaining the Regulatory Approval in the Territory **[***]**, provided that VERTEX shall not be required to provide clinical data generated on or after the date that the first Regulatory Approval for telaprevir in Japan is obtained**[***]**, as of the Amendment Date. Subject to the provisions of Section 3.7 of the Agreement and the terms of this Amendment, MITSUBISHI shall be entitled to receive, use, handle or refer to, for any and all purposes permitted under the Agreement, in the Territory, any and all such data at any time. Such data provided to MITSUBISHI by VERTEX shall include, but not be limited to, data and information derived from the clinical trials listed in **Exhibit C** attached hereto. VERTEX's obligations under Sections 3.5.1(b) and 3.5.2(b) of the Agreement shall be satisfied in full upon delivery of the data described in this Section 3. Notwithstanding the foregoing, (i) VERTEX shall not be required to provide data or information deriving from **[***]**; and (ii) VERTEX shall not be required under any circumstances to provide data or information from any studies **[***]**.

4. Supply of Telaprevir.

4.1 VERTEX Supply Agreements. The commercial supply agreement and quality agreements of even date herewith between the Parties satisfy the obligations of the Parties related to entering into the Commercial Supply Agreement set forth in Section 4.2 of and referred to elsewhere in the Agreement. The commercial supply agreement and

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quality agreements, together with the Development Supply Agreement dated April 28, 2005 between the Parties (collectively "VERTEX Supply Agreements"), shall reflect VERTEX's only obligations to supply Bulk Drug Substance**[***]**, or Drug Product (or any other material incorporating telaprevir as the active pharmaceutical ingredient) to MITSUBISHI, at any time and for any purpose from and after the Amendment Date.

4.2 MITSUBISHI to Supply after Termination of VERTEX Supply Agreements. Upon the termination of all of the VERTEX Supply Agreements, MITSUBISHI shall have the sole responsibility under the Agreement, at its expense, for the manufacture of all Raw Materials, Drug Substance **[***]** to meet its, its Affiliates' and its sublicensees' requirements in connection with the development and commercial sale of the Drug Product in the Territory and VERTEX shall have no further obligation to provide information or notice or copies of regulatory correspondence or filings under Section 3.6.2 of the Agreement or otherwise, to the extent that such information, correspondence or filings pertain to drug substance or formulation of Drug Product other than in the form currently being supplied by VERTEX under the VERTEX Supply Agreements.

4.3 Manufacturing License under the VERTEX Technology. VERTEX hereby grants to MITSUBISHI a nonexclusive license (or sublicense, as appropriate) under the VERTEX Technology, with the right to sublicense, to manufacture and have manufactured Drug Substance, Raw Materials **[***]** in and outside of the Territory to the extent required for MITSUBISHI to use, sell, have sold, offer to sell and import Drug Products in the Territory in the Field of Use.

5. VERTEX Assistance/Technical Transfer.

(a) VERTEX shall complete the transfer of VERTEX Technology relating to the manufacture **[***]** (including all VERTEX Technology applicable to manufacture of Raw Materials and Drug Substance) to MITSUBISHI immediately following the Amendment Date. During such transfer, VERTEX shall provide MITSUBISHI with the information and data relating to the manufacture of **[***]**, Raw Material and Drug Substance, which information and data shall include, but not be limited to, the information and data as of the Amendment Date as listed in **Exhibit D** attached hereto.

(b) From and after the Amendment Date until, at the latest, the termination of the VERTEX Supply Agreements, VERTEX shall facilitate discussions between MITSUBISHI and Third Party suppliers, including suppliers of Raw Materials, Drug Substance **[***]**, directed toward the establishment of a direct contractual relationship between MITSUBISHI and such suppliers **[***]**. In connection therewith, VERTEX shall permit MITSUBISHI to take a technical review at the site of each of the Third Party suppliers of Raw Materials, in each case at a time and place that is reasonably acceptable to MITSUBISHI and each such supplier.

(c) VERTEX shall provide to MITSUBISHI the technical support reasonably necessary to enable MITSUBISHI to exploit the VERTEX Technology in order to manufacture Raw Materials, Drug Substance **[***]**, provided, however, that VERTEX's obligation to provide such technical support shall terminate no later than the date of

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expiration or termination of the VERTEX Supply Agreements. MITSUBISHI shall bear the reasonable out-of-pocket costs incurred by VERTEX for VERTEX's technical assistance. Such VERTEX Technology shall be delivered to MITSUBISHI in such a way as to communicate it to MITSUBISHI promptly, effectively and economically.

(d) During the term of the VERTEX Supply Agreements, both Parties agree to hold meetings to exchange information relating to manufacture and supply of Raw Materials, Drug Substance **[***]**, at such frequency and location as the Parties may agree.

(e) **[***]**.

6. **[***]**. MITSUBISHI agrees that it shall, and it shall cause its suppliers to, prepare **[***]** strictly in accordance with technical procedures provided to MITSUBISHI by VERTEX. Notwithstanding the foregoing, MITSUBISHI may make minor changes to the Drug Product formulation to **[***]**, bioequivalence is proven and there is no potential material adverse effect on the market for the Drug Product. With respect to any such changes in Drug Product formulation permitted above, at the time any such project is officially authorized for development, MITSUBISHI shall deliver to VERTEX any and all relevant CMC development and clinical plans, and any subsequently generated data and information. VERTEX shall have the right, at its option, to make comments on any such plans, data and information and MITSUBISHI shall consider VERTEX's comments, if any, in good faith. The technical procedures to be provided shall be those applicable to the production of Drug Product in the form to be supplied by VERTEX under the Commercial Supply Agreement.

7. Deletion of Agreement Provisions. MITSUBISHI shall not owe or pay any royalties to VERTEX for Net Sales of Drug Products in the Territory. Sections 3.3.2, 3.3.3, 3.4, 4.1, 4.2, 4.3, 4.4, 6.3, 6.4, 6.5.1, 6.5.2 and 6.5.3, and the second and third sentences and the last two sentences of Section 3.3.1 of the Agreement are deleted from the Agreement in their entirety as of the Amendment Date. Section 6.5.4 of the Agreement shall be amended to delete "(ii) amounts due VERTEX under Sections 6.5.1 or 6.5.2 hereof with respect to such Net Sales, and the basis for calculating those amounts due;". The Parties shall have no further obligations or liabilities to one another under any of the provisions of the Agreement that are deleted hereby, and release one another from all claims or causes of action that may previously have arisen under any such deleted provision or provisions.

8. JDC Participation Not an Obligation; No Breach. The appointment of any members of the JDC and participation in the JDC at any time after MITSUBISHI obtains Regulatory Approval in Japan is a right of VERTEX and not an obligation. VERTEX will be free to determine whether or not to appoint members to the JDC after MITSUBISHI obtains Regulatory Approval in Japan. If VERTEX does not appoint members of the JDC, it will not be a breach of this Agreement, nor will any consideration be required to be returned; MITSUBISHI will keep VERTEX reasonably informed on a timely basis of its progress and activities as if it were providing such information to the JDC; and any matters that would otherwise be referred to the JDC pursuant to this

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Agreement may be referred directly to the Joint Steering Committee pursuant to Section 10.2.1 of the Agreement.

9. Patient Safety. The Parties acknowledge and agree that the Safety Data Exchange Agreement dated July 27, 2007 among the Parties and Janssen Pharmaceutica NV ("Safety Data Exchange Agreement"), shall remain in full force and effect and that the provisions of this Amendment shall in no way limit the exchange of patient safety information between the Parties.

10. Parallel Importation. The Parties recognize that customers or other Third Parties may import Drug Products purchased in the Territory for use outside the Territory and vice versa. If such activity materially distorts the aggregate relative benefit to the Parties that otherwise would prevail if those Drug Products were sold by VERTEX directly outside the Territory or by MITSUBISHI directly in the Territory, then the Parties shall establish an equitable mechanism to offset the economic effect of any such sales, to the extent it is possible and legally permissible to do so. MITSUBISHI shall use commercially reasonable efforts to take all legally permissible steps necessary to prevent any Drug Product manufactured for sale in the Territory from being distributed or sold outside the Territory. MITSUBISHI shall notify VERTEX if it becomes aware of the exportation of Drug Product from its Territory. VERTEX shall use commercially reasonable efforts to take all legally permissible steps necessary to prevent any Drug Product manufactured for sale in the VERTEX Territory from being distributed or sold in the Territory. VERTEX shall notify MITSUBISHI if it becomes aware of the exportation of Drug Product from VERTEX Territory.

11. **[***]**.

12. **[***]**.

13. Representations and Warranties by VERTEX. VERTEX hereby represents and warrants, in addition to those representations and warranties made in Section 8.1 of the Agreement (which were made as of the Effective Date of the Agreement, and which expressly are not made again effective as of the Amendment Date), that:

(a) **Exhibit B** accurately sets forth the amount of costs and expenses incurred (with respect to those already actually incurred up to the Cost Measurement Date) and reasonably estimated to be incurred (with respect to those to be incurred on and after the Cost Measurement Date) by or on behalf of VERTEX and/or VERTEX Licensee for the development activities for Combination Therapy with telaprevir in the VERTEX Territory;

(b) all the information disclosed or to be disclosed by VERTEX to MITSUBISHI hereunder relating to the VERTEX Technology is or will be accurate in all material respects and constitutes all material information owned or Controlled by VERTEX with respect to the manufacture of Raw Materials, Drug Substance **[***]**;

(c) the technical support provided or to be provided by VERTEX to MITSUBISHI pursuant to Section 5(c) of this Amendment is all of the support that

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is reasonably necessary to enable MITSUBISHI to exploit the VERTEX Technology in order to manufacture Raw Materials, Drug Substance **[***]**; and

(d) VERTEX has provided MITSUBISHI with true, complete and correct copies of each of the agreements between VERTEX and any Third Party supplier in the VERTEX supply chain for telaprevir;

(e) as of the Amendment Date, except as disclosed in writing between the Parties, VERTEX is not aware of any issued patents or pending patent applications of a Third Party that, if issued, would be infringed by the manufacture, use and import of Raw Materials, Drug Substance **[***]**.

14. Continuation of the Agreement except as Amended. Except as amended and supplemented hereby, all the other terms and conditions of the Agreement shall remain in full force and effect and shall apply to this Amendment.

[Signature Page Follows]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed and delivered by their duly authorized representatives as of the day and year first written above.

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Matthew W. Emmens
Name: Matthew W. Emmens
Title: President, Chairman and CEO

MITSUBISHI TANABE PHARMA CORPORATION

By: /s/ Michihiro Tsuchiya
Name: Michihiro Tsuchiya
Title: President and Representative Director; Chief Executive Officer

Exhibit A: Raw Materials
Exhibit B: Telaprevir Combination Therapy Development Costs in the VERTEX Territory
Exhibit C: Clinical Trials for which Data is to be provided to MITSUBISHI
Exhibit D: Information and Data contained in VERTEX Technology as of Amendment Date

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Exhibit A: Raw Materials

[***]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Exhibit B: Telaprevir Combination Therapy Development Costs in the VERTEX Territory

[***]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Exhibit C: Clinical Trials for which Data is to be provided to MITSUBISHI

[***]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Exhibit D: List of Information and Data contained in VERTEX Technology as of Amendment Date

[***]

Exhibit 10.3

EXECUTION COPY

Confidential Treatment Requested.

Confidential portions of this document have been redacted and have been separately filed with the Commission.

U.S. $155,000,000

VERTEX PHARMACEUTICALS INCORPORATED

SECURED NOTES DUE 2012

NOTE PURCHASE AGREEMENT

September 30, 2009

OLMSTED PARK S.A.
20, rue de la Poste
L-2346 Luxembourg
Attention: Board of Directors

Ladies and Gentlemen:

Vertex Pharmaceuticals Incorporated, a Massachusetts corporation (together with its permitted successors and assigns, the "***Company***"), hereby, upon the terms and conditions set forth in this agreement (this "***Agreement***"), issues and sells to you (together with your permitted successors and assigns, the "***Purchaser***") U.S. $155,000,000 in aggregate principal amount of its Secured Notes due October 31, 2012 (the "***Notes***"). The Notes are to be issued pursuant to an Indenture, dated as of September 30, 2009 (the "***Indenture***"), among the Company and U.S. Bank National Association, as trustee (the "***Trustee***"). This Agreement is to confirm the agreement concerning the purchase of the Notes from the Company by the Purchaser. Certain capitalized terms used herein are defined in Annex I attached hereto.

1. *Purchase of the Notes*. The Notes will be offered and sold to the Purchaser without registration under the Securities Act of 1933, as amended (the "***Securities Act***"), in reliance on an exemption pursuant to Section 4(2) under the Securities Act.

The holders of the Notes will also be entitled to the benefit of security interests in the Collateral (as such term is defined in the Security Agreement) (the "***Collateral***") granted under the Security Agreement between the Company and the Trustee, as collateral agent thereunder (the "***Collateral Agent***"), dated as of September 30, 2009 (the "***Security Agreement***").

2. *Representations, Warranties and Agreements of the Company*. The Company represents, warrants and covenants to the Purchaser, as of the date of this Agreement, as follows:

(a) The Notes are eligible for resale pursuant to Rule 144A under the Securities Act and such Notes at the time of initial issuance will not be of the same class (within the meaning of Rule 144A under the Securities Act) as securities of the Company that are listed on a national securities exchange registered under Section 6 of the Exchange Act or that are quoted in a United States automated inter-dealer quotation system.

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(b) Assuming the truth and accuracy of the Purchaser's representations and warranties in Section 4 of this Agreement, the purchase of the Notes pursuant hereto is exempt from the registration requirements of the Securities Act.

(c) Assuming the truth and accuracy of the Purchaser's representations and warranties in Section 4(f) of this Agreement, no form of general solicitation or general advertising within the meaning of Regulation D (including, but not limited to, advertisements, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising) was used by the Company, any of its Affiliates or any of their respective representatives in connection with the offer and sale of the Notes to the Purchaser.

(d) Neither the Company nor any other person acting on behalf of the Company has sold or issued any securities that would be integrated with the offering of the Notes contemplated by this Agreement pursuant to the Securities Act, the rules and regulations thereunder or the interpretations thereof by the Commission. The Company will take reasonable precautions designed to insure that any offer or sale, direct or indirect, in the United States or to any U.S. person (as defined in Rule 902 under the Securities Act), of any Notes or any substantially similar security issued by the Company, within six months subsequent to the date hereof, is made under restrictions and other circumstances reasonably designed not to affect the status of the offer and sale of the Notes pursuant to this Agreement as transactions exempt from the registration provisions of the Securities Act.

(e) No order or decree of any Governmental Authority asserting that the transactions contemplated by this Agreement are subject to the registration requirements of the Securities Act has been issued, and no proceeding for that purpose has commenced or is pending before any Governmental Authority or, to the Knowledge of the Company is contemplated.

(f) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of The Commonwealth of Massachusetts. The Company has all corporate powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to

carry on its business as now conducted. The Company is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

(g) The Company has all necessary corporate power and authority to execute, issue, sell and perform its obligations under the Notes. The Notes have been duly authorized by the Company and, when duly executed by the Company in accordance with the terms of the Indenture, assuming due authentication of the Notes by the Trustee, upon delivery to the Purchaser against payment therefor in accordance with the terms of this Agreement and the Indenture, will be validly issued and delivered and will constitute valid and binding obligations of the Company entitled to the benefits of the Indenture, enforceable against the Company in accordance with their terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles. No qualification of the Indenture under the Trust Indenture Act of 1939 (the

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"***Trust Indenture Act***") is required in connection with the offer and sale of the Notes contemplated hereby.

(h) Except with respect to the Notes, which are covered by the representations and warranties set forth in clause (g) above: (i) the Company has all necessary corporate power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder, and (ii) each of the Transaction Documents has been duly authorized, executed and delivered by the Company and each Transaction Document constitutes the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

(i) The Security Agreement is effective to create, and once executed and delivered, will create, in favor of the Collateral Agent for the benefit of the Trustee and the holders of the Notes, legal, valid and enforceable liens on or in all of the Collateral subject thereto, and upon the filing of UCC-1 financing statement (containing adequate descriptions of such Collateral) with the office of the Secretary of the Commonwealth of Massachusetts, such liens shall comprise a perfected first-priority security interest in such Collateral, subject to no other Liens.

(j) The issue and sale of the Notes, the execution, delivery and performance by the Company of each of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby, will not: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which the Company, or any of its Subsidiaries or any of their respective assets or properties may be subject or bound, (B) any contract, agreement, commitment or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries or any of their respective assets or properties is bound or committed or (C) any provisions of the articles of organization or by-laws (or other organizational or constitutional documents) of the Company or any of its Subsidiaries; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of the Company or any of its Subsidiaries; (iii) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Pledged Interest or any other portion of the Collateral; or (iv) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, give to any other Person the right to terminate (*provided*, *however*, that neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent Janssen's ability to terminate the Janssen Agreement under Section 13.2 thereof), or accelerate the performance provided by, in any respect, any provision of the Janssen Agreement; *provided*, *however*, that, in the case of clause (i)(B) or clause (ii), such contravention, conflict, breach, violation, default or acceleration would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

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(k) The issue and sale of the Notes, the execution and delivery by the Company of the Transaction Documents and the performance by the Company of its obligations and the consummation by it 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 Person, except for (i) the filing of proper financing statements under the UCC pursuant to the Security Agreement as described in clause (i) above, (ii) the filing of a Current Report on Form 8-K with the Securities and Exchange Commission and (iii) the Janssen Consent. The Company has obtained prior to its execution and delivery of this Agreement the consent of Janssen required under Section 15.2 of the Janssen Agreement with respect to the transactions contemplated by the Transaction Documents (the "***Janssen Consent***"), which consent is in full force and effect.

(l) The historical consolidated financial statements (including the related notes and supporting schedules) included or incorporated by reference in the Exchange Act Reports present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated Subsidiaries purported to be shown thereby, at the dates and for the periods indicated, and have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved.

(m) The Company is the exclusive owner of the entire right, title (legal and equitable) and interest in and to the Pledged Interest, free and clear of all Liens.

(n) *Intellectual Property*.

(i) The Company has the right, whether by ownership or license, to grant Janssen the rights and licenses to the Company intellectual property rights described in the Janssen Agreement, including the Vertex Patent Rights, the Vertex Know-How, and the Company's rights under Joint Patent Rights (as such terms are defined in the Janssen Agreement), except where the failure to have such right to license would not reasonably be

expected to have, individually or in the aggregate, an Adverse Effect and to the Knowledge of the Company, Janssen has full right and interest in the Janssen intellectual property rights described in the Janssen Agreement, including the Janssen Patent Rights, the Janssen Know-How (as such terms are defined in the Janssen Agreement), and Janssen's rights under Joint Patent Rights, free and clear of all Liens, except where the failure to have full right and interest or the existence of such Liens would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect;

(ii) To the actual knowledge of any of the Company employees or officers listed in the definition of "Knowledge" herein, no third party owns any intellectual property rights that would necessarily be infringed, misappropriated or otherwise violated by the development, manufacture, use, sale or importation of a Compound, Product Candidate, or Combination Product (as such terms are defined in the Janssen Agreement);

(iii) Except for the Vertex Patent Rights, Vertex Know-How, and the Company's rights under Joint Patent Rights, the Company does not own or control any intellectual property rights that would be necessary to the achievement by Janssen of the

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Milestone Events. The Company does not own or control any intellectual property or data resulting from Additional Development Activities (as defined in the Janssen Agreement);

(iv) No claims have been made or, to the Knowledge of the Company, threatened against the Company since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or the development, manufacture, use sale or importation thereof, infringes, misappropriates, or otherwise violates any intellectual property right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect;

(v) To the Knowledge of the Company, no claims have been made or threatened against Janssen since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or any use thereof by Janssen, infringes, misappropriates, or otherwise violates any intellectual property right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect;

(vi) To the actual knowledge of any of the Company employees or officers listed in the definition of "Knowledge" herein, Janssen is currently not infringing, misappropriating, or otherwise violating in any respect any of the Company's intellectual property rights relating to the Compound or Product Candidate;

(vii) To the Knowledge of the Company, the Vertex Patent Rights and the Company's interest in any Joint Patent Rights are valid and enforceable, and no third party is currently challenging, or has challenged, the validity or enforceability of any Vertex Patent Rights, Vertex Know-How, the Company's rights under Joint Patent Rights, Janssen Patent Rights, Janssen Know-How or Janssen's rights under Joint Patent Rights in any respect, except where any such invalidity, unenforceability or challenge to validity or enforceability would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect; and

(viii) All of the representations and warranties made by the Company in the Janssen Agreement were accurate and complete in all material respects as of the "Effective Date" of the Janssen Agreement, in each case subject to any qualifiers set forth therein.

(o) *Janssen Agreement*.

(i) Other than the Janssen Agreement and the Transaction Documents, there is no contract, agreement or other arrangement (whether written or oral) to which either the Company or any of its Subsidiaries is a party or by which any of their respective assets or properties is bound or committed (i) that creates a Lien on the Pledged Interest or (ii) the breach, nonperformance, cancellation or termination of which would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

(ii) The Company has provided the Purchaser a redacted copy of the Janssen Agreement (with the Ancillary Janssen Documents redacted) and a true, accurate and complete copy of each confidentiality agreement relating thereto and the Janssen Consent. The redacted copy of the Janssen Agreement provided by the Company to the Purchaser as described

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above, together with information that has been publicly disclosed by the Company or is otherwise publicly available, in each case, prior to the Effective Date, contains all of the material provisions of, and information contained in, the Janssen Agreement with respect to the Pledged Interest. The redacted portions of the Janssen Agreement do not contain any provisions that would reasonably be expected to (i) result in an Adverse Effect or (ii) have a material adverse effect on the timing or likelihood of achievement of the Milestone Events. The Janssen Agreement constitutes the entire agreement between the Company and Janssen (and their respective Affiliates) relating to the Pledged Interest.

(iii) The Janssen Agreement is the legal, valid and binding obligation of the Company and, to the Knowledge of the Company, Janssen, enforceable against the Company and, to the Knowledge of the Company, Janssen in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles. The execution, delivery and performance of the Janssen Agreement was and is within the corporate powers of the Company and, to the Knowledge of the Company, Janssen. The Janssen Agreement was duly authorized by all necessary action on the part of, and validly executed and delivered by, the Company and, to the Knowledge of the Company, Janssen. There is no breach or default, and no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or give rise to a breach or default, in the performance of the Janssen Agreement by the Company or, to the

Knowledge of the Company, Janssen, which breach, default, event or circumstance in either case would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect or a material adverse effect on the timing or likelihood of achievement of the Milestone Events. To the Knowledge of the Company, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would give either Janssen or the Company the right to terminate the Janssen Agreement (except pursuant to Section 13.2 thereof).

(iv) The Company (i) has not waived any rights or defaults under the Janssen Agreement and (ii) has not taken any action or omitted to take any action under the Janssen Agreement, in each case with respect to clause (i) and clause (ii), that materially adversely affects the Purchaser's rights under any of the Transaction Documents.

(v) The Company has not received any notice and has no Knowledge (A) of Janssen's intention to terminate the Janssen Agreement, in whole or in part, (B) of Janssen's intention to effectuate a Prohibited Amendment, (C) of Janssen's or any other Person's or Governmental Authority's (where applicable) intention to challenge the validity or enforceability of the Janssen Agreement or the obligation of Janssen to pay the Milestone Payments under the Janssen Agreement upon achievement of the Milestone Events or (D) that the Company or Janssen is in default of any of its material obligations under the Janssen Agreement. The Company (A) has no intention of terminating the Janssen Agreement and has not given Janssen any notice of termination of the Janssen Agreement, in whole or in part, and (B) has no intention to effectuate a Prohibited Amendment and has not given Janssen any request to effectuate a Prohibited Amendment.

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(vi) Except as provided in Sections 9.9 and 13.4.1 of the Janssen Agreement, the Company is not a party to any agreement providing for or permitting a sharing of, or Set-off against, the Milestone Payments.

(vii) The Company has all licenses, authorizations, consents and approvals of all Governmental Authorities required to exercise its rights and to perform its obligations under the Janssen Agreement. The pledge by the Company of the Company's right, title and interest in and to the Pledged Interest and the other Collateral pursuant to the Transaction Documents will not require the approval, consent, ratification, waiver, or other authorization of Janssen or any other Person or Governmental Authority under the Janssen Agreement or otherwise and will not constitute a breach of or default or event of default under the Janssen Agreement or any other agreement or law.

(viii) The Company has not consented to an assignment (by operation of law or otherwise) by Janssen of any of Janssen's rights or obligations under the Janssen Agreement with respect to the Pledged Interest, nor does the Company have Knowledge of any such assignment (by operation of law or otherwise) by Janssen.

(ix) Neither the Company nor Janssen has made any claim of indemnification under the Janssen Agreement nor, to the Knowledge of the Company, have there been any events or circumstances that would give rise to a right of such claim by the Company or Janssen.

(x) The Company received prior to the date hereof payment in full from Janssen (without any Set-offs by Janssen) for the milestone events numbered "1" through (and including) "5" set forth in the table in Section 9.2.1 of the Janssen Agreement, in each case in the full amount and within the time set forth in the Janssen Agreement.

(xi) No portion of the Milestone Payments was payable to the Company or received by the Company or any of its Affiliates on or prior to the date of this Agreement.

(p) There is no (i) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending or, to the Knowledge of the Company, threatened by or against the Company or any of its Subsidiaries or, to the Knowledge of the Company, pending or threatened by or against Janssen, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries or, to the Knowledge of the Company, pending or threatened against Janssen, which, in each case with respect to clause (i) or clause (ii) above, (A) if adversely determined, would reasonably be expected to have, individually or in the aggregate, an Adverse Effect, or (B) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents. To the Knowledge of the Company, no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement of any such action, suit, arbitration, claim, investigation, proceeding or inquiry.

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(q) None of the Company nor any of its Subsidiaries is (i) in violation of, or has violated or has been given notice of any violation, or, to the Knowledge of the Company, is under investigation with respect to, or has been threatened to be charged with any violation of, any law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority or (ii) subject to any judgment, order, writ, decree, permit or license granted, issued or entered by any Governmental Authority, in the case of both clause (i) and clause (ii) above, that would reasonably be expected to have, individually or in the aggregate, an Adverse Effect. To the Knowledge of the Company, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or result in a violation by the Company or any of its Subsidiaries of, or a failure on the part of the Company or any of its Subsidiaries 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 reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

(r) Immediately after the consummation of the issuance and sale of Notes and the other transactions contemplated by the Transaction Documents, (i) the fair saleable value of the Company's assets will be greater than the sum of its debts and other obligations, including contingent liabilities,

(ii) the present fair saleable value of the Company'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, (iii) the Company will be able to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (iv) the Company will not have unreasonably small capital with which to engage in its business and (v) the Company will not incur, nor does it 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.

(s) None of the transactions contemplated by this Agreement (including, without limitation, the use of the proceeds from the sale of the Notes), will violate or result in a violation of Section 7 of the Exchange Act, or any regulation promulgated thereunder, including, without limitation, Regulations T, U and X of the Board of Governors of the Federal Reserve System.

3. *Purchase of the Notes by the Purchaser*. The Company, on the basis of the representations, warranties, covenants and agreements of the Purchaser contained herein and subject to all the terms and conditions set forth herein, hereby issues and sells to the Purchaser and, upon the basis of the representations, warranties and agreements of the Company herein contained and subject to all the terms and conditions set forth herein, the Purchaser hereby purchases from the Company, at an aggregate purchase price of U.S. $122,216,581, Notes with an aggregate principal amount of U.S. $155,000,000.

4. *Representations, Warranties and Agreements of the Purchaser*. The Purchaser represents, warrants and covenants to the Company, as of the date of this Agreement, as follows:

(a) The Purchaser is acquiring the Notes for investment for its own account, not as a nominee or agent, and not with a view to, or for resale, in connection with, any distribution thereof. The Purchaser intends to hold the Notes for the account of the Purchaser,

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and currently does not intend, and does not have any agreement or understanding, at this time to dispose of all or any part of the Notes. The Purchaser, however, reserves the right to sell all or part of the Notes in accordance with the terms of the Indenture.

(b) The Purchaser is a "qualified institutional buyer" as such term is defined in Rule 144A under the Securities Act.

(c) The Purchaser (i) has experience in independently evaluating and investing in businesses in the Company's industry which are at similar stage of development as the Company, (ii) has such knowledge and experience in business matters so as to be fully capable of independently evaluating the merits and risks of the investment in the Notes, has the capacity to protect its own interests and can bear the economic risk of an investment in the Notes, and (iii) has had an opportunity to discuss the transactions contemplated by the Transaction Documents with its advisors, including legal counsel and tax advisors, as it deemed necessary and appropriate to adequately evaluate an investment in the Notes.

(d) The Purchaser acknowledges that it is familiar with the condition, financial and otherwise, of the Company and the Notes and the security provided under the Security Agreement in connection with the Notes and, to the extent deemed appropriate in making its investment decision, has discussed with the Company and its advisors, the Notes, the security therefore under the Security Agreement, the Company's financial condition and prospects and the Company's current and proposed activities. The Company has allowed the Purchaser access to such financial and other information and personnel of the Company as the Purchaser has deemed necessary in connection with the purchase of the Notes. The Company has provided the Purchaser, during the course of the negotiations of the transactions contemplated by this Agreement and prior to the sale of the Notes, the opportunity to ask questions of, and receive answers from, the Company and its advisors concerning the terms and conditions of the sale of the Notes and to obtain any additional information necessary and appropriate in connection therewith. The Purchaser has made such inquiry as it has believed to be desirable for its purposes and has obtained such information it regards necessary, appropriate and adequate from the Company and its representatives for its decision to purchase the Notes.

(e) The Purchaser acknowledges that investing in securities of the Company, and therefore, the purchase of the Notes, involves substantial risk, including, but not limited, to those risks listed under "Risk Factors" in the Exchange Act Reports.

(f) Neither the Purchaser, nor any of its Affiliates, officers, employees, agents, shareholders, members or directors has, either directly or indirectly including through a broker or finder, (i) been presented with or solicited by any publicly issued or circulated form of advertisement or general solicitation in connection with the offer, sale and purchase of the Notes or (ii) engaged in any general solicitation or published any advertisement in connection with the offer and sale of the Notes. The Purchaser or its Affiliates, officers, employees, agents, shareholders, members or directors have a pre-existing business relationship with the Company and were contacted directly by the Company or its agents regarding the opportunity to participate in the offer, sale and purchase of the Notes.

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(g) The Purchaser acknowledges that the Notes have not been registered under the Securities Act, that the Notes are being issued pursuant to an exemption from the registration requirements of the Securities Act, that the Notes are restricted securities under the Securities Act insofar as they are being acquired from the Company in a transaction not involving a public offering and that under the Securities Act and applicable regulations promulgated thereunder the Notes may be resold without registration under the Securities Act only in certain limited circumstances. The Purchaser is familiar with Rule 144A and Rule 144 promulgated by the Commission, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act and agrees to be bound by such limitations and not resell, pledge or otherwise transfer the Notes except in compliance with such limitations and in accordance with the terms of the Indenture.

(h) The Purchaser acknowledges that neither the Company nor its Affiliates, agents and advisors have made any representation, warranty or agreement, express or implied, to the Purchaser regarding the transactions contemplated by this Agreement, except for the representations,

warranties and agreements of the Company expressly set forth in this Agreement and the other Transaction Documents, and the Purchaser expressly acknowledges that it is not relying on any other information, written or oral, or documents previously furnished to or discovered by the Purchaser or any other representations, warranties or agreements, other than the representations, warranties and agreements of the Company expressly set forth in this Agreement and the other Transaction Documents in making its decision to purchase the Notes and enter into the other transactions contemplated by this Agreement.

(i) The Purchaser acknowledges and agrees that (i) the Company is entitled to rely upon the Purchaser's representations, warranties and agreements contained in this Agreement, and (ii) the Notes are being sold by the Company to the Purchaser in reliance upon the truth and accuracy of the Purchaser's representations, warranties and agreements contained in this Agreement.

5. *Delivery of the Notes and Payment Therefor*. Delivery to the Purchaser of, and payment for, the Notes (the "***Closing***") shall be made on the date hereof (the "***Closing Date***") at the office of Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York, 10036.

The Notes will be delivered to the Purchaser against payment by or on behalf of the Purchaser of the purchase price therefor by wire transfer of immediately available funds to an account designated in writing by the Company on the date hereof. The Notes will be evidenced by one or more definitive notes in the form provided for in the Indenture.

6. *Agreements of the Company*. The Company agrees with the Purchaser as follows:

(a) So long as any of the Notes are outstanding, the Company will, furnish at their expense to the Purchaser, and, upon request, to the holders of the Notes and prospective purchasers of the Notes the information required by Rule 144A(d)(4) under the Securities Act.

(b) Upon the request of the Purchaser, the Company will use its reasonable best efforts, at the Company's expense, to permit the Notes to be eligible for clearance and

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settlement through the Depository Trust Company ("***DTC***"). The Company agrees to comply with all the terms and conditions set forth in the representation letters of the Company to DTC relating to the approval of the Notes by DTC for "book entry" transfer.

(c) The Company agrees not to sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in the Securities Act) that would be integrated with the sale of the Notes in a manner that would require the registration under the Securities Act of the sale to the Purchaser of the Notes.

7. *Tax Matters*. The Company and the Purchaser agree as follows:

(a) The Purchaser shall indemnify and hold the Company harmless from any Indemnifiable Tax.

(b) The Company agrees to give written notice (the "***Initial Notice***") to the Purchaser of any notice received by the Company which involves the assertion of any claim, or the commencement of any audit, suit, action or proceeding relating to Indemnifiable Tax (an "***Indemnifiable Tax Claim***") within 10 days of such receipt or such earlier time as would allow the Purchaser to timely respond to such Indemnifiable Tax Claim. The Company will give the Purchase such information with respect to the Indemnifiable Tax Claim as the Purchaser may reasonably request. Failure to provide the Purchaser with notice and information with respect to a Indemnifiable Tax Claim within a sufficient period of time and in reasonably sufficient detail to allow the Purchaser to effectively contest such Indemnifiable Tax Claim shall not affect the liability of the Purchaser to the Company except to the extent that the Purchaser's position is actually and materially prejudiced as a result thereof.

(c) The Purchaser may, upon written notice to the Company given within 30 days of receipt of the Initial Notice, assume and control the defense of any Indemnifiable Tax Claim at its own cost and expense and with its own counsel and may (i) pursue or forego any and all administrative appeals, proceedings, hearings and conferences with any tax authority, or (ii) either pay (A) the amount of Indemnifiable Taxes claimed and sue for a refund where applicable law permits such refund suits or (B) contest, settle or compromise the Indemnifiable Tax Claim in any permissible manner.

(d) If the Purchaser elects to exercise its right to control the defense of any Indemnifiable Tax Claim pursuant to Section 7(c) of this Agreement, (i) the Company, its employees and its affiliates shall (A) cooperate with the Purchaser in connection with such defense of any Indemnifiable Tax Claim and the pursuit of any related refund, (B) provide the Purchaser (and its employees and other agents) with any applicable powers of attorney reasonably requested and (C) take any actions reasonably requested by the Purchaser, and (ii) the Purchaser shall (A) keep the Company reasonably informed of all material developments and events relating to such Indemnifiable Tax Claim, and permit the Company to participate in (but not to control) the defense any such Indemnifiable Tax Claim (including participation in any relevant meetings and conference calls) at its own cost and expense and with its own counsel.

(e) Any Indemnifiable Tax Claim that the Purchaser does not elect to control pursuant to Section 7(c) of this Agreement shall be controlled by the Company and the Purchaser

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agrees to cooperate with the Company in pursuing such contest, *provided*, *however*, that (i) the Company shall keep the Purchaser informed of all material developments and events relating to such Indemnifiable Tax Claim (including promptly forwarding copies to the Purchaser of any related correspondence) and shall use reasonable efforts to provide the Purchaser with an opportunity to review and comment on any material correspondence before the Company sends such correspondence to any tax authority and (ii) the Purchaser, at its own cost and expense and with its own counsel, shall have the right to participate in (including in any relevant meetings and conference calls) the defense of such Indemnifiable Tax Claims.

(f) The Purchaser and the Company further agree to furnish or cause to be furnished to each other, upon request, in a timely manner, such information (including access to books and records) and assistance relating to the Company as is reasonably necessary for the filing of any tax return relating to Indemnifiable Taxes or for the defense of any Indemnifiable Tax Claim.

8. *Closing Deliverables of the Company*. At the Closing the Company shall deliver the following additional documents to the Purchaser:

(a) A true and complete execution copy of each of the Indenture and the Security Agreement, duly executed by all parties thereto.

(b) Evidence of filing of financing statements (Form UCC-1, Form UCC-3 or such other financing statements or similar notices as shall be required by local law) as are necessary or desirable in order to evidence and perfect the Liens in favor of the Collateral Agent in the Collateral, which financing statements shall be satisfactory in form and substance to the Collateral Agent and shall comply in all respects with the requirements of Section 3.02 of the Security Agreement.

(c) Certificates of an executive officer of the Company dated as of the date hereof: (i) attaching copies, certified by such officer as true and complete, of resolutions of the board of directors of the Company authorizing and approving the execution, delivery and performance by the Company of the Transaction Documents and the transactions contemplated herein and therein; (ii) setting forth the incumbency of the officer or officers of the Company who have executed and delivered the Transaction Documents, including therein a signature specimen of each officer or officers; (iii) attaching copies, certified by such officer as true and complete, of each of the articles of organization and by-laws of the Company as in effect on the date hereof; and (iv) attaching copies, certified by such officer as true and complete, of long form good standing certificates of the appropriate Governmental Authority of the Company's jurisdiction of incorporation, stating that the Company is in good standing under the laws of such jurisdiction.

(d) The written opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, as transaction counsel to the Company, addressed to the Purchaser, in the form of Exhibit A hereto.

(e) A copy of the Payment Direction (as defined in the Security Agreement) executed by the Company.

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(f) Certificates, agreements and other documentation relating to corporate proceedings and other legal matters incident to the authorization, form and validity of this Agreement, the Notes, the Indenture and the Security Agreement, and all other legal matters relating to this Agreement and the transactions contemplated hereby in a form reasonably satisfactory to counsel for the Purchaser.

(g) Such further certificates and documents of the Company as the Purchaser may reasonably request.

9. *Notices, etc*. All notices, consents, waivers and communications hereunder given by any party hereto to the other party hereto shall be in writing, signed by the party hereto giving such notice and be deemed to have been duly given when (i) delivered by hand, (ii) sent by facsimile (with written confirmation of receipt) if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), *provided*, *however*, that a copy is mailed by registered mail, return receipt requested, (iii) received by the addressee, if sent by nationally recognized overnight delivery service (receipt requested), or (iv) sent by email if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), *provided*, *however*, that a copy is mailed by a nationally recognized overnight delivery service (*provided*, *however*, that delivery will not be deemed effective unless the addressee provides written confirmation of receipt by facsimile or return email (automatic email responses do not constitute confirmation)), in each case, to the applicable addresses, facsimile numbers and/or email addresses set forth below:

If to the Purchaser to:

Olmsted Park S.A.
20, rue de la Poste
L-2346 Luxembourg
Attention: Board of Directors

with a copy (which shall not constitute notice) to:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attention: Stuart E. Leblang
Facsimile: (212) 872-1002
Email: sleblang@akingump.com

If to the Company to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Philippe Tinmouth
Head, Business Development & Licensing

Facsimile: 617-444-6632
Email: phil_tinmouth@vrtx.com

with a copy (which shall not constitute notice) to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Kenneth S. Boger, Esq.
Senior Vice President and General Counsel
Facsimile: 617-444-7117
Email: ken_boger@vrtx.com

or to such other address or addresses, facsimile number or numbers or email address or addresses as the Purchaser or the Company may from time to time designate by notice as provided herein, except that notices of such changes shall be effective only upon receipt.

10. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Company shall not be entitled to assign, directly or indirectly, any of its obligations and rights under any of this Agreement, including by operation of law or otherwise, without the prior written consent of the Purchaser; *provided*, *however*, that the Company may, without the consent of the Purchaser, assign any of its obligations or rights under this Agreement to any other Person with which it may merge or consolidate or to which it may sell all or substantially all of its assets, *provided*, *further*, *however*, that the assignee under such assignment agrees to be bound by the terms of this Agreement and furnishes a written agreement to the Purchaser in form and substance reasonably satisfactory to the Purchaser to that effect. The Purchaser may assign all or any portion of its obligations and rights hereunder, without restriction and without the consent of the Company, *provided*, *however*, that the Purchaser shall give notice of any such assignment to the Company after the occurrence thereof. The Company shall be under no obligation to reaffirm any representations, warranties or covenants made in this Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by the Purchaser.

11. *Survival*. The respective representations, warranties and agreements of the Company and the Purchaser contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall survive the execution and delivery of this Agreement and shall continue to survive until the earlier of October 31, 2012 or the repayment by the Company in full of the Notes (the "***Survival Date***"); *provided*, *however*, that the representations and warranties contained in Sections 2(a) through (e), 2(j), 2(k) and 2(o) shall survive until the date that is one year after the Survival Date; *provided*, *further*, *however*, that the representations and warranties contained in Sections 2(f) through (i) and 2(m) shall survive indefinitely; *provided*, *further*, *however*, that it is understood and agreed that, notwithstanding the survival provisions of this Section 11, all of the representations and warranties made by the parties hereto are made only as of the date of this Agreement.

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12. *Specific Performance*. Each of the parties hereto acknowledges that the other party hereto may have no adequate remedy at law if it fails to perform any of its obligations under this Agreement. 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 Agreement. Neither party hereto shall have any right to terminate this Agreement as a result of any breach by the other party hereto hereof, but instead shall have the rights set forth in this Agreement.

13. *Governing Law*.

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of New York, without giving effect to the principles of conflicts of law thereof.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the 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 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 Agreement in any court referred to in Section 13(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 party hereto irrevocably consents to service of process in the manner provided for notices in Section 9. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by law.

14. *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 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

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HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.

15. *Severability*. If one or more provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect and be enforceable in accordance with its terms. Any provision of this 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.

16. *Counterparts*. This 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 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.

17. *Amendments; No Waivers.*

(a) Neither this Agreement nor any term or provision hereof may be amended, supplemented, altered, 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.

(b) 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. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

18. *Entire Agreement*. This Agreement, together with the Schedules, Annexes and 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 Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Schedules, Annexes or Exhibits or other Transaction Documents) has been made or relied upon by either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

19. *Interpretation.*

(a) Except as otherwise provided or unless the context otherwise requires, whenever used in this Agreement, (i) any noun or pronoun shall be deemed to include the plural and the singular, (ii) the use of masculine pronouns shall include the feminine and neuter, (iii) the terms “include” and “including” shall be deemed to be followed by the phrase “without limitation”, (iv) the word “or” shall be inclusive and not exclusive, (v) all references to Sections

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refer to the Sections of this Agreement, all references to Schedule refer to the Schedule attached hereto or delivered with this Agreement, as appropriate, and all references to Annexes and Exhibits refer to the Annexes and Exhibits attached to this Agreement, each of which is made a part of this Agreement for all purposes, and (vi) each reference to “herein” means a reference to “in this Agreement”.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party hereto caused such provisions to be drafted. Each of the parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

(c) Unless expressly provided otherwise, the measure of a period of one month or one year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date, *provided*, *however*, that, if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date. For example, one month following February 18th is March 18th, and one month following March 31 is May 1.

(d) The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

[Signature page follows]

If the foregoing correctly sets forth the agreement among the Company and the Purchaser, please indicate your acceptance in the space provided for that purpose below.

Very truly yours,

VERTEX PHARMACEUTICALS
INCORPORATED.

By: /s/ Matthew W. Emmens
Name: Matthew W. Emmens
Title: Chairman, President and CEO

Accepted:

OLMSTED PARK S.A.

By: /s/ Hille-Paul Schut
Name: Hille-Paul Schut
Title: Director

By: /s/ Julia Vogelweith
Name: Julia Vogelweith
Title: Director

By: /s/ Xavier de Cillia
Name: Xavier de Cillia
Title: Director

Annex I
Certain Defined Terms

The following terms, as used in this Agreement, shall have the following meanings:

"***Adverse Effect***" shall mean (i) an adverse effect on: (a) the legality, validity or enforceability of any of the Transaction Documents, the Janssen Agreement or the security interest granted in the Collateral under the Security Agreement; (b) the amount of the Milestone Payments; or (c) the timing of the payment of the Milestone Payments after achievement of the corresponding Milestone Event; or (ii) a material adverse effect on: (a) the right or ability of the Company (or any permitted successor or assignee) to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder; (b) the rights or remedies of the Purchaser under any of the Transaction Documents; or (c) the right or ability of Janssen (or any permitted successor or assignee) to perform any of its obligations under the Janssen Agreement that are related, directly or indirectly, to the achievement of the Milestone Events.

"***Affiliate***" shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. For purposes of this definition, "control" (or its derivatives) shall mean the possession, direct or indirect, of the power or ability to direct or cause the direction of the management and policies of a Person, whether through ownership of equity, voting securities or beneficial interest, by contract or otherwise.

"***Ancillary Janssen Documents***" means the "Global Development Plan," the "Supply Agreement" and the "Pharmacovigilance Agreement" as such terms are defined in Sections 1.41, 1.106 and 5.7, respectively, of the Janssen Agreement.

"***Business Day***" shall mean any day other than a Saturday, a Sunday, any day that is a legal holiday under the laws of the State of New York, The Commonwealth of Massachusetts or Luxembourg, or any day on which banking institutions located in the State of New York, The Commonwealth of Massachusetts or Luxembourg are authorized or required by law or other governmental action to close.

"***Commission***" means the United States Securities and Exchange Commission.

"***Exchange Act***" means the United States Securities Exchange Act of 1934, as amended.

"***Exchange Act Reports***" shall mean the Company's Annual Report on Form 10-K for the year ended December 31, 2008 as filed with the Commission on February 17, 2009 and all subsequent documents filed with the Commission pursuant to Section 13(a), 13(c) or 15(d) of the Exchange Act on or prior to the date hereof.

"***GAAP***" means generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and (2) the statements and pronouncements of the Financial Accounting Standards Board.

"***Governmental Authority***" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"***Indemnifiable Tax***" shall mean any United States federal, state of local withholding tax (including interest and penalties thereon) that, pursuant to a final administrative decision, a judicial decision or an agreement by the Purchaser pursuant to Section 7(c) or the Company pursuant to Section 7(e), is determined to be payable by the Company as a result of its failure to withhold from payments on the Notes.

"***Indemnifiable Tax Claim***" shall have the meaning set forth in Section 7(b).

"***Initial Notice***" shall have the meaning set forth in Section 7(b).

"***Janssen***" shall mean Janssen Pharmaceutica, N.V., a Belgium corporation, including its successors and assigns.

"***Janssen Agreement***" shall mean the License, Development, Manufacturing and Commercialization Agreement by and between the Company and Janssen effective as of June 30, 2006, as such agreement is amended and in effect on the date hereof, together with the Janssen Consent and the Ancillary Janssen Documents, as each may be amended and/or restated from time to time after the date hereof in accordance with the terms of the Indenture and any new, substitute or amended agreement by and between the Company and Janssen relating to the Milestone Payments made after the date hereof in accordance with the terms of the Indenture.

"***Janssen Consent***" shall have the meaning set forth in Section 2(k).

"***Knowledge***" shall mean, with respect to the Company, the knowledge of any of the following officers or employees of the Company: the Chief Executive Officer; the Chief Medical Officer; the General Counsel; the Chief Scientific Officer; the Chief Financial Officer; the Chief Commercial Officer; the Vice President and Corporate Controller; the Head, Business Development & Licensing; and the Deputy General Counsel. An individual will be deemed to have "knowledge" of a particular fact or other matter if (i) such individual has or at any time had actual knowledge of such fact or other matter or (ii) a prudent individual would be expected to discover or otherwise become aware of such fact or other matter in the course of his or her responsibilities in his or her capacity as an officer or employee of the Company or in the course of conducting a reasonably diligent review concerning the existence thereof with any employee of the Company or any of its Subsidiaries who, as of the date of this Agreement, reports directly to such individual and who (x) has responsibilities or (y) would reasonably be expected to have actual knowledge of circumstances or other information, in each case, that would reasonably be expected to be pertinent to such fact or other matter. Notwithstanding anything in this definition to the contrary, the Company will be deemed to have knowledge of any fact or matter that is the subject of, or referred to within, any written notice it or any of its Subsidiaries has received (whether in hard copy, digital or electronic format).

"***Lien***" shall mean any lien, hypothecation, charge, instrument, license, preference, priority, security agreement, security interest, mortgage, option, right of first refusal, privilege, pledge,

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liability, covenant or order, or any encumbrance, restriction, right or claim of any other Person or Governmental Authority of any kind whatsoever, whether choate or inchoate, filed or unfiled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, other than any of the above created solely in favor of the Purchaser by the Transaction Documents.

[***].

[***].

[***].

[***].

"***Milestone Payments***" shall mean collectively **[***]**; (ii) (a) all additional amounts added to any of the milestone payments described above in clauses (i)(a) and (b) under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the milestone payments described above in clauses (i)(a) and (b) pursuant to Section 9.10 of the Janssen Agreement and (b) the Purchaser's Pro Rata Portion of all additional amounts added to the milestone payment described above in clause (i)(c) under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the milestone payment described above in clause (i)(c) pursuant to Section 9.10 of the Janssen Agreement; (iii) all accounts (as defined under the UCC) evidencing the rights to the payments and amounts described in clauses (i) and (ii) above; and (iv) all proceeds (as defined under the UCC) of the foregoing.

"***Person***" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind, but not including a Governmental Authority.

"***Pledged Interest***" shall mean collectively (i) an undivided 100% interest in the right to receive the Milestone Payments and (ii) the right to enforce directly against Janssen the right to payment of all or any portion of the Milestone Payments represented by the Pledged Interest when earned upon achievement of the Milestone Events pursuant to the Janssen Agreement.

"***Prohibited Amendment***" shall mean any amendment, modification, restatement or supplement of any provision of the Janssen Agreement that changes in any way (i) the event underlying any of the Milestone Events, (ii) the amount of any of the Milestone Payments or (iii) the timing of the payment of any of the

Milestone Payments by Janssen after achievement of the applicable Milestone Event by Janssen. For avoidance of doubt, any termination of the Janssen Agreement shall not be deemed a Prohibited Amendment.

"***Pro Rata Portion***" shall mean, with respect to the Purchaser, **[***]** and, with respect to the Company, **[***].**

"***Purchaser***" shall have the meaning set forth in the preamble and shall include its successors and assigns.

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"***Set-off***" shall mean any set-off, rescission, counterclaim, defense, reduction or deduction of any kind. Without limiting the generality of the foregoing, the term Set-off shall include the right by Janssen to reduce the amount of any of the Milestone Payments for any reason, including without limitation in connection with (i) a breach by the Company of the Janssen Agreement, (ii) any anti stacking or similar rights with respect to payments to third parties for access to intellectual property rights or data, (iii) any discounted payment obligations in connection with third party sales of generic competitive products, (iv) any rights to credit against any payment obligations any costs, expenses or liabilities of Janssen under the Janssen Agreement, including with respect to (A) Global Development Costs (as defined in the Janssen Agreement), (B) any costs and expenses of patent prosecution, maintenance or enforcement, or (C) defense of third party infringement claims, or (v) any amounts paid or payable pursuant to any indemnification rights or obligations of the Company or Janssen under the Janssen Agreement.

"***Subsidiary***" or "***Subsidiaries***" shall mean with respect to any Person (i) any corporation of which the outstanding capital stock having at least a majority of votes entitled to be cast in the election of directors (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time be owned, directly or indirectly, by such Person or by another subsidiary of such Person or (ii) any other Person of which at least a majority voting interest (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another subsidiary of such Person.

"***Survival Date***" shall have the meaning set forth in Section 11.

"***Transaction Documents***" shall mean, collectively, the Notes, this Agreement, the Indenture and the Security Agreement.

"***UCC***" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; *provided*, *however*, 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 Purchaser's security interests in the Pledged Interest pursuant to the Security 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" shall mean the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

Exhibit 10.4

EXECUTION COPY

Confidential Treatment Requested.

Confidential portions of this document have been redacted and have been separately filed with the Commission.

SECURITY AGREEMENT

Dated as of September 30, 2009

between

VERTEX PHARMACEUTICALS INCORPORATED

and

U.S. BANK NATIONAL ASSOCIATION,

as Collateral Agent

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

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SECURITY AGREEMENT (this "Agreement") dated as of September 30, 2009, between VERTEX PHARMACEUTICALS INCORPORATED (the "Company" or the "Grantor"), a Massachusetts corporation, and U.S. Bank National Association, having its principal corporate trust office at One Federal Street, Boston, Massachusetts 02110 (together with any successor or successors in such capacity, the "Collateral Agent") for the benefit of the Trustee (as defined below) and the Holders (as defined below).

Reference is made to the Secured Notes due 2012 of the Company (as amended, restated, supplemented or modified from time to time, the "Notes"), in the original aggregate principal amount at maturity of $155,000,000 issued pursuant to the Indenture, dated as of September 30, 2009 (as amended, restated, amended and restated, modified or supplemented from time to time and including any agreement extending the maturity of, refinancing or otherwise amending, amending and restating or otherwise modifying or restructuring all or any portion of the obligations of the Company under the Notes or such agreement or any successor agreement, the "Indenture") among the Company, the Collateral Agent and U.S. Bank National Association, as trustee (together with any successor or successors in such capacity, the "Trustee").

The Company will materially benefit from the issuance of the Notes and it is a condition to the issuance of the Notes that the Company execute and deliver this Agreement.

The Indenture requires the Company to secure its obligations under the Notes and the Indenture by a first priority security interest in the Collateral (as hereinafter defined).

Accordingly, the Company and the Collateral Agent, on behalf of itself and each Secured Party (and each of their respective successors or assigns), hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definition of Terms Used Herein

Unless the context otherwise requires, all capitalized terms used but not defined herein shall have the meanings set forth in the Indenture, all references to the Uniform Commercial Code or "UCC" shall mean the Uniform Commercial Code in effect in the State of New York as of the date hereof and any uncapitalized terms used herein which are defined in the UCC have the respective meanings provided in the UCC; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9, and provided, further, that if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of the Security Interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

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Section 1.02 Definition of Certain Terms Used Herein

As used herein, the following terms shall have the following meanings:

"Accounts" shall mean "accounts" as defined in the UCC, and all right, title and interest of the Grantor to payment for goods and services sold or leased, including any such right evidenced by Chattel Paper, whether due or to become due, whether or not it has been earned by performance, and whether now or hereafter acquired or arising in the future.

"Bankruptcy Code" shall mean the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., as amended from time to time.

"Books and Records" shall mean all instruments, files, records, ledger sheets and documents covering or relating to any of the Collateral.

"Chattel Paper" shall have the meaning given that term in the UCC.

"Collateral" shall mean (i) the Pledged Interest and (ii) any and all Proceeds of the Pledged Interest.

"Debtor Relief Laws" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Documents" shall have the meaning given that term in the UCC.

"Financing Statement" shall have the meaning given that term in the UCC.

"General Intangibles" shall mean "general intangibles" as defined in the UCC.

"Governmental Authority" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"Holders" shall mean the holders from time to time of the Notes.

"Indemnitee" shall have the meaning given that term in Section 7.06(b) of this Agreement.

"Indenture" shall have the meaning given to that term in the preliminary statement of this Agreement.

"Instruments" shall have the meaning given that term in the UCC.

"Janssen" shall mean Janssen Pharmaceutica, N.V., a Belgium corporation, including its successors and assigns.

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"Janssen Agreement" shall mean the License, Development, Manufacturing and Commercialization Agreement by and between the Grantor and Janssen effective as of June 30, 2006, as such agreement is amended and in effect on the date hereof, together with the Janssen Consent, as each may be amended and/or restated from time to time after the date hereof in accordance with the terms of the Indenture and any new, substitute or amended agreement by and between the Grantor and Janssen relating to the Milestone Payments to be made after the date hereof in accordance with the terms of the Indenture.

"Janssen Consent" shall have the meaning given that term in Section 2(k) of the Note Purchase Agreement.

"Laws" shall mean, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directives, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

[***].

[***].

[***].

[***].

"Milestone Payments" shall mean collectively **[***]** and (ii) (a) all additional amounts added to any of the milestone payments described above in clauses (i)(a) and (b) under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the milestone payments described above in clauses (i)(a) and (b) pursuant to Section 9.10 of the Janssen Agreement and (b) the Collateral Agent's Pro Rata Portion of all additional amounts added to the milestone payment described above in clause (i)(c) under any provision of the Janssen Agreement,

including any interest assessed in connection with a delay in the payment by Janssen of the milestone payment described above in clause (i)(c) pursuant to Section 9.10 of the Janssen Agreement.

"Note Documents" shall mean the Indenture, the Notes and the Collateral Documents, in each case including all exhibits and schedules thereto, and all other agreements, documents and instruments relating to the Notes, in each case as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Obligations" shall mean the Note Obligations (as defined in the Indenture).

"Payment Account" shall have the meaning given that term in Section 5.01(c).

"Payment Direction" shall have the meaning given that term in Section 5.01(a).

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"Payment Intangible" shall have the meaning given that term in the UCC.

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind, including a Governmental Authority.

"Pledged Interest" shall mean collectively (i) an undivided 100% interest in the right to receive the Milestone Payments and (ii) the right to enforce directly against Janssen the right to payment of all or any portion of the Milestone Payments represented by the Pledged Interest when earned upon achievement of the Milestone Events pursuant to the Janssen Agreement.

"Proceeds" shall mean "proceeds" as defined in the UCC.

"Pro Rata Portion" shall mean, with respect to the Collateral Agent**[***]** and, with respect to the Grantor**[***]**.

"Secured Parties" shall mean

(i) the Collateral Agent;

(ii) the Trustee;

(iii) the Holders; and

(iv) the successors and assigns of each of the foregoing.

"Security Interest" shall have the meaning given that term in Section 2.01.

Section 1.03 **Rules of Interpretation** The rules of interpretation specified in Section 1.03 of the Indenture shall be applicable to this Agreement.

ARTICLE II
SECURITY INTEREST

Section 2.01 **Security Interest** As security for the payment or performance, as the case may be, in full of the Obligations, the Grantor hereby pledges to the Collateral Agent, its successors and assigns, for the ratable benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the ratable benefit of the Secured Parties, a security interest in, all of the Grantor's right, title and interest in, to and under the Collateral (the "Security Interest"). Without limiting the foregoing, the Grantor hereby designates the Collateral Agent as the Grantor's true and lawful attorney, exercisable by the Collateral Agent or its nominee or custodian whether or not an Event of Default exists, with full power of substitution, at the Collateral Agent's option, to file one or more Financing Statements and continuation statements as it determines reasonably necessary for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by the Grantor, without the signature of the Grantor (the Grantor hereby appointing the Collateral Agent as its attorney to sign its name to any such Financing Statement or continuation statement, whether or not an

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Event of Default exists), and naming the Grantor as debtor and the Collateral Agent as secured party.

Section 2.02 **No Assumption of Liability** No Assumption of Liability. The Security Interest is granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of the Grantor with respect to or arising out of the Collateral.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

The Grantor represents and warrants to the Collateral Agent and the Secured Parties, as of the date of this Agreement, that:

Section 3.01 **Title and Authority** The Grantor has good and valid rights in and title to the Collateral and has full power and authority to grant to the Collateral Agent the Security Interest in such Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person other than any consent or approval which has been obtained and is in full force and effect.

Section 3.02 **Filings** A Financing Statement or other appropriate filings, recordings or registrations containing a description of the Collateral have been delivered to the Collateral Agent or its nominee or custodian for filing in the central-filing office specified in Schedule 3.05 hereto, which Financing Statement constitutes all the filings and recordings that are necessary to establish a legal, valid and perfected security interest in favor of the Collateral Agent (for the ratable benefit of the Secured Parties) in respect of all Collateral in which the security interest may be perfected by filing or recording, and no further or subsequent filing, refiling, recording or rerecording is necessary, except as provided under applicable law.

Section 3.03 **Validity and Perfection of Security Interest** The Security Interest constitutes a legal and valid Lien (prior and superior in right and interest to any other Person) in all the Collateral securing the payment and performance of the Obligations, and, subject to the filings described in Section 3.02 above, a perfected Lien (prior and superior in right and interest to any other Person) in all Collateral in which a security interest may be perfected by filing or recording a Financing Statement or analogous document pursuant to the Uniform Commercial Code or other applicable Law. No amounts payable under or in connection with the Collateral are evidenced by any Instrument or Chattel Paper.

Section 3.04 **Absence of Other Liens** To the extent that the Collateral currently exists, the Collateral is owned by the Grantor free and clear of any Lien. The Grantor has not filed or consented to the filing of any Financing Statement or analogous document under the Uniform Commercial Code or any other applicable laws covering any Collateral.

Section 3.05 **UCC Representations and Warranties** The Grantor's exact legal name is, and for the immediately preceding ten (10) years has been, "Vertex Pharmaceuticals Incorporated". The principal place of business and chief executive office of the Grantor for the

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immediately preceding ten (10) years and the office where it keeps its books and records relating to the Collateral are located at the address(es) set forth on Schedule 3.05 attached hereto. The Grantor's Massachusetts organizational identification number and Federal Employer Identification Number are as set forth on Schedule 3.05 attached hereto.

ARTICLE IV
COVENANTS

Section 4.01 **Change of Name; Location of Collateral; Records; Place of Business**

(a) The Grantor agrees to furnish to the Collateral Agent at least thirty (30) days' (or such shorter period of time as may be agreed to by the Collateral Agent) prior written notice of any change (i) in its name, (ii) in its organizational structure (including its status as a corporation incorporated under the laws of The Commonwealth of Massachusetts) or (iii) in its Federal Taxpayer Identification Number or state organizational number. The Grantor agrees not to effect or permit any change referred to above in this Section 4.01 unless all filings have been made under the Uniform Commercial Code or otherwise that are required or advisable in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected Lien (prior and superior in right and interest to any other Person) in all the Collateral.

(b) The Grantor agrees to maintain, at its own cost and expense, such complete and accurate records with respect to the Collateral as is consistent with its current practices and in accordance with such prudent and standard practices used in industries that are the same as or similar to those in which the Grantor is engaged, but in any event to include complete accounting records with respect to any part of the Collateral.

Section 4.02 **Creation and Perfection of Liens Securing Collateral; Further Assurances**

(a) On or prior to the date of this Agreement, the Grantor shall have granted, created and perfected the security interests and other Liens created or intended to be created pursuant to this Agreement in the Collateral in favor of the Collateral Agent.

(b) The Grantor shall, and shall cause each of the Guarantors to, execute any and all further documents, Financing Statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Collateral Agent may reasonably request, in order to grant, create, preserve, enforce, protect and perfect the validity and priority of the security interests and other Liens created by this Agreement in the Collateral.

(c) The Grantor shall, and shall cause each of the Guarantors to, do or cause to be done all acts and things that may be required, or that the Collateral Agent from time to time may reasonably request, to assure and confirm that the Collateral Agent holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become Collateral after the date of this Agreement), in each case, as contemplated by, and with the lien priority required under, this Agreement.

(d) Upon request of the Collateral Agent at any time after an Event of Default has occurred and is continuing, the Grantor shall, and shall cause each of the Guarantors to, and shall cause the Subsidiaries to, (i) permit the Collateral Agent or any advisor, auditor, consultant, attorney or representative acting for the Collateral Agent, upon reasonable notice to the Grantor and during normal business hours, to make extracts from and copy the books and records of the Grantor and its Subsidiaries relating to the Collateral, and to discuss any matter pertaining to the Collateral with the officers and employees of the Grantor and its Subsidiaries, and (ii) deliver to the Collateral Agent such reports relating to any such property or any Lien thereon as the Collateral Agent may reasonably request. The Grantor shall promptly reimburse the Collateral Agent for all reasonable costs and expenses incurred by the Collateral Agent in connection therewith, including all reasonable fees and charges of any advisors, auditors, consultants, attorneys or representatives acting for the Collateral Agent.

(e) The provisions of this Section 4.02 shall apply only to the security interests and other Liens on the Collateral in favor of the Collateral Agent, and shall not impose or be interpreted as imposing any duty on the Grantor or any Guarantor to act in a manner that preserves the Collateral (including without limitation Janssen's obligation to make the Milestone Payments or the amount of any Milestone Payment or the date on which a Milestone Payment is due) or to refrain from acting in a manner that adversely impacts the Collateral (including without limitation Janssen's obligation to make the Milestone Payments or the amount of any Milestone Payment or the date on which a Milestone Payment is due); provided, however, that the foregoing provisions of this sentence shall not limit the Grantor's obligations under Section 4.12 of the Indenture.

Section 4.03 Taxes; Encumbrances At its option, the Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Collateral and which the Grantor is not diligently contesting by appropriate proceedings or actions, and may pay for the preservation of the Collateral to the extent the Grantor fails to do so as required by the Indenture or this Agreement, and the Grantor agrees to reimburse the Collateral Agent on demand for any payment made or any expense reasonably incurred by the Collateral Agent pursuant to the foregoing authorization; provided, however, that nothing in this Section 4.03 shall be interpreted as excusing the Grantor from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of the Grantor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and preservation as set forth herein or in the other Note Documents.

Section 4.04 Assignment of Security Interest in Milestone Payments If at any time the Grantor shall take a security interest in any property of Janssen or any other Person to secure payment and performance of a Milestone Payment or otherwise in respect of the Milestone Payments, the Grantor shall promptly assign such security interest to the Collateral Agent.

Section 4.05 Limitation on Disposition of Collateral and Liens on Collateral The Grantor shall not (i) directly or indirectly, sell, transfer, assign, lease, license, sublicense, convey or otherwise directly or indirectly dispose of any of the Collateral or any interest therein or (ii) except for the Security Interest in the Collateral granted to the Collateral

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Agent for the benefit of the Secured Parties by this Agreement, cause or suffer to exist or become effective any Lien of any kind on or with respect to any of the Collateral or any interest therein, or, in each case, enter into any agreement to do any of the foregoing, provided, however, that in no event shall the termination of the Janssen Agreement for any reason be a violation or breach of this Section 4.05 or any other term of this Agreement or the Indenture.

Section 4.06 Marking of Books and Records To the extent that the Collateral Agent may reasonably request, in order to perfect the Security Interest or to enable the Collateral Agent to exercise its rights and remedies hereunder, the Grantor shall mark its Books and Records relating to the Collateral and documents evidencing or pertaining thereto with an appropriate reference to the fact that the Milestone Payments have been assigned to the Collateral Agent for the benefit of the Secured Parties and that the Collateral Agent has a security interest therein.

ARTICLE V
PAYMENTS

Section 5.01 Payment Direction; Payment Account

(a) On or prior to the date hereof, the Grantor shall (i) direct Janssen to pay all Milestone Payments and other payments on account of the Pledged Interest, in each case when due and payable under the Janssen Agreement, to the Payment Account by wire transfer of immediately available funds in accordance with the Payment Direction; and (ii) deliver to the Collateral Agent and the Trustee an executed copy of the irrevocable direction addressed to Janssen to pay the Milestone Payments evidenced by the Pledged Interest directly to the Payment Account in the form attached as Exhibit A hereto (the "Payment Direction").

(b) Notwithstanding the foregoing and the terms of the Payment Direction, if Janssen or any other Person makes any payment on account of the Pledged Interest to the Grantor or any of its Subsidiaries or Affiliates, then the Grantor promptly, and in any event no later than three (3) Business Days following the receipt by the Grantor or such Subsidiary or Affiliate of such payment, shall remit such payment to the Payment Account pursuant to Section 5.01(c). All payments made to the Grantor (or any of its Subsidiaries or Affiliates) on account of the Pledged Interest shall be held by the Grantor (or such Subsidiary or Affiliate) in trust for the benefit of the Collateral Agent and the other Secured Parties until remitted to the Payment Account pursuant to Section 5.01(c) for application pursuant to the terms of the Note Documents.

(c) All payments by Janssen pursuant to Section 5.01(a) and the Grantor pursuant to Section 5.01(b) of this Agreement shall be made by wire transfer of immediately available funds, without set-off, to the Trustee at the account set forth on Schedule 5.01(c) hereto (or to such other account as the Trustee shall specify by written notice to the Grantor from time to time) (the "Payment Account").

(d) In the event the Grantor redeems Notes pursuant to clause (ii) of Section 3.08(b) of the Indenture on a date before Janssen delivers the applicable Milestone Payment to the Trustee that otherwise would have been used by the Trustee to redeem such Notes, the Grantor shall be entitled to

any amounts subsequently paid by Janssen with respect to such

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Milestone Payment and, in furtherance of the foregoing, (i) the Collateral Agent on behalf of the Trustee and the Holders shall assign their respective rights to receive such Milestone Payment from Janssen to the Grantor and, notwithstanding the terms of Section 5.01(a) and the Payment Direction, shall instruct Janssen in writing to pay such Milestone Payment directly to the Grantor, (ii) such amount owed or paid by Janssen shall not be used by the Trustee to redeem any portion of the Notes under Section 3.08 of the Indenture nor shall such amount be considered Collateral under this Agreement or the Indenture and (iii) if Janssen pays any such amounts with respect to such Milestone Payment to the Trustee or the Collateral Agent pursuant to Section 5.01(a) hereof and the Payment Direction, the Trustee or the Collateral Agent shall promptly turn over such amount to the Grantor by wire transfer of immediately available funds to an account designated by the Grantor.

Section 5.02 **Power of Attorney** The Grantor irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Grantor's true and lawful agent and attorney-in-fact, and in such capacity the Collateral Agent shall have the right, with power of substitution for the Grantor and in the Grantor's name or otherwise, for the use and benefit of the Collateral Agent and the Secured Parties, (i) at any time, whether or not a Default or Event of Default has occurred, to take actions required to be taken by the Grantor under Section 2.01 of this Agreement, (ii) upon the occurrence and during the continuance of an Event of Default, (A) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment comprising or evidencing the Collateral or any part thereof; (B) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (C) to sign the name of the Grantor on any proof of claim in bankruptcy against Janssen; (D) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral; and (E) to sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes, and (iii) to notify or to require the Grantor to notify Janssen to make payment directly to the Collateral Agent (or its nominee or custodian) in a manner other than as specified in the Payment Direction; provided, however, that nothing herein contained shall be construed as requiring or obligating the Collateral Agent or any Secured Party to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent or any Secured Party, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby, and no action taken or omitted to be taken by the Collateral Agent or any Secured Party with respect to the Collateral or any part thereof shall give rise to any defense, counterclaim or offset in favor of the Grantor or to any claim or action against the Collateral Agent or any Secured Party other than arising out of the gross negligence or willful misconduct of the Collateral Agent or any such Secured Party (as determined by a court of competent jurisdiction by a final and nonappealable judgment); and provided, further, however, that nothing contained in this Section 5.02 shall entitle the Collateral Agent or any of the Secured Parties to the rights of Grantor under the Janssen Agreement other than the right to payment of the Collateral. It is understood and agreed that the appointment of the Collateral Agent as the agent and attorney-in-fact of the Grantor for the purposes set forth above is coupled with an interest and is irrevocable. The provisions of this Section shall in no event relieve the

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Grantor of any of its obligations hereunder or under any other Note Document with respect to the Collateral or any part thereof or impose any obligation on the Collateral Agent or any Secured Party to proceed in any particular manner with respect to the Collateral or any part thereof, or in any way limit the exercise by the Collateral Agent or any Secured Party of any other or further right which it may have on the date of this Agreement or hereafter, whether hereunder, under any other Note Document, by law or otherwise.

ARTICLE VI
REMEDIES

Section 6.01 **Remedies Upon Default** Upon the occurrence and during the continuance of an Event of Default, it is agreed that the Collateral Agent shall have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC (whether or not in effect in the jurisdiction where such rights are exercised) or other applicable Law. The rights and remedies of the Collateral Agent shall include, without limitation, the right to take any or all of the following actions at the same or different times:

(a) With respect to any Collateral consisting of Accounts, General Intangibles (including Payment Intangibles), Instruments, Chattel Paper, and Documents, the Collateral Agent may collect the Collateral with or without the taking of possession of any of the Collateral.

(b) The Grantor agrees that the Collateral Agent shall have the right, subject to applicable Law, to sell or otherwise dispose of all or any part of the Collateral, at public or private sale, for cash, upon credit or for future delivery as the Collateral Agent shall deem appropriate. Each purchaser at any such sale shall hold the property sold absolutely, free from any claim or right on the part of the Grantor.

(c) The Collateral Agent shall give the Grantor 10 days' prior written notice, by authenticated record, of the time and place of any proposed sale. Any such notice shall (i) in the case of a public sale, state the time and place fixed for such sale, (ii) in the case of a private sale, state the day after which such sale may be consummated, (iii) contain the information specified in Section 9-613 of the UCC, (iv) be authenticated and (v) be sent to the parties required to be notified pursuant to Section 9-611(c) of the UCC; provided that, if the Collateral Agent fails to comply with this sentence in any respect, its liability for such failure shall be limited to the liability (if any) imposed on it as a matter of law under the UCC. The Grantor agrees that such written notice shall satisfy all requirements for notice to the Grantor which are imposed under the UCC or other applicable Law with respect to the exercise of the Collateral Agent's rights and remedies hereunder upon default. The Collateral Agent shall not be obligated to make any sale or other disposition of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale or other disposition of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned.

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(d) Any public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice of such sale. At any sale or other disposition, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. If any of the Collateral is sold, leased, or otherwise disposed of by the Collateral Agent on credit, the Obligations shall not be deemed to have been reduced as a result thereof unless and until payment in full is received thereon by the Collateral Agent. In the event that the purchaser fails to pay for the Collateral, the Collateral Agent may resell the Collateral and apply the proceeds from such resale in accordance with the terms of Section 6.02 of this Agreement.

(e) At any public (or, to the extent permitted by applicable Law, private) sale made pursuant to this Section 6.01, the Collateral Agent, if so directed by the Holders of a majority in aggregate principal amount of the then outstanding Notes, shall, or any other Secured Party may bid for or purchase, free (to the extent permitted by applicable Law) from any right of redemption, stay, valuation or appraisal on the part of the Grantor, the Collateral or any part thereof offered for sale, and the Collateral Agent (but not any other Secured Party unless the Holders of a majority in aggregate principal amount of the then outstanding Notes shall otherwise agree in writing) may (or shall, if so directed by the Holders of a majority in aggregate principal amount of the then outstanding Notes) make payment on account thereof by using any or all of the Obligations (or, in the case of any such bid or purchase by any other Secured Party, any or all of the Obligations then due and payable to such other Secured Party) as a credit against the purchase price, and the Collateral Agent or such other Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to the Grantor therefor.

(f) As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose upon the Collateral and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver.

(g) To the extent permitted by applicable Law, the Grantor hereby waives all rights of demand, redemption, stay, valuation and appraisal which the Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

Section 6.02 **Application of Proceeds** After the occurrence and during the continuance of an Event of Default, the Collateral Agent shall apply the proceeds of any collection or sale of the Collateral, as well as any Collateral consisting of cash, in accordance with the provisions of Section 6.10 of the Indenture.

ARTICLE VII
MISCELLANEOUS

Section 7.01 **Notices** All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 13.02 of the Indenture.

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Section 7.02 **Security Interest Absolute** All rights of the Collateral Agent hereunder, the Security Interest and all obligations of the Grantor hereunder shall be absolute and unconditional irrespective of (i) any lack of validity or enforceability of the Indenture, any other Note Document, any agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing, (ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Indenture, any other Note Document or any other agreement or instrument, (iii) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Obligations, (iv) the existence of any claim, set-off or other right which the Grantor may have at any time against the Collateral Agent, any other Secured Party, or any other Person, whether in connection herewith or any unrelated transaction; provided, that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim or (v) any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Grantor in respect of the Obligations or this Agreement.

Section 7.03 **Survival of Agreement** All covenants, agreements, representations and warranties made by the Grantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the Holders or other Secured Parties and shall survive the issuance of the Notes, regardless of any investigation made by any of the Holders or on their behalf, and shall continue in full force and effect until this Agreement shall terminate.

Section 7.04 **Binding Effect** This Agreement shall become effective as to the Grantor when a counterpart hereof executed on behalf of the Grantor shall have been delivered to the Collateral Agent and a counterpart hereof shall have been executed on behalf of the Collateral Agent, and thereafter shall be binding upon the Grantor and the Collateral Agent and their respective successors and assigns, and shall inure to the benefit of the Grantor, the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that the Grantor shall not have the right to assign or transfer its rights or obligations hereunder or any interest herein or in the Collateral (and any such assignment or transfer shall be void) except as expressly contemplated by this Agreement or the Indenture.

Section 7.05 **Successors and Assigns** Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Grantor or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

Section 7.06 **Collateral Agent's Fees and Expenses; Indemnification**

(a) Without limitation of its indemnification obligations under the other Note Documents, the Grantor agrees to pay upon demand to the Collateral Agent the amount of any and all reasonable expenses, including the reasonable fees, disbursements and other charges of its counsel and of any experts or agents, which the Collateral Agent may incur in connection with (i) the administration of this Agreement (including the customary fees and charges of the Collateral Agent), (ii) the custody or preservation of, or the sale of, collection from or other realization upon any of the Collateral, (iii)

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the exercise, enforcement or protection of any of the rights of the Collateral Agent hereunder or (iv) the failure of the Grantor to perform or observe any of the provisions hereof.

(b) Without limitation of its indemnification obligations under the other Note Documents, the Grantor agrees to indemnify the Collateral Agent, its partners, directors, officers, employees, agents and advisors (each an "Indemnitee") against, and hold each of them harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable fees, disbursements and other charges of counsel, asserted against or reasonably incurred by any of them arising out of, in any way connected with, or as a result of, the execution, delivery or performance of this Agreement, the other Collateral Documents, or any claim, litigation, investigation or proceeding relating hereto, thereto or to the Collateral, whether or not any Indemnitee is a party thereto; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) Any such amounts payable as provided hereunder shall be additional Obligations secured hereby and by the other Collateral Documents. The provisions of this Section 7.06 shall remain operative and in full force and effect regardless of the termination of this Agreement, the Indenture or any other Note Document, the consummation of the transactions contemplated hereby, the repayment of any of the Notes, the invalidity or unenforceability of any term or provision of this Agreement, the Indenture or any other Note Document, or any investigation made by or on behalf of the Collateral Agent or any Holder. All amounts due under this Section 7.06 shall be payable on written demand therefor.

Section 7.07 **GOVERNING LAW** THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK (EXCEPT FOR THE CONFLICT OF LAWS RULES THEREOF, BUT INCLUDING GENERAL OBLIGATIONS LAW SECTIONS 5-1401 AND 5-1402).

Section 7.08 **Waivers; Amendment** (a) No failure or delay of the Collateral Agent in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Collateral Agent hereunder and of the Collateral Agent, the Trustee, the Holders and the other Secured Parties under the other Note Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provisions of this Agreement, the Indenture or any other Note Document or consent to any departure by the Grantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Grantor in any case shall entitle the Grantor to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the

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Collateral Agent and the Grantor, subject to any consent required in accordance with Article IX of the Indenture.

Section 7.09 **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 IN WHICH THE GRANTOR AND THE COLLATERAL AGENT ARE PARTIES AND WHICH, DIRECTLY OR INDIRECTLY, ARISES OUT OF OR RELATES TO THIS AGREEMENT, ANY OTHER NOTE DOCUMENT 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 ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.10 **Severability** In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 7.11 **Entire Agreement** This 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 Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Exhibits or other Transaction Documents) has been made or relied upon by either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto and the Secured Parties any rights or remedies hereunder.

Section 7.12 **Counterparts** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one contract, and shall become effective as provided in Section 7.04. Delivery of an executed signature page to this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

Section 7.13 **Jurisdiction** (a) The Grantor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive 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

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any action or proceeding arising out of or relating to this 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. Nothing in this Agreement shall affect any right that the Collateral Agent, the Trustee, any Holder or any other Secured Party may otherwise have to bring any action or proceeding relating to this Agreement, the Indenture or any other Note Document against the Grantor or its properties in the courts of any jurisdiction.

(b) The Grantor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, the Indenture or any other Note Document in any court referred to in paragraph (a) of this Section. 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.

Section 7.14 **Termination** This Agreement and the Security Interest shall terminate when all the Obligations have been indefeasibly paid in full in accordance with the terms and conditions of the Indenture (other than contingent indemnification obligations with respect to then unasserted claims which, pursuant to the terms of this Agreement or the other Note Documents survive the termination of this Agreement or the other Note Documents), at which time the Collateral Agent shall promptly deliver to the Grantor written authority to terminate, at the Grantor's request and expense, all Financing Statements and similar documents which the Grantor shall reasonably request to evidence such termination. Any execution and delivery of termination statements or documents pursuant to this Section 7.14 shall be without recourse to or warranty by the Collateral Agent.

Section 7.15 **Headings and Recitals** The recitals at the beginning of this Agreement and the headings of the sections and subsections hereof are provided for convenience only and shall not be construed as representations made by the Grantor, and shall not in any way affect the meaning or construction of any provision of this Agreement.

Section 7.16 **Limitation on Duties of Collateral Agent** Beyond the exercise of reasonable care in the custody and preservation thereof, the Collateral Agent will not have any duty as to any Collateral in its possession or control or in the possession or control of any sub agent or bailee or any income therefrom or as to the preservation of rights against prior parties or any other rights pertaining thereto. The Collateral Agent will be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession or control if such Collateral is accorded treatment substantially equal to that which it accords its own property, and will not be liable or responsible for any loss or damage to any Collateral, or for any diminution in the value thereof, by reason of any act or omission of any sub agent or bailee selected by the Collateral Agent in good faith or by reason of any act or omission such sub-agent or bailee selected by the Collateral Agent pursuant to instructions from the Collateral Agent, except to the extent that such liability arises from the Collateral Agent's gross negligence, bad

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faith or willful misconduct. The Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Company to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral.

[Signature page follows.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Matthew W. Emmens
Name: Matthew W. Emmens
Title: Chairman, President and CEO

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

By: /s/ Karen Beard
Name: Karen Beard
Title: Authorized Signatory

Exhibit 10.5

EXECUTION COPY

Confidential Treatment Requested.
Confidential portions of this document have been redacted and have been separately filed with the Commission.

PURCHASE AGREEMENT REGARDING MILESTONE #9

Dated as of September 30, 2009

by and between

VERTEX PHARMACEUTICALS INCORPORATED

and

OLMSTED PARK S.A.

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PURCHASE AGREEMENT REGARDING MILESTONE #9

This **PURCHASE AGREEMENT REGARDING MILESTONE #9** (this "Agreement") is made and entered into as of September 30, 2009 (the "Effective Date") by and between Vertex Pharmaceuticals Incorporated, a Massachusetts corporation ("Vertex"), and Olmsted Park S.A., a société anonyme governed by the laws of the Grand Duchy of Luxembourg (the "Purchaser").

WHEREAS, Vertex has the right to receive a payment based on the achievement of a certain milestone under the Janssen Agreement described herein; and

WHEREAS, Vertex wishes to sell, assign, convey and transfer to the Purchaser, and the Purchaser wishes to purchase, acquire and accept from Vertex, the Purchased Interest described herein, upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements representations and warranties set forth herein, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions.

The following terms, as used herein, shall have the following meanings:

"Adverse Effect" shall mean (i) an adverse effect on: (a) the legality, validity or enforceability of any of the Transaction Documents, the Janssen Agreement or the back-up security interest granted pursuant to Section 2.01(d); (b) the amount of the Milestone Payment; or (c) the timing of the payment of the Milestone Payment after achievement of the Milestone Event; or (ii) a material adverse effect on: (a) the right or ability of Vertex (or any permitted successor or assignee) to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder; (b) the rights or remedies of the Purchaser under any of the Transaction Documents; or (c) the right or ability of Janssen (or any permitted successor or assignee) to perform any of its obligations under the Janssen Agreement that are related, directly or indirectly, to the achievement of the Milestone Event.

"Affiliate" shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. For purposes of this definition, "control" (or its derivatives) shall mean the possession, direct or indirect, of the power or ability to direct or cause the direction of the management and policies of a Person, whether through ownership of equity, voting securities or beneficial interest, by contract or otherwise.

"Agreement" shall have the meaning set forth in the preamble.

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"Ancillary Janssen Documents" means the "Global Development Plan," the "Supply Agreement" and the "Pharmacovigilance Agreement" as such terms are defined in Sections 1.41, 1.106, and 5.7, respectively, of the Janssen Agreement.

"Bankruptcy Event" shall mean the occurrence of any of the following:

(i) Vertex or any of its Subsidiaries shall commence any case, proceeding or other action (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, relief of debtors or the like, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to all or substantially all of its debts, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, or Vertex or any of its Subsidiaries shall make a general assignment for the benefit of its creditors;

(ii) there shall be commenced against Vertex or any of its Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above that remains undismissed or undischarged for a period of 90 calendar days;

(iii) there shall be commenced against Vertex or any of its Subsidiaries any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against (a) all or any substantial portion of its assets and/or (b) the Milestone Payment, which results in the entry of an order for any such relief that shall not have been vacated, discharged, stayed, satisfied or bonded pending appeal within 45 calendar days from the entry thereof; or

(iv) Vertex or any of its Subsidiaries shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), clause (ii) or clause (iii) above.

"Bill of Sale" shall mean the bill of sale substantially in the form of **Exhibit A**.

"Business Day" shall mean any day other than a Saturday, a Sunday, any day that is a legal holiday under the laws of the State of New York, The Commonwealth of Massachusetts or Luxembourg, or any day on which banking institutions located in the State of New York, The Commonwealth of Massachusetts or Luxembourg are authorized or required by law or other governmental action to close.

"Code" shall have the meaning set forth in Section 7.07(b).

"Confidential Information" shall mean, as it relates to any party (or its Affiliates) who provides information (the "Disclosing Party") to the other party hereto, all information (whether written or oral, or in electronic or other form) furnished before or after the Effective Date concerning, or relating in any way, directly or indirectly, to the Disclosing Party or its Affiliates (including, in the case of the Purchaser, any of its equityholders) including the terms, conditions and provisions of this Agreement and any other Transaction Document, and in the case of information provided by Vertex or its Affiliates, relating to the Purchased Interest or the

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Milestone Payment, including (i) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the Janssen Agreement) involving or relating in any way, directly or indirectly, to the Purchased Interest, the Milestone Payment or the circumstances giving rise to the Purchased Interest, and including all terms and conditions thereof and the identities of the parties thereto, (ii) any reports, data, materials or other documents of any kind relating in any way, directly or indirectly, to the Disclosing Party or its Affiliates, the Purchased Interest, the Milestone Payment or the circumstances giving rise to the Purchased Interest, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (i) above, and (iii) 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 Interest or the circumstances giving rise to the Purchased Interest. Notwithstanding

the foregoing definition, "Confidential Information" shall not include information that is (v) independently developed or discovered by the Receiving Party without use of or access to any Confidential Information, as demonstrated by documentary evidence, (w) already in the public domain at the time the information is disclosed or has become part of the public domain after such disclosure through no breach of this Agreement, (x) lawfully obtainable from other sources, (y) required to be disclosed in any document to be filed with any Governmental Authority or (z) required to be disclosed by court or administrative order or under securities laws, rules and regulations applicable to any party hereto or pursuant to the rules and regulations of any stock exchange or stock market on which securities of Vertex or its Affiliates or the Purchaser or its Affiliates may be listed for trading.

"Discrepancy" shall have the meaning set forth in Section 2.02(b).

"Effective Date" shall have the meaning set forth in the preamble.

"Excluded Liabilities and Obligations" shall have the meaning set forth in Section 2.04.

"Final Determination" shall have the meaning set forth in Section 7.07(e).

"Financing Statement" shall have the meaning set forth in Section 2.01(c).

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and (2) the statements and pronouncements of the Financial Accounting Standards Board.

"Governmental Authority" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"Janssen" shall mean Janssen Pharmaceutica, N.V., a Belgium corporation, including its successors and assigns.

"Janssen Agreement" shall mean the License, Development, Manufacturing and Commercialization Agreement by and between Vertex and Janssen effective as of June 30, 2006,

as such agreement is amended and in effect on the date hereof, together with the Janssen Consent and the Ancillary Janssen Documents, except as expressly set forth herein, as each may be amended and/or restated from time to time after the date hereof in accordance with the terms of this Agreement and any new, substitute or amended agreement by and between Vertex and Janssen relating to the Milestone Payment made after the date hereof in accordance with the terms of this Agreement.

"Janssen Consent" shall have the meaning in Section 3.03.

"Knowledge" shall mean, with respect to Vertex, the knowledge of any of the following officers or employees of Vertex: the Chief Executive Officer; the Chief Medical Officer; the General Counsel; the Chief Scientific Officer; the Chief Financial Officer; the Chief Commercial Officer; the Vice President and Corporate Controller; the Head, Business Development & Licensing; and the Deputy General Counsel. An individual will be deemed to have "knowledge" of a particular fact or other matter if (i) such individual has or at any time had actual knowledge of such fact or other matter or (ii) a prudent individual would be expected to discover or otherwise become aware of such fact or other matter in the course of his or her responsibilities in his or her capacity as an officer or employee of Vertex or in the course of conducting a reasonably diligent review concerning the existence thereof with any employee of Vertex or any of its Subsidiaries who, at the Effective Date, reports directly to such individual and who (x) has responsibilities or (y) would reasonably be expected to have actual knowledge of circumstances or other information, in each case, that would reasonably be expected to be pertinent to such fact or other matter. Notwithstanding anything in this definition to the contrary, Vertex will be deemed to have knowledge of any fact or matter that is the subject of, or referred to within, any written notice it or any of its Subsidiaries has received (whether in hard copy, digital or electronic format).

"Lien" shall mean any lien, hypothecation, charge, instrument, license, preference, priority, security agreement, security interest, mortgage, option, right of first refusal, privilege, pledge, liability, covenant or order, or any encumbrance, restriction, right or claim of any other Person or Governmental Authority of any kind whatsoever, whether choate or inchoate, filed or unfiled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, other than any of the above created solely in favor of the Purchaser by the Transaction Documents.

"Losses" shall mean, collectively, any and all claims, damages, losses, judgments, liabilities, costs and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses), excluding punitive damages, except to the extent punitive damages are paid to a third party.

"Milestone Event" shall mean the milestone event numbered "9" set forth in the table in Section 9.2.1 of the Janssen Agreement.

"Milestone Payment" shall mean collectively (i) an amount equal to **[***]** due and payable to Vertex under Section 9.2.1 of the Janssen Agreement upon the occurrence of Milestone Event **[***]** due and payable to Vertex under Section 9.2.1 of the Janssen Agreement upon the occurrence of Milestone Event; (ii) the Purchaser's Pro-Rata Portion of all additional amounts added to the Milestone Payment under any provision of the Janssen Agreement,

including any interest assessed in connection with a delay in the payment by Janssen of the Milestone Payment represented by the Purchased Interest pursuant to Section 9.10 of the Janssen Agreement; (iii) all accounts (as defined under the UCC) evidencing the rights to the payment and amount described in clauses (i) and (ii) above; and (iv) all proceeds (as defined under the UCC) of the foregoing.

"Payment Direction" shall have the meaning set forth in Section 2.06(b).

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind, but not including a Governmental Authority.

"Pro-Rata Portion" shall mean, with respect to Vertex, **[***]** and, with respect to the Purchaser, **[***]**.

"Prohibited Amendment" shall mean any amendment, modification, restatement or supplement of any provision of the Janssen Agreement that changes in any way (i) the event underlying the Milestone Event, (ii) the amount of the Milestone Payment or (iii) the timing of the payment of the Milestone Payment by Janssen after achievement of the Milestone Event by Janssen. For avoidance of doubt' any termination of the Janssen Agreement shall not be deemed a Prohibited Amendment.

"Purchased Interest" shall mean collectively (i) an undivided 100% interest in the right to receive the Milestone Payment, (ii) the right to enforce directly against Janssen the right to payment of all or any portion of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement, and (iii) the right to transfer or assign entitlement to all or a portion of the Milestone Payment represented by the Purchased Interest to third parties in accordance with the terms of this Agreement.

"Purchase Price" shall have the meaning set forth in Section 2.03.

"Purchaser" shall have the meaning set forth in the preamble and shall include its successors and assigns.

"Purchaser Account" shall have the meaning set forth in Section 5.03(c).

"Purchaser Indemnified Party" shall have the meaning set forth in Section 7.05(a).

"Recharacterization" shall have the meaning set forth in Section 2.01(d).

"Recipient" shall have the meaning set forth in Section 5.01(a).

"Report" shall have the meaning set forth in Section 3.16.

"Retained Milestone Payment" shall mean U.S. **[***]** of the total amount payable to Vertex or any of its Affiliates under Section 9.2.1 of the Janssen Agreement upon the occurrence of Milestone Event.

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"Section 9.2.2 Notice" shall have the meaning set forth in Section 5.04(b).

"Set-off" shall mean any set-off, rescission, counterclaim, defense, reduction or deduction of any kind. Without limiting the generality of the foregoing, the term Set-off shall include the right by Janssen to reduce the amount of the Milestone Payment for any reason, including without limitation in connection with (i) a breach by Vertex of the Janssen Agreement, (ii) any anti stacking or similar rights with respect to payments to third parties for access to intellectual property rights or data, (iii) any discounted payment obligations in connection with third party sales of generic competitive products, (iv) any rights to credit against any payment obligations any costs, expenses or liabilities of Janssen under the Janssen Agreement, including with respect to (a) Global Development Costs (as defined in the Janssen Agreement), (b) any costs and expenses of patent prosecution, maintenance or enforcement, or (c) defense of third party infringement claims, or (v) any amounts paid or payable pursuant to any indemnification rights or obligations of Vertex or Janssen under the Janssen Agreement.

"Subsidiary" or "Subsidiaries" shall mean with respect to any Person (i) any corporation of which the outstanding capital stock having at least a majority of votes entitled to be cast in the election of directors (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time be owned, directly or indirectly, by such Person or by another subsidiary of such Person or (ii) any other Person of which at least a majority voting interest (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another subsidiary of such Person.

"Third Party Claim" shall have the meaning set forth in Section 7.05(c).

"Transaction Documents" shall mean, collectively, this Agreement, the Bill of Sale and the Payment Direction.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, 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 Purchaser's ownership interest in the Purchased Interest or of the back-up security interest granted pursuant to Section 2.01(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" shall mean the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"Vertex" shall have the meaning set forth in the preamble, and its permitted successors and assigns.

"Vertex Indemnified Party" shall have the meaning set forth in Section 7.05(b).

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ARTICLE II
PURCHASE AND SALE OF THE PURCHASED INTEREST

Section 2.01 Purchase and Sale.

(a) Subject to the terms and conditions of this Agreement, on the Effective Date Vertex hereby sells, assigns, transfers and conveys to the Purchaser and the Purchaser hereby purchases, acquires and accepts from Vertex all of Vertex's right, title and interest in and to the Purchased Interest free and clear of any and all Liens.

(b) Vertex and the Purchaser intend and agree that the sale, assignment, transfer and conveyance of the Purchased Interest under this Agreement shall be, and is, a true, absolute and irrevocable sale and assignment by Vertex to the Purchaser of the Purchased Interest and that such assignment and sale shall provide the Purchaser with the full benefits of ownership of the Purchased Interest. Neither Vertex nor the Purchaser intends the transactions contemplated hereunder to be, or for any purpose characterized as, a financing transaction, borrowing or a loan from the Purchaser to Vertex. Vertex waives any right to contest or otherwise assert that this Agreement is other than a true, absolute and irrevocable sale and assignment by Vertex to the Purchaser of the Purchased Interest under applicable law, which waiver shall be enforceable against Vertex in any bankruptcy, insolvency or similar proceeding relating to Vertex. In view of the intention of the parties hereto that the sale of the Purchased Interest hereunder shall constitute a true sale thereof rather than a loan secured thereby, Vertex acknowledges and agrees that it has marked its books and records relating to the Purchased Interest to indicate the sale thereof to the Purchaser and will note in its financial statements that the Purchased Interest has been sold to the Purchaser**.**

(c) Vertex hereby consents to the Purchaser recording and filing, at the Purchaser's sole cost and expense, any financing statements (and continuation statements with respect to such financing statements when applicable) or other instruments and notices, in such manner and in such jurisdictions as in the Purchaser's reasonable determination are necessary or appropriate to evidence the purchase, acquisition and acceptance by the Purchaser of the Purchased Interest and to perfect and maintain the perfection of (i) the Purchaser's ownership interest in the Purchased Interest and (ii) the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d). All such financing statements and continuation statements shall be in substantially the form set forth in **Exhibit B** with such changes as the Purchaser may reasonably request in furtherance of the foregoing (the "Financing Statement").

(d) Notwithstanding that Vertex and the Purchaser expressly intend for the sale, transfer, assignment and conveyance of the Purchased Interest to be a true and absolute sale and assignment, in the event that such sale and assignment shall be characterized as a secured loan and not a sale or such sale shall for any reason be ineffective or unenforceable (any of the foregoing being a "Recharacterization"), then this Agreement shall be deemed to constitute a security agreement under the UCC and other applicable law. For this purpose and without being in derogation of the parties' intention that the sale of the Purchased Interest shall constitute a true and absolute sale and assignment thereof, Vertex hereby grants to the Purchaser a security interest in all of Vertex's right, title and interest in and to the Purchased Interest and all proceeds

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thereof, to secure the prompt and complete payment of a loan deemed to have been made in an amount equal to the Purchase Price, which security interest shall, upon the filing of a duly prepared financing statement in the appropriate filing office, be perfected and prior to all other Liens thereon. In the case of any Recharacterization, the Purchaser shall have, in addition to the rights and remedies which they may have under this Agreement, all other rights and remedies provided to a secured creditor after default under the UCC and other applicable law, which rights and remedies shall be cumulative. In the case of any Recharacterization, each of Vertex and the Purchaser represents and warrants as to itself that each remittance of the Milestone Payment or any portion thereof or any other payment in respect of the Purchased Interest by or on behalf of Vertex to the Purchaser hereunder will have been (i) in payment of a debt incurred by Vertex in the ordinary course of business or financial affairs of Vertex and the Purchaser and (ii) made in the ordinary course of business or financial affairs of Vertex and the Purchaser.

Section 2.02 Entitlement to Payments.

(a) Vertex agrees that the Purchaser is entitled to the Purchased Interest and the Purchaser may enforce directly against Janssen the right to payment of any portion of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement.

(b) For avoidance of doubt, the parties hereto understand and agree that if Janssen fails to pay the Milestone Payment in full when Vertex or the Purchaser reasonably believes the Milestone Payment is due under the Janssen Agreement, except for any Set-off made by Janssen against the Milestone Payment (each such unpaid amount, a "Discrepancy"), then Vertex shall not be obligated to pay to the Purchaser or otherwise compensate or make the Purchaser whole with respect to any such Discrepancy; provided, however, that nothing in this Section 2.02(b) shall limit or affect in any respect the rights of the Purchaser under Section 5.05 or of any Purchaser Indemnified Party under Section 7.05. Notwithstanding the foregoing, in the event that the Milestone Payment is not paid in full by Janssen due to Janssen asserting or effecting a Set-off against the Milestone Payment pursuant to the Janssen Agreement (whether or not any such Set-off was disclosed hereunder) or Janssen otherwise does not, following the occurrence of the Milestone Event, pay the Milestone Payment in full due to any breach by Vertex of the Janssen Agreement, Vertex shall be liable for, and shall pay the Purchaser the amount of any such Set-off or Discrepancy on the date the Milestone Payment is paid or payable to the Purchaser hereunder, which in any event shall not exceed the amount of the Milestone Payment. Vertex shall be entitled to any such amounts that it pays to Purchaser if Janssen subsequently pays such amount.

Section 2.03 Purchase Price.

In full consideration for the sale, assignment, transfer and conveyance of the Purchased Interest, and subject to the terms and conditions set forth herein, the Purchaser shall pay to Vertex on the Effective Date, the sum of U.S. $15,528,988 by wire transfer of immediately available funds to an account designated in writing by Vertex (the "Purchase Price").

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Section 2.04 No Assumed Obligations.

The Purchaser is purchasing, acquiring and accepting only the Purchased Interest and the contractual rights and obligations set forth in this Agreement and is not assuming any liability or obligation of Vertex or any of its Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter, whether under the Janssen Agreement or any Transaction Document or otherwise. All such liabilities and obligations shall be retained by and remain obligations and liabilities of Vertex or its Affiliates (the "Excluded Liabilities and Obligations").

Section 2.05 Excluded Assets.

Notwithstanding any provision in this Agreement or any other writing to the contrary, 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 Vertex under the Janssen Agreement, including the Retained Milestone Payment, other than the Purchased Interest, or any other assets or rights of Vertex. For avoidance of doubt, Vertex retains (i) an undivided 100% interest in the right to receive the Retained Milestone Payment, (ii) Vertex's Pro-Rata Portion of all additional amounts added to the Milestone Payment under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the Milestone Payment pursuant to Section 9.10 of the Janssen Agreement, (iii) the right to enforce directly against Janssen the right to payment of all or any portion of the Retained Milestone Payment when earned upon achievement of Milestone Event pursuant to the Janssen Agreement, (iv) the right to transfer or assign entitlement to all or a portion of the Retained Milestone Payment to third parties, and (v) the other contractual rights related thereto contained in the Janssen Agreement.

Section 2.06 Closing Deliverables.

Simultaneous with the closing of the transactions contemplated hereby on the Effective Date:

(a) Bill of Sale. Vertex and the Purchaser shall execute, and deliver to the other party hereto, the Bill of Sale.

(b) Payment Direction. Vertex shall sign and deliver to the Purchaser a copy of the irrevocable direction to Janssen to pay the Milestone Payment evidenced by the Purchased Interest directly to the Purchaser Account in the form set forth in **Exhibit C** (the "Payment Direction").

(c) Corporate Documents of Vertex. An executive officer of Vertex shall sign and deliver to the Purchaser certificates dated as of the Effective Date: (i) attaching copies, certified by such officer as true and complete, of resolutions of the board of directors of Vertex authorizing and approving the execution, delivery and performance by Vertex of the Transaction Documents and the transactions contemplated herein and therein; (ii) setting forth the incumbency of the officer or officers of Vertex who have executed and delivered the Transaction Documents, including therein a signature specimen of each officer or officers; (iii) attaching copies, certified by such officer as true and complete, of each of the articles of organization and by-laws of Vertex as in effect on the Effective Date; and (iv) attaching copies, certified by such

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officer as true and complete, of long form good standing certificates of the appropriate Governmental Authority of Vertex's jurisdiction of incorporation, stating that Vertex is in good standing under the laws of such jurisdiction.

(d) Other Documents and Financing Statements. Vertex shall sign or deliver to the Purchaser such other certificates, documents and financing statements as the Purchaser may request, including the Financing Statement, to perfect and maintain the perfection of the Purchaser's ownership interest in the Purchased Interest and the back-up security interest granted pursuant to Section 2.01(d).

(e) The Purchaser shall have received the opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, transaction counsel to Vertex, in form and substance satisfactory to the Purchaser and its counsel to the effect set forth in **Exhibit D**.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF VERTEX

Vertex hereby represents and warrants to the Purchaser, as of the Effective Date, the following:

Section 3.01 Organization.

Vertex is a corporation duly incorporated, validly existing and in good standing under the laws of The Commonwealth of Massachusetts. Vertex has all corporate powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted. Vertex is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

Section 3.02 Corporate Authorization.

Vertex has all necessary corporate power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by Vertex, and each Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of Vertex, enforceable against Vertex in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 3.03 Governmental and Third Party Authorization.

The execution and delivery by Vertex of the Transaction Documents, and the performance by Vertex of its obligations and the consummation by Vertex 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 Person, except for (i) the filing of proper financing statements

under the UCC (ii) the filing of a Current Report on Form 8-K with the Securities and Exchange Commission and (iii) the Janssen Consent. Vertex has obtained prior to its execution and delivery of this Agreement the consent of Janssen required under Section 15.2 of the Janssen Agreement with respect to the assignment and transfer of all of Vertex's right, title and interest in and to the Purchased Interest to the Purchaser and the consummation of the other transactions contemplated by the Transaction Documents (the "Janssen Consent"), which consent is in full force and effect.

Section 3.04 Ownership.

Vertex is the exclusive owner of the entire right, title (legal and equitable) and interest in and to the Purchased Interest, free and clear of all Liens. Upon the sale, assignment, transfer and conveyance by Vertex of all of its right, title and interest in and to the Purchased Interest to the Purchaser, the Purchaser will acquire good and marketable title to the Purchased Interest free and clear of all Liens. Upon the filing of an appropriate financing statement with the office of the Secretary of the Commonwealth of The Commonwealth of Massachusetts, there will have been duly filed all financing statements or other similar instruments or documents necessary under the applicable UCC (or any comparable law) of all applicable jurisdictions to perfect and maintain the perfection of the Purchaser's ownership interest in the Purchased Interest and of the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d).

Section 3.05 Solvency.

Upon the sale of the Purchased Interest as contemplated by the Transaction Documents, (i) the fair saleable value of Vertex's assets will be greater than the sum of its debts and other obligations, including contingent liabilities, (ii) the present fair saleable value of Vertex'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, (iii) Vertex will be able to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (iv) Vertex will not have unreasonably small capital with which to engage in its business, and (v) Vertex will not incur, nor does it 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.

Section 3.06 No Litigation.

There is no (i) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending or, to the Knowledge of Vertex, threatened by or against Vertex or any of its Subsidiaries or, to the Knowledge of Vertex, pending or threatened by or against Janssen, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the Knowledge of Vertex, threatened against Vertex or any of its Subsidiaries or, to the Knowledge of Vertex, pending or threatened against Janssen, which, in each case with respect to clause (i) or clause (ii) above, (A) if adversely determined, would reasonably be expected to have, individually or in the aggregate, an Adverse Effect, or (B) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents. To

the Knowledge of Vertex, no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement of any such action, suit, arbitration, claim, investigation, proceeding or inquiry.

Section 3.07 Compliance with Laws.

None of Vertex or any of its Subsidiaries is (i) in violation of, or has violated or has been given notice of any violation, or, to the Knowledge of Vertex, is under investigation with respect to, or has been threatened to be charged with any violation of, any law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority or (ii) subject to any judgment, order, writ, decree, permit or license granted, issued or entered by any Governmental Authority, in the case of both clause (i) and clause (ii) above, that would reasonably be expected to have, individually or in the aggregate, an Adverse Effect. To the Knowledge of Vertex, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or result in a violation by Vertex or any of its Subsidiaries of, or a failure on the part of Vertex or

any of its Subsidiaries 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 reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

Section 3.08 No Conflicts.

Neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which Vertex or any of its Subsidiaries or any of their respective assets or properties may be subject or bound, (B) any contract, agreement, commitment or instrument to which Vertex or any of its Subsidiaries is a party or by which Vertex or any of its Subsidiaries or any of their respective assets or properties is bound or committed or (C) any provisions of the articles of organization or by-laws (or other organizational or constitutional documents) of Vertex or any of its Subsidiaries; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of Vertex or any of its Subsidiaries; (iii) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Purchased Interest; or (iv) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, give to any other Person the right to terminate (provided, however, that neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent Janssen's ability to terminate the Janssen Agreement under Section 13.2 thereof), or accelerate the performance provided by, in any respect, any provision of the Janssen Agreement; provided, however, that, in the case of clause (i)(B) or clause (ii), such contravention, conflict, breach, violation, default or acceleration would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

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Section 3.09 Broker's Fees.

Vertex has not taken any action that would entitle any Person other than Morgan Stanley & Co. Incorporated (whose fees shall be paid by Vertex) to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 3.10 Subordination.

The claims and rights of the Purchaser created by any Transaction Document in and to the Purchased Interest are not and shall not, at any time, be subordinated by Vertex to any creditor of Vertex or any other Person or Governmental Authority.

Section 3.11 Janssen Agreement.

(a) Other than the Janssen Agreement and the Transaction Documents, there is no contract, agreement or other arrangement (whether written or oral) to which either Vertex or any of its Subsidiaries is a party or by which any of their respective assets or properties is bound or committed (i) that creates a Lien on the Purchased Interest or (ii) the breach, nonperformance, cancellation or termination of which would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

(b) Vertex has provided the Purchaser a redacted copy of the Janssen Agreement (with the Ancillary Janssen Documents redacted) and a true, accurate and complete copy of each confidentiality agreement relating thereto and the Janssen Consent. The redacted copy of the Janssen Agreement provided by Vertex to the Purchaser as described above, together with information that has been publicly disclosed by Vertex or is otherwise publicly available, in each case, prior to the Effective Date, contains all of the material provisions of, and information contained in, the Janssen Agreement with respect to the Purchased Interest. The redacted portions of the Janssen Agreement do not contain any provisions that would reasonably be expected to (i) result in an Adverse Effect or (ii) have a material adverse effect on the timing or likelihood of achievement of the Milestone Event. The Janssen Agreement constitutes the entire agreement between Vertex and Janssen (and their respective Affiliates) relating to the Purchased Interest.

(c) The Janssen Agreement is the legal, valid and binding obligation of Vertex and, to the Knowledge of Vertex, Janssen, enforceable against Vertex and, to the Knowledge of Vertex, Janssen in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles. The execution, delivery and performance of the Janssen Agreement was and is within the corporate powers of Vertex and, to the Knowledge of Vertex, Janssen. The Janssen Agreement was duly authorized by all necessary action on the part of, and validly executed and delivered by, Vertex and, to the Knowledge of Vertex, Janssen. There is no breach or default, and no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or give rise to a breach or default, in the performance of the Janssen Agreement by Vertex or, to the Knowledge of Vertex, Janssen, which breach, default, event or circumstance in either case would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect or a material adverse effect on the timing or likelihood of achievement of the Milestone Event. To the Knowledge of Vertex, no event has occurred or

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circumstance exists that (with or without notice or lapse of time, or both) would give either Janssen or Vertex the right to terminate the Janssen Agreement (except pursuant to Section 13.2 thereof). From and after the Effective Date, the Purchaser shall be entitled to enforce directly against Janssen the right to payment of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement.

(d) Vertex (i) has not waived any rights or defaults under the Janssen Agreement and (ii) has not taken any action or omitted to take any action under the Janssen Agreement, in each case with respect to clause (i) and clause (ii), that materially adversely affects the Purchaser's rights under any of the

Transaction Documents, including Section 2.02 hereof.

(e) Vertex has not received any notice and has no Knowledge (i) of Janssen's intention to terminate the Janssen Agreement, in whole or in part, (ii) of Janssen's intention to effectuate a Prohibited Amendment, (iii) of Janssen's or any other Person's or Governmental Authority's (where applicable) intention to challenge the validity or enforceability of the Janssen Agreement or the obligation of Janssen to pay the Milestone Payment under the Janssen Agreement upon achievement of the Milestone Event or (iv) that Vertex or Janssen is in default of any of its material obligations under the Janssen Agreement. Vertex (i) has no intention of terminating the Janssen Agreement and has not given Janssen any notice of termination of the Janssen Agreement, in whole or in part, and (ii) has no intention to effectuate a Prohibited Amendment and has not given Janssen any request to effectuate a Prohibited Amendment.

(f) Except as provided in Sections 9.9 and 13.4.1 of the Janssen Agreement, Vertex is not a party to any agreement providing for or permitting a sharing of, or Set-off against, the Milestone Payment.

(g) Vertex has all licenses, authorizations, consents and approvals of all Governmental Authorities required to exercise its rights and to perform its obligations under the Janssen Agreement. The sale by Vertex of Vertex's right, title and interest in and to the Purchased Interest to the Purchaser will not require the approval, consent, ratification, waiver, or other authorization of Janssen or any other Person or Governmental Authority under the Janssen Agreement or otherwise and will not constitute a breach of or default or event of default under the Janssen Agreement or any other agreement or law.

(h) Vertex has not consented to an assignment (by operation of law or otherwise) by Janssen of any of Janssen's rights or obligations under the Janssen Agreement with respect to the Purchased Interest, nor does Vertex have Knowledge of any such assignment (by operation of law or otherwise) by Janssen.

(i) Neither Vertex nor Janssen has made any claim of indemnification under the Janssen Agreement nor, to the Knowledge of Vertex, have there been any events or circumstances that would give rise to a right of such claim by Vertex or Janssen.

(j) Vertex received prior to the date hereof payment in full from Janssen (without any Set-offs by Janssen) for the milestone events numbered "1" through (and including) "5" set forth in the table in Section 9.2.1 of the Janssen Agreement, in each case in the full amount and within the time set forth in the Janssen Agreement.

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(k) No portion of the Milestone Payment was payable to Vertex or received by Vertex or any of its Affiliates on or prior to the date of this Agreement.

Section 3.12 No Set-offs.

Other than as set forth in Section 9.9 and Section 13.4.1 of the Janssen Agreement, Janssen has no right of Set-off under any contract (including the Janssen Agreement) or other agreement against the Milestone Payment payable to Vertex under the Janssen Agreement. Janssen has not exercised, and, to Vertex's Knowledge, Janssen has not had the right to exercise, and, to Vertex's Knowledge, no event or condition exists that, upon notice or passage of time or both, would reasonably be expected to permit Janssen to exercise, any Set-off against the Milestone Payment payable to Vertex under the Janssen Agreement.

Section 3.13 UCC Representations and Warranties.

Vertex's exact legal name is, and for the immediately preceding 10 years has been, "Vertex Pharmaceuticals Incorporated". The principal place of business and chief executive office of Vertex for the immediately preceding 10 years and the office where it keeps its books and records relating to the Purchased Interest are located at the address(es) set forth on Schedule 3.13 attached hereto. Vertex's Massachusetts organizational identification number and Federal Employer Identification Number are as set forth on Schedule 3.13 attached hereto.

Section 3.14 Taxes.

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 Vertex under the Janssen Agreement.

Section 3.15 Intellectual Property.

(a) Vertex has the right, whether by ownership or license, to grant Janssen the rights and licenses to the Vertex intellectual property rights described in the Janssen Agreement, including the Vertex Patent Rights, the Vertex Know-How, and Vertex's rights under Joint Patent Rights (as such terms are defined in the Janssen Agreement), except where the failure to have such right to license would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect and to the Knowledge of Vertex, Janssen has full right and interest in the Janssen intellectual property rights described in the Janssen Agreement, including the Janssen Patent Rights, the Janssen Know-How (as such terms are defined in the Janssen Agreement), and Janssen's rights under Joint Patent Rights, free and clear of all Liens, except where the failure to have full right and interest or the existence of such Liens would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(b) To the actual knowledge of any of the Vertex employees or officers listed in the definition of "Knowledge" herein, no third party owns any intellectual property rights that would necessarily be infringed, misappropriated or otherwise violated by the development, manufacture, use, sale or importation of a Compound, Product Candidate, or Combination Product (as such terms are defined in the Janssen Agreement).

(c) Except for the Vertex Patent Rights, Vertex Know-How, and Vertex's rights under Joint Patent Rights, Vertex does not own or control any intellectual property rights that would be necessary to the achievement by Janssen of the Milestone Event. Vertex does not own or control any intellectual property or data resulting from Additional Development Activities (as defined in the Janssen Agreement).

(d) No claims have been made or, to the Knowledge of Vertex, threatened against Vertex since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or the development, manufacture, use sale or importation thereof, infringes, misappropriates, or otherwise violates any intellectual property right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(e) To the Knowledge of Vertex, no claims have been made or threatened against Janssen since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or any use thereof by Janssen, infringes, misappropriates, or otherwise violates any intellectual property right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(f) To the actual knowledge of any of the Vertex employees or officers listed in the definition of "Knowledge" herein, Janssen is currently not infringing, misappropriating, or otherwise violating in any respect any of Vertex's intellectual property rights relating to the Compound or Product Candidate.

(g) To the Knowledge of Vertex, the Vertex Patent Rights and Vertex's interest in any Joint Patent Rights are valid and enforceable, and no third party is currently challenging, or has challenged, the validity or enforceability of any Vertex Patent Rights, Vertex Know-How, Vertex's rights under Joint Patent Rights, Janssen Patent Rights, Janssen Know-How or Janssen's rights under Joint Patent Rights in any respect, except where any such invalidity, unenforceability or challenge to validity or enforceability would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(h) All of the representations and warranties made by Vertex, in the Janssen Agreement were accurate and complete in all material respects as of the "Effective Date" of the Janssen Agreement, in each case subject to any qualifiers set forth therein.

Section 3.16 Certain Information.

Notwithstanding Section 4.07, all information provided or made available by or on behalf of Vertex or any of its Affiliates or representatives to L.E.K. Consulting LLC or any of its Affiliates or representatives in connection with the report prepared by L.E.K. Consulting LLC entitled "Telaprevir Milestone Assessment" dated July 8, 2009 (the "Report"), was, on the date so provided or made available to L.E.K. Consulting LLC, and is as of the Effective Date, true and correct in all material respects.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Section 3.17 Consolidation.

As of the Effective Date, Vertex does not believe that the Securities and Exchange Commission or GAAP requires Vertex to report its financial results on a consolidated basis with the financial results of the Purchaser as a result of Vertex entering into this Agreement or consummating the transactions contemplated by this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to Vertex, as of the Effective Date, the following:

Section 4.01 Organization.

The Purchaser is a société anonyme, duly formed, validly existing and in good standing under the laws of the Grand Duchy of Luxembourg. The Purchaser has all necessary powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents.

Section 4.02 Authorization.

The Purchaser has all necessary power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations of the Purchaser to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by the Purchaser, and each Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 4.03 Governmental and Third Party Authorization.

The execution and delivery by the Purchaser of the Transaction Documents, and the performance by the Purchaser of its obligations 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.

Section 4.04 No Litigation.

There is no (i) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending, or, to the knowledge of the Purchaser, threatened by or against the Purchaser, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the knowledge of the Purchaser, threatened against the

Purchaser, which, in each case with respect to clause (i) or clause (ii) above, (A) if adversely determined would reasonably be expected to have, individually or in the aggregate, a material adverse effect on (x) the right or ability of the Purchaser to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder or (y) the rights or remedies of Vertex and its Affiliates under any of the Transaction Documents, or an adverse effect on the legality, validity or enforceability of any of the Transaction Documents, (B) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents.

Section 4.05 No Conflicts.

Neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby or thereby will contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (i) 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 Purchaser or any of its assets or properties may be subject or bound, (ii) any contract, agreement, commitment or instrument to which the Purchaser is a party or by which the Purchaser or any of its assets or properties is bound or committed or (iii) any provisions of the organizational or constitutional documents of the Purchaser, except in the case of clause (ii) above, as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the right or ability of the Purchaser to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder.

Section 4.06 Broker's Fees.

The Purchaser has not taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 4.07 Access to Information.

The Purchaser acknowledges that it has (i) reviewed a redacted copy of the Janssen Agreement (with, for the avoidance of doubt, the Ancillary Janssen Documents redacted) and the Report (in reliance on the representations and warranties of Vertex set forth herein, including Section 3.11(b)) and (ii) had the opportunity to ask questions of, and to receive answers from, representatives of Vertex concerning the Janssen Agreement and the Milestone Payment. The Purchaser has such knowledge, sophistication and experience in financial and business matters that it is capable of evaluating the risks and merits of purchasing, acquiring and accepting the Purchased Interest in accordance with the terms of this Agreement. The Purchaser acknowledges and agrees that (i) the Report was furnished to the Purchaser by Vertex for the Purchaser's convenience, (ii) the Report was not prepared by Vertex, (iii) Vertex did not, and does not, adopt or endorse the contents of the Report, (iv) the Report constitutes the work product solely of L.E.K. Consulting LLC and (v) Vertex disclaims any representation, either express or implied, that the information in the Report is accurate or that the statements in the Report coincide with Vertex's views.

ARTICLE V
COVENANTS

The parties hereto covenant and agree as follows:

Section 5.01 Confidentiality; Public Announcement.

(a) Except as otherwise required by law or the rules and regulations of any securities exchange or trading system or any Governmental Authority and except as otherwise set forth in this Section 5.01, any party who is provided or furnished with any Confidential Information (the "Recipient") will, and will cause each of its Affiliates, directors, officers, employees, agents, representatives and similarly situated persons who receive such Confidential Information to, treat and hold as confidential and not disclose to any Person or Governmental Authority any and all Confidential Information furnished to it by the other Party, and to use any such Confidential Information only in connection with this Agreement and any other Transaction Document and the transactions contemplated hereby and thereby. Notwithstanding the foregoing, the Recipient may disclose such information on a need-to-know basis to its members, directors, employees, managers, officers, agents, brokers, advisors, lawyers, bankers, trustees and representatives (and, in the case of the Purchaser, also its actual and potential partners or equityholders (or their potential transferees), investors (including any holder of debt securities of the Purchaser and its agents and representatives), co-investors, insurers and insurance brokers, underwriters and financing parties) and potential transferees of the Purchased Interest; provided, however, that such Persons shall be informed of the confidential nature of such information and shall be obligated to keep such Confidential Information confidential pursuant to obligations of confidentiality no less onerous than those set forth herein. Other than information (whether part of a report, notice or otherwise) specifically required to be provided by Vertex to the Purchaser under this Agreement, Vertex agrees not to provide the Purchaser with any Confidential Information without the prior written consent of the Purchaser. Notwithstanding anything else to the contrary contained in this Agreement, if Vertex's compliance with the prior sentence not to provide the Purchaser with Confidential Information (other than with respect to information specifically required to be provided by Vertex to the Purchaser under this Agreement) causes Vertex to be in breach of another provision of this Agreement, Vertex shall not be deemed to be in breach of such provision.

(b) Vertex and the Purchaser acknowledge that each party hereto will not, after the execution of this Agreement, make a public announcement or filing with respect to the transactions contemplated by the Transaction Documents or reference or describe such transactions in an public announcement or filing, without the Purchaser or Vertex, as applicable, having a reasonable prior opportunity to review such public announcement or filing by the other party. Any public disclosure regarding the transactions contemplated by the Transaction Documents shall be in a form mutually acceptable to the Purchaser and Vertex. Either party hereto may, after compliance with the foregoing obligations, thereafter disclose any information contained in such public announcement or filing at any time without the consent of the other party hereto.

(c) Except as required by applicable law, rule or regulation, neither Vertex nor any of its Affiliates shall disclose to any Person or Governmental Authority or use or include in any

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public announcement or any public filing, the identity of any shareholders, members, directors or Affiliates of the Purchaser, without the prior written consent of such shareholder, member, director or Affiliate.

(d) Notwithstanding anything to the contrary in this Agreement, Vertex shall have no obligation under this Agreement to provide the Purchaser with any information (whether part of a report, notice or otherwise) if disclosure by Vertex to the Purchaser of such information would constitute a breach by Vertex of any confidentiality obligation to Janssen or any other Person pursuant to the Janssen Agreement, as in effect on the date hereof.

Section 5.02 Further Assurances.

The Purchaser and Vertex agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable, or reasonably requested by the other party hereto, in each case at the expense of the Purchaser, in order to vest and maintain in the Purchaser good and marketable title in and to the Purchased Interest free and clear of all Liens, including the perfection and maintenance of perfection of the Purchaser's ownership interest in the Purchased Interest and of the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d).

Section 5.03 Payments to Vertex on Account of the Purchased Interest.

(a) Notwithstanding the terms of the Payment Direction, if Janssen or any other Person makes any payment to Vertex or any of its Subsidiaries or Affiliates on account of the Purchased Interest, then Vertex promptly, and in any event no later than three Business Days following the receipt by Vertex or such Subsidiary or Affiliate of such payment, shall remit such payment to the Purchaser Account pursuant to Section 5.03(c).

(b) All payments made to Vertex (or any of its Subsidiaries or Affiliates) on account of the Purchased Interest shall be held by Vertex (or such Subsidiary or Affiliate) in trust for the benefit of the Purchaser until remitted to the Purchaser Account pursuant to Section 5.03(c) and Vertex or its Subsidiaries or Affiliates shall have no right, title or interest whatsoever in such amounts and shall not create or suffer to exist any Lien thereon.

(c) Vertex shall make all payments to be made by Vertex pursuant to Section 2.02(b), Section 5.03(a) or Section 5.03(b) of this Agreement by wire transfer of immediately available funds, without Set-off, to the account set forth on Schedule 5.03(c) hereto (or to such other account as the Purchaser shall notify Vertex in writing from time to time) (the "Purchaser Account").

Section 5.04 Janssen Agreement.

(a) Vertex shall not, without the prior written consent of the Purchaser effectuate a Prohibited Amendment.

(b) Subject to Section 5.01(d), Vertex will, within five calendar days following the receipt by Vertex from Janssen of notice received under Section 9.2.2 of the Janssen Agreement of the occurrence (or deemed occurrence) of the Milestone Event (a "Section 9.2.2 Notice"), (a)

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deliver to the Purchaser a copy of such Section 9.2.2 Notice and (b) invoice Janssen for the full amount of the Milestone Payment resulting therefrom.

(c) Subject to Section 5.01(d), if Vertex receives notice from Janssen or any other Person, terminating the Janssen Agreement, in whole or in part, then Vertex shall no later than ten Business Days following receipt of such notice give a written notice to the Purchaser including a copy of any written notice received from Janssen or the other relevant Person.

(d) Without the prior written consent of the Purchaser, Vertex shall not, directly or indirectly, sell, assign, hypothecate or otherwise transfer the Janssen Agreement or any of its rights or obligations thereunder to any third party, including by operation of law or otherwise; provided, however, that Vertex may, without the consent of the Purchaser, directly or indirectly assign the Janssen Agreement or any of its rights or obligations thereunder to any third party with which it may merge or consolidate or to which it may sell all or substantially all of its assets.

Section 5.05 Termination of the Janssen Agreement.

If the Janssen Agreement is terminated, by either Janssen or Vertex, for any reason and the licenses granted to Janssen under Article 7 of the Janssen Agreement terminate, Vertex shall pay the Purchaser an amount equal to any portion of the Milestone Payment that has not been earned prior to the effective date of such termination of the Janssen Agreement, provided, however, that Vertex shall owe such payment to the Purchaser only if and when the Milestone

Event is subsequently achieved (either by Vertex, Vertex's licensee or successor or an acquiror of Vertex's assets or rights related thereto). For the avoidance of doubt, the expiration of the Janssen Agreement under Section 13.1 thereof shall not be deemed a termination of the Janssen Agreement.

Section 5.06 Notice of Certain Events.

(a) In addition to, and not in limitation of, the other provisions of this Agreement, Vertex shall provide the Purchaser with written notice as promptly as practicable (and in any event within five Business Days) after becoming aware of the occurrence of a Bankruptcy Event; and

(b) Vertex shall notify the Purchaser in writing not less than 30 days prior to any change in, or amendment or alteration of, Vertex's (i) legal name, (ii) form or type of organization or corporate structure or (iii) jurisdiction of organization.

Section 5.07 Access to Certain Information.

(a) If the Securities and Exchange Commission or GAAP requires Vertex to report its financial results on a consolidated basis with the financial results of the Purchaser, the Purchaser shall, for so long as the Securities and Exchange Commission or GAAP require such consolidation, use its reasonable best efforts to provide to, and to cooperate with Vertex or an independent accounting firm engaged by Vertex in connection with the collection of, financial records and financial information of the Purchaser as may be reasonably required by Vertex or such accounting firm. Vertex shall be responsible for all costs, fees and expenses in connection

with the preparation of any financial statements or reports for any period or any audits in connection with the foregoing, and shall reimburse Purchaser from time to time promptly upon request for any reasonable costs, fees and expenses incurred by the Purchaser in connection with this Section 5.07. For the avoidance of doubt, (i) the foregoing shall not require the Purchaser to maintain financial information or records in accordance with GAAP or prepare financial reports for any period; and (ii) Vertex shall not be responsible for any costs, fees and expenses in connection with the preparation of any financial statements or reports that the Purchaser prepares in the ordinary course of its business.

(b) Vertex agrees that the Purchaser shall have no liability (whether direct or indirect, in contract or tort or otherwise) to any Vertex Indemnified Party for or in connection with any of the financial records or financial information provided by the Purchaser pursuant to Section 5.07(a) hereof except for Losses incurred by Vertex that are finally judicially determined to have resulted from actual fraud, gross negligence or willful misconduct on the part of the Purchaser.

ARTICLE VI
TERMINATION

Section 6.01 Termination Date.

This Agreement shall terminate on the date upon which the earlier of the following occurs: (i) the payment to the Purchaser of the Milestone Payment in full pursuant to the terms of the Transaction Documents; (ii) the expiration of the Janssen Agreement; or (iii) the termination of the Janssen Agreement where licenses granted to Janssen under Article 7 of the Janssen Agreement terminate.

Section 6.02 Effect of Termination.

In the event of the termination of this Agreement pursuant to Section 6.01, this Agreement shall become void and of no further force and effect, except for: (i) those rights and obligations that have accrued prior to the date of such termination, including the payment in accordance with the terms hereof of the Milestone Payment earned prior the date of such termination; (ii) in the event of termination of this Agreement pursuant to Section 6.01(iii), the right to payment of the Milestone Payment under Section 5.05, and Section 5.03, and Section 5.04(b); and (iii) Article I, Article VI and Article VII and Section 2.02(b) (but only the last sentence thereof), Section 5.01, and Section 5.07 (but only for the period ending 45 days after the end of the calendar quarter in which such termination occurred), shall survive the termination of this Agreement and there shall be no liability on the part of any party hereto, any of its Affiliates or controlling Persons or any of their respective officers, directors, shareholders, members, partners, controlling Persons, managers, agents or employees, other than as provided for in this Section 6.02. Nothing contained in this Section 6.02 shall relieve any party hereto from liability for any breach of this Agreement that occurs prior to such termination.

ARTICLE VII
MISCELLANEOUS

Section 7.01 Survival.

All representations and warranties made herein and in any other Transaction Document or any certificates delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement and shall continue to survive until October 31, 2012; provided, however, that the representations and warranties contained in Sections 3.08 and 3.11 shall survive until the date that is one year after termination of this Agreement; provided, further, however, that the representations and warranties contained in Sections 3.01, 3.02, 3.03, 3.04, 3.09, 3.10, 3.12 and 3.14 shall survive indefinitely; provided, further, however, that it is understood and agreed that, notwithstanding the survival provisions of this Section 7.01, all of the representations and warranties made by the parties hereto are made only as of the Effective Date. The obligations of (a) Vertex to indemnify and hold harmless any Purchaser Indemnified Party

under Section 7.05 and (b) the Purchaser to indemnify and hold harmless any Vertex Indemnified Party under Section 7.05, in each case shall terminate (i) when the applicable representation or warranty terminates pursuant to this Section 7.01, with respect to claims made pursuant to Section 7.05(a)(i) and Section 7.05(b)(i), as applicable, and (ii) 60 days after the expiration of the applicable statute of limitations (or waivers or extensions thereof), with respect to claims made pursuant to Section 7.05(a)(ii), Section 7.05(b)(ii), Section 7.05(b)(iii) or 7.05(b)(iv); provided, however, that, in each case, such obligations to indemnify and hold harmless shall not terminate with respect to any item as to which a Purchaser Indemnified Party or a Vertex Indemnified Party shall have, before the expiration of the applicable period, previously notified the indemnifying party pursuant to Section 7.05.

Section 7.02 Specific Performance.

Each of the parties hereto acknowledges that the other party hereto may 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 Agreement. Neither party hereto shall have any right to terminate this Agreement or any other Transaction Document as a result of any breach by the other party hereto hereof or thereof, but instead shall have the rights set forth in this Agreement, including this Article VII.

Section 7.03 Notices.

All notices, consents, waivers and communications hereunder given by any party hereto to the other party hereto shall be in writing, signed by the party hereto giving such notice and be deemed to have been duly given when (i) delivered by hand, (ii) sent by facsimile (with written confirmation of receipt) if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by registered mail, return receipt requested, (iii) received by the addressee, if sent by nationally recognized overnight delivery service (receipt requested), or (iv) sent by email if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by a nationally recognized overnight delivery service

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(provided, however, that delivery will not be deemed effective unless the addressee provides written confirmation of receipt by facsimile or return email (automatic email responses do not constitute confirmation)), in each case, to the applicable addresses, facsimile numbers and/or email addresses set forth below:

If to the Purchaser to:

Olmsted Park S.A.
20, rue de la Poste
L-2346 Luxembourg
Attention: Board of Directors

with a copy (which shall not constitute notice) to:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attention: Stuart E. Leblang
Facsimile: (212) 872-1002
Email: sleblang@akingump.com

If to Vertex to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Philippe Tinmouth
Head, Business Development & Licensing
Facsimile: 617-444-6632
Email: phil_tinmouth@vrtx.com

with a copy (which shall not constitute notice) to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Kenneth S. Boger, Esq.
Senior Vice President and General Counsel
Facsimile: 617-444-7117
Email: ken_boger@vrtx.com

or to such other address or addresses, facsimile number or numbers or email address or addresses as the Purchaser or Vertex may from time to time designate by notice as provided herein, except that notices of such changes shall be effective only upon receipt.

Section 7.04 Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party shall be entitled to assign, directly or indirectly, any of its obligations and rights under any of the Transaction Documents, including by operation of law or otherwise, without the prior written consent of the other party; provided, however, that (i) Vertex 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, provided that the assignee under such assignment agrees to be bound by the terms of the Transaction Documents and furnishes a written agreement to the Purchaser in form and substance reasonably satisfactory to the Purchaser to that effect, and (ii) Purchaser may assign this Agreement in its entirety without the consent of Vertex, provided, however, that the Purchaser shall give notice of any such assignment to Vertex after the occurrence thereof. Vertex shall be under no obligation to reaffirm any representations, warranties or covenants made in this Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by the Purchaser.

Section 7.05 Indemnification.

(a) Vertex hereby agrees to indemnify and hold harmless 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") from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses incurred or suffered by such Purchaser Indemnified Party arising out of (i) any breach of any representation, warranty or certification made by Vertex in any of the Transaction Documents or certificates given by Vertex in writing pursuant hereto or thereto, (ii) any breach of or default under any covenant or agreement by Vertex pursuant to any Transaction Document, and (iii) any fees, expenses, costs, liabilities or other amounts incurred or owed by Vertex to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement. Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by Vertex to such Purchaser Indemnified Party promptly upon demand.

(b) The Purchaser agrees to indemnify and hold harmless each of Vertex and its Affiliates and any and all of their respective partners, directors, managers, members, officers, employees, agents and controlling Persons (each, a "Vertex Indemnified Party") from and against, and will pay to each Vertex Indemnified Party the amount of, any and all Losses incurred or suffered by such Vertex Indemnified Party arising out of (i) any breach of any representation, warranty or certification made by the Purchaser in any of the Transaction Documents or certificates given by the Purchaser in writing pursuant hereto or thereto, (ii) any breach of or default under any covenant or agreement by the Purchaser pursuant to any Transaction Document, (iii) any fees, expenses, costs, liabilities or other amounts incurred or owed by the Purchaser to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement, and (iv) directly or indirectly, the use by Vertex of any of the financial records or financial information provided by the Purchaser pursuant to Section 5.07(a) hereof to the extent such Losses are finally

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judicially determined to have resulted from actual fraud, gross negligence or willful misconduct on the part of the Purchaser. Any amounts due to any Vertex Indemnified Party hereunder shall be payable by the Purchaser to such Vertex Indemnified Party upon demand.

(c) In the event that (i) any claim, demand, action or proceeding (including any investigation by any Governmental Authority) shall be brought or alleged by any Person not a party to this Agreement against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to the preceding paragraphs (each, a "Third Party Claim") or (ii) any indemnified party under this Agreement shall have a claim to be indemnified pursuant to the preceding paragraphs which does not involve a Third Party Claim, 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, however, 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 the foregoing provisions of this Section 7.05 unless, and only to the extent that, such omission actually and materially prejudiced the indemnifying party or results in the forfeiture of material substantive rights or defenses by the indemnifying party. In case any Third Party Claim is brought against an indemnified party, 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 notify the indemnified party promptly (but no later than 10 Business Days of receipt of notice thereof) that it elects to assume the defense thereof, with counsel, contractors and consultants of recognized standing and competence and reasonably satisfactory to such indemnified party, and, after such notice of its election to assume the defense, the indemnifying party will not be liable to such indemnified party under this Section 7.05 for any legal or other expenses (except as provided in the next sentence) 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 (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (ii) 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 (iii) 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 or ineffective due to actual or potential conflicts of interests between them in the reasonable determination of the indemnified party based on the advise of outside legal counsel. The parties agree 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 Third Party Claim 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 Losses 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 pending or threatened Third Party Claim 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 (x) such settlement, compromise or discharge, as the case may be, (A) 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, (B) 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 (C) does not impose any continuing obligation, injunctions or restrictions on any indemnified party, encumber any of the assets of any indemnified party or otherwise adversely affect any indemnified party potentially affected by such claim or proceeding and (y) the indemnifying party pays or causes to be paid all amounts arising out of such settlement, compromise or discharge concurrently with its effectiveness.

(d) Except in the case of fraud or intentional breach, the indemnification afforded by this Section 7.05 shall be the sole and exclusive remedy for any and all Losses sustained or incurred by an indemnified 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 Agreement to the contrary, (i) in the event of any breach or failure in performance of any covenant or agreement contained in any Transaction Document, other than Section 5.04(a) of this Agreement, the breaching party agrees that the non-breaching party may be entitled to specific performance, injunctive or other equitable relief pursuant to Section 7.02, (ii) in no event shall Losses include special, indirect, incidental or consequential damages of the indemnified party, other than the payment of the Milestone Payment, and (iii) in no event shall either party, or its employees, officers, directors, agents, successors or assigns be liable for any Losses in the aggregate greater than the amount of the Milestone Payment. For clarity, neither party hereto shall have any right to terminate this Agreement or any other Transaction Document as a result of any breach by the other party hereto hereof or thereof, but instead shall have the rights set forth in this Section 7.05 and Section 7.02.

Section 7.06 Independent Nature of Relationship.

(a) The relationship between Vertex and the Purchaser is solely that of seller and purchaser, and neither Vertex nor the Purchaser has any fiduciary or other special relationship with the other or any of the other's Affiliates. Nothing contained herein or in any other Transaction Document shall be deemed to constitute Vertex and the Purchaser as a partnership, an association, a joint venture or other kind of entity or legal form.

(b) No officer or employee of the Purchaser will be located at the premises of Vertex or any of its Affiliates.

(c) None of Vertex and/or any of its Affiliates shall at any time obligate the Purchaser, or impose on the Purchaser any obligation, in any manner or with respect to any Person not a party hereto.

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Section 7.07 Tax.

(a) Notwithstanding the accounting treatment thereof, for United States federal, state and local tax purposes, Vertex and the Purchaser shall treat the transactions contemplated by the Transaction Documents as a sale for United States federal, state and local tax purposes, except as provided in Section 7.07(d) below.

(b) Unless there is a change in applicable law or a Final Determination to the contrary, Vertex shall not take any position or action that is inconsistent with the position that any payments by Janssen to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, are not subject to any U.S. withholding taxes pursuant to Sections 1441, 1442, 1445 or 1446 of the Internal Revenue Code of 1986, as amended (the "Code"). If deduction or withholding by Vertex of any tax is required by law or a Final Determination from any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, any amount so withheld and remitted to taxing authorities by Vertex and any interest or penalties thereon paid by Vertex shall be treated for purposes of this Agreement as if paid to the Purchaser and shall reduce the amount otherwise payable directly to the Purchaser, and if such amount cannot be subtracted from payments otherwise due to the Purchaser, the Purchaser shall repay Vertex for any such amounts within 10 Business Days following demand therefor, which demand shall be not earlier than delivery of the documentation required by the last sentence of this paragraph. If Vertex is required by law or a Final Determination to make a deduction or withholding, it shall make that deduction or withholding and any payment required in connection with that deduction or withholding within the time allowed or, if later, promptly upon determination that such payment is owed, and in the minimum amount required by law. Within 10 Business Days of making either a deduction or withholding or any payment required in connection with that deduction or withholding, Vertex shall deliver to the Purchaser reasonable evidence that the deduction or withholding has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority. Vertex shall notify the Purchaser as soon as reasonably practicable after becoming aware that any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, are reasonably likely to be subject to deduction or withholding for taxes.

(c) Notwithstanding anything to the contrary contained in the Transaction Documents, in no event shall Vertex indemnify or hold harmless any Purchaser Indemnified Party for any reduction in payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, attributable to any taxes, except for taxes imposed on Vertex by the United States or other jurisdictions in which Vertex is treated as resident for tax purposes that are calculated by reference to the net income received or receivable by Vertex nor shall such reduction be deemed a Set-off or Discrepancy under the Transaction Documents or give rise to any liability or obligation of Vertex to pay the Purchaser the amount of such reduction under Section 2.02(b) or otherwise.

(d) The parties hereto agree not to take any position that is inconsistent with the provisions of this Section 7.07 on any tax return or in any audit or other administrative or judicial proceeding unless (i) the other party hereto has consented to such actions or (ii) the party hereto that contemplates taking such an inconsistent position has been advised by nationally recognized tax counsel in writing that there is no "reasonable basis" (within the meaning of Treasury

Regulation Section 1.6662-3(b)(3)) for the position specified in this Section 7.07 or that such position is an "unreasonable position" within the meaning of Section 6694(a)(2) of the Code; provided, however, that notwithstanding this Section 7.07(d), the parties agree not to take any position that is inconsistent with Section 7.07(a) on any tax return or in any audit or other administrative or judicial proceeding unless (i) the other party has consented to such actions or (ii) there is a change in applicable law or a Final Determination to the contrary. If there is an inquiry by any Governmental Authority of Vertex or the Purchaser related to this Section 7.07, the parties hereto shall cooperate with each other in responding to such inquiry in a reasonable manner consistent with this Section 7.07.

(e) "Final Determination" means a final administrative decision, a judicial decision or an agreement by the Purchaser pursuant to Section 7.07(e)(2) or by Vertex pursuant to Section 7.07(e)(4), that Vertex is required to withhold taxes from any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, any such decision or agreement to be conducted in accordance with the following provisions of this Section 7.07(e):

(1) Vertex agrees to give written notice (the "Initial Notice") to the Purchaser of any notice received by Vertex that involves the assertion of any claim, or the commencement of any audit, suit, action or proceeding relating to withholding taxes on any payments to the Purchaser contemplated by the Transaction Documents, including the Milestone Payment, (a "Withholding Tax Claim") within 10 days of such receipt or such earlier time as would allow the Purchaser to timely respond to such Withholding Tax Claim. Vertex will give the Purchaser such information with respect to the Withholding Tax Claim as the Purchaser may reasonably request. Failure to provide the Purchaser with notice and information with respect to a Withholding Tax Claim within a sufficient period of time and in reasonably sufficient detail to allow the Purchaser to effectively contest such Withholding Tax Claim shall not affect the liability of the Purchaser to Vertex except to the extent that the Purchaser's position is actually prejudiced as a result thereof.

(2) The Purchaser may, upon written notice to Vertex given within 30 days of receipt of the Initial Notice, assume and control the defense of any Withholding Tax Claim at its own cost and expense and with its own counsel and may (i) pursue or forego any and all administrative appeals, proceedings, hearings and conferences with any tax authority, or (ii) either (A) consent to taxes being withheld from the relevant payments, or (B) contest, settle or compromise the Withholding Tax Claim in any permissible manner.

(3) If the Purchaser elects to exercise its right to control the defense of any Withholding Tax Claim pursuant to Section 7.07(e)(2) of this Agreement, (i) Vertex, its employees and its affiliates shall (A) cooperate with the Purchaser in connection with such defense of any Withholding Tax Claim and the pursuit of any related refund, (B) provide the Purchaser (and its employees and other agents) with any applicable powers of attorney reasonably requested and (C) take any actions reasonably requested by the Purchaser, and (ii) the Purchaser shall keep Vertex reasonably informed of all material developments and events relating to such Withholding Tax Claim, and permit Vertex to participate in (but not to control) the defense of any such Withholding Tax Claim

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(including participation in any relevant meetings and conference calls) at its own cost and expense and with its own counsel.

(4) Any Withholding Tax Claim that the Purchaser does not elect to control pursuant to Section 7.07(e)(2) of this Agreement shall be controlled by Vertex and the Purchaser agrees to cooperate with Vertex in pursuing such contest, provided, however, that (i) Vertex shall keep the Purchaser informed of all material developments and events relating to such Withholding Tax Claim (including promptly forwarding copies to the Purchaser of any related correspondence) and shall use reasonable efforts to provide the Purchaser with an opportunity to review and comment on any material correspondence before Vertex sends such correspondence to any tax authority, and (ii) the Purchaser, at its own cost and expense and with its own counsel, shall have the right to participate in (including in any relevant meetings and conference calls) the defense of such Withholding Tax Claims.

(5) The Purchaser and Vertex further agree to furnish or cause to be furnished to each other, upon request, in a timely manner, such information (including access to books and records) and assistance relating to Vertex as is reasonably necessary for the filing of any tax return or refund claim relating to any relevant taxes withheld or for the defense of any Withholding Tax Claim.

(f) For purposes of this Section 7.07, a "change in applicable law" includes a change in regulations, a change in judicial interpretation or a change in other controlling legal authority.

Section 7.08 Entire Agreement.

This Agreement, together with the Schedule and 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 Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Schedule, Exhibits or other Transaction Documents) has been made or relied upon by either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 7.09 Governing Law.

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of New York, without giving effect to the principles of conflicts of law thereof.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the 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 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

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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 Agreement in any court referred to in Section 7.09(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 party hereto irrevocably consents to service of process in the manner provided for notices in Section 7.03. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by law.

Section 7.10 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 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 AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.10.

Section 7.11 Severability.

If one or more provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect and be enforceable in accordance with its terms. Any provision of this 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 7.12 Counterparts; Effectiveness.

This 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 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.

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Section 7.13 Amendments; No Waivers.

(a) Neither this Agreement nor any term or provision hereof may be amended, supplemented, altered, 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.

(b) 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. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 7.14 Interpretation.

(a) Except as otherwise provided or unless the context otherwise requires, whenever used in this Agreement, (i) any noun or pronoun shall be deemed to include the plural and the singular, (ii) the use of masculine pronouns shall include the feminine and neuter, (iii) the terms “include” and “including” shall be deemed to be followed by the phrase “without limitation”, (iv) the word “or” shall be inclusive and not exclusive, (v) all references to Sections refer to the Sections of this Agreement, all references to Schedule refer to the Schedule attached hereto or delivered with this Agreement, as appropriate, and all references to Exhibits refer to the Exhibits attached to this Agreement, each of which is made a part of this Agreement for all purposes, and (vi) each reference to “herein” means a reference to “in this Agreement”.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party hereto caused such provisions to be drafted. Each of the parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

(c) Unless expressly provided otherwise, the measure of a period of one month or one year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date, provided, however, that, if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date. For example, one month following February 18th is March 18th, and one month following March 31 is May 1.

Section 7.15 Expenses.

Each of the parties hereto shall pay all of their own fees and expenses incurred in connection with the negotiation of and entering into, this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby; provided, however, that Vertex shall reimburse or pay, promptly upon request from the Purchaser, fifty percent (50%) of the reasonable and documented fees and expenses of the Purchaser, including reasonable and documented legal fees and expenses, incurred on behalf of the Purchaser in connection with the structuring, negotiation and entry into this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby up to a maximum of U.S. $250,000.00.

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[Signature page follows]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Matthew W. Emmens
Name: Matthew W. Emmens
Title: Chairman, President and CEO

OLMSTED PARK S.A.

By: /s/ Julia Vogelweith
Name: Julia Vogelweith
Title: Director

By: /s/ Hille-Paul Schut
Name: Hille-Paul Schut
Title: Director

By: /s/ Xavier de Cillia
Name: Xavier de Cillia
Title: Director

Exhibit 10.6

EXECUTION COPY

Confidential Treatment Requested.
Confidential portions of this document have been redacted and have been separately filed with the Commission.

PURCHASE AGREEMENT REGARDING MILESTONE #10

Dated as of September 30, 2009

by and between

VERTEX PHARMACEUTICALS INCORPORATED

and

OLMSTED PARK S.A.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

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PURCHASE AGREEMENT REGARDING MILESTONE #10

This **PURCHASE AGREEMENT REGARDING MILESTONE #10** (this "Agreement") is made and entered into as of September 30, 2009 (the "Effective Date") by and between Vertex Pharmaceuticals Incorporated, a Massachusetts corporation ("Vertex"), and Olmsted Park S.A., a société anonyme governed by the laws of the Grand Duchy of Luxembourg (the "Purchaser").

WHEREAS, Vertex has the right to receive a payment based on the achievement of a certain milestone under the Janssen Agreement described herein; and

WHEREAS, Vertex wishes to sell, assign, convey and transfer to the Purchaser, and the Purchaser wishes to purchase, acquire and accept from Vertex, the Purchased Interest described herein, upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements representations and warranties set forth herein, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions.

The following terms, as used herein, shall have the following meanings:

"Adverse Effect" shall mean (i) an adverse effect on: (a) the legality, validity or enforceability of any of the Transaction Documents, the Janssen Agreement or the back-up security interest granted pursuant to Section 2.01(d); (b) the amount of the Milestone Payment; or (c) the timing of the payment of the Milestone Payment after achievement of the Milestone Event; or (ii) a material adverse effect on: (a) the right or ability of Vertex (or any permitted successor or assignee) to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder; (b) the rights or remedies of the Purchaser under any of the Transaction Documents; or (c) the right or ability of Janssen (or any permitted successor or assignee) to perform any of its obligations under the Janssen Agreement that are related, directly or indirectly, to the achievement of the Milestone Event.

"Affiliate" shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. For purposes of this definition, "control" (or its derivatives) shall mean the possession, direct or indirect, of the power or ability to direct or cause the direction of the management and policies of a Person, whether through ownership of equity, voting securities or beneficial interest, by contract or otherwise.

"Agreement" shall have the meaning set forth in the preamble.

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"Ancillary Janssen Documents" means the "Global Development Plan," the "Supply Agreement" and the "Pharmacovigilance Agreement" as such terms are defined in Sections 1.41, 1.106, and 5.7, respectively, of the Janssen Agreement.

"Bankruptcy Event" shall mean the occurrence of any of the following:

(i) Vertex or any of its Subsidiaries shall commence any case, proceeding or other action (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, relief of debtors or the like, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to all or substantially all of its debts, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, or Vertex or any of its Subsidiaries shall make a general assignment for the benefit of its creditors;

(ii) there shall be commenced against Vertex or any of its Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above that remains undismissed or undischarged for a period of 90 calendar days;

(iii) there shall be commenced against Vertex or any of its Subsidiaries any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against (a) all or any substantial portion of its assets and/or (b) the Milestone Payment, which results in the entry of an order for any such relief that shall not have been vacated, discharged, stayed, satisfied or bonded pending appeal within 45 calendar days from the entry thereof; or

(iv) Vertex or any of its Subsidiaries shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), clause (ii) or clause (iii) above.

"Bill of Sale" shall mean the bill of sale substantially in the form of **Exhibit A**.

"Business Day" shall mean any day other than a Saturday, a Sunday, any day that is a legal holiday under the laws of the State of New York, The Commonwealth of Massachusetts or Luxembourg, or any day on which banking institutions located in the State of New York, The Commonwealth of Massachusetts or Luxembourg are authorized or required by law or other governmental action to close.

"Code" shall have the meaning set forth in Section 7.07(b).

"Confidential Information" shall mean, as it relates to any party (or its Affiliates) who provides information (the "Disclosing Party") to the other party hereto, all information (whether written or oral, or in electronic or other form) furnished before or after the Effective Date concerning, or relating in any way, directly or indirectly, to the Disclosing Party or its Affiliates (including, in the case of the Purchaser, any of its equityholders) including the terms, conditions and provisions of this Agreement and any other Transaction Document, and in the case of

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information provided by Vertex or its Affiliates, relating to the Purchased Interest or the Milestone Payment, including (i) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the Janssen Agreement) involving or relating in any way, directly or indirectly, to the Purchased Interest, the Milestone Payment or the circumstances giving rise to the Purchased Interest, and including all terms and conditions thereof and the identities of the parties thereto, (ii) any reports, data, materials or other documents of any kind relating in any way, directly or indirectly, to the Disclosing Party or its Affiliates, the Purchased Interest, the Milestone Payment or the circumstances giving rise to the Purchased Interest, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (i) above, and (iii) 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 Interest or the

circumstances giving rise to the Purchased Interest. Notwithstanding the foregoing definition, "Confidential Information" shall not include information that is (v) independently developed or discovered by the Receiving Party without use of or access to any Confidential Information, as demonstrated by documentary evidence, (w) already in the public domain at the time the information is disclosed or has become part of the public domain after such disclosure through no breach of this Agreement, (x) lawfully obtainable from other sources, (y) required to be disclosed in any document to be filed with any Governmental Authority or (z) required to be disclosed by court or administrative order or under securities laws, rules and regulations applicable to any party hereto or pursuant to the rules and regulations of any stock exchange or stock market on which securities of Vertex or its Affiliates or the Purchaser or its Affiliates may be listed for trading.

"Discrepancy" shall have the meaning set forth in Section 2.02(b).

"Effective Date" shall have the meaning set forth in the preamble.

"Excluded Liabilities and Obligations" shall have the meaning set forth in Section 2.04.

"Final Determination" shall have the meaning set forth in Section 7.07(e).

"Financing Statement" shall have the meaning set forth in Section 2.01(c).

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in (1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and (2) the statements and pronouncements of the Financial Accounting Standards Board.

"Governmental Authority" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"Janssen" shall mean Janssen Pharmaceutica, N.V., a Belgium corporation, including its successors and assigns.

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"Janssen Agreement" shall mean the License, Development, Manufacturing and Commercialization Agreement by and between Vertex and Janssen effective as of June 30, 2006, as such agreement is amended and in effect on the date hereof, together with the Janssen Consent and the Ancillary Janssen Documents, except as expressly set forth herein, as each may be amended and/or restated from time to time after the date hereof in accordance with the terms of this Agreement and any new, substitute or amended agreement by and between Vertex and Janssen relating to the Milestone Payment made after the date hereof in accordance with the terms of this Agreement.

"Janssen Consent" shall have the meaning in Section 3.03.

"Knowledge" shall mean, with respect to Vertex, the knowledge of any of the following officers or employees of Vertex: the Chief Executive Officer; the Chief Medical Officer; the General Counsel; the Chief Scientific Officer; the Chief Financial Officer; the Chief Commercial Officer; the Vice President and Corporate Controller; the Head, Business Development & Licensing; and the Deputy General Counsel. An individual will be deemed to have "knowledge" of a particular fact or other matter if (i) such individual has or at any time had actual knowledge of such fact or other matter or (ii) a prudent individual would be expected to discover or otherwise become aware of such fact or other matter in the course of his or her responsibilities in his or her capacity as an officer or employee of Vertex or in the course of conducting a reasonably diligent review concerning the existence thereof with any employee of Vertex or any of its Subsidiaries who, at the Effective Date, reports directly to such individual and who (x) has responsibilities or (y) would reasonably be expected to have actual knowledge of circumstances or other information, in each case, that would reasonably be expected to be pertinent to such fact or other matter. Notwithstanding anything in this definition to the contrary, Vertex will be deemed to have knowledge of any fact or matter that is the subject of, or referred to within, any written notice it or any of its Subsidiaries has received (whether in hard copy, digital or electronic format).

"Lien" shall mean any lien, hypothecation, charge, instrument, license, preference, priority, security agreement, security interest, mortgage, option, right of first refusal, privilege, pledge, liability, covenant or order, or any encumbrance, restriction, right or claim of any other Person or Governmental Authority of any kind whatsoever, whether choate or inchoate, filed or unfiled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, other than any of the above created solely in favor of the Purchaser by the Transaction Documents.

"Losses" shall mean, collectively, any and all claims, damages, losses, judgments, liabilities, costs and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses), excluding punitive damages, except to the extent punitive damages are paid to a third party.

"Milestone Event" shall mean the milestone event numbered "10" set forth in the table in Section 9.2.1 of the Janssen Agreement.

"Milestone Payment" shall mean collectively (i) an amount equal to **[***]** due and payable to Vertex under Section 9.2.1 of the Janssen Agreement upon the occurrence of

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Milestone Event due and payable to Vertex under Section 9.2.1 of the Janssen Agreement upon the occurrence of Milestone Event; (ii) all additional amounts added to the Milestone Payment under any provision of the Janssen Agreement, including any interest assessed in connection with a delay in the payment by Janssen of the Milestone Payment represented by the Purchased Interest pursuant to Section 9.10 of the Janssen Agreement; (iii) all accounts (as defined

under the UCC) evidencing the rights to the payment and amount described in clauses (i) and (ii) above; and (iv) all proceeds (as defined under the UCC) of the foregoing.

"Payment Direction" shall have the meaning set forth in Section 2.06(b).

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind, but not including a Governmental Authority.

"Prohibited Amendment" shall mean any amendment, modification, restatement or supplement of any provision of the Janssen Agreement that changes in any way (i) the event underlying the Milestone Event, (ii) the amount of the Milestone Payment or (iii) the timing of the payment of the Milestone Payment by Janssen after achievement of the Milestone Event by Janssen. For avoidance of doubt' any termination of the Janssen Agreement shall not be deemed a Prohibited Amendment.

"Purchased Interest" shall mean collectively (i) an undivided 100% interest in the right to receive the Milestone Payment, (ii) the right to enforce directly against Janssen the right to payment of all or any portion of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement, and (iii) the right to transfer or assign entitlement to all or a portion of the Milestone Payment represented by the Purchased Interest to third parties in accordance with the terms of this Agreement.

"Purchase Price" shall have the meaning set forth in Section 2.03.

"Purchaser" shall have the meaning set forth in the preamble and shall include its successors and assigns.

"Purchaser Account" shall have the meaning set forth in Section 5.03(c).

"Purchaser Indemnified Party" shall have the meaning set forth in Section 7.05(a).

"Recharacterization" shall have the meaning set forth in Section 2.01(d).

"Recipient" shall have the meaning set forth in Section 5.01(a).

"Report" shall have the meaning set forth in Section 3.16.

"Section 9.2.2 Notice" shall have the meaning set forth in Section 5.04(b).

"Set-off" shall mean any set-off, rescission, counterclaim, defense, reduction or deduction of any kind. Without limiting the generality of the foregoing, the term Set-off shall

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include the right by Janssen to reduce the amount of the Milestone Payment for any reason, including without limitation in connection with (i) a breach by Vertex of the Janssen Agreement, (ii) any anti stacking or similar rights with respect to payments to third parties for access to intellectual property rights or data, (iii) any discounted payment obligations in connection with third party sales of generic competitive products, (iv) any rights to credit against any payment obligations any costs, expenses or liabilities of Janssen under the Janssen Agreement, including with respect to (a) Global Development Costs (as defined in the Janssen Agreement), (b) any costs and expenses of patent prosecution, maintenance or enforcement, or (c) defense of third party infringement claims, or (v) any amounts paid or payable pursuant to any indemnification rights or obligations of Vertex or Janssen under the Janssen Agreement.

"Subsidiary" or "Subsidiaries" shall mean with respect to any Person (i) any corporation of which the outstanding capital stock having at least a majority of votes entitled to be cast in the election of directors (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time be owned, directly or indirectly, by such Person or by another subsidiary of such Person or (ii) any other Person of which at least a majority voting interest (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another subsidiary of such Person.

"Third Party Claim" shall have the meaning set forth in Section 7.05(c).

"Transaction Documents" shall mean, collectively, this Agreement, the Bill of Sale and the Payment Direction.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, 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 Purchaser's ownership interest in the Purchased Interest or of the back-up security interest granted pursuant to Section 2.01(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" shall mean the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"Vertex" shall have the meaning set forth in the preamble, and its permitted successors and assigns.

"Vertex Indemnified Party" shall have the meaning set forth in Section 7.05(b).

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED INTEREST

Section 2.01 Purchase and Sale.

(a) Subject to the terms and conditions of this Agreement, on the Effective Date Vertex hereby sells, assigns, transfers and conveys to the Purchaser and the Purchaser hereby

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purchases, acquires and accepts from Vertex all of Vertex's right, title and interest in and to the Purchased Interest free and clear of any and all Liens.

(b) Vertex and the Purchaser intend and agree that the sale, assignment, transfer and conveyance of the Purchased Interest under this Agreement shall be, and is, a true, absolute and irrevocable sale and assignment by Vertex to the Purchaser of the Purchased Interest and that such assignment and sale shall provide the Purchaser with the full benefits of ownership of the Purchased Interest. Neither Vertex nor the Purchaser intends the transactions contemplated hereunder to be, or for any purpose characterized as, a financing transaction, borrowing or a loan from the Purchaser to Vertex. Vertex waives any right to contest or otherwise assert that this Agreement is other than a true, absolute and irrevocable sale and assignment by Vertex to the Purchaser of the Purchased Interest under applicable law, which waiver shall be enforceable against Vertex in any bankruptcy, insolvency or similar proceeding relating to Vertex. In view of the intention of the parties hereto that the sale of the Purchased Interest hereunder shall constitute a true sale thereof rather than a loan secured thereby, Vertex acknowledges and agrees that it has marked its books and records relating to the Purchased Interest to indicate the sale thereof to the Purchaser and will note in its financial statements that the Purchased Interest has been sold to the Purchaser**.**

(c) Vertex hereby consents to the Purchaser recording and filing, at the Purchaser's sole cost and expense, any financing statements (and continuation statements with respect to such financing statements when applicable) or other instruments and notices, in such manner and in such jurisdictions as in the Purchaser's reasonable determination are necessary or appropriate to evidence the purchase, acquisition and acceptance by the Purchaser of the Purchased Interest and to perfect and maintain the perfection of (i) the Purchaser's ownership interest in the Purchased Interest and (ii) the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d). All such financing statements and continuation statements shall be in substantially the form set forth in **Exhibit B** with such changes as the Purchaser may reasonably request in furtherance of the foregoing (the "Financing Statement").

(d) Notwithstanding that Vertex and the Purchaser expressly intend for the sale, transfer, assignment and conveyance of the Purchased Interest to be a true and absolute sale and assignment, in the event that such sale and assignment shall be characterized as a secured loan and not a sale or such sale shall for any reason be ineffective or unenforceable (any of the foregoing being a "Recharacterization"), then this Agreement shall be deemed to constitute a security agreement under the UCC and other applicable law. For this purpose and without being in derogation of the parties' intention that the sale of the Purchased Interest shall constitute a true and absolute sale and assignment thereof, Vertex hereby grants to the Purchaser a security interest in all of Vertex's right, title and interest in and to the Purchased Interest and all proceeds thereof, to secure the prompt and complete payment of a loan deemed to have been made in an amount equal to the Purchase Price, which security interest shall, upon the filing of a duly prepared financing statement in the appropriate filing office, be perfected and prior to all other Liens thereon. In the case of any Recharacterization, the Purchaser shall have, in addition to the rights and remedies which they may have under this Agreement, all other rights and remedies provided to a secured creditor after default under the UCC and other applicable law, which rights

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and remedies shall be cumulative. In the case of any Recharacterization, each of Vertex and the Purchaser represents and warrants as to itself that each remittance of the Milestone Payment or any portion thereof or any other payment in respect of the Purchased Interest by or on behalf of Vertex to the Purchaser hereunder will have been (i) in payment of a debt incurred by Vertex in the ordinary course of business or financial affairs of Vertex and the Purchaser and (ii) made in the ordinary course of business or financial affairs of Vertex and the Purchaser.

Section 2.02 Entitlement to Payments.

(a) Vertex agrees that the Purchaser is entitled to the Purchased Interest and the Purchaser may enforce directly against Janssen the right to payment of any portion of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement.

(b) For avoidance of doubt, the parties hereto understand and agree that if Janssen fails to pay the Milestone Payment in full when Vertex or the Purchaser reasonably believes the Milestone Payment is due under the Janssen Agreement, except for any Set-off made by Janssen against the Milestone Payment (each such unpaid amount, a "Discrepancy"), then Vertex shall not be obligated to pay to the Purchaser or otherwise compensate or make the Purchaser whole with respect to any such Discrepancy; provided, however, that nothing in this Section 2.02(b) shall limit or affect in any respect the rights of the Purchaser under Section 5.05 or of any Purchaser Indemnified Party under Section 7.05. Notwithstanding the foregoing, in the event that the Milestone Payment is not paid in full by Janssen due to Janssen asserting or effecting a Set-off against the Milestone Payment pursuant to the Janssen Agreement (whether or not any such Set-off was disclosed hereunder) or Janssen otherwise does not, following the occurrence of the Milestone Event, pay the Milestone Payment in full due to any breach by Vertex of the Janssen Agreement, Vertex shall be liable for, and shall pay the Purchaser the amount of any such Set-off or Discrepancy on the date the Milestone Payment is paid or payable to the Purchaser hereunder, which in any event shall not exceed the amount of the Milestone Payment. Vertex shall be entitled to any such amounts that it pays to Purchaser if Janssen subsequently pays such amount.

Section 2.03 Purchase Price.

In full consideration for the sale, assignment, transfer and conveyance of the Purchased Interest, and subject to the terms and conditions set forth herein, the Purchaser shall pay to Vertex on the Effective Date, the sum of U.S. $17,254,431 by wire transfer of immediately available funds to an account designated in writing by Vertex (the "Purchase Price").

Section 2.04 **No Assumed Obligations**.

The Purchaser is purchasing, acquiring and accepting only the Purchased Interest and the contractual rights and obligations set forth in this Agreement and is not assuming any liability or obligation of Vertex or any of its Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter, whether under the Janssen Agreement or any Transaction Document or otherwise. All such liabilities and obligations shall be retained by and remain obligations and liabilities of Vertex or its Affiliates (the "Excluded Liabilities and Obligations").

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Section 2.05 **Excluded Assets**.

Notwithstanding any provision in this Agreement or any other writing to the contrary, 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 Vertex under the Janssen Agreement, other than the Purchased Interest, or any other assets or rights of Vertex.

Section 2.06 **Closing Deliverables**.

Simultaneous with the closing of the transactions contemplated hereby on the Effective Date:

(a) Bill of Sale. Vertex and the Purchaser shall execute, and deliver to the other party hereto, the Bill of Sale.

(b) Payment Direction. Vertex shall sign and deliver to the Purchaser a copy of the irrevocable direction to Janssen to pay the Milestone Payment evidenced by the Purchased Interest directly to the Purchaser Account in the form set forth in **Exhibit C** (the "Payment Direction").

(c) Corporate Documents of Vertex. An executive officer of Vertex shall sign and deliver to the Purchaser certificates dated as of the Effective Date: (i) attaching copies, certified by such officer as true and complete, of resolutions of the board of directors of Vertex authorizing and approving the execution, delivery and performance by Vertex of the Transaction Documents and the transactions contemplated herein and therein; (ii) setting forth the incumbency of the officer or officers of Vertex who have executed and delivered the Transaction Documents, including therein a signature specimen of each officer or officers; (iii) attaching copies, certified by such officer as true and complete, of each of the articles of organization and by-laws of Vertex as in effect on the Effective Date; and (iv) attaching copies, certified by such officer as true and complete, of long form good standing certificates of the appropriate Governmental Authority of Vertex's jurisdiction of incorporation, stating that Vertex is in good standing under the laws of such jurisdiction.

(d) Other Documents and Financing Statements. Vertex shall sign or deliver to the Purchaser such other certificates, documents and financing statements as the Purchaser may request, including the Financing Statement, to perfect and maintain the perfection of the Purchaser's ownership interest in the Purchased Interest and the back-up security interest granted pursuant to Section 2.01(d).

(e) The Purchaser shall have received the opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, transaction counsel to Vertex, in form and substance satisfactory to the Purchaser and its counsel to the effect set forth in **Exhibit D**.

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ARTICLE III
REPRESENTATIONS AND WARRANTIES OF VERTEX

Vertex hereby represents and warrants to the Purchaser, as of the Effective Date, the following:

Section 3.01 **Organization**.

Vertex is a corporation duly incorporated, validly existing and in good standing under the laws of The Commonwealth of Massachusetts. Vertex has all corporate powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted. Vertex is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

Section 3.02 **Corporate Authorization**.

Vertex has all necessary corporate power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by Vertex, and each Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of Vertex, enforceable against Vertex in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 3.03 **Governmental and Third Party Authorization**.

The execution and delivery by Vertex of the Transaction Documents, and the performance by Vertex of its obligations and the consummation by Vertex 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 Person, except for (i) the filing of proper financing statements under the UCC (ii) the filing of a Current Report on Form 8-K with the Securities and Exchange Commission and (iii) the Janssen Consent. Vertex has obtained prior to its execution and delivery of this Agreement the consent of Janssen required under Section 15.2 of the Janssen Agreement with respect to the assignment and transfer of all of Vertex's right, title and interest in and to the Purchased Interest to the Purchaser and the consummation of the other transactions contemplated by the Transaction Documents (the "Janssen Consent"), which consent is in full force and effect.

Section 3.04 Ownership.

Vertex is the exclusive owner of the entire right, title (legal and equitable) and interest in and to the Purchased Interest, free and clear of all Liens. Upon the sale, assignment, transfer and conveyance by Vertex of all of its right, title and interest in and to the Purchased Interest to the

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Purchaser, the Purchaser will acquire good and marketable title to the Purchased Interest free and clear of all Liens. Upon the filing of an appropriate financing statement with the office of the Secretary of the Commonwealth of The Commonwealth of Massachusetts, there will have been duly filed all financing statements or other similar instruments or documents necessary under the applicable UCC (or any comparable law) of all applicable jurisdictions to perfect and maintain the perfection of the Purchaser's ownership interest in the Purchased Interest and of the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d).

Section 3.05 Solvency.

Upon the sale of the Purchased Interest as contemplated by the Transaction Documents, (i) the fair saleable value of Vertex's assets will be greater than the sum of its debts and other obligations, including contingent liabilities, (ii) the present fair saleable value of Vertex'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, (iii) Vertex will be able to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (iv) Vertex will not have unreasonably small capital with which to engage in its business, and (v) Vertex will not incur, nor does it 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.

Section 3.06 No Litigation.

There is no (i) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending or, to the Knowledge of Vertex, threatened by or against Vertex or any of its Subsidiaries or, to the Knowledge of Vertex, pending or threatened by or against Janssen, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the Knowledge of Vertex, threatened against Vertex or any of its Subsidiaries or, to the Knowledge of Vertex, pending or threatened against Janssen, which, in each case with respect to clause (i) or clause (ii) above, (A) if adversely determined, would reasonably be expected to have, individually or in the aggregate, an Adverse Effect, or (B) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents. To the Knowledge of Vertex, no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement of any such action, suit, arbitration, claim, investigation, proceeding or inquiry.

Section 3.07 Compliance with Laws.

None of Vertex or any of its Subsidiaries is (i) in violation of, or has violated or has been given notice of any violation, or, to the Knowledge of Vertex, is under investigation with respect to, or has been threatened to be charged with any violation of, any law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority or (ii) subject to any judgment, order, writ, decree, permit or license granted, issued or entered by any Governmental Authority, in the case of both clause (i)

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and clause (ii) above, that would reasonably be expected to have, individually or in the aggregate, an Adverse Effect. To the Knowledge of Vertex, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or result in a violation by Vertex or any of its Subsidiaries of, or a failure on the part of Vertex or any of its Subsidiaries 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 reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

Section 3.08 No Conflicts.

Neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which Vertex or any of its Subsidiaries or any of their respective assets or properties may be subject or bound, (B) any contract, agreement, commitment or instrument to which Vertex or any of its Subsidiaries is a party or by which Vertex or any of its Subsidiaries or any of their respective assets or properties is bound or committed or (C) any provisions of the articles of organization or by-laws (or other organizational or constitutional documents) of Vertex or any of its Subsidiaries; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of Vertex or any of its Subsidiaries; (iii) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Purchased Interest; or (iv) contravene, conflict with, result in a breach or violation of, constitute a default (with or

without notice or lapse of time, or both) under, give to any other Person the right to terminate (provided, however, that neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent Janssen's ability to terminate the Janssen Agreement under Section 13.2 thereof), or accelerate the performance provided by, in any respect, any provision of the Janssen Agreement; provided, however, that, in the case of clause (i)(B) or clause (ii), such contravention, conflict, breach, violation, default or acceleration would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

Section 3.09 Broker's Fees.

Vertex has not taken any action that would entitle any Person other than Morgan Stanley & Co. Incorporated (whose fees shall be paid by Vertex) to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 3.10 Subordination.

The claims and rights of the Purchaser created by any Transaction Document in and to the Purchased Interest are not and shall not, at any time, be subordinated by Vertex to any creditor of Vertex or any other Person or Governmental Authority.

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Section 3.11 Janssen Agreement.

(a) Other than the Janssen Agreement and the Transaction Documents, there is no contract, agreement or other arrangement (whether written or oral) to which either Vertex or any of its Subsidiaries is a party or by which any of their respective assets or properties is bound or committed (i) that creates a Lien on the Purchased Interest or (ii) the breach, nonperformance, cancellation or termination of which would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect.

(b) Vertex has provided the Purchaser a redacted copy of the Janssen Agreement (with the Ancillary Janssen Documents redacted) and a true, accurate and complete copy of each confidentiality agreement relating thereto and the Janssen Consent. The redacted copy of the Janssen Agreement provided by Vertex to the Purchaser as described above, together with information that has been publicly disclosed by Vertex or is otherwise publicly available, in each case, prior to the Effective Date, contains all of the material provisions of, and information contained in, the Janssen Agreement with respect to the Purchased Interest. The redacted portions of the Janssen Agreement do not contain any provisions that would reasonably be expected to (i) result in an Adverse Effect or (ii) have a material adverse effect on the timing or likelihood of achievement of the Milestone Event. The Janssen Agreement constitutes the entire agreement between Vertex and Janssen (and their respective Affiliates) relating to the Purchased Interest.

(c) The Janssen Agreement is the legal, valid and binding obligation of Vertex and, to the Knowledge of Vertex, Janssen, enforceable against Vertex and, to the Knowledge of Vertex, Janssen in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles. The execution, delivery and performance of the Janssen Agreement was and is within the corporate powers of Vertex and, to the Knowledge of Vertex, Janssen. The Janssen Agreement was duly authorized by all necessary action on the part of, and validly executed and delivered by, Vertex and, to the Knowledge of Vertex, Janssen. There is no breach or default, and no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or give rise to a breach or default, in the performance of the Janssen Agreement by Vertex or, to the Knowledge of Vertex, Janssen, which breach, default, event or circumstance in either case would reasonably be expected to result, individually or in the aggregate, in an Adverse Effect or a material adverse effect on the timing or likelihood of achievement of the Milestone Event. To the Knowledge of Vertex, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would give either Janssen or Vertex the right to terminate the Janssen Agreement (except pursuant to Section 13.2 thereof). From and after the Effective Date, the Purchaser shall be entitled to enforce directly against Janssen the right to payment of the Milestone Payment represented by the Purchased Interest when earned upon achievement of the Milestone Event pursuant to the Janssen Agreement.

(d) Vertex (i) has not waived any rights or defaults under the Janssen Agreement and (ii) has not taken any action or omitted to take any action under the Janssen Agreement, in each case with respect to clause (i) and clause (ii), that materially adversely affects the Purchaser's rights under any of the Transaction Documents, including Section 2.02 hereof.

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(e) Vertex has not received any notice and has no Knowledge (i) of Janssen's intention to terminate the Janssen Agreement, in whole or in part, (ii) of Janssen's intention to effectuate a Prohibited Amendment, (iii) of Janssen's or any other Person's or Governmental Authority's (where applicable) intention to challenge the validity or enforceability of the Janssen Agreement or the obligation of Janssen to pay the Milestone Payment under the Janssen Agreement upon achievement of the Milestone Event or (iv) that Vertex or Janssen is in default of any of its material obligations under the Janssen Agreement. Vertex (i) has no intention of terminating the Janssen Agreement and has not given Janssen any notice of termination of the Janssen Agreement, in whole or in part, and (ii) has no intention to effectuate a Prohibited Amendment and has not given Janssen any request to effectuate a Prohibited Amendment.

(f) Except as provided in Sections 9.9 and 13.4.1 of the Janssen Agreement, Vertex is not a party to any agreement providing for or permitting a sharing of, or Set-off against, the Milestone Payment.

(g) Vertex has all licenses, authorizations, consents and approvals of all Governmental Authorities required to exercise its rights and to perform its obligations under the Janssen Agreement. The sale by Vertex of Vertex's right, title and interest in and to the Purchased Interest to the Purchaser will not

require the approval, consent, ratification, waiver, or other authorization of Janssen or any other Person or Governmental Authority under the Janssen Agreement or otherwise and will not constitute a breach of or default or event of default under the Janssen Agreement or any other agreement or law.

(h) Vertex has not consented to an assignment (by operation of law or otherwise) by Janssen of any of Janssen's rights or obligations under the Janssen Agreement with respect to the Purchased Interest, nor does Vertex have Knowledge of any such assignment (by operation of law or otherwise) by Janssen.

(i) Neither Vertex nor Janssen has made any claim of indemnification under the Janssen Agreement nor, to the Knowledge of Vertex, have there been any events or circumstances that would give rise to a right of such claim by Vertex or Janssen.

(j) Vertex received prior to the date hereof payment in full from Janssen (without any Set-offs by Janssen) for the milestone events numbered "1" through (and including) "5" set forth in the table in Section 9.2.1 of the Janssen Agreement, in each case in the full amount and within the time set forth in the Janssen Agreement.

(k) No portion of the Milestone Payment was payable to Vertex or received by Vertex or any of its Affiliates on or prior to the date of this Agreement.

Section 3.12 No Set-offs.

Other than as set forth in Section 9.9 and Section 13.4.1 of the Janssen Agreement, Janssen has no right of Set-off under any contract (including the Janssen Agreement) or other agreement against the Milestone Payment payable to Vertex under the Janssen Agreement. Janssen has not exercised, and, to Vertex's Knowledge, Janssen has not had the right to exercise, and, to Vertex's Knowledge, no event or condition exists that, upon notice or passage of time or

both, would reasonably be expected to permit Janssen to exercise, any Set-off against the Milestone Payment payable to Vertex under the Janssen Agreement.

Section 3.13 UCC Representations and Warranties.

Vertex's exact legal name is, and for the immediately preceding 10 years has been, "Vertex Pharmaceuticals Incorporated". The principal place of business and chief executive office of Vertex for the immediately preceding 10 years and the office where it keeps its books and records relating to the Purchased Interest are located at the address(es) set forth on Schedule 3.13 attached hereto. Vertex's Massachusetts organizational identification number and Federal Employer Identification Number are as set forth on Schedule 3.13 attached hereto.

Section 3.14 Taxes.

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 Vertex under the Janssen Agreement.

Section 3.15 Intellectual Property.

(a) Vertex has the right, whether by ownership or license, to grant Janssen the rights and licenses to the Vertex intellectual property rights described in the Janssen Agreement, including the Vertex Patent Rights, the Vertex Know-How, and Vertex's rights under Joint Patent Rights (as such terms are defined in the Janssen Agreement), except where the failure to have such right to license would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect and to the Knowledge of Vertex, Janssen has full right and interest in the Janssen intellectual property rights described in the Janssen Agreement, including the Janssen Patent Rights, the Janssen Know-How (as such terms are defined in the Janssen Agreement), and Janssen's rights under Joint Patent Rights, free and clear of all Liens, except where the failure to have full right and interest or the existence of such Liens would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(b) To the actual knowledge of any of the Vertex employees or officers listed in the definition of "Knowledge" herein, no third party owns any intellectual property rights that would necessarily be infringed, misappropriated or otherwise violated by the development, manufacture, use, sale or importation of a Compound, Product Candidate, or Combination Product (as such terms are defined in the Janssen Agreement).

(c) Except for the Vertex Patent Rights, Vertex Know-How, and Vertex's rights under Joint Patent Rights, Vertex does not own or control any intellectual property rights that would be necessary to the achievement by Janssen of the Milestone Event. Vertex does not own or control any intellectual property or data resulting from Additional Development Activities (as defined in the Janssen Agreement).

(d) No claims have been made or, to the Knowledge of Vertex, threatened against Vertex since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or the development, manufacture, use sale or importation thereof, infringes, misappropriates, or otherwise violates any intellectual property

right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(e) To the Knowledge of Vertex, no claims have been made or threatened against Janssen since the "Effective Date" of the Janssen Agreement that any Compound, Product Candidate, Product, or Combination Product or any use thereof by Janssen, infringes, misappropriates, or otherwise violates any intellectual property right of any third party, except where any such claim or claims would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(f) To the actual knowledge of any of the Vertex employees or officers listed in the definition of "Knowledge" herein, Janssen is currently not infringing, misappropriating, or otherwise violating in any respect any of Vertex's intellectual property rights relating to the Compound or Product Candidate.

(g) To the Knowledge of Vertex, the Vertex Patent Rights and Vertex's interest in any Joint Patent Rights are valid and enforceable, and no third party is currently challenging, or has challenged, the validity or enforceability of any Vertex Patent Rights, Vertex Know-How, Vertex's rights under Joint Patent Rights, Janssen Patent Rights, Janssen Know-How or Janssen's rights under Joint Patent Rights in any respect, except where any such invalidity, unenforceability or challenge to validity or enforceability would not reasonably be expected to have, individually or in the aggregate, an Adverse Effect.

(h) All of the representations and warranties made by Vertex, in the Janssen Agreement were accurate and complete in all material respects as of the "Effective Date" of the Janssen Agreement, in each case subject to any qualifiers set forth therein.

Section 3.16 Certain Information.

Notwithstanding Section 4.07, all information provided or made available by or on behalf of Vertex or any of its Affiliates or representatives to L.E.K. Consulting LLC or any of its Affiliates or representatives in connection with the report prepared by L.E.K. Consulting LLC entitled "Telaprevir Milestone Assessment" dated July 8, 2009 (the "Report"), was, on the date so provided or made available to L.E.K. Consulting LLC, and is as of the Effective Date, true and correct in all material respects.

Section 3.17 Consolidation.

As of the Effective Date, Vertex does not believe that the Securities and Exchange Commission or GAAP requires Vertex to report its financial results on a consolidated basis with the financial results of the Purchaser as a result of Vertex entering into this Agreement or consummating the transactions contemplated by this Agreement.

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ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to Vertex, as of the Effective Date, the following:

Section 4.01 Organization.

The Purchaser is a société anonyme, duly formed, validly existing and in good standing under the laws of the Grand Duchy of Luxembourg. The Purchaser has all necessary powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents.

Section 4.02 Authorization.

The Purchaser has all necessary power and authority to enter into, execute and deliver the Transaction Documents and to perform all of the obligations of the Purchaser to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. The Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by the Purchaser, and each Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 4.03 Governmental and Third Party Authorization.

The execution and delivery by the Purchaser of the Transaction Documents, and the performance by the Purchaser of its obligations 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.

Section 4.04 No Litigation.

There is no (i) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending, or, to the knowledge of the Purchaser, threatened by or against the Purchaser, at law or in equity, or (ii) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the knowledge of the Purchaser, threatened against the Purchaser, which, in each case with respect to clause (i) or clause (ii) above, (A) if adversely determined would reasonably be expected to have, individually or in the aggregate, a material adverse effect on (x) the right or ability of the Purchaser to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder or (y) the rights or remedies of Vertex and its Affiliates under any of the Transaction Documents, or an adverse effect on the legality, validity or enforceability of any of the

Transaction Documents, (B) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents.

Section 4.05 No Conflicts.

Neither the execution and delivery of any of the Transaction Documents nor the performance or consummation of the transactions contemplated hereby or thereby will contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (i) 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 Purchaser or any of its assets or properties may be subject or bound, (ii) any contract, agreement, commitment or instrument to which the Purchaser is a party or by which the Purchaser or any of its assets or properties is bound or committed or (iii) any provisions of the organizational or constitutional documents of the Purchaser, except in the case of clause (ii) above, as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the right or ability of the Purchaser to perform any of its obligations under any of the Transaction Documents or to consummate the transactions contemplated hereunder or thereunder.

Section 4.06 Broker's Fees.

The Purchaser has not taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 4.07 Access to Information.

The Purchaser acknowledges that it has (i) reviewed a redacted copy of the Janssen Agreement (with, for the avoidance of doubt, the Ancillary Janssen Documents redacted) and the Report (in reliance on the representations and warranties of Vertex set forth herein, including Section 3.11(b)) and (ii) had the opportunity to ask questions of, and to receive answers from, representatives of Vertex concerning the Janssen Agreement and the Milestone Payment. The Purchaser has such knowledge, sophistication and experience in financial and business matters that it is capable of evaluating the risks and merits of purchasing, acquiring and accepting the Purchased Interest in accordance with the terms of this Agreement. The Purchaser acknowledges and agrees that (i) the Report was furnished to the Purchaser by Vertex for the Purchaser's convenience, (ii) the Report was not prepared by Vertex, (iii) Vertex did not, and does not, adopt or endorse the contents of the Report, (iv) the Report constitutes the work product solely of L.E.K. Consulting LLC and (v) Vertex disclaims any representation, either express or implied, that the information in the Report is accurate or that the statements in the Report coincide with Vertex's views.

ARTICLE V
COVENANTS

The parties hereto covenant and agree as follows:

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Section 5.01 Confidentiality; Public Announcement.

(a) Except as otherwise required by law or the rules and regulations of any securities exchange or trading system or any Governmental Authority and except as otherwise set forth in this Section 5.01, any party who is provided or furnished with any Confidential Information (the "Recipient") will, and will cause each of its Affiliates, directors, officers, employees, agents, representatives and similarly situated persons who receive such Confidential Information to, treat and hold as confidential and not disclose to any Person or Governmental Authority any and all Confidential Information furnished to it by the other Party, and to use any such Confidential Information only in connection with this Agreement and any other Transaction Document and the transactions contemplated hereby and thereby. Notwithstanding the foregoing, the Recipient may disclose such information on a need-to-know basis to its members, directors, employees, managers, officers, agents, brokers, advisors, lawyers, bankers, trustees and representatives (and, in the case of the Purchaser, also its actual and potential partners or equityholders (or their potential transferees), investors (including any holder of debt securities of the Purchaser and its agents and representatives), co-investors, insurers and insurance brokers, underwriters and financing parties) and potential transferees of the Purchased Interest; provided, however, that such Persons shall be informed of the confidential nature of such information and shall be obligated to keep such Confidential Information confidential pursuant to obligations of confidentiality no less onerous than those set forth herein. Other than information (whether part of a report, notice or otherwise) specifically required to be provided by Vertex to the Purchaser under this Agreement, Vertex agrees not to provide the Purchaser with any Confidential Information without the prior written consent of the Purchaser. Notwithstanding anything else to the contrary contained in this Agreement, if Vertex's compliance with the prior sentence not to provide the Purchaser with Confidential Information (other than with respect to information specifically required to be provided by Vertex to the Purchaser under this Agreement) causes Vertex to be in breach of another provision of this Agreement, Vertex shall not be deemed to be in breach of such provision.

(b) Vertex and the Purchaser acknowledge that each party hereto will not, after the execution of this Agreement, make a public announcement or filing with respect to the transactions contemplated by the Transaction Documents or reference or describe such transactions in an public announcement or filing, without the Purchaser or Vertex, as applicable, having a reasonable prior opportunity to review such public announcement or filing by the other party. Any public disclosure regarding the transactions contemplated by the Transaction Documents shall be in a form mutually acceptable to the Purchaser and Vertex. Either party hereto may, after compliance with the foregoing obligations, thereafter disclose any information contained in such public announcement or filing at any time without the consent of the other party hereto.

(c) Except as required by applicable law, rule or regulation, neither Vertex nor any of its Affiliates shall disclose to any Person or Governmental Authority or use or include in any public announcement or any public filing, the identity of any shareholders, members, directors or Affiliates of the Purchaser, without the prior written consent of such shareholder, member, director or Affiliate.

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(d) Notwithstanding anything to the contrary in this Agreement, Vertex shall have no obligation under this Agreement to provide the Purchaser with any information (whether part of a report, notice or otherwise) if disclosure by Vertex to the Purchaser of such information would constitute a breach by Vertex of any confidentiality obligation to Janssen or any other Person pursuant to the Janssen Agreement, as in effect on the date hereof.

Section 5.02 Further Assurances.

The Purchaser and Vertex agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable, or reasonably requested by the other party hereto, in each case at the expense of the Purchaser, in order to vest and maintain in the Purchaser good and marketable title in and to the Purchased Interest free and clear of all Liens, including the perfection and maintenance of perfection of the Purchaser's ownership interest in the Purchased Interest and of the back-up security interest in the Purchased Interest granted by Vertex to the Purchaser pursuant to Section 2.01(d).

Section 5.03 Payments to Vertex on Account of the Purchased Interest.

(a) Notwithstanding the terms of the Payment Direction, if Janssen or any other Person makes any payment to Vertex or any of its Subsidiaries or Affiliates on account of the Purchased Interest, then Vertex promptly, and in any event no later than three Business Days following the receipt by Vertex or such Subsidiary or Affiliate of such payment, shall remit such payment to the Purchaser Account pursuant to Section 5.03(c).

(b) All payments made to Vertex (or any of its Subsidiaries or Affiliates) on account of the Purchased Interest shall be held by Vertex (or such Subsidiary or Affiliate) in trust for the benefit of the Purchaser until remitted to the Purchaser Account pursuant to Section 5.03(c) and Vertex or its Subsidiaries or Affiliates shall have no right, title or interest whatsoever in such amounts and shall not create or suffer to exist any Lien thereon.

(c) Vertex shall make all payments to be made by Vertex pursuant to Section 2.02(b), Section 5.03(a) or Section 5.03(b) of this Agreement by wire transfer of immediately available funds, without Set-off, to the account set forth on Schedule 5.03(c) hereto (or to such other account as the Purchaser shall notify Vertex in writing from time to time) (the "Purchaser Account").

Section 5.04 Janssen Agreement.

(a) Vertex shall not, without the prior written consent of the Purchaser effectuate a Prohibited Amendment.

(b) Subject to Section 5.01(d), Vertex will, within five calendar days following the receipt by Vertex from Janssen of notice received under Section 9.2.2 of the Janssen Agreement of the occurrence (or deemed occurrence) of the Milestone Event (a "Section 9.2.2 Notice"), (a) deliver to the Purchaser a copy of such Section 9.2.2 Notice and (b) invoice Janssen for the full amount of the Milestone Payment resulting therefrom.

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(c) Subject to Section 5.01(d), if Vertex receives notice from Janssen or any other Person, terminating the Janssen Agreement, in whole or in part, then Vertex shall no later than ten Business Days following receipt of such notice give a written notice to the Purchaser including a copy of any written notice received from Janssen or the other relevant Person.

(d) Without the prior written consent of the Purchaser, Vertex shall not, directly or indirectly, sell, assign, hypothecate or otherwise transfer the Janssen Agreement or any of its rights or obligations thereunder to any third party, including by operation of law or otherwise; provided, however, that Vertex may, without the consent of the Purchaser, directly or indirectly assign the Janssen Agreement or any of its rights or obligations thereunder to any third party with which it may merge or consolidate or to which it may sell all or substantially all of its assets.

Section 5.05 Termination of the Janssen Agreement.

If the Janssen Agreement is terminated, by either Janssen or Vertex, for any reason and the licenses granted to Janssen under Article 7 of the Janssen Agreement terminate, Vertex shall pay the Purchaser an amount equal to any portion of the Milestone Payment that has not been earned prior to the effective date of such termination of the Janssen Agreement, provided, however, that Vertex shall owe such payment to the Purchaser only if and when the Milestone Event is subsequently achieved (either by Vertex, Vertex's licensee or successor or an acquiror of Vertex's assets or rights related thereto). For the avoidance of doubt, the expiration of the Janssen Agreement under Section 13.1 thereof shall not be deemed a termination of the Janssen Agreement.

Section 5.06 Notice of Certain Events.

(a) In addition to, and not in limitation of, the other provisions of this Agreement, Vertex shall provide the Purchaser with written notice as promptly as practicable (and in any event within five Business Days) after becoming aware of the occurrence of a Bankruptcy Event; and

(b) Vertex shall notify the Purchaser in writing not less than 30 days prior to any change in, or amendment or alteration of, Vertex's (i) legal name, (ii) form or type of organization or corporate structure or (iii) jurisdiction of organization.

Section 5.07 Access to Certain Information.

(a) If the Securities and Exchange Commission or GAAP requires Vertex to report its financial results on a consolidated basis with the financial results of the Purchaser, the Purchaser shall, for so long as the Securities and Exchange Commission or GAAP require such consolidation, use its reasonable best efforts to provide to, and to cooperate with Vertex or an independent accounting firm engaged by Vertex in connection with the collection of, financial records and financial information of the Purchaser as may be reasonably required by Vertex or such accounting firm. Vertex shall be responsible for all costs, fees and expenses in connection with the preparation of any financial statements or reports for any period or any audits in connection with the foregoing, and shall reimburse Purchaser from time to time promptly upon

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request for any reasonable costs, fees and expenses incurred by the Purchaser in connection with this Section 5.07. For the avoidance of doubt, (i) the foregoing shall not require the Purchaser to maintain financial information or records in accordance with GAAP or prepare financial reports for any period; and (ii) Vertex shall not be responsible for any costs, fees and expenses in connection with the preparation of any financial statements or reports that the Purchaser prepares in the ordinary course of its business.

(b) Vertex agrees that the Purchaser shall have no liability (whether direct or indirect, in contract or tort or otherwise) to any Vertex Indemnified Party for or in connection with any of the financial records or financial information provided by the Purchaser pursuant to Section 5.07(a) hereof except for Losses incurred by Vertex that are finally judicially determined to have resulted from actual fraud, gross negligence or willful misconduct on the part of the Purchaser.

ARTICLE VI
TERMINATION

Section 6.01 Termination Date.

This Agreement shall terminate on the date upon which the earlier of the following occurs: (i) the payment to the Purchaser of the Milestone Payment in full pursuant to the terms of the Transaction Documents; (ii) the expiration of the Janssen Agreement; or (iii) the termination of the Janssen Agreement where licenses granted to Janssen under Article 7 of the Janssen Agreement terminate.

Section 6.02 Effect of Termination.

In the event of the termination of this Agreement pursuant to Section 6.01, this Agreement shall become void and of no further force and effect, except for: (i) those rights and obligations that have accrued prior to the date of such termination, including the payment in accordance with the terms hereof of the Milestone Payment earned prior the date of such termination; (ii) in the event of termination of this Agreement pursuant to Section 6.01(iii), the right to payment of the Milestone Payment under Section 5.05, and Section 5.03, and Section 5.04(b); and (iii) Article I, Article VI and Article VII and Section 2.02(b) (but only the last sentence thereof), Section 5.01, and Section 5.07 (but only for the period ending 45 days after the end of the calendar quarter in which such termination occurred), shall survive the termination of this Agreement and there shall be no liability on the part of any party hereto, any of its Affiliates or controlling Persons or any of their respective officers, directors, shareholders, members, partners, controlling Persons, managers, agents or employees, other than as provided for in this Section 6.02. Nothing contained in this Section 6.02 shall relieve any party hereto from liability for any breach of this Agreement that occurs prior to such termination.

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ARTICLE VII
MISCELLANEOUS

Section 7.01 Survival.

All representations and warranties made herein and in any other Transaction Document or any certificates delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement and shall continue to survive until October 31, 2012; provided, however, that the representations and warranties contained in Sections 3.08 and 3.11 shall survive until the date that is one year after termination of this Agreement; provided, further, however, that the representations and warranties contained in Sections 3.01, 3.02, 3.03, 3.04, 3.09, 3.10, 3.12 and 3.14 shall survive indefinitely; provided, further, however, that it is understood and agreed that, notwithstanding the survival provisions of this Section 7.01, all of the representations and warranties made by the parties hereto are made only as of the Effective Date. The obligations of (a) Vertex to indemnify and hold harmless any Purchaser Indemnified Party under Section 7.05 and (b) the Purchaser to indemnify and hold harmless any Vertex Indemnified Party under Section 7.05, in each case shall terminate (i) when the applicable representation or warranty terminates pursuant to this Section 7.01, with respect to claims made pursuant to **Error! Reference source not found.** and **Error! Reference source not found.**, as applicable, and (ii) 60 days after the expiration of the applicable statute of limitations (or waivers or extensions thereof), with respect to claims made pursuant to **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.** or 7.05(b)(iv); provided, however, that, in each case, such obligations to indemnify and hold harmless shall not terminate with respect to any item as to which a Purchaser Indemnified Party or a Vertex Indemnified Party shall have, before the expiration of the applicable period, previously notified the indemnifying party pursuant to Section 7.05.

Section 7.02 Specific Performance.

Each of the parties hereto acknowledges that the other party hereto may 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 Agreement. Neither party hereto shall have any right to terminate this

Agreement or any other Transaction Document as a result of any breach by the other party hereto hereof or thereof, but instead shall have the rights set forth in this Agreement, including this Article VII.

Section 7.03 Notices.

All notices, consents, waivers and communications hereunder given by any party hereto to the other party hereto shall be in writing, signed by the party hereto giving such notice and be deemed to have been duly given when (i) delivered by hand, (ii) sent by facsimile (with written confirmation of receipt) if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by registered

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mail, return receipt requested, (iii) received by the addressee, if sent by nationally recognized overnight delivery service (receipt requested), or (iv) sent by email if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by a nationally recognized overnight delivery service (provided, however, that delivery will not be deemed effective unless the addressee provides written confirmation of receipt by facsimile or return email (automatic email responses do not constitute confirmation)), in each case, to the applicable addresses, facsimile numbers and/or email addresses set forth below:

If to the Purchaser to:

Olmsted Park S.A.
20, rue de la Poste
L-2346 Luxembourg
Attention: Board of Directors

with a copy (which shall not constitute notice) to:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attention: Stuart E. Leblang
Facsimile: (212) 872-1002
Email: sleblang@akingump.com

If to Vertex to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Philippe Tinmouth
Head, Business Development & Licensing
Facsimile: 617-444-6632
Email: phil_tinmouth@vrtx.com

with a copy (which shall not constitute notice) to:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139
Attention: Kenneth S. Boger, Esq.
Senior Vice President and General Counsel
Facsimile: 617-444-7117
Email: ken_boger@vrtx.com

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or to such other address or addresses, facsimile number or numbers or email address or addresses as the Purchaser or Vertex may from time to time designate by notice as provided herein, except that notices of such changes shall be effective only upon receipt.

Section 7.04 Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party shall be entitled to assign, directly or indirectly, any of its obligations and rights under any of the Transaction Documents, including by operation of law or otherwise, without the prior written consent of the other party; provided, however, that (i) Vertex 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, provided that the assignee under such assignment agrees to be bound by the terms of the Transaction Documents

and furnishes a written agreement to the Purchaser in form and substance reasonably satisfactory to the Purchaser to that effect, and (ii) Purchaser may assign this Agreement in its entirety without the consent of Vertex, provided, however, that the Purchaser shall give notice of any such assignment to Vertex after the occurrence thereof. Vertex shall be under no obligation to reaffirm any representations, warranties or covenants made in this Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by the Purchaser.

Section 7.05 Indemnification.

(a) Vertex hereby agrees to indemnify and hold harmless 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") from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses incurred or suffered by such Purchaser Indemnified Party arising out of (i) any breach of any representation, warranty or certification made by Vertex in any of the Transaction Documents or certificates given by Vertex in writing pursuant hereto or thereto, (ii) any breach of or default under any covenant or agreement by Vertex pursuant to any Transaction Document, and (iii) any fees, expenses, costs, liabilities or other amounts incurred or owed by Vertex to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement. Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by Vertex to such Purchaser Indemnified Party promptly upon demand.

(b) The Purchaser agrees to indemnify and hold harmless each of Vertex and its Affiliates and any and all of their respective partners, directors, managers, members, officers, employees, agents and controlling Persons (each, a "Vertex Indemnified Party") from and against, and will pay to each Vertex Indemnified Party the amount of, any and all Losses incurred or suffered by such Vertex Indemnified Party arising out of (i) any breach of any representation, warranty or certification made by the Purchaser in any of the Transaction Documents or certificates given by the Purchaser in writing pursuant hereto or thereto, (ii) any breach of or default under any covenant or agreement by the Purchaser pursuant to any Transaction Document, (iii) any fees, expenses, costs, liabilities or other amounts incurred or

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owed by the Purchaser to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement, and (iv) directly or indirectly, the use by Vertex of any of the financial records or financial information provided by the Purchaser pursuant to Section 5.07(a) hereof to the extent such Losses are finally judicially determined to have resulted from actual fraud, gross negligence or willful misconduct on the part of the Purchaser.. Any amounts due to any Vertex Indemnified Party hereunder shall be payable by the Purchaser to such Vertex Indemnified Party upon demand.

(c) In the event that (i) any claim, demand, action or proceeding (including any investigation by any Governmental Authority) shall be brought or alleged by any Person not a party to this Agreement against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to the preceding paragraphs (each, a "Third Party Claim") or (ii) any indemnified party under this Agreement shall have a claim to be indemnified pursuant to the preceding paragraphs which does not involve a Third Party Claim, 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, however, 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 the foregoing provisions of this Section 7.05 unless, and only to the extent that, such omission actually and materially prejudiced the indemnifying party or results in the forfeiture of material substantive rights or defenses by the indemnifying party. In case any Third Party Claim is brought against an indemnified party, 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 notify the indemnified party promptly (but no later than 10 Business Days of receipt of notice thereof) that it elects to assume the defense thereof, with counsel, contractors and consultants of recognized standing and competence and reasonably satisfactory to such indemnified party, and, after such notice of its election to assume the defense, the indemnifying party will not be liable to such indemnified party under this Section 7.05 for any legal or other expenses (except as provided in the next sentence) 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 (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (ii) 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 (iii) 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 or ineffective due to actual or potential conflicts of interests between them in the reasonable determination of the indemnified party based on the advise of outside legal counsel. The parties agree 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 Third Party Claim effected without its written consent, but, if settled with such consent or if there be a final judgment for the

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plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any Losses 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 pending or threatened Third Party Claim 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 (x) such settlement, compromise or discharge, as the case may be, (A) 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, (B) 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 (C) does not impose any continuing obligation, injunctions or restrictions on any indemnified party, encumber any of the assets of any indemnified party or otherwise adversely affect any indemnified party potentially affected by such claim or proceeding and (y) the indemnifying party pays or causes to be paid all amounts arising out of such settlement, compromise or discharge concurrently with its effectiveness.

(d) Except in the case of fraud or intentional breach, the indemnification afforded by this Section 7.05 shall be the sole and exclusive remedy for any and all Losses sustained or incurred by an indemnified 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 Agreement to the contrary, (i) in the event of any breach or failure in performance of any covenant or agreement contained in any Transaction Document, other than Section 5.04(a) of this Agreement, the breaching party agrees that the non-breaching party may be entitled to specific performance, injunctive or other equitable relief pursuant to Section 7.02, (ii) in no event shall Losses include special, indirect, incidental or consequential damages of the indemnified party, other than the payment of the Milestone Payment and (iii) in no event shall either party, or its employees, officers, directors, agents, successors or assigns be liable for any Losses in the aggregate greater than the amount of the Milestone Payment. For clarity, neither party hereto shall have any right to terminate this Agreement or any other Transaction Document as a result of any breach by the other party hereto hereof or thereof, but instead shall have the rights set forth in this Section 7.05 and 0.

Section 7.06 Independent Nature of Relationship.

(a) The relationship between Vertex and the Purchaser is solely that of seller and purchaser, and neither Vertex nor the Purchaser has any fiduciary or other special relationship with the other or any of the other's Affiliates. Nothing contained herein or in any other Transaction Document shall be deemed to constitute Vertex and the Purchaser as a partnership, an association, a joint venture or other kind of entity or legal form.

(b) No officer or employee of the Purchaser will be located at the premises of Vertex or any of its Affiliates.

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(c) None of Vertex and/or any of its Affiliates shall at any time obligate the Purchaser, or impose on the Purchaser any obligation, in any manner or with respect to any Person not a party hereto.

Section 7.07 Tax.

(a) Notwithstanding the accounting treatment thereof, for United States federal, state and local tax purposes, Vertex and the Purchaser shall treat the transactions contemplated by the Transaction Documents as a sale for United States federal, state and local tax purposes, except as provided in Section 7.07(d) below.

(b) Unless there is a change in applicable law or a Final Determination to the contrary, Vertex shall not take any position or action that is inconsistent with the position that any payments by Janssen to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, are not subject to any U.S. withholding taxes pursuant to Sections 1441, 1442, 1445 or 1446 of the Internal Revenue Code of 1986, as amended (the "Code"). If deduction or withholding by Vertex of any tax is required by law or a Final Determination from any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, any amount so withheld and remitted to taxing authorities by Vertex and any interest or penalties thereon paid by Vertex shall be treated for purposes of this Agreement as if paid to the Purchaser and shall reduce the amount otherwise payable directly to the Purchaser, and if such amount cannot be subtracted from payments otherwise due to the Purchaser, the Purchaser shall repay Vertex for any such amounts within 10 Business Days following demand therefor, which demand shall be not earlier than delivery of the documentation required by the last sentence of this paragraph. If Vertex is required by law or a Final Determination to make a deduction or withholding, it shall make that deduction or withholding and any payment required in connection with that deduction or withholding within the time allowed or, if later, promptly upon determination that such payment is owed, and in the minimum amount required by law. Within 10 Business Days of making either a deduction or withholding or any payment required in connection with that deduction or withholding, Vertex shall deliver to the Purchaser reasonable evidence that the deduction or withholding has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority. Vertex shall notify the Purchaser as soon as reasonably practicable after becoming aware that any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, are reasonably likely to be subject to deduction or withholding for taxes.

(c) Notwithstanding anything to the contrary contained in the Transaction Documents, in no event shall Vertex indemnify or hold harmless any Purchaser Indemnified Party for any reduction in payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, attributable to any taxes, except for taxes imposed on Vertex by the United States or other jurisdictions in which Vertex is treated as resident for tax purposes that are calculated by reference to the net income received or receivable by Vertex nor shall such reduction be deemed a Set-off or Discrepancy under the Transaction Documents or give rise to any liability or obligation of Vertex to pay the Purchaser the amount of such reduction under Section 2.02(b) or otherwise.

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(d) The parties hereto agree not to take any position that is inconsistent with the provisions of this Section 7.07 on any tax return or in any audit or other administrative or judicial proceeding unless (i) the other party hereto has consented to such actions or (ii) the party hereto that contemplates taking such an inconsistent position has been advised by nationally recognized tax counsel in writing that there is no "reasonable basis" (within the meaning of Treasury Regulation Section 1.6662-3(b)(3)) for the position specified in this Section 7.07 or that such position is an "unreasonable position" within the meaning of Section 6694(a)(2) of the Code; provided, however, that notwithstanding this Section 7.07(d), the parties agree not to take any position that is inconsistent with Section 7.07(a) on any tax return or in any audit or other administrative or judicial proceeding unless (i) the other party has consented to such actions or (ii) there is a change in applicable law or a Final Determination to the contrary. If there is an inquiry by any Governmental Authority of Vertex or the Purchaser related to this Section 7.07, the parties hereto shall cooperate with each other in responding to such inquiry in a reasonable manner consistent with this Section 7.07.

(e) "Final Determination" means a final administrative decision, a judicial decision or an agreement by the Purchaser pursuant to Section 7.07(e)(2) or by Vertex pursuant to Section 7.07(e)(4), that Vertex is required to withhold taxes from any payments to the Purchaser as contemplated by the Transaction Documents, including the Milestone Payment, any such decision or agreement to be conducted in accordance with the following provisions of this Section 7.07(e):

(1) Vertex agrees to give written notice (the "Initial Notice") to the Purchaser of any notice received by Vertex that involves the assertion of any claim, or the commencement of any audit, suit, action or proceeding relating to withholding taxes on any payments to the Purchaser contemplated by the Transaction Documents, including the Milestone Payment, (a "Withholding Tax Claim") within 10 days of such receipt or such earlier time as would allow the Purchaser to timely respond to such Withholding Tax Claim. Vertex will give the Purchaser such information with respect to the Withholding Tax Claim as the Purchaser may reasonably request. Failure to provide the Purchaser with notice and information with respect to a Withholding Tax Claim within a sufficient period of time and in reasonably sufficient detail to allow the Purchaser to effectively contest such Withholding Tax Claim shall not affect the liability of the Purchaser to Vertex except to the extent that the Purchaser's position is actually prejudiced as a result thereof.

(2) The Purchaser may, upon written notice to Vertex given within 30 days of receipt of the Initial Notice, assume and control the defense of any Withholding Tax Claim at its own cost and expense and with its own counsel and may (i) pursue or forego any and all administrative appeals, proceedings, hearings and conferences with any tax authority, or (ii) either (A) consent to taxes being withheld from the relevant payments, or (B) contest, settle or compromise the Withholding Tax Claim in any permissible manner.

(3) If the Purchaser elects to exercise its right to control the defense of any Withholding Tax Claim pursuant to Section 7.07(e)(2) of this Agreement, (i) Vertex, its employees and its affiliates shall (A) cooperate with the Purchaser in connection with such defense of any Withholding Tax Claim and the pursuit of any related refund, (B)

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provide the Purchaser (and its employees and other agents) with any applicable powers of attorney reasonably requested and (C) take any actions reasonably requested by the Purchaser, and (ii) the Purchaser shall keep Vertex reasonably informed of all material developments and events relating to such Withholding Tax Claim, and permit Vertex to participate in (but not to control) the defense of any such Withholding Tax Claim (including participation in any relevant meetings and conference calls) at its own cost and expense and with its own counsel.

(4) Any Withholding Tax Claim that the Purchaser does not elect to control pursuant to Section 7.07(e)(2) of this Agreement shall be controlled by Vertex and the Purchaser agrees to cooperate with Vertex in pursuing such contest, provided, however, that (i) Vertex shall keep the Purchaser informed of all material developments and events relating to such Withholding Tax Claim (including promptly forwarding copies to the Purchaser of any related correspondence) and shall use reasonable efforts to provide the Purchaser with an opportunity to review and comment on any material correspondence before Vertex sends such correspondence to any tax authority, and (ii) the Purchaser, at its own cost and expense and with its own counsel, shall have the right to participate in (including in any relevant meetings and conference calls) the defense of such Withholding Tax Claims.

(5) The Purchaser and Vertex further agree to furnish or cause to be furnished to each other, upon request, in a timely manner, such information (including access to books and records) and assistance relating to Vertex as is reasonably necessary for the filing of any tax return or refund claim relating to any relevant taxes withheld or for the defense of any Withholding Tax Claim.

(f) For purposes of this Section 7.07, a "change in applicable law" includes a change in regulations, a change in judicial interpretation or a change in other controlling legal authority.

Section 7.08 Entire Agreement.

This Agreement, together with the Schedule and 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 Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Schedule, Exhibits or other Transaction Documents) has been made or relied upon by either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 7.09 Governing Law.

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of New York, without giving effect to the principles of conflicts of law thereof.

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(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the 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 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 Agreement in any court referred to in Section 7.09(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 party hereto irrevocably consents to service of process in the manner provided for notices in Section 7.03. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by law.

Section 7.10 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 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 AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.10.

Section 7.11 Severability.

If one or more provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect and be enforceable in accordance with its terms. Any provision of this 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.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Section 7.12 Counterparts; Effectiveness.

This 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 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 7.13 Amendments; No Waivers.

(a) Neither this Agreement nor any term or provision hereof may be amended, supplemented, altered, 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.

(b) 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. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 7.14 Interpretation.

(a) Except as otherwise provided or unless the context otherwise requires, whenever used in this Agreement, (i) any noun or pronoun shall be deemed to include the plural and the singular, (ii) the use of masculine pronouns shall include the feminine and neuter, (iii) the terms “include” and “including” shall be deemed to be followed by the phrase “without limitation”, (iv) the word “or” shall be inclusive and not exclusive, (v) all references to Sections refer to the Sections of this Agreement, all references to Schedule refer to the Schedule attached hereto or delivered with this Agreement, as appropriate, and all references to Exhibits refer to the Exhibits attached to this Agreement, each of which is made a part of this Agreement for all purposes, and (vi) each reference to “herein” means a reference to “in this Agreement”.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party hereto caused such provisions to be drafted. Each of the parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

(c) Unless expressly provided otherwise, the measure of a period of one month or one year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date, provided, however, that, if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date. For example, one month following February 18th is March 18th, and one month following March 31 is May 1.

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

Section 7.15 Expenses.

Each of the parties hereto shall pay all of their own fees and expenses incurred in connection with the negotiation of and entering into, this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby.

[Signature page follows]

Information redacted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Commission.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

VERTEX PHARMACEUTICALS INCORPORATED

By: /s/ Matthew W. Emmens
Name: Matthew W. Emmens
Title: Chairman, President and CEO

OLMSTED PARK S.A.

By: /s/ Julia Vogelweith
Name: Julia Vogelweith
Title: Director

By: /s/ Hille-Paul Schut
Name: Hille-Paul Schut
Title: Director

By: /s/ Xavier de Cillia
Name: Xavier de Cillia
Title: Director

Exhibit 31.1

CERTIFICATION

I, Matthew W. Emmens, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Vertex Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2009

/s/ MATTHEW W. EMMENS

Matthew W. Emmens
Chairman, Chief Executive Officer and President
(principal executive officer)

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Exhibit 31.2

CERTIFICATION

I, Ian F. Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Vertex Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2009

/s/ IAN F. SMITH

Ian F. Smith
Executive Vice President and Chief Financial Officer
(principal financial officer)

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Exhibit 32.1

Certification
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(Subsections (a) and (b) of Section 1350,
Chapter 63 of Title 18, United States Code)

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code), each of the undersigned officers of Vertex Pharmaceuticals Incorporated, a Massachusetts corporation (the "Company"), does hereby certify, to such officer's knowledge, that the Quarterly Report on Form 10-Q for the quarter ended September 30, 2009 (the "Form 10-Q") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 9, 2009

/s/ MATTHEW W. EMMENS

Matthew W. Emmens
Chairman, Chief Executive Officer and President
(principal executive officer)

Dated: November 9, 2009

/s/ IAN F. SMITH

Ian F. Smith
Executive Vice President and Chief Financial Officer
(principal financial officer)

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