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

FORM 10-Q

(Mark one)

☒ **QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2022

☐ **TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to .

Commission File Number 001-31812

ANI PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**58-2301143**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification Number)

210 Main Street West
Baudette, Minnesota 56623
(Address of principal executive offices)

(218) 634-3500
(Registrant's telephone number including area code)

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

Title of each class:	**Trading Symbol(s)**	**Name of each exchange on which registered:**
Common Stock	ANIP	Nasdaq Global Market

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

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

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

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

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

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

As of May 3, 2022 there were 17,235,965 shares of common stock and 10,864 shares of class C special stock of the registrant outstanding.

ANI PHARMACEUTICALS, INC.
FORM 10-Q — Quarterly Report
For the Quarterly Period Ended March 31, 2022

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CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q and certain information incorporated herein by reference contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such statements include, but are not limited to, statements about future operations, strategies and growth potential, the revenue potential (licensing, royalty and sales) of products we sell, development timelines, expected timeframe for submission of new drug applications or supplemental new drug applications to the U.S. Food and Drug Administration (the "FDA"), pipeline or potential markets for our products, selling and marketing strategies and associated costs to support the sales of Purified Cortrophin™ Gel (Repository Corticotropin Injection USP) ("Cortrophin Gel"), impact of accounting principles, litigation expenses, liquidity and capital resources, the impact of the novel coronavirus ("COVID-19") global pandemic on our business, and other statements that are not historical in nature, particularly those that utilize terminology such as "anticipates," "will," "expects," "plans," "potential," "future," "believes," "intends," "continue," other words of similar meaning, derivations of such words, and the use of future dates. Such forward-looking statements are based on the reasonable beliefs of our management as well as assumptions made by and information currently available to our management. Readers should not put undue reliance on these forward-looking statements. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified; therefore, our actual results may differ materially from those described in any forward-looking statements. Factors that might cause such a difference include, but are not limited to, those discussed in our periodic reports filed with the U.S. Securities and Exchange Commission (the "SEC"), including those discussed in the "Risk Factors" section in Part I, Item 1A. of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 and the following factors:

- risks that we may face with respect to importing raw materials;
- delays or failure in obtaining approvals by the FDA of the products we sell;
- changes in policy or actions that may be taken by the FDA and other regulatory agencies, including drug recalls;
- the ability of our manufacturing partners to meet our product demands and timelines;
- our dependence on single source suppliers of ingredients due to the time and cost to validate a second source of supply;
- acceptance of our products at levels that will allow us to achieve profitability;
- our ability to develop, license or acquire, and commercialize new products;
- the level of competition we face and the legal, regulatory and/or legislative strategies employed by our competitors to prevent or delay competition from generic alternatives to branded products;
- our ability to protect our intellectual property rights;
- the impact of legislative or regulatory reform on the pricing for pharmaceutical products;
- the impact of any litigation to which we are, or may become, a party;
- our ability, and that of our suppliers, development partners, and manufacturing partners, to comply with laws, regulations and standards that govern or affect the pharmaceutical and biotechnology industries;
- our ability to maintain the services of our key executives and other personnel; and
- general business and economic conditions and the effects and duration of outbreaks of public health emergencies, such as COVID-19.

These factors should not be construed as exhaustive and should be read in conjunction with our other disclosures, including but not limited to our Annual Report on Form 10-K for the year ended December 31, 2021, including the factors described in "Item 1A. Risk Factors." Other risks may be described from time to time in our filings made under the securities laws, including our quarterly reports on Form 10-Q and our current reports on Form 8-K. New risks emerge from time to time. It is not possible for our management to predict all risks. The forward-looking statements

contained in this document are made only as of the date of this document. We undertake no obligation to update or revise any forward-looking statement, whether as a result of new information, future events, or otherwise.

The Company may use its investor relations website as a distribution channel of material company information. Financial and other important information regarding the Company is routinely posted on and accessible through the Company's investor relations website. We encourage investors and others interested in our company to review the information we post on our investor relations website in addition to filings with the Securities and Exchange Commission, press releases, public conference calls and webcasts. Information contained on the Company's website is not included as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

NOTE REGARDING TRADEMARKS

Apexicon®, Cortenema®, Purified Cortrophin™ Gel, Cortrophin-Zinc®, Inderal® LA, Inderal® XL, InnoPran XL®, Lithobid®, Reglan®, Vancocin®, and Veregen® are registered trademarks subject to trademark protection and are owned by ANI Pharmaceuticals, Inc. and its consolidated subsidiaries. Atacand® and Atacand HCT® are the property of AstraZeneca AB and are licensed to ANI Pharmaceuticals, Inc. for U.S. sales of those products. Arimidex® and Casodex® are the property of AstraZeneca UK Limited and are licensed to ANI Pharmaceuticals, Inc. for U.S. sales of those products. Oxistat® is the property of Fougera Pharmaceuticals Inc. and licensed to ANI Pharmaceuticals, Inc. for U.S. sales of Oxistat® Lotion. Pandel® is property of Taisho Pharmaceutical Co, Ltd. and licensed to ANI Pharmaceuticals for U.S. sales of Pandel® creme.

Part I — FINANCIAL INFORMATION

Item 1. Financial Statements

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Condensed Consolidated Balance Sheets
(in thousands, except share and per share amounts)
(unaudited)

	March 31, 2022	*December 31, 2021*
Assets		
Current Assets		
Cash and cash equivalents	$ 76,911	$ 100,300
Accounts receivable, net of $113,970 and $105,260 of adjustments for chargebacks and other allowances at March 31, 2022 and December 31, 2021, respectively	131,625	128,526
Inventories, net	83,155	81,693
Prepaid income taxes	1,982	3,667
Prepaid expenses and other current assets	7,726	7,589
Total Current Assets	301,399	321,775
Non-current Assets		
Property and equipment	77,677	75,627
Accumulated depreciation	(24,964)	(22,956)
Property and equipment, net	52,713	52,671
Restricted cash	5,000	5,001
Deferred tax assets, net of deferred tax liabilities and valuation allowance	73,539	67,936
Intangible assets, net	281,573	294,122
Goodwill	28,188	27,888
Derivatives and other non-current assets	2,434	2,205
Total Assets	$ 744,846	$ 771,598
Liabilities, Mezzanine Equity, and Stockholders' Equity		
Current Liabilities		
Current debt, net of deferred financing costs	$ 850	$ 850
Accounts payable	22,059	22,967
Accrued royalties	4,998	6,225
Accrued compensation and related expenses	3,265	8,522
Accrued government rebates	4,557	5,492
Returned goods reserve	35,554	35,831
Deferred revenue	116	87
Accrued expenses and other	8,133	7,563
Total Current Liabilities	79,532	87,537
Non-current Liabilities		
Non-current debt, net of deferred financing costs and current component	286,307	286,520
Non-current contingent consideration	32,053	31,000
Derivatives and other non-current liabilities	860	7,801
Total Liabilities	$ 398,752	$ 412,858
Commitments and Contingencies (Note 12)		
Mezzanine Equity		
Convertible Preferred Stock, Series A, $0.0001 par value, 1,666,667 shares authorized; 25,000 shares issued and outstanding at March 31, 2022 and December 31, 2021	24,850	24,850
Stockholders' Equity		
Common Stock, $0.0001 par value, 33,333,334 shares authorized; 17,373,730 shares issued and 17,251,022 outstanding at March 31, 2022; 16,912,401 shares issued and 16,829,739 shares outstanding at December 31, 2021	1	1
Class C Special Stock, $0.0001 par value, 781,281 shares authorized; 10,864 shares issued and outstanding at March 31, 2022 and December 31, 2021, respectively	—	—
Preferred Stock, $0.0001 par value, 1,666,667 shares authorized; 0 shares issued and outstanding at March 31, 2022 and December 31, 2021, respectively	—	—
Treasury stock, 122,708 shares of common stock, at cost, at March 31, 2022 and 82,662 shares of common stock, at cost, at December 31, 2021	(4,253)	(3,135)
Additional paid-in capital	391,084	387,844
Accumulated deficit	(68,300)	(47,765)
Accumulated other comprehensive income/(loss), net of tax	2,712	(3,055)
Total Stockholders' Equity	321,244	333,890
Total Liabilities, Mezzanine Equity, and Stockholders' Equity	$ 744,846	$ 771,598

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

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Operations
(in thousands, except per share amounts)
(unaudited)

	Three Months Ended March 31,	
	2022	***2021***
Net Revenues	$ 64,477	$ 54,521
Operating Expenses		
Cost of sales (excluding depreciation and amortization)	34,271	19,985
Research and development	5,274	2,968
Selling, general, and administrative	28,817	17,587
Depreciation and amortization	14,557	10,898
Contingent consideration fair value adjustment	753	—
Purified Cortrophin Gel pre-launch charges	—	38
Total Operating Expenses	83,672	51,476
Operating (Loss)/Income	(19,195)	3,045
Other Expense, net		
Interest expense, net	(6,613)	(2,454)
Other expense, net	(89)	(515)
(Loss)/Income Before Benefit for Income Taxes	(25,897)	76
Benefit for income taxes	5,767	10
Net (Loss)/Income	$ (20,130)	$ 86
Dividends on Series A Convertible Preferred Stock	(405)	—
Net (Loss)/Income Available to Common Shareholders	$ (20,535)	$ 86
Basic and Diluted (Loss)/Earnings Per Share:		
Basic (Loss)/Earnings Per Share	$ (1.27)	$ 0.01
Diluted (Loss)/Earnings Per Share	$ (1.27)	$ 0.01
Basic Weighted-Average Shares Outstanding	16,137	12,004
Diluted Weighted-Average Shares Outstanding	16,137	12,017

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

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Comprehensive Income/(Loss)
(in thousands)
(unaudited)

	Three Months Ended March 31,	
	2022	***2021***
Net (loss)/income	$ (20,130)	$ 86
Other comprehensive income/(loss), net of tax:		
Gains on interest rate swap, net of tax	5,767	6,405
Total other comprehensive income/(loss), net of tax	5,767	6,405
Total comprehensive (loss)/income, net of tax	$ (14,363)	$ 6,491

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

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Changes in Mezzanine Equity and Stockholders' Equity
For the Three Months Ended March 31, 2022 and 2021
(in thousands)
(unaudited)

	Mezzanine Equity Series A Convertible Preferred Stock	Mezzanine Equity Series A Convertible Preferred Stock Shares	Common Stock Par Value	Common Stock Shares	Class C Special Stock	Additional Paid-in Capital	Treasury Stock Shares	Treasury Stock	Accumulated Other Comprehensive Gain/(Loss), Net of Tax	Accumulated Deficit	Total Mezzanin Equity and Stockholders' Equity
Balance, December 31, 2020	$ —	—	$ 1	12,430	$ —	$ 214,354	76	$ (2,246)	$ (11,437)	$ (4,972)	$ 195,700
Stock-based Compensation Expense	—	—	—	—	—	1,869	—	—	—	—	1,869
Treasury Stock Purchases for Restricted Stock Vests	—	—	—	—	—	—	10	(348)	—	—	(348
Issuance of Restricted Stock Awards	—	—	—	438	—	—	—	—	—	—	—
Restricted Stock Awards Forfeitures	—	—	—	(38)	—	—	—	—	—	—	—
Other Comprehensive Income	—	—	—	—	—	—	—	—	6,405	—	6,405
Net Income	—	—	—	—	—	—	—	—	—	86	86
Balance, March 31, 2021	$ —	—	$ 1	12,830	$ —	$ 216,223	86	$ (2,594)	$ (5,032)	$ (4,886)	$ 203,712
Balance, December 31, 2021	$ 24,850	25	$ 1	16,913	$ —	$ 387,844	83	$ (3,135)	$ (3,055)	$ (47,765)	$ 358,740
Stock-based Compensation Expense	—	—	—	—	—	3,237	—	—	—	—	3,237
Treasury Stock Purchases for Restricted Stock Vests	—	—	—	—	—	—	40	(1,118)	—	—	(1,118
Issuance of Common Shares upon Stock Option and ESPP Exercise	—	—	—	—	—	3	—	—	—	—	3
Issuance of Restricted Stock Awards	—	—	—	461	—	—	—	—	—	—	—
Dividends on Series A Convertible Preferred Stock	—	—	—	—	—	—	—	—	—	(405)	(405
Other Comprehensive Income	—	—	—	—	—	—	—	—	5,767	—	5,767
Net Loss	—	—	—	—	—	—	—	—	—	(20,130)	(20,130
Balance, March 31, 2022	$ 24,850	25	$ 1	17,374	$ —	$ 391,084	123	$ (4,253)	$ 2,712	$ (68,300)	$ 346,094

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

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	Three Months Ended March 31,	
	2022	***2021***
Cash Flows From Operating Activities		
Net (loss)/income	$ (20,130)	$ 86
Adjustments to reconcile net (loss)/income to net cash and cash equivalents (used in)/provided by operating activities:		
Stock-based compensation	3,237	1,869
Deferred taxes	(7,464)	(279)
Depreciation and amortization	14,557	10,898
Non-cash interest	982	572
Contingent consideration fair value adjustment	753	—
Changes in operating assets and liabilities:		
Accounts receivable, net	(3,099)	3,917
Inventories, net	(1,462)	876
Prepaid expenses and other current assets	(137)	379
Accounts payable	(1,009)	2,462
Accrued royalties	(1,227)	(1,097)
Current income taxes payable, net	1,685	(247)
Accrued government rebates	(935)	846
Returned goods reserve	(248)	1,792
Accrued expenses, accrued compensation, and other	(4,445)	(1,406)
Net Cash and Cash Equivalents (Used in)/Provided by Operating Activities	(18,942)	20,668
Cash Flows From Investing Activities		
Acquisition of product rights, IPR&D, and other related assets	(229)	(39)
Acquisition of property and equipment, net	(1,949)	(698)
Net Cash and Cash Equivalents Used in Investing Activities	(2,178)	(737)
Cash Flows From Financing Activities		
Payments on borrowings under credit agreements	(750)	(2,377)
Series A convertible preferred stock dividends paid	(405)	—
Proceeds from stock option exercises and ESPP purchases	3	—
Treasury stock purchases for restricted stock vests	(1,118)	(348)
Net Cash and Cash Equivalents Used in by Financing Activities	(2,270)	(2,725)
Net Change in Cash and Cash Equivalents	(23,390)	17,206
Cash and cash equivalents, beginning of period	105,301	12,867
Cash and cash equivalents, end of period	$ 81,911	$ 30,073
Reconciliation of cash, cash equivalents, and restricted cash, beginning of period		
Cash and cash equivalents	$ 100,300	$ 7,864
Restricted cash	5,001	5,003
Cash, cash equivalents, and restricted cash, beginning of period	$ 105,301	$ 12,867
Reconciliation of cash, cash equivalents, and restricted cash, end of period		
Cash and cash equivalents	$ 76,911	$ 25,073
Restricted cash	5,000	5,000
Cash, cash equivalents, and restricted cash, end of period	$ 81,911	$ 30,073
Supplemental disclosure for cash flow information:		
Cash paid for interest, net of amounts capitalized	$ 5,637	$ 1,983
Cash paid for income taxes	$ —	$ 112
Supplemental non-cash investing and financing activities:		
Debt issuance costs in accrued expenses	$ —	$ 115
Acquisition of product rights, IPR&D, and other related assets included in returned goods reserve and derivatives and other non-current liabilities	$ —	$ 388
Property and equipment purchased and included in accounts payable	$ 253	$ 218

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

1. BUSINESS, PRESENTATION, AND RECENT ACCOUNTING PRONOUNCEMENTS

Overview

ANI Pharmaceuticals, Inc. and its consolidated subsidiaries (together, "ANI," the "Company," "we," "us," or "our") is a diversified bio-pharmaceutical company serving patients in need by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals, including for diseases with high unmet medical need. Our team is focused on delivering sustainable growth by building a successful Purified Cortrophin Gel franchise, strengthening our generics business with enhanced development capability, innovation in established brands and leveraging our North American manufacturing capabilities. Our four pharmaceutical manufacturing facilities, of which two are located in Baudette, Minnesota, one is located in East Windsor, New Jersey, and one is located in Oakville, Ontario, are together capable of producing oral solid dose products, as well as semi-solids, liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment.

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). In our opinion, the accompanying unaudited interim condensed consolidated financial statements include all adjustments, consisting of normal recurring adjustments, which are necessary to present fairly our financial position, results of operations, comprehensive income, and cash flows. The consolidated balance sheet at December 31, 2021 has been derived from audited financial statements as of that date. The unaudited interim condensed consolidated results of operations are not necessarily indicative of the results that may occur for the full fiscal year. Certain information and footnote disclosure normally included in financial statements prepared in accordance with U.S. GAAP have been omitted pursuant to instructions, rules, and regulations prescribed by the U.S. Securities and Exchange Commission (the "SEC"). We believe that the disclosures provided herein are adequate to make the information presented not misleading when these unaudited interim condensed consolidated financial statements are read in conjunction with the audited financial statements and notes previously distributed in our Annual Report on Form 10-K for the year ended December 31, 2021.

Principles of Consolidation

The unaudited interim condensed consolidated financial statements include the accounts of ANI Pharmaceuticals, Inc. and its subsidiaries. All intercompany accounts and transactions are eliminated in consolidation.

Foreign Currency

We have subsidiaries located in Canada and India. The Canada-based subsidiary conducts its transactions in U.S. dollars and Canadian dollars, but its functional currency is the U.S. dollar. The Indian-based subsidiary generally conducts its transactions in Indian rupees, which is also its functional currency. The results of any non-U.S. dollar transactions and balances are remeasured in U.S. dollars at the applicable exchange rates during the period and resulting foreign currency transaction gains and losses are included in the determination of net income. Our gain or loss on transactions denominated in foreign currencies and the translation impact of local currencies to U.S. dollars was immaterial for the three months ended March 31, 2022 and 2021. Unless otherwise noted, all references to "$" or "dollar" refer to the U.S. dollar.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. In the condensed consolidated financial statements, estimates are used for, but not limited to,

variable consideration determined based on accruals for chargebacks, administrative fees and rebates, government rebates, returns and other allowances, income tax provision or benefit, deferred taxes and valuation allowance, stock-based compensation, revenue recognition, allowance for inventory obsolescence, valuation of financial instruments and intangible assets, accruals for contingent liabilities, including contingent consideration in acquisitions, fair value of long-lived assets, determination of right-of-use assets and lease liabilities, allowance for credit losses purchase price allocations, and the depreciable lives of long-lived assets. Because of the uncertainties inherent in such estimates, actual results may differ from those estimates. Management periodically evaluates estimates used in the preparation of the financial statements for reasonableness.

Recent Accounting Pronouncements

Recent Accounting Pronouncements Not Yet Adopted

We have evaluated all issued and unadopted Accounting Standards Updates and believe the adoption of these standards will not have a material impact on our condensed consolidated statements of operations, comprehensive income, balance sheets, or cash flows.

2. REVENUE RECOGNITION AND RELATED ALLOWANCES

Revenue Recognition

We recognize revenue using the following steps:

- Identification of the contract, or contracts, with a customer;
- Identification of the performance obligations in the contract;
- Determination of the transaction price, including the identification and estimation of variable consideration;
- Allocation of the transaction price to the performance obligations in the contract; and
- Recognition of revenue when we satisfy a performance obligation.

We derive our revenues primarily from sales of generic and branded pharmaceutical products. Revenue is recognized when our obligations under the terms of our contracts with customers are satisfied, which generally occurs when control of the products we sell is transferred to the customer. We estimate variable consideration after considering applicable information that is reasonably available. We generally do not have incremental costs to obtain contracts that would otherwise not have been incurred. We do not adjust revenue for the promised amount of consideration for the effects of a significant financing component because our customers generally pay us within 100 days.

All revenue recognized in the accompanying unaudited interim condensed consolidated statements of operations is considered to be revenue from contracts with customers. The following table depicts the disaggregation of revenue:

	Three Months Ended	
Products and Services (in thousands)	**March 31, 2022**	**March 31, 2021**
Sales of generic pharmaceutical products	$ 49,107	$ 32,988
Sales of established brand pharmaceutical products	8,452	7,517
Sales of rare disease pharmaceutical products	1,292	—
Sales of contract manufactured products	2,904	2,573
Royalties from licensing agreements	1,903	11,210
Product development services	566	158
Other	253	75
Total net revenues	$ 64,477	$ 54,521

	Three Months Ended

Timing of Revenue Recognition (in thousands)	March 31, 2022	March 31, 2021
Performance obligations transferred at a point in time	$ 63,911	$ 54,363
Performance obligations transferred over time	566	158
Total	$ 64,477	$ 54,521

In the three months ended March 31, 2022 and 2021, we did not incur, and therefore did not defer, any material incremental costs to fulfill contracts. We recognized a decrease of $1.3 million to net revenue from performance obligations satisfied in prior periods during the three months ended March 31, 2022, consisting primarily of revised estimates for variable consideration, including chargebacks, rebates, returns, and other allowances, related to prior period sales. We recognized an increase of $10.7 million to net revenue from performance obligations satisfied in prior periods during the three months ended March 31, 2021, consisting primarily of a final royalty revenue related to the Kite license agreement pursuant to the Tripartite Agreement as described herein in *Royalties from Licensing Agreements.* We provide technical transfer services to customers, for which services are transferred over time. As of March 31, 2022 and December 31, 2021, we did not have any contract assets related to revenue recognized based on percentage of completion but not yet billed. We had $0.1 million of deferred revenue at March 31, 2022 and December 31, 2021. For the three months ended March 31, 2022, we recognized less than $0.1 million of revenue that was included in deferred revenue as of December 31, 2021. For the three months ended March 31, 2021, we recognized less than $0.1 million of revenue that was included in deferred revenue as of December 31, 2020.

Revenue from Sales of Generic and Branded Pharmaceutical Products

Product sales consists of sales of our generic and branded pharmaceutical products, including rare disease pharmaceutical products. Our sole performance obligation in our contracts is to provide pharmaceutical products to customers. Our products are sold at pre-determined standalone selling prices and our performance obligation is considered to be satisfied when control of the product is transferred to the customer. Control is generally transferred to the customer upon delivery of the product to the customer, as our pharmaceutical products are generally sold on an FOB destination basis and because inventory risk and risk of ownership passes to the customer upon delivery. Payment terms for these sales are generally less than 100 days.

Sales of our pharmaceutical products are subject to variable consideration due to chargebacks, government rebates, returns, administrative and other rebates, and cash discounts. Estimates for these elements of variable consideration require significant judgment.

The following table summarizes activity in the consolidated balance sheets for accruals and allowances for the three months ended March 31, 2022 and 2021, respectively:

	Accruals for Chargebacks, Returns, and Other Allowances				
(in thousands)	Chargebacks	Government Rebates	Returns	Administrative Fees and Other Rebates	Prompt Payment Discounts
Balance at December 31, 2020 (1)	$ 88,746	$ 7,826	$ 27,155	$ 8,906	$ 3,839
Accruals/Adjustments	96,701	4,656	4,811	7,634	3,196
Credits Taken Against Reserve	(114,114)	(3,810)	(3,022)	(9,184)	(3,959)
Balance at March 31, 2021 (1)	$ 71,333	$ 8,672	$ 28,944	$ 7,356	$ 3,076
Balance at December 31, 2021 (1)	$ 94,066	$ 5,492	$ 35,831	$ 13,100	$ 4,642
Accruals/Adjustments	152,566	2,810	6,942	9,785	5,060
Credits Taken Against Reserve	(142,991)	(3,745)	(7,219)	(10,915)	(4,539)
Balance at March 31, 2022 (1)	$ 103,641	$ 4,557	$ 35,554	$ 11,970	$ 5,163

(1) Chargebacks are included as an offset to accounts receivable in the unaudited interim condensed consolidated balance sheets. Administrative Fees and Other Rebates and Prompt Payment Discounts are included as an offset

to accounts receivable or as accrued expenses and other in the unaudited interim condensed consolidated balance sheets. Returns are included in returned goods reserve in the unaudited interim condensed consolidated balance sheets. Government Rebates are included in accrued government rebates in the unaudited interim condensed consolidated balance sheets.

Contract Manufacturing Product Sales Revenue

Contract manufacturing arrangements consist of agreements in which we manufacture a pharmaceutical product on behalf of a third party. Our performance obligation is to manufacture and provide pharmaceutical products to customers, typically pharmaceutical companies. The contract manufactured products are sold at pre-determined standalone selling prices and our performance obligations are considered to be satisfied when control of the product is transferred to the customer. Control is transferred to the customer when the product leaves our dock to be shipped to the customer, as our contract manufactured pharmaceutical products are sold on an FOB shipping point basis and the inventory risk and risk of ownership passes to the customer at that time. Payment terms for these sales are generally fewer than two months. We estimate returns based on historical experience. Historically, we have not had material returns for contract manufactured products.

As of March 31, 2022, the aggregate amount of the transaction price allocated to the remaining performance obligations for all open contract manufacturing customer contracts was $6.2 million, which consists of firm orders for contract manufactured products. We will recognize revenue for these performance obligations as they are satisfied, which is anticipated within six months.

Royalties from Licensing Agreements

From time to time, we enter into transition agreements with the sellers of products we acquire, under which we license to the seller the right to sell the acquired products. Therefore, we recognize the revenue associated with sales of the underlying products as royalties. Because these royalties are sales-based, we recognize the revenue when the underlying sales occur, based on sales and gross profit information received from the sellers. Upon full transition of the products and upon launching the products under our own labels, we recognize revenue for the products as sales of generic or branded pharmaceutical products, as described above. From time to time, we enter into supply and distribution agreements with contract manufacturing customers, under which we license to the contract manufacturing customer the right to sell our products, and we are entitled to a royalty on sales made by the contract manufacturing customer under these arrangements. Therefore, we recognize the revenue associated with sales of the underlying products as royalties. Because these royalties are sales-based, we recognize the revenue when the underlying sales occur, based on sales and gross profit information received from the contract manufacturing customers.

Pursuant to a 2012 Tripartite Agreement (the “Tripartite Agreement”) between the Company, The Regents of the University of California (“The Regents”), and Cabaret Biotech Ltd., an Israeli corporation (“Cabaret”) (as assignee of Dr. Zelig Eshhar’s rights under the Tripartite Agreement), and subsequent amendments thereto and assignments thereof, we were entitled to receive a percentage of the milestone and sales royalty payments paid to Cabaret by Kite Pharma, Inc. (“Kite”), a subsidiary of Gilead Sciences, Inc., under a license agreement. Under such license agreement, Kite licensed from Dr. Eshhar and Cabaret the patent rights covered by the Tripartite Agreement and agreed to make certain payments to Cabaret based on, among other things, Kite’s sales of Yescarta®. Under the Tripartite Agreement, portions of these payments were to be distributed to The Regents and to us.

Historically, we recorded royalty income related to Yescarta® on an accrual basis utilizing our best estimate of royalties earned based upon information available in the public domain, our understanding of the various agreements governing the royalty, and other information received from time to time from the relevant parties. Generally, cash was received directly from Cabaret once a year. The agreements governing this royalty were subject to multiple actions in multiple jurisdictions, including litigation between Cabaret and Kite, and separately, ANI and Cabaret. In the first quarter of 2021, we became aware that the litigation between Cabaret and Kite was dismissed. In April 2021, Cabaret and the Company settled all amounts due for amounts actually received by Cabaret or Eshhar for the licensing or use of the patent rights governed by the Kite license agreement. As a result, we recognized $11.2

million as royalties from licensing agreements in our net revenues during the three month period ended March 31, 2021. In addition, during the three month period ended March 31, 2021, we agreed to reimburse Cabaret $0.4 million, which has been recorded as other expense, net in the accompanying unaudited interim condensed consolidated statement of operations, related to certain legal expenditures incurred. We received final payment from Cabaret in May 2021. Based upon the events that led to the dismissal of the litigation between Cabaret and Kite, we do not expect to receive any future royalty income related to the Kite license agreement. In conjunction with payment of amounts due to us, all outstanding litigation between the Company and Cabaret were dismissed.

Product Development Services Revenue

We provide product development services to customers, which are performed over time. These are services primarily performed at our facilities in East Windsor, New Jersey and Oakville, Ontario. The duration of these development projects can be up to three years. Deposits received from these customers are recorded as deferred revenue until revenue is recognized. For contracts with no deposits and for the remainder of contracts with deposits, we invoice customers as our performance obligations are satisfied. We recognize revenue on a percentage of completion basis, which results in contract assets on our balance sheet. As of March 31, 2022, the aggregate amount of the transaction price allocated to the remaining performance obligations for all open product development services contracts was $0.1 million. We expect to satisfy these performance obligations within the next 12 months.

Credit Concentration

Our customers are primarily wholesale distributors, chain drug stores, group purchasing organizations, and pharmaceutical companies.

During the three months ended March 31, 2022 and 2021 we had three customers that accounted for 10% or more of net revenues. As of March 31, 2022, accounts receivable from these customers totaled 84% of accounts receivable, net.

The three customers represent the total percentage of net revenues as follows:

	Three Months Ended	
	March 31, 2022	March 31, 2021
Customer 1	31 %	28 %
Customer 2	19 %	24 %
Customer 3	14 %	16 %

3. BUSINESS COMBINATION

Summary

On November 19, 2021, we completed our previously announced acquisition of all of the interests of Novitium pursuant to the terms of the Agreement and Plan of Merger (the “Merger Agreement”), dated as of March 8, 2021, for cash consideration, 2,466,654 restricted shares of our common stock valued at $91.2 million based on our closing stock price of $43.54 on the date of closing and discounted for lack of marketability due to restrictions on shares, and up to $46.5 million in additional contingent consideration. Additionally, we agreed to pay certain debts of Novitium in the amount of $8.5 million, which we deemed to be paid in consummation of the transaction closing, and not assumed liabilities, and thus were included as additional cash consideration. This acquisition was accounted for as a business combination. The contingent consideration is based on the achievement of certain milestones, including milestones on gross profit of Novitium portfolio products over a 24-month period, regulatory filings completed during this 24-month period, and a percentage of net profits on certain products that are launched in the future. As of the closing of the acquisition, the contingent consideration had a fair value of $30.8 million. Total consideration including cash, restricted shares and contingent consideration was valued at $206.5 million.

Purchase consideration consisted of the following:

	(in thousands)
Cash consideration	$ 88,076
Repayment of Novitium debts	8,493
Fair value of restricted shares	91,199
Fair value of contingent consideration	30,800
Gross consideration	$ 218,568
Cash acquired	12,076
Net consideration	$ 206,492

The cash consideration was funded in part by borrowings under our new credit facility (Note 4) and through issuance of shares of Series A convertible preferred stock (Note 9). We acquired Novitium due to its proven track record of being a research and development growth engine capable of fueling sustainable growth, to expand our research and development pipeline via niche opportunities, to enhance our contract development and manufacturing organization ("CDMO") business and U.S. based manufacturing capacity, and to diversify our revenue base.

The preliminary allocation of the fair value of the Novitium acquisition, reflective of certain immaterial measurement period adjustments during the three months ended March 31, 2022, is shown in the table below. The allocation of the fair value will be finalized when the valuation is completed and the differences will be trued up for the final allocated amounts.

	(in thousands)
Total Purchase Consideration	$ 218,568
Cash and cash equivalents	12,076
Accounts receivable	27,185
Inventories	14,460
Prepaid expenses and other current assets	1,891
Property and equipment	14,331
Intangible assets	139,200
Goodwill	24,608
Other non-current assets	1,413
Total assets acquired	235,164
Accounts payable	1,560
Accrued expense and other current liabilities	6,035
Accrued compensation and other related expenses	4,909
Accrued government rebates	744
Returned goods reserve	2,202
Other non-current liabilities	1,146
Total liabilities assumed	16,596
Net assets acquired	$ 218,568

The net assets were recorded at their estimated fair value. In valuing acquired assets and liabilities, fair value estimates were based primarily on future expected cash flows, market rate assumptions for contractual obligations, and appropriate discount rates. In connection with the acquisition, we recognized $46.9 million of indefinite-lived in-process research and development intangible assets, $67.4 million of acquired ANDA intangible assets, and $24.9 million of customer relationship intangible assets.

Goodwill is considered an indefinite-lived asset and relates primarily to intangible assets that do not qualify for separate recognition, such as the assembled workforce and synergies between the entities. Goodwill established as a result of the acquisition is tax deductible in the U.S.

Novitium operations generated $19.2 million of revenue and recorded a net loss of $0.2 million during the three months ended March 31, 2022.

Restricted Shares

The Novitium acquisition consideration included 2,466,654 restricted shares, which were valued at $91.2 million. These shares contain restrictions on their transfer for periods from three to 24 months following the completion of the acquisition. A Finnerty model was used to value the restricted shares. It includes inputs of not readily observable market data, which are Level 3 inputs. These unobservable inputs include ANI stock volatility with a range of 65% - 71%, and the discounted lack of marketability with a range of 7.5% - 21.5% depending on the length of restriction.

4. INDEBTEDNESS

Credit Facility

On November 19, 2021, the Company, as borrower, entered into a credit agreement (the "Credit Agreement") with Truist Bank and other lenders, which provides for credit facilities consisting of (i) a senior secured term loan facility in an aggregate principal amount of $300.0 million (the "Term Facility") and (ii) a senior secured revolving credit facility in an aggregate commitment amount of $40.0 million, which may be used for revolving credit loans, swingline loans and letters of credit (the "Revolving Facility," and together with the Term Facility, the "Credit Facility").

The Term Facility proceeds were used to finance the cash portion of the consideration under the merger agreement between ANI and Novitium, repay our existing credit facility, and pay fees, costs and expenses incurred in connection with the merger. Proceeds of the Revolving Facility are expected to be used, subject to certain limitations, for working capital and other general corporate purposes.

The Term Facility matures in November 2027 and the Revolving Facility in November 2026. Each permits both base rate borrowings ("ABR Loans") and Eurodollar rate borrowings ("Eurodollar Loans"), plus a spread of (a) 5.00% above the base rate in the case of ABR Loans under the Term Facility and 6.00% above the LIBOR Rate (as defined in the Credit Agreement) in the case of LIBOR loans under the Term Facility and (b) 3.75% above the base rate in the case of ABR Loans under the Revolving Facility and 4.75% above the LIBOR Rate (as defined in the Credit Facility) in the case of loans under the Revolving Facility. The interest rate under the Term Facility was 6.75% at March 31, 2022. The Credit Facility has a subjective acceleration clause in case of a material adverse effect. The Term Facility includes a repayment schedule, pursuant to which $750 thousand of the loan will be paid in quarterly installments during the twelve months ended March 31, 2023. As of March 31, 2022, $3.0 million of the loan is recorded as current borrowings in the unaudited interim condensed consolidated balance sheets. As of March 31, 2022, we have not drawn on the Revolving Facility and $40.0 million remained available for borrowing.

We incurred $14.0 million in deferred debt issuance costs associated with the Credit Facility. Costs allocated to the Term Facility are classified as a direct reduction to the current and non-current portion of the borrowings, depending on their nature. Costs allocated to the Revolving Facility are classified as other current and other non-current assets, depending on their nature. We incur a commitment fee of 0.5% per annum on any unused portion of the Revolving Facility.

In connection with entry into the Credit Facility, on November 19, 2021, we terminated our existing Amended and Restated Credit Agreement, dated as of December 27, 2018 (the "Prior Credit Agreement"), among the Company, as borrower, and Citizens Bank with other lenders.

The Credit Facility is secured by a lien on substantially all of ANI Pharmaceuticals, Inc.'s and its principal domestic subsidiary's assets and any future domestic subsidiary guarantors' assets. The Credit Facility is subject to customary financial and nonfinancial covenants.

The carrying value of the current and non-current components of the Term Facility as of March 31, 2022 and December 31, 2021 are:

	Current	
(in thousands)	March 31, 2022	December 31, 2021
Current borrowing on debt	$ 3,000	$ 3,000
Deferred financing costs	(2,150)	(2,150)
Current debt, net of deferred financing costs	$ 850	$ 850

	Non-Current	
(in thousands)	March 31, 2022	December 31, 2021
Non-current borrowing on debt	$ 296,250	$ 297,000
Deferred financing costs	(9,943)	(10,480)
Non-current debt, net of deferred financing costs and current component	$ 286,307	$ 286,520

As of March 31, 2022, we had a $299.3 million balance on the Term Facility. Of the $1.0 million of deferred debt issuance costs allocated to the Revolving Facility, $0.8 million is included in other non-current assets in the unaudited interim condensed consolidated balance sheets, and $0.2 million is included in prepaid expenses and other current assets in the unaudited interim condensed consolidated balance sheets.

The contractual maturity of our Term Facility is as follows for the years ending December 31:

(in thousands)	Term Facility
2022	$ 2,250
2023	3,000
2024	3,000
2025	3,000
2026	3,000
2027 and thereafter	285,000
Total	$ 299,250

The following table sets forth the components of total interest expense related to the Term Facility during the three months ended March 21, 2022 and interest expense under the Prior Credit Agreement during the three months ended March 31, 2021, as recognized in the accompanying unaudited interim condensed consolidated statements of operations for the three months ended March 31, 2022 and 2021:

	Three Months Ended	
(in thousands)	March 31, 2022	March 31, 2021
Contractual coupon	$ 6,058	$ 2,304
Amortization of finance fees	591	177
Capitalized interest	(30)	(26)
	$ 6,619	$ 2,455

5. DERIVATIVE FINANCIAL INSTRUMENT AND HEDGING ACTIVITY

At times we use derivative financial instruments to hedge our exposure to interest rate risks. All derivative financial instruments are recognized as either assets or liabilities at fair value on the consolidated balance sheet and are classified as current or non-current based on the scheduled maturity of the instrument.

When we enter into a hedge arrangement and intend to apply hedge accounting, we formally document the hedge relationship and designate the instrument for financial reporting purposes as a fair value hedge, a cash flow hedge, or a net investment hedge. When we determine that a derivative financial instrument qualifies as a cash flow hedge and is effective, the changes in fair value of the instrument are recorded in accumulated other comprehensive loss, net of tax in our consolidated balance sheets and will be reclassified to earnings when the hedged item affects earnings.

In April 2020, we entered into an interest rate swap with Citizens Bank, N.A. to manage our exposure to changes in LIBOR-based interest rates underlying total borrowings under term facilities related to our Prior Credit Agreement. The interest rate swap matures in December 2026. Concurrent with the termination of the Prior Credit Agreement and entry into the Credit Agreement with Truist Bank, the interest rate swap with a notional value of $168.6 million was novated and Truist Bank is the new counterparty. The swap is used to manage changes in LIBOR-based interest rates underlying a portion of the borrowing under the Term Facility. The interest rate swap provides an effective fixed interest rate of 2.26% and has been designated as an effective cash flow hedge and therefore qualifies for hedge accounting. As of March 31, 2022, the notional amount of the interest rate swap was $162.2 million and decreases quarterly by approximately $4.0 million until December 2023, after which it remains static until maturity in December 2026. As of March 31, 2022, the fair value of the interest rate swap asset recorded in derivatives and other non-current assets in the unaudited interim condensed consolidated balance sheets was $0.4 million. As of March 31, 2022, $2.7 million was recorded in accumulated other comprehensive loss, net of tax in the unaudited interim condensed consolidated balance sheets.

During the three months ended March 31, 2022, the change in fair value of the interest rate swaps was a gain of $6.9 million. During the three months ended March 31, 2022, gains on the interest rate swap of $5.8 million were recorded in accumulated other comprehensive loss, net of tax in our unaudited interim condensed consolidated statements of comprehensive (loss)/income. Differences between the hedged LIBOR rate and the fixed rate are recorded as interest expense in the same period that the related interest is recorded for the Term Facility based on the LIBOR rate. In the three months ended March 31, 2022, $1.0 million of interest expense was recognized in relation to the interest rate swaps. Included in this amount for the three months ended March 31, 2022 and 2021 are reclassifications out of accumulated other comprehensive income/loss of $0.7 million and $0.9 million in expense, respectively, related to terminated and de-designated cash flow hedges.

6. EARNINGS (LOSS) PER SHARE

Basic earnings (loss) per share is computed by dividing net income (loss) available to common stockholders by the weighted-average number of shares of common stock outstanding during the period.

For periods of net income, and when the effects are not anti-dilutive, we calculate diluted earnings (loss) per share by dividing net income available to common stockholders by the weighted-average number of shares outstanding plus the impact of all potential dilutive common shares, consisting primarily of common stock options, shares to be purchased under our Employee Stock Purchase Plan (“ESPP”), unvested restricted stock awards, and stock purchase warrants, using the treasury stock method. For periods of net loss, diluted loss per share is calculated similarly to basic loss per share.

Our unvested restricted shares and Series A convertible preferred stock shares contain non-forfeitable rights to dividends, and therefore are considered to be participating securities; in periods of net income, the calculation of basic and diluted earnings (loss) per share excludes from the numerator net income (but not net loss) attributable to the unvested restricted shares and the common shares assumed converted from the preferred shares and excludes the impact of those shares from the denominator.

Earnings (loss) per share for the three months ended March 31, 2022 and 2021 are calculated for basic and diluted earnings (loss) per share as follows:

(in thousands, except per share amounts)	Basic		Diluted	
	Three Months Ended March 31,		Three Months Ended March 31,	
	2022	2021	2022	2021
Net (loss)/income	$ (20,130)	$ 86	$ (20,130)	$ 86
Net income allocated to participating securities	—	(5)	—	(5)
Dividends on Series A convertible preferred stock	(405)	—	(405)	—
Net (loss)/income available to common shareholders	$ (20,535)	$ 81	$ (20,535)	$ 81
Basic Weighted-Average Shares Outstanding	16,137	12,004	16,137	12,004
Dilutive effect of stock options and ESPP			—	13
Diluted Weighted-Average Shares Outstanding			16,137	12,017
(Loss)/Income per share	$ (1.27)	$ 0.01	$ (1.27)	$ 0.01

The number of anti-dilutive shares, which have been excluded from the computation of diluted earnings (loss) per share, was 2.5 million and 1.7 million for the three months ended March 31, 2022 and 2021, respectively. For the three months ended March 31, 2022, all potentially dilutive shares were anti-dilutive and excluded from the calculation of diluted loss per share because we recognized a net loss. For the three months ended March 31, 2021, anti-dilutive shares consist of out-of-the-money Class C Special stock, out-of-the-money common stock options, and unvested restricted stock awards and common stock options that are anti-dilutive when calculating the impact of the potential dilutive common shares using the two-class or treasury stock method.

7. INVENTORIES

Inventories consist of the following as of:

(in thousands)	March 31, 2022	December 31, 2021
Raw materials	$ 52,816	$ 51,350
Packaging materials	5,560	5,475
Work-in-progress	615	652
Finished goods	31,363	31,969
	90,354	89,446
Reserve for excess/obsolete inventories	(7,199)	(7,753)
Inventories, net	$ 83,155	$ 81,693

Vendor Concentration

We source the raw materials for our products, including active pharmaceutical ingredients ("API"), from both domestic and international suppliers. Generally, only a single source of API is qualified for use in each product due to the cost and time required to validate a second source of supply. As a result, we are dependent upon our current vendors to reliably supply the API required for on-going product manufacturing. During the three months ended March 31, 2022, one vendor represented 16% of inventory purchases. As of March 31, 2022, our accounts payable to this supplier was zero. During the three months ended March 31, 2021, we purchased approximately 11% of our inventory from one supplier.

8. GOODWILL AND INTANGIBLE ASSETS

Goodwill

As a result of our 2013 merger with BioSante Pharmaceuticals, Inc. ("BioSante"), we recorded goodwill of $1.8 million. As a result of our acquisition of WellSpring Pharma Services Inc., we recorded additional goodwill of $1.7 million in 2018. From our acquisition of Novitium in 2021, we recorded goodwill of $24.6 million. We assess the recoverability of the carrying value of goodwill as of October 31st of each year, and whenever events occur or circumstances change that would, more likely than not, reduce the fair value of our reporting unit below its carrying value. There have been no events or changes in circumstances that would have reduced the fair value of our reporting unit below its carrying value during the three months ended March 31, 2022. No impairment losses were recognized during the three months ended March 31, 2022 and 2021.

Intangible Assets

The components of net definite-lived intangible assets and net indefinite-lived intangible assets other than goodwill are as follows:

(in thousands)	March 31, 2022 Gross Carrying Amount	March 31, 2022 Accumulated Amortization	December 31, 2021 Gross Carrying Amount	December 31, 2021 Accumulated Amortization	Weighted Average Amortization Period
Definite-Lived Intangible Assets:					
Acquired ANDA intangible assets	$ 168,536	$ (59,127)	$ 168,536	$ (54,079)	8.5 years
NDAs and product rights	242,372	(145,184)	242,372	(138,835)	9.9 years
Marketing and distribution rights	17,157	(12,588)	17,157	(12,347)	5.5 years
Non-compete agreement	624	(535)	624	(513)	7.0 years
Customer relationships	24,900	(1,482)	24,900	(593)	7.0 years
Indefinite-Lived Intangible Assets:					
In process research and development	46,900	—	46,900	—	Indefinite
Total Intangible Assets, net	$ 500,489	$ (218,916)	$ 500,489	$ (206,367)	9.0 years

The definite-lived Abbreviated New Drug Applications ("ANDAs"), New Drug Applications ("NDAs") and product rights, marketing and distribution rights, customer relationships, and non-compete agreement are stated at cost, net of amortization, and generally amortized over their remaining estimated useful lives, ranging from seven to 10 years, based on the straight-line method. In the case of certain NDA and product rights assets, we use an accelerated amortization method to better match the anticipated economic benefits expected to be provided. Our indefinite-lived intangible assets other than goodwill include in-process research and development ("IPR&D") projects. IPR&D intangible assets represent the fair value of technology acquired in a business combination for which the technology projects are incomplete but have substance. When an IPR&D project is completed (generally upon receipt of regulatory approval), the asset is then accounted for as a definite-lived intangible asset.

Amortization expense was $12.5 million and $9.7 million for the three months ended March 31, 2022 and 2021, respectively. Refer to Note 13 for more details on acquired definite-lived intangible assets.

We test for impairment of definite-lived intangible assets and indefinite-lived intangible assets when events or circumstances indicate that the carrying value of the assets may not be recoverable. No such triggering events were identified during the three months ended March 31, 2022 and 2021 and therefore no impairment loss was recognized in the three months ended March 31, 2022 and 2021.

Expected future amortization expense is as follows:

(in thousands)	
2022 (remainder of the year)	$ 36,572
2023	50,792
2024	49,997
2025	47,893
2026	34,574
2027 and thereafter	61,745
Total	$ 281,573

9. MEZZANINE AND STOCKHOLDERS' EQUITY

Stockholders' Equity

Authorized shares

We are authorized to issue up to 33.3 million shares of common stock with a par value of $0.0001 per share, 0.8 million shares of class C special stock with a par value of $0.0001 per share, and 1.7 million shares of undesignated preferred stock with a par value of $0.0001 per share at March 31, 2022.

There were 17.4 million and 17.3 million shares of common stock issued and outstanding as of March 31, 2022 and 16.9 million shares of common stock issued and outstanding as of December 31, 2021. During 2021, we issued 1.5 million shares related to a public offering of our common stock and 2.5 million shares as consideration in connection with the acquisition of Novitium.

There were 11 thousand shares of class C special stock issued and outstanding as of March 31, 2022 and December 31, 2021. Each share of class C special stock entitles its holder to one vote per share. Each share of class C special stock is exchangeable, at the option of the holder, for one share of our common stock, at an exchange price of $90.00 per share, subject to adjustment upon certain capitalization events. Holders of class C special stock are not entitled to receive dividends or to participate in the distribution of our assets if we were to liquidate, dissolve, or wind-up the company. The holders of class C special stock have no cumulative voting, preemptive, subscription, redemption, or sinking fund rights.

Mezzanine Equity

PIPE Shares

Concurrently with the execution of the Merger Agreement, and as financing for a portion of the acquisition, on March 8, 2021, we entered into an Equity Commitment and Investment Agreement with Ampersand (the "PIPE Investor"), pursuant to which we agreed to issue and sell to the PIPE Investor, and the PIPE Investor agreed to purchase, 25,000 shares of our Series A Convertible Preferred Stock (the "PIPE Shares"), for a purchase price of $1,000 per share and an aggregate purchase price of $25.0 million PIPE Investment. This agreement closed and the 25,000 PIPE Shares were sold and issued for $25.0 million on November 19, 2021. The PIPE Shares are classified as mezzanine equity because the shares are mandatorily redeemable for cash upon a change in control, an event that is not solely in our control. We incurred $0.2 million in issuance costs associated with the transaction.

The PIPE Shares accrue dividends at 6.50% per year on a cumulative basis, payable in cash or in-kind, and will also participate, on a pro-rata basis, in any dividends that may be declared with respect to our common stock. The PIPE

Shares are convertible into our common shares at the conversion price of $41.47 (i) beginning two years after their issuance date, at the election of ANI (in which case the PIPE Investor must convert all of the PIPE Shares), if the volume-weighted average price of our common stock for any 20 trading days out of 30 consecutive trading days exceeds 170% of the conversion price, and (ii) at any time after issuance, at the election of the PIPE Investor. As of March 31, 2022, the PIPE shares are currently convertible into a maximum of 602,901 shares of our common stock.

In case of a liquidation event, the holder of the PIPE Shares will be entitled to receive, in preference to holders of our common stock, the greater of (i) the PIPE Shares' purchase price plus any accrued and unpaid dividends thereon and (ii) the amount the holder of the PIPE Shares would have received in the liquidation event if it had converted its PIPE Shares into our common stock. The PIPE Shares will have voting rights, voting as one series with our common stock, on as-converted basis, and will have separate voting rights on any (i) amendment to the Certificate of Designation of Preferences, Rights and Limitations of Series A Convertible Preferred Stock (the "Certificate") that adversely amends and relates solely to the terms of the PIPE Shares and (ii) issuance of additional Series A convertible preferred stock. In case of a change of control of ANI, the PIPE Shares will be redeemed at the greater of (i) the PIPE Shares' purchase price plus any accrued and unpaid dividends thereon and (ii) the change of control transaction consideration that the holder of the PIPE Shares would have received if it had converted into our common stock.

There were 25,000 shares of Series A convertible preferred stock outstanding as of March 31, 2022.

10. STOCK-BASED COMPENSATION

Employee Stock Purchase Plan

In July 2016, we commenced administration of the ANI Pharmaceuticals, Inc. 2016 Employee Stock Purchase Plan. As of March 31, 2022, we had 0.2 million shares of common stock available under the ESPP. Under the ESPP, participants can purchase shares of our stock at a 15% discount.

The following table summarizes ESPP expense incurred under the 2016 Employee Stock Purchase Plan and included in our accompanying unaudited interim condensed consolidated statements of operations:

(in thousands)	Three Months Ended March 31,	
	2022	2021
Cost of sales	$ 10	$ 4
Research and development	7	5
Selling, general, and administrative	21	23
	$ 38	$ 32

Stock Incentive Plan

Equity-based service awards are granted under the ANI Pharmaceuticals, Inc. Amended and Restated 2022 Stock Incentive Plan (the "2022 Plan"), which was approved by our stockholders at the 2022 Annual Meeting of Stockholders (the "Annual Meeting") held on April 27, 2022. Prior to this approval, we had been granting equity-based incentive awards under our Sixth Amended and Restated 2008 Stock Incentive Plan (the "the Existing Plan"). As of March 31, 2022, 0.1 million shares of our common stock were available for issuance under the Existing Plan. The approved 2022 Plan was amended to, among other things, increase the number of shares reserved for issuance thereunder by 1,150,000 shares.

From time to time, we may grant stock options to employees through an inducement grant outside of our 2022 Plan to induce prospective employees to accept employment with us (the "Inducement Grants"). The options are granted at an exercise price equal to the fair market value of a share of our common stock on the respective grant date and are generally exercisable in four equal annual installments beginning on the first anniversary of the respective grant

date. The grants are made pursuant to inducement grants outside of our stockholder approved equity plan as permitted under the Nasdaq Stock Market listing rules.

The following table summarizes stock-based compensation expense incurred under the 2022 Plan and Inducement Grants included in our accompanying unaudited interim condensed consolidated statements of operations:

(in thousands)	Three Months Ended March 31,	
	2022	2021
Cost of sales	$ 135	$ —
Research and development	246	114
Selling, general, and administrative	2,818	1,723
	$ 3,199	$ 1,837

A summary of stock option and restricted stock activity under the 2022 Plan and Inducement Grants during the three months ended March 31, 2022 and 2021 is presented below:

(in thousands)	Options	Inducement Grants	RSAs
Outstanding at December 31, 2020	756	180	352
Granted	42	61	438
Options Exercised/RSAs Vested	—	—	(34) (1)
Forfeited	(10)	—	(38)
Expired	—	—	—
Outstanding at March 31, 2021	788	241	718
Outstanding at December 31, 2021	747	241	707
Granted	27	—	460
Options Exercised/RSAs Vested	—	—	(161) (2)
Forfeited	—	—	—
Expired	—	—	—
Outstanding at March 31, 2022	774	241	1,006

(1) Includes 10 thousand shares purchased from employees to cover employee income taxes related to income earned upon vesting of restricted stock. The shares purchased are held in treasury and the $348 thousand total purchase price for the shares is included in Treasury stock in our accompanying unaudited interim condensed consolidated balance sheets.

(2) Includes 40 thousand shares purchased from employees to cover employee income taxes related to income earned upon vesting of restricted stock. The shares purchased are held in treasury and the $1.1 million total purchase price for the shares is included in Treasury stock in our accompanying unaudited interim condensed consolidated balance sheets.

11. INCOME TAXES

We use the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that such tax rate changes are enacted.

The measurement of a deferred tax asset is reduced, if necessary, by a valuation allowance if it is more likely than not that some portion or all of the deferred tax asset will not be realized. As of March 31, 2022, we have provided a valuation allowance against consolidated net deferred tax assets of $0.4 million, related solely to deferred tax assets for net operating loss carryforwards in certain U.S. state jurisdictions.

We use a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. We have not identified any uncertain income tax positions that could have a material impact on the consolidated financial statements. We recognize interest and penalties accrued on any unrecognized tax exposures as a component of income tax expense; we did not have any such amounts accrued as of March 31, 2022 and December 31, 2021. We are subject to taxation in various U.S. jurisdictions and all of our income tax returns remain subject to examination by tax authorities due to the availability of NOL carryforwards.

For interim periods, we recognize an income tax provision/(benefit) based on our estimated annual effective tax rate, calculated on a worldwide consolidated basis, expected for the entire year. The interim annual estimated effective tax rate is based on the statutory tax rates then in effect, as adjusted for estimated changes in temporary and estimated permanent differences, and excludes certain discrete items whose tax effect, when material, is recognized in the interim period in which they occur. These changes in temporary differences, permanent differences, and discrete items result in variances to the effective tax rate from period to period. We also have elected to exclude the impacts from significant pre-tax non-recognized subsequent events from our interim estimated annual effective rate until the period in which they occur. Our estimated annual effective tax rate changes throughout the year as our on-going estimates of pre-tax income, changes in temporary differences, and permanent differences are revised, and as discrete items occur. Global Intangible Low-Taxed Income ("GILTI"), as defined in the Tax Cuts and Jobs Act of 2017, generated from our Canadian and Indian operations is subject to U.S. taxes, with certain defined exemptions, thresholds and credits. For financial reporting purposes we have elected to treat GILTI inclusions as a period cost.

For the three months ended March 31, 2022, we recognized an income tax benefit of $5.8 million. The income tax benefit resulted from applying an estimated annual worldwide effective tax benefit rate of 22.3% to pre-tax consolidated loss of $25.9 million reported during the period, as well as the net effects of certain discrete items occurring which impact our income tax provision in the period in which they occur. There were no material discrete items occurring during the three months ended March 31, 2022.

For the three months ended March 31, 2021, we recognized an income tax benefit of less than $0.1 million. The income tax benefit resulted from applying an estimated annual worldwide effective tax benefit rate of 27.7% to pre-tax consolidated income of $0.1 million reported during the period, reduced by the net effects of certain discrete items occurring which impact our income tax provision in the period in which they occur. There were no material discrete items occurring during the three months ended March 31, 2021.

12. COMMITMENTS AND CONTINGENCIES

Operating Leases

All our existing leases as of March 31, 2022 are classified as operating leases. As of March 31, 2022, we have twelve material operating leases for facilities and office equipment with remaining terms expiring from 2022 through 2026 and a weighted average remaining lease term of 2.9 years. Many of our existing leases have fair value renewal options, none of which are considered certain of being exercised or included in the minimum lease term. Discount rates used in the calculation of our lease liability ranged between 3.99% and 8.95%. Current lease liability is included in accrued expenses and other in the accompanying unaudited interim condensed consolidated balance sheets. Non-current lease liability is included in derivatives and other non-current liabilities in the accompanying unaudited interim condensed consolidated balance sheets.

Rent expense for the three months ended March 31, 2022 and 2021 consisted of the following:

(in thousands)	Three Months Ended March 31, 2022	2021
Operating lease costs	$ 126	$ 49
Variable lease costs	66	7
Total lease costs	$ 192	$ 56

A maturity analysis of our operating leases follows:

(in thousands)	
Future payments:	
2022	$ 344
2023	428
2024	412
2025	190
2026 and thereafter	51
Total	$ 1,425
Discount	(143)
Lease liability	1,282
Current lease liability	(380)
Non-current lease liability	$ 902

Government Regulation

Our products and facilities are subject to regulation by a number of federal and state governmental agencies, such as the Drug Enforcement Administration ("DEA"), the Food and Drug Administration ("FDA"), the Centers for Medicare and Medicaid Services ("CMS"), Health Canada, the Central Drugs Standard Control Organization ("CDSCO"), The Narcotics Control Bureau ("NCB"), and India's Ministry of Health and Family Welfare ("MoHFW"). The FDA, in particular, maintains oversight of the formulation, manufacture, distribution, packaging, and labeling of all of our products. The DEA, Health Canada, and NCB maintain oversight over our products that are considered controlled substances.

Unapproved Products

Two of our products, Esterified Estrogen with Methyltestosterone ("EEMT") and Opium Tincture, are marketed without approved NDAs or ANDAs. During the three months ended March 31, 2022 and 2021, net revenues for these products totaled $4.0 million and $3.8 million, respectively.

In addition, one group of products that we manufacture on behalf of a contract customer is marketed by that customer without an approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our contract manufacturing revenues for the group of unapproved products for the three months ended March 31, 2022 and 2021 were $0.6 million and $0.8 million, respectively.

Legal proceedings

We are involved, and from time to time may become involved, in various disputes, governmental and/or regulatory inquiries, investigations, government reimbursement related actions and litigation. These matters are complex and subject to significant uncertainties. As such, we cannot accurately predict the outcome, or the effects of the legal proceedings described below. While we believe that we have valid claims and/or defenses in the litigation and other matters described below, litigation is inherently unpredictable, and the outcome of the proceedings could result in losses, including substantial damages, fines, civil or criminal penalties and injunctive or administrative remedies.

We intend to vigorously prosecute and/or defend these matters, as appropriate, however, from time to time, we may settle or otherwise resolve these matters on terms and conditions that we believe are in our best interests. Resolution of any or all claims, investigations, and legal proceedings, individually or in the aggregate, could have a material adverse effect on our results of operations and/or cash flows in any given accounting period or on our overall financial condition.

Some of these matters with which we are involved are described below, and unless otherwise disclosed, we are unable to predict the outcome of the matter or to provide an estimate of the range of reasonably possible material losses. We record accruals for loss contingencies to the extent we conclude it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated.

From time to time, we are also involved in other pending proceedings for which, in our opinion based upon facts and circumstances known at the time, either the likelihood of loss is remote or any reasonably possible loss associated with the resolution of such proceedings is not expected to be material to our results, and therefore remain undisclosed. If and when any reasonably possible losses associated with the resolution of such other pending proceedings, in our opinion, become material, we will disclose such matters.

Furthermore, like all pharmaceutical manufacturers, we are periodically exposed to product liability claims. The prevalence of these claims could limit our coverage under future insurance policies or cause those policies to become more expensive, which could harm our business, financial condition, and operating results. Recent trends in the product liability and director and officer insurance markets is to exclude matters related to certain classes of drugs. Our policies have been subject to such exclusions which place further potential risk of financial loss on us.

Legal fees for litigation-related matters are expensed as incurred and included in the consolidated statements of operations under the selling, general, and administrative expense line item.

Commercial Litigation

In November of 2017, we were served with a complaint filed by Arbor Pharmaceuticals, LLC, in the United States District Court for the District of Minnesota. The complaint alleged false advertising and unfair competition in violation of Section 43(a) of the Lanham Act, Section 1125(a) of Title 15 of the United States Code, and Minnesota State law, under the premise that we sold an unapproved Erythromycin Ethylsuccinate ("EES") product during the period between September 27, 2016 and November 2, 2018. The complaint sought a trial by jury and monetary damages (inclusive of actual and consequential damages, treble damages, disgorgement of ANI profits, and legal fees) of an unspecified amount. Discovery in this action closed on March 31, 2019 and trial was scheduled to commence on August 25, 2021. On August 3, 2021, the Company entered into a Settlement Agreement with Arbor Pharmaceuticals, LLC to resolve all claims related to Civil Action 17-4910, Arbor Pharmaceuticals, LLC ("Arbor") v. ANI Pharmaceuticals, Inc., which was pending trial in the United States District Court for the District of Minnesota. Under the terms of the agreement, ANI paid Arbor $8.4 million and Arbor dismissed the action with prejudice. Neither party admitted wrongdoing in reaching this settlement. The Company paid the settlement from cash on the balance sheet.

On December 3, 2020, class action complaints were filed against the Company on behalf of putative classes of direct and indirect purchasers of the drug Bystolic. On December 23, 2020, six individual purchasers of Bystolic, CVS, Rite Aid, Walgreen, Kroger, Albertsons, and H-E-B, filed complaints against the Company. On March 15, 2021, the plaintiffs in these actions filed amended complaints. All amended complaints are substantively identical. The plaintiffs in these actions allege that, beginning in 2012, Forest Laboratories, the manufacturer of Bystolic, entered into anticompetitive agreements when settling patent litigation related to Bystolic with seven potential manufacturers of a generic version of Bystolic: Hetero, Torrent, Alkem/Indchemie, Glenmark, Amerigen, Watson, and various of their corporate parents, successors, subsidiaries, and affiliates. ANI itself was not a party to patent litigation with Forest concerning Bystolic and did not settle patent litigation with Forest. The plaintiffs named the Company as a defendant based on the Company's January 8, 2020 Asset Purchase Agreement with Amerigen. The complaints alleged that the 2013 patent litigation settlement agreement between Forest and Amerigen violated federal and state antitrust laws and state consumer protection laws by delaying the market entry

of generic versions of Bystolic. Plaintiffs alleged they paid higher prices as a result of delayed generic competition. Plaintiffs sought damages, trebled or otherwise multiplied under applicable law, injunctive relief, litigation costs and attorneys' fees. The complaints did not specify the amount of damages sought from the Company or other defendants and the Company at this early stage of the litigation cannot reasonably estimate the potential damages that the plaintiffs will seek. The cases have been consolidated in the United States District Court for the Southern District of New York as In re Bystolic Antitrust Litigation, Case No. 20-cv-005735 (LJL). On April 23, 2021, the Company and other defendants filed motions to dismiss the amended complaints. On January 24, 2022, the court dismissed all claims brought by the plaintiffs without prejudice. The court granted the plaintiffs until February 22, 2022 to file amended complaints, which were filed on that date. The newly amended complaints contain substantially similar claims. On April 19, 2022, the Company and other defendants filed motions to dismiss the newly amended complaints. The Company disputes any liability in these matters.

On March 24, 2021, Azurity Pharmaceuticals, Inc. ("Azurity") filed a complaint in the United States District Court for the District of Minnesota against ANI Pharmaceuticals, Inc., asserting that ANI's vancomycin hydrochloride oral solution drug product infringes U.S. Patent No. 10,688,046. The complaint sought injunctive relief, damages, including lost profits and/or royalty, treble damages, and attorneys' fee and costs. On February 15, 2022, the Company entered into a settlement agreement with Azurity to resolve all claims related to this action. Under the terms of the agreement, Azurity granted ANI a non-exclusive, non-transferable, non-sublicensable, royalty-bearing license under its Patents to sell ANI product in the United States and dismissed the action with prejudice. In exchange, we paid Azurity $1.9 million of royalties from past sales and we will pay Azurity a royalty equal to 20% of gross margin of sales of the ANI product for a contractually defined term. We paid the settlement from cash on hand and the $1.9 million charge was recorded as cost of sales (excluding depreciation and amortization) on the consolidated statement of operations for the year ended December 31, 2021.

On April 1, 2021, United Therapeutics Corp. and Supernus Pharmaceuticals, Inc. ("UTC/Supernus") filed a complaint in the United States District Court for the District of Delaware against ANI Pharmaceuticals, Inc., asserting that ANI's proposed Treprostinil extended release drug product, which is subject to ANI's Abbreviated New Drug Application No. 215667, infringes U.S. Patent Nos. 7,417,070, 7,544,713, 8,252,839, 8,349,892, 8,410,169, 8,747,897, 9,050,311, 9,278,901, 9,393,203, 9,422,223, 9,593,066 and 9,604,901 ("the Asserted Patents"). The complaint seeks injunctive relief, attorneys' fee and costs. ANI filed its answer and counterclaims on May 28, 2021, denying UTC/Supernus' allegations and seeking declaratory judgment that ANI has not infringed any valid and enforceable claim of the Asserted Patents, that the Asserted Patents are invalid, and an award of attorneys' fees and costs. Trial is set for May 8, 2023.

Industry Related Litigation

In July 2020, ANI and Novitium were served with a complaint brought by the Office of the Attorney General of the State of New Mexico against manufacturers and sellers of ranitidine products. The complaint asserts a public nuisance claim and a negligence claim against the generic ranitidine manufacturer defendants, including ANI and Novitium. The public nuisance claim asserts that the widespread sale of ranitidine products in the state created a public nuisance that requires a state-wide medical monitoring program of New Mexico residents for the development of colorectal cancer, stomach cancer, gastrointestinal disorders and liver disease. As damages, New Mexico asks that the defendants fund this medical monitoring program. The negligence claims assert that the defendants were negligent in selling the product, essentially alleging that it was unreasonable to have the product on the market. With respect to that claim, New Mexico asserts that it paid for ranitidine products through state-funded insurance and health-care programs. On December 15, 2020, the case was removed to federal court and transferred to the *In re Zantac* multidistrict litigation ("MDL") pending in the United States District Court for the Southern District of Florida. New Mexico moved for remand to state court. The MDL court granted the remand motion on February 25, 2021. On April 16, 2021, New Mexico filed an amended complaint in the New Mexico First Judicial District Court in Santa Fe County. It did not name ANI in the amended complaint, effectively voluntarily dismissing ANI from the action. Novitium is named as a Defendant in the amended complaint. According to Novitium's records, Novitium sold approximately 42 bottles of ranitidine indirectly into New Mexico, and received no funds from any state funded health care plan or Medicaid. The Defendants filed a motion to dismiss the claims asserted in the New Mexico litigation based primarily on preemption. The motion was denied in August 2021.

In December 2020, the City of Baltimore served ANI and Novitium with a complaint against manufacturers and sellers of ranitidine products. The City of Baltimore complaint tracks the allegations of the New Mexico complaint. The Baltimore action was removed to federal court and transferred to the *In re Zantac* MDL on February 1, 2021. The City of Baltimore moved for remand, which was granted on April 1, 2021. The parties stipulated to allow the City of Baltimore to file an amended complaint in the Circuit Court of Maryland for Baltimore City in "due course," without a specific filing deadline. On June 23, 2021, the City of Baltimore filed an amended complaint. The City of Baltimore did not name ANI in its amended complaint, effectively voluntarily dismissing ANI from the action. Novitium was named as a defendant in the amended complaint. Defendants in the Baltimore action filed a motion to dismiss on based primarily on preemption to which Novitium joined. The motion was granted as to all generic manufacturer defendants on January 28, 2022, and all claims against Novitium were dismissed with prejudice. The deadline for the City to file an appeal was February 28, 2022.

ANI and Novitium dispute any liability in these matters.

Product Liability Related Litigation

All manufacturers of the drug Reglan and its generic equivalent metoclopramide, including ANI, have faced allegations from plaintiffs in various states claiming bodily injuries as a result of ingestion of metoclopramide or its brand name, Reglan, prior to the FDA's February 2009 Black Box warning requirement ("legacy claims"). All these original legacy claims were settled or closed out, including a series of claims in California that were resolved by coordinated proceeding and settlement. Our insurance company assumed the defense of the legacy claims and paid all losses in settlement of the California legacy claims. In March 2019, we were served with a lawsuit in the Superior Court of California, County of Riverside, adding us as a defendant in a complaint filed in July 2017 that is alleged not to have been part of the original settled legacy claims. This new claim was dismissed with prejudice in July 2021 and the matter is now closed.

In June 2020, ANI was served with a personal injury complaint in the case of *Koepsel v. Boehringer Ingelheim Pharmaceuticals, et al.*, MDL No. 20-MD-2924, Case No. 9:20-cv-80882-RLR, filed in the United States District Court for Southern District of Florida, in which the plaintiff alleges that he developed kidney cancer in 2018 as a result of taking over the counter medication containing ranitidine. The *Koepsel* action was filed within an existing multidistrict litigation concerning ranitidine-containing drugs pending in the Southern District of Florida before Judge Robin L. Rosenberg, *In re Zantac MDL*, 20 MDL 2924. A Master Personal Injury Complaint ("MPIC") in that MDL that was filed on June 22, 2020 also named ANI and Novitium as defendants. ANI was dismissed from the *Koepsel* case on August 21, 2020 and was dismissed from the MPIC on September 8, 2020. On December 31, 2020, after ANI was dismissed, the district court dismissed the MPIC claims against generic manufacturer defendants partially with prejudice and partially with leave to replead. The failure to warn and design defect claims were dismissed with prejudice on preemption grounds. An Amended Master Personal Injury Complaint was filed on February 8, 2021, which did not name ANI but did name Novitium. By opinion dated July 8, 2021, the district court dismissed all claims against the generic manufacturer defendants with prejudice on preemption grounds. That decision is on appeal to the Eleventh Circuit Court of Appeals.

ANI and Novitium were named in other individual personal injury complaints filed in MDL 20 MD 2924 in which plaintiffs allege that they developed cancer after taking prescription and over the counter medication containing ranitidine. ANI was served with complaints in five of those additional cases: *Cooper v. Boehringer Ingelheim Pharmaceuticals, et al.*, MDL No. 20-MD-2924, Case No. 9:20-cv-81130-RLR (served September 30, 2020), *Lineberry v. Amneal Pharmaceuticals, LLC, et al.*, MDL No. 20-MD-2924, Case No. 9:20-cv-81079-RLR (served August 20, 2020), *Lovette v. Amneal Pharmaceuticals, LLC, et al.*, MDL No. 20-MD-2924, Case No. 9:20-cv-81040-RLR (served August 26, 2020), *Hightower v. Pfizer, et al,* MDL No. 20-MD-2924, Case No. 9-20-cv-82214-RLR (served December 16, 2020) and *Bird v. Boehringer Ingelheim Pharmaceuticals, et al.*, MDL No. 20-MD-2924, Case No. 9-20-cv-80837-RLR (served December 30, 2020). We have informed counsel for the plaintiffs that ANI did not sell an over the counter ranitidine product and sold a generic prescription ranitidine product for a limited two-month period of time, from July 2019 to September 2019. ANI's product was voluntarily recalled in January 2020. Each of the plaintiffs in the five pending cases alleges a cancer diagnosis prior to the time that ANI

sold ranitidine, and we have informally sought dismissal from these cases on that basis. ANI was voluntarily dismissed from the *Cooper*, Lineberry and *Lovette* actions on November 20, 2020. ANI was voluntarily dismissed from the *Bird* action on March 15, 2021 and from the *Hightower* action on March 29, 2021.

Novitium has been named in 155 short form complaints filed by claimants in the MDL. Those complaints were effectively dismissed with prejudice with the MPIC on July 8, 2021. Counsel for the plaintiffs have been notified that Novitium did not sell an over the counter ranitidine product and sold a generic prescription ranitidine product for a limited period of time, from December 2018 until September 2019. Novitium's product was voluntarily recalled in October 2019. Out of the 155 short form complaints, approximately 111 plaintiffs either were diagnosed with cancer before Novitium began manufacturing the product, only took over the counter ranitidine, or took ranitidine before Novitium began manufacturing it. In light of the Court's dismissal of all claims with prejudice, Novitium has not pursued dismissal of the short form complaints against it at this time.

On February 3, 2022, a complaint was filed in Cook County, Illinois, naming Novitium as a Defendant. The complaint incorrectly identifies Novitium as a "repackager." The case is styled *Ross v. Boehringer Ingelheim Pharmaceuticals, Inc., et. al*. The complaint asserts claims of strict liability/failure to warn, strict liability/design defect, negligent failure to warn, negligent product design, general negligence, negligent misrepresentation, breach of express and implied warranties, and unjust enrichment. The Plaintiff alleges that he was diagnosed with prostate cancer in 2017 – before Novitium began selling generic ranitidine products -- and that he took over the counter ranitidine that he purchased at Walgreens from 2008-2019. At this point, the allegations show that the Plaintiff's alleged cancer injury could not have come from a Novitium product. The generic manufacturer defendants filed a motion to dismiss on preemption grounds, which has not been fully briefed, and is still pending.

ANI and Novitium dispute any liability in these MDL matters.

Other Industry Related Matters

On or about September 20, 2017, the Company and certain of its employees were served with search warrants and/or grand jury subpoenas to produce documents and possibly testify relating to a federal investigation of the generic pharmaceutical industry. We have been cooperating and intend to continue cooperating with the investigation. However, no assurance can be given as to the timing or outcome of the investigation.

13. FAIR VALUE DISCLOSURES

Fair value is the price that would be received from the sale of an asset or paid to transfer a liability assuming an orderly transaction in the most advantageous market at the measurement date. U.S. GAAP establishes a hierarchical disclosure framework that prioritizes and ranks the level of observability of inputs used in measuring fair value.

The inputs used in measuring the fair value of cash and cash equivalents are considered to be Level 1 in accordance with the three-tier fair value hierarchy. The fair market values are based on period-end statements supplied by the various banks and brokers that held the majority of our funds. The fair value of short-term financial instruments (primarily accounts receivable, prepaid expenses, accounts payable, accrued expenses, and other current liabilities) approximate their carrying values because of their short-term nature. The Term Facility bears an interest rate that fluctuates with the changes in LIBOR and, because the variable interest rates approximate market borrowing rates available to us, we believe the carrying values of these borrowings approximated their fair values at March 31, 2022.

Financial Assets and Liabilities Measured at Fair Value on a Recurring Basis

Contingent Value Rights

Our contingent value rights ("CVRs"), which were granted coincident with our merger with BioSante and expire in June 2023, are considered contingent consideration and are classified as liabilities. As such, the CVRs were

recorded as purchase consideration at their estimated fair value, using level 3 inputs, and are marked to market each reporting period until settlement. The fair value of CVRs is estimated using the present value of our projection of the expected payments pursuant to the terms of the CVR agreement, which is the primary unobservable input. If our projection or expected payments were to increase substantially, the value of the CVRs could increase as a result. The present value of the liability was calculated using a discount rate of 15%. We determined that the fair value of the CVRs was immaterial as of March 31, 2022 and December 31, 2021. We also determined that the changes in such fair value were immaterial in the three months ended March 31, 2022 and 2021.

Interest Rate Swap

The fair value of our interest rate swap is estimated based on the present value of projected future cash flows using the LIBOR forward rate curve. The model used to value the interest rate swap includes inputs of readily observable market data, a Level 2 input. As described in detail in Note 5, the fair value of the interest rate swap was a $0.4 million asset at March 31, 2022.

Contingent Consideration

In connection with the acquisition of Novitium, we may pay up to $46.5 million in additional consideration related to the achievement of certain milestones, including milestones on gross profit of Novitium portfolio products over a 24-month period, regulatory filings completed during this 24-month period, and a percentage of net profits on certain products that are launched in the future.

The discounted cash flow method used to value this contingent consideration includes inputs of not readily observable market data, which are Level 3 inputs. The recurring Level 3 fair value measurements of contingent consideration for which a liability is recorded include the following significant unobservable inputs:

Payment Type	Valuation Technique	Unobservable Input	Range
Profit-based milestone payments	Probability-weighted discounted cash flow	Discount rate	12.3%
		Projected fiscal year of payment	2023-2029
Product development-based milestone payments	Probability-weighted discounted cash flow	Discount rate	10.0%
		Probability of payment	90.0%
		Projected fiscal year of payment	2023-2024

The following table presents the changes in contingent consideration balances classified as Level 3 balances for the three months ended March 31, 2022 and 2021:

	Three Months Ended March 31,	
(in thousands)	2022	2021
Beginning balance	$ 31,000	$ —
Measurement period adjustment	300	—
Change in fair value	753	—
Ending balance	$ 32,053	$ —

The following table presents our financial assets and liabilities accounted for at fair value on a recurring basis as of March 31, 2022 and December 31, 2021, by level within the fair value hierarchy:

(in thousands) Description	Fair Value at March 31, 2022	Level 1	Level 2	Level 3
Assets				
Interest rate swap	$ 431	$ —	$ 431	$ —
Liabilities				
Contingent consideration	$ 32,053	$ —	$ —	$ 32,053
CVRs	$ —	$ —	$ —	$ —

Description	Fair Value at December 31, 2021	Level 1	Level 2	Level 3
Liabilities				
Contingent consideration	$ 31,000	$ —	$ —	$ 31,000
Interest rate swaps	$ 6,790	$ —	$ 6,790	$ —
CVRs	$ —	$ —	$ —	$ —

Financial Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

We do not have any financial assets and liabilities that are measured at fair value on a non-recurring basis.

Non-Financial Assets and Liabilities Measured at Fair Value on a Recurring Basis

We do not have any non-financial assets and liabilities that are measured at fair value on a recurring basis.

Non-Financial Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

We measure our long-lived assets, including property, plant, and equipment, ROU assets, intangible assets, and goodwill, at fair value on a non-recurring basis. These assets are recognized at fair value when they are deemed to be other-than-temporarily impaired. No such fair value impairment was recognized in the three months ended March 31, 2022 and 2021.

Acquired Non-Financial Assets Measured at Fair Value

In April 2021, we acquired three NDAs and an ANDA and certain related inventories from Sandoz, Inc. for total consideration of $20.7 million. We also incurred and paid $0.4 million in transaction costs directly related to the acquisition. The acquisition was funded via borrowings under our Prior Revolver. We accounted for this transaction as an asset acquisition and capitalized the transaction costs directly related to the acquisition. We recognized $11.4 million as acquired intangible assets and $9.7 million of inventory at fair value, including $0.6 million of API, $1.0 million of sample inventory, and $8.1 million in finished goods inventory. In order to determine the fair value of the intangible assets, we used the present value of the estimated cash flows related to the product rights using a discount rate of 10%, which are level 3 unobservable inputs. The fair value of the inventory was determined based on the estimated selling price to be generated from the finished goods, less costs to sell, including a reasonable margin, which are level 3 unobservable inputs. The intangible assets are being amortized in full over a useful life of seven years and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to March 31, 2022 and therefore no impairment loss was recognized for the three months ended March 31, 2022.

14. PURIFIED CORTROPHIN GEL PRE-LAUNCH CHARGES

In January 2016, we acquired the right, title and interest in the NDAs for Cortrophin Gel and Cortrophin-Zinc. Subsequently, we assembled a Cortrophin Gel re-commercialization team of scientists, executed a long-term supply agreement with a supplier of pig pituitary glands, our primary raw material for corticotrophin API, executed a long-

term supply agreement with an API manufacturer, with whom we have advanced the manufacture of corticotropin API via manufacture of commercial-scale batches, and executed a long-term commercial supply agreement with a current good manufacturing practice ("cGMP") aseptic fill contract manufacturer.

Prior to the third quarter 2019, all purchases of material, including pig pituitary glands and API, related to the re-commercialization efforts were consumed in research and development activities and recognized as research and development expense in the period in which they were incurred. In the third quarter of 2019, we began purchasing materials that are intended to be used commercially in anticipation of FDA approval of Cortrophin Gel and the resultant product launch. The FDA granted approval of the sNDA of this product on October 29, 2021. Prior to FDA approval, under U.S. GAAP, we were prohibited from capitalizing these pre-launch purchases of materials as inventory, and accordingly, they were charged to expense in the period in which they were incurred. Subsequent to approval, these purchases are recorded as inventory at net realizable value.

15. RELATED PARTY TRANSACTIONS

On March 8, 2021, we entered into an Equity Commitment and Investment Agreement with Ampersand 2020 Limited Partnership, pursuant to which we agreed to issue and sell 25,000 shares of our PIPE Shares for a purchase price of $1,000 per share and an aggregate purchase price of $25.0 million. This agreement closed and the shares were sold and issued for $25.0 million on November 19, 2021. The Chairman of our board of directors is an operating partner of Ampersand Capital Partners, an affiliate of the PIPE Investor.

In connection with our acquisition of Novitium, we entered into employment agreements with the two executives and founders of Novitium, Muthusamy Shanmugam and Chad Gassert. Both will serve as executive officers of the Company and Mr. Shanmugam was also appointed to the board of directors. Mr. Shanmugam holds a minority interest in Scitus Pharma Services ("Scitus"), which provides clinical research services to Novitium, majority interest in SS Pharma LLC ("SS Pharma"), which acquires and supplies API to Novitium, majority interest in Esjay Pharma LLC ("Esjay"), which provides research and development and facilities consulting services, and a minority interest in Nuray Chemical Private Limited ("Nuray"), which manufactures and supplies API to Novitium. Mr. Gassert holds a minority interest in Scitus. During the three months ended March 31, 2022, we paid Esjay an immaterial amount, paid SS Pharma $1.0 million, paid Nuray $0.9 million, and paid Scitus $0.6 million. As of March 31, 2022, the outstanding balance due to Scitus was $0.1 million. As of March 31, 2022, there were no outstanding balances due to SS Pharma, Esjay, and Nuray.

16. SEGMENT REPORTING

An operating segment is defined as a component of an entity that engages in business activities from which it may recognize revenues and incur expense, its operating results are regularly reviewed by the entity's chief operating decision maker ("CODM") to make decisions about resources to be allocated to the segment and assess its performance, and its discrete financial information is available. Prior to 2022, based on this definition, we had concluded that we had one operating segment. Effective in the first quarter of 2022 and prospectively, in conjunction with the principal completion of our buildout of infrastructure in the areas of commercialization of rare disease therapies and the launch of Purified Cortrophin Gel, we determined that we have two operating segments as follows:

- **Generics, Established Brands, and Other** – Consists of operations related to the development, manufacturing, and marketing of generic and established brand pharmaceuticals, including those sold through traditional channels, contract manufactured products, product development services, royalties, and other.

- **Rare Disease** – Consists of operations related to the development, manufacturing and marketing of pharmaceuticals used in the treatment of patients with rare conditions. The rare disease segment currently consists of operations related to Purified Cortrophin Gel.

Our CODM evaluates our two operating segments based on revenues and earnings before interest, income taxes, depreciation, and amortization ("EBITDA"), exclusive of corporate expenses and other expenses not directly allocated or attributable to an operating segment. These expenses include but are not limited to certain management, legal, accounting, human resources, insurance, and information technology expenses.

We do not manage assets of the company by operating segment and our CODM does not review asset information by operating segment. Accordingly, we do not present total assets by operating segment.

Financial information by reportable segment is as follows:

	Three Months Ended	
(in thousands)	**March 31, 2022**	**March 31, 2021**
Net Revenues		
Generics, Established Brands, and Other	$ 63,185	$ 54,521
Rare Disease	1,292	—
Total net revenues	$ 64,477	$ 54,521
Segment earnings/(loss) before interest, taxes, depreciation and amortization ("EBITDA") and reconciliation to (loss)/income before income taxes		
Generics, Established Brands, and Other	14,531	21,839
Rare Disease	(10,448)	(1,278)
Depreciation and amortization	(14,557)	(10,898)
Corporate and other unallocated expenses[1]	(8,721)	(6,618)
Total operating (loss)/income	$ (19,195)	$ 3,045
Interest expense, net	(6,613)	(2,454)
Other expense, net	(89)	(515)
(Loss)/income before benefit for income taxes	$ (25,897)	$ 76

(1) Includes expenses not directly allocated or attributable to a reporting segment, including certain management, legal, accounting, human resources, insurance, and information technology expenses, and are included in selling, general, and administrative expenses in our unaudited interim consolidated statement of operations.

Geographic Information

Our operations are located in the United States, Canada, and India. The majority of the assets of the Company are located in the United States.

The following table depicts the Company's revenue by geographic operations during the following periods:

	Three Months Ended March 31,	
(in thousands)		
Location of Operations	**2022**	**2021**
United States	$ 63,760	$ 53,327
Canada	717	1,194
Total Revenue	$ 64,477	$ 54,521

The following table depicts the Company's property and equipment, net according to geographic location as of:

(in thousands)	**March 31, 2022**	**December 31, 2021**
United States	$ 38,770	$ 38,564
Canada	13,685	13,831
India	258	276
Total property and equipment, net	$ 52,713	$ 52,671

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

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the unaudited interim condensed consolidated financial statements and the accompanying notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q, the audited consolidated financial statements and the accompanying notes thereto in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 (the "2021 Annual Report"), as well as the information contained under Management's Discussion and Analysis of Financial Condition and Results of Operations and "Risk Factors" contained in the 2021 Annual Report, and Part II, Item 1A "Risk Factors" of this Quarterly Report on Form 10-Q , and other information provided from time to time in our other filings with the SEC. This discussion contains forward-looking statements, based on current expectations and related to future events and our future financial performance, that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many important factors, including those set forth under "Risk Factors" in our 2021 Annual Report and this Quarterly Report on Form 10-Q.

EXECUTIVE OVERVIEW

ANI Pharmaceuticals, Inc. and its consolidated subsidiaries (together, "ANI," the "Company," "we," "us," or "our") is a diversified bio-pharmaceutical company serving patients in need by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals, including for diseases with high unmet medical need. Our team is focused on delivering sustainable growth by building a successful Purified Cortrophin Gel franchise, strengthening our generics business with enhanced development capability, innovation in established brands and leveraging our North American manufacturing capabilities. Our four pharmaceutical manufacturing facilities, of which two are located in Baudette, Minnesota, one is located in East Windsor, New Jersey, and one is located in Oakville, Ontario, are together capable of producing oral solid dose products, as well as semi-solids, liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment.

Strategy

Our objective is to build a sustainable and growing biopharmaceutical company serving patients in need and creating long-term value for our investors. Our growth strategy is driven by the following key pillars:

Building a successful Purified Cortrophin Gel franchise

We acquired the NDAs for Cortrophin gel and Cortrophin-Zinc in January 2016 and executed long-term supply agreements with a supplier of our primary raw material for corticotrophin active pharmaceutical ingredient ("API"), a supplier of corticotrophin API with whom we have advanced the manufacture of commercial scale batches of API, and a Cortrophin gel fill/finish contract manufacturer. During the second quarter of 2021, we submitted a Supplemental New Drug Application ("sNDA") to the FDA.

On October 29, 2021, the FDA approved the Company's sNDA for Purified Cortrophin™ Gel (Repository Corticotropin Injection USP) for the treatment of certain chronic autoimmune disorders, including acute exacerbations of multiple sclerosis ("MS") and rheumatoid arthritis ("RA"), in addition to excess urinary protein due to nephrotic syndrome. Cortrophin Gel is an adrenocorticotropic hormone ("ACTH"), also known as purified corticotropin.

During 2021 and the first quarter of 2022, we invested in leadership, expertise and infrastructure in the areas of commercialization of rare disease therapies and developed a launch strategy and commercial plan for this product. In the fourth quarter of 2021 and first quarter of 2022, we hired a significant number of new employees and assembled and trained our rare disease field force. On January 24, 2022, we announced the commercial launch of Cortrophin Gel in the U.S. As a result of the build out of our rare disease team, our expenditures in support of these efforts will be significantly higher in 2022 as compared to 2021.

Strengthening our generics business with enhanced research and development capability and increased focus on niche opportunities

We have grown our generics business through a combination of market share gains on existing products and new product launches. We have also successfully acquired numerous ANDAs through business and asset acquisitions, including, most recently, our acquisition of Novitium Pharma LLC ("Novitium"), including their portfolio of commercial and pipeline generic products, manufacturing and development facilities and expert workforce. We have begun to increase our focus on niche lower competition opportunities such as injectables, Paragraph IV, and Competitive Generic Therapy designation filings. Additionally, we will continue to seek opportunities to enhance our capabilities through strategic partnerships and acquisitions of assets and businesses.

Maximizing the value from our established brands through innovative "go-to-market" ("GTM") strategies and continued programmatic acquisitions

We have acquired the New Drug Applications ("NDAs") for and market Atacand, Atacand HCT, Arimidex, Casodex, Lithobid, Vancocin, Inderal LA, Inderal XL, InnoPran XL, Oxistat, Veregen, and Pandel. We are innovating in our GTM strategy through creative partnerships. In addition, we will continue to explore opportunities in acquiring new brands to grow our established brands portfolio.

Expansion of contract development and manufacturing organization ("CDMO") business by leveraging our unique manufacturing capabilities

We built a CDMO business through our sites in Baudette and grew it through the acquisitions of Novitium and WellSpring Pharma Services Inc. ("ANI Canada"). Our North America based manufacturing and unique capabilities in high-potency, hormonal, steroid, and oncolytic products can be leveraged to expand our CDMO business.

The pillars of our strategy are enabled by an empowered, collaborative, and purposeful team with a high performance-orientation.

Product Development Considerations

We consider a variety of criteria in determining which products to develop, all of which influence the level of competition upon product launch. These criteria include:

- ***Formulation Complexity.*** Our development and manufacturing capabilities enable us to manufacture pharmaceuticals that are difficult to produce, including highly potent, extended release, combination, and low dosage products. This ability to manufacture a variety of complex products is a competitive strength that we intend to leverage in selecting products to develop or manufacture.

- ***Patent Status.*** We seek to develop products whose branded bioequivalents do not have long-term patent protection or existing patent challenges.

- ***Market Size.*** When determining whether to develop or acquire an individual product, we review the current and expected market size for that product at launch, as well as forecasted price erosion upon conversion from branded to generic pricing. We endeavor to manufacture products with sufficient market size to enable us to enter the market with a strong likelihood of being able to price our products both competitively and at a profit.

- ***Profit Potential.*** We research the availability and cost of active pharmaceutical ingredients in determining which products to develop or acquire. In determining the potential profit of a product, we forecast our anticipated market share, pricing, including the expected price erosion caused by competition from other generic manufacturers, and the estimated cost to manufacture the products.

- ***Manufacturing.*** We generally seek to develop and manufacture products at our own manufacturing plants in order to optimize the utilization of our facilities, ensure quality control in our products, and to more closely control the economic inputs and outputs of our products.

- ***Competition.*** When determining whether to develop or acquire a product, we research existing and expected competition. We seek to develop products for which we can obtain sufficient market share and may decline to develop a product if we anticipate significant competition. Our specialized manufacturing facilities provide a means of entering niche markets, such as hormone therapies, in which fewer generic companies are able to compete.

Recent Developments

Operating Segment Update

Prior to 2022, we had concluded that we had one operating segment. Effective in the first quarter of 2022 and prospectively, in conjunction with the principal completion of our buildout of infrastructure in the areas of commercialization of rare disease therapies and the launch of Purified Cortrophin Gel, we determined that we now have two operating segments as follows:

- **Generics, Established Brands, and Other** – Consists of operations related to the development, manufacturing, and marketing of generic and established brand pharmaceuticals, including those sold through traditional channels, contract manufactured products ("CDMO"), product development services, royalties, and other.

- **Rare Disease** – Consists of operations related to the development, manufacturing and marketing of pharmaceuticals used in the treatment of patients with rare conditions. The rare disease segment currently consists of operations related to Purified Cortrophin Gel.

Product Launches

Refer to our website at www.anipharmaceuticals.com for information on the products, including indications/treatments.

Purified Cortrophin Gel Re-commercialization Update

Purified Cortrophin Gel became available to our customers in late 2021, and we recognized an immaterial amount of revenues during the year ended December 31, 2021. On January 24, 2022, we announced the full-scale U.S. commercial availability and launch of Purified Cortrophin Gel.

COVID-19 Impact

We continue to closely monitor the impact of the novel coronavirus ("COVID-19") pandemic on our business and the geographic regions where we operate. Per IQVIA/IMS data, total market generic and brand prescriptions were depressed during the three months ended March 31, 2021, as subsequent waves and variants of the virus impacted patient and customer behavior. The decrease in prescriptions had a negative impact on our net revenues during this period. IQVIA/IMS data indicates that total market generic and brand prescriptions have returned to normal pre-pandemic levels thus far in 2022. We have not experienced a significant impact to our manufacturing operations; however, we did and continue to see disruptions to our supply chain from the COVID-19 pandemic during 2022, including significant lead times for purchases of materials. The pandemic has not impacted our access to capital and has not significantly impacted our use of funds, including but not limited to capital expenditures, spend on research and development activities and business development opportunities.

We are unable to predict the impact that the COVID-19 pandemic will continue to have on our future financial condition, results of operations and cash flows due to numerous uncertainties, including the continued duration of the

pandemic, the appearance of additional variants of the virus, the level of success of continued actions taken to contain the pandemic or mitigate its impact, and the direct and indirect economic effects of the pandemic and containment measures, among others.

GENERAL

Impacts to our 2022 and 2021 results of operations, including to net revenues, operating expenses, interest and other expense, net, and income taxes are described below. Our results of operations for the three months ended March 31, 2022 were impacted by the November 19, 2021 acquisition of Novitium and related activity subsequent to that date. The acquisition provides additional revenues and the incurrence of increased costs, including but not limited to the amortization of intangible assets acquired, other operating costs, and increased interest costs on borrowings used to finance the transaction. During the three months ended March 31, 2022, Novitium operations generated $19.2 million in net revenues.

The following table summarizes our results of operations for the periods indicated:

	Three Months Ended March 31,	
(in thousands)	2022	2021
Net revenues	$ 64,477	$ 54,521
Operating expenses		
Cost of sales (exclusive of depreciation and amortization)	34,271	19,985
Research and development	5,274	2,968
Selling, general, and administrative	28,817	17,587
Depreciation and amortization	14,557	10,898
Contingent consideration fair value adjustment	753	—
Purified Cortrophin Gel pre-launch charges	—	38
Operating (loss)/income	(19,195)	3,045
Interest expense, net	(6,613)	(2,454)
Other expense, net	(89)	(515)
(Loss)/income before benefit for income taxes	(25,897)	76
Benefit for income taxes	5,767	10
Net (loss)/income	$ (20,130)	$ 86

The following table sets forth, for all periods indicated, items in our unaudited interim condensed consolidated statements of operations as a percentage of net revenues:

	Three Months Ended March 31,	
	2022	2021
Net revenues	100.0 %	100.0 %
Operating expenses		
Cost of sales (exclusive of depreciation and amortization)	53.2 %	36.7 %
Research and development	8.2 %	5.4 %
Selling, general, and administrative	44.7 %	32.3 %
Depreciation and amortization	22.6 %	20.0 %
Contingent consideration fair value adjustment	1.2 %	— %
Purified Cortrophin Gel pre-launch charges	— %	0.1 %
Operating (loss)/income	(29.9)%	5.5 %
Interest expense, net	(10.3)%	(4.5)%
Other expense, net	(0.1)%	(0.9)%
(Loss)/income before benefit for income taxes	(40.3)%	0.1 %
Benefit for income taxes	8.9 %	— %
Net (loss)/income	(31.4)%	0.1 %

RESULTS OF OPERATIONS FOR THE THREE MONTHS ENDED MARCH 31, 2022 AND 2021

Net Revenues

(in thousands)	Three Months Ended March 31, 2022	2021	Change	% Change
Generics, Established Brands, and Other Segment				
Generic pharmaceutical products	$ 49,107	$ 32,988	$ 16,119	48.9 %
Established brand pharmaceutical products	8,452	7,517	935	12.4 %
Contract manufacturing	2,904	2,573	331	12.9 %
Royalty and other	2,722	11,443	(8,721)	(76.2)%
Generics, established brands, and other segment total net revenues	$ 63,185	$ 54,521	$ 8,664	15.9 %
Rare Disease Segment				
Rare disease pharmaceutical products	$ 1,292	—	$ 1,292	NM (1)
Total net revenues	$ 64,477	$ 54,521	$ 9,956	18.3 %

(1) Not meaningful

We derive substantially all of our revenues from sales of generic, established brand, and rare disease pharmaceutical products, contract manufacturing, royalties on net sales of certain products, and other services, including development services, and laboratory services. Many of our established brand products face competition from generic products and we expect them to continue to face competition from generic products in the future. Our generic products face competition from other generic products and we expect them to continue to face competition in the future. The primary means of competition among generic manufacturers are pricing, contract terms, service levels, and reliability. Increased competition generally results in decreased average selling prices of generic and brand products over time. In addition, due to strategic partnerships between wholesalers and pharmacy chains, we have experienced, and expect to continue to experience, increases in net sales to the wholesalers, with corresponding decreases in net sales to the pharmacy chains. Our rare disease pharmaceutical product, Purified Cortrophin Gel, competes in the adrenocorticotrophic hormone ("ACTH") therapeutic category against one principal brand competitor.

Net revenues for the three months ended March 31, 2022 were $64.5 million compared to $54.5 million for the same period in 2021, an increase of 18.3%, primarily as a result of the following factors:

- Net revenues for generic pharmaceutical products were $49.1 million during the three months ended March 31, 2022, an increase of 48.9% compared to $33.0 million for the same period in 2021. From a product perspective, the increase was principally driven by revenues of $15.7 million from products acquired in our acquisition of Novitium, including Prazosin, Prednisone, Famotidine, Oxybutynin Chloride and various other products. The increase was also due to increased revenues of Nebivolol, which ANI launched in September 2021. Increases were tempered by a decrease in revenues of Penicillamine. The increase in net generic revenues was principally due to an increase in volumes and tempered by a decrease in average selling prices.

  Generic prescription levels were suppressed when compared to pre-pandemic levels during the three months ended March 31, 2021, which had a negative impact on our net sales of generic pharmaceutical products during the period. Prescriptions have returned to essentially normal levels in 2022.

- Net revenues for established brand pharmaceutical products were $8.5 million during the three months ended March 31, 2022, an increase of 12.4% compared to $7.5 million for the same period in 2021. From a product perspective, the net increase was driven by modest increases in sales over a large number of the portfolio products, including those acquired from Sandoz and launched in April 2021. These increases were tempered by a decrease in sales of Casodex. Net brand revenues in the three months ended March 31, 2021 were positively impacted by a shift in mix towards products with higher average selling prices.

Sales of our established brand products were negatively impacted by the COVID-19 pandemic during the three months ended March 31, 2021, as mitigation measures and other related actions suppressed prescription levels during the period. Prescriptions have returned to essentially normal levels in 2022.

- Contract manufacturing revenues were $2.9 million during the three months ended March 31, 2022, an increase of 12.9% compared to $2.6 million for the same period in 2021, due to an increase in the volume of orders, including $1.1 million of Novitium contract manufacturing revenues.

- Royalty and other revenues were $2.7 million during the three months ended March 31, 2022, a decrease of $8.7 million from $11.4 million for the same period in 2021, due to the recognition of the final royalty of $11.2 million under the Kite Pharma, Inc. license agreement (Yescarta®) pursuant to the Tripartite Agreement in the three months ended March 31, 2021. Royalty and other revenues in 2022 primarily consist of $1.9 million of royalty revenues related to Novitium arrangements and $0.6 million of product development service revenues.

- Net revenues of rare disease pharmaceutical products, which consists entirely of sales of Purified Cortrophin Gel, were $1.3 million during the three months ended March 31, 2022, as the product was launched in late January 2022. There were no sales of rare disease pharmaceutical products during the comparable prior year period.

Cost of Sales (Excluding Depreciation and Amortization)

	Three Months Ended March 31,			
(in thousands)	2022	2021	Change	% Change
Cost of sales (excl. depreciation and amortization)	$ 34,271	$ 19,985	$ 14,286	71.5 %

Cost of sales consists of direct labor, including manufacturing and packaging, active and inactive pharmaceutical ingredients, freight costs, packaging components, and royalties related to profit-sharing arrangements. Cost of sales does not include depreciation and amortization expense, which is reported as a separate component of operating expenses on our unaudited interim condensed consolidated statements of operations.

For the three months ended March 31, 2022, cost of sales increased to $34.3 million from $20.0 million for the same period in 2021, an increase of $14.3 million, or 71.5%. The increase is primarily due to increased volumes of generic products, including $9.5 million of costs related to activity of Novitium during the three months ended March 31, 2022 with no comparable activity in the prior year period, $3.8 million in costs representing the excess of fair value over cost for inventory acquired in an asset acquisition and a business combination, of which $3.2 million relates to inventory acquired from Novitium and included in the previously discussed $9.5 million of cost of sales. The increases were tempered by $1.1 million in lower costs related to a current period decrease in sales of products subject to profit sharing arrangements.

Cost of sales, exclusive of the $3.8 million net impact related to excess of fair value over the cost of inventory sold during the period, as a percentage of net revenues increased to 47.2% during the three months ended March 31, 2022, from 36.7% during same period in 2021, primarily due to $11.2 million in royalty revenue during the three months ended March 31, 2021 with no associated cost of goods sold. Excluding the $11.2 million of revenue from 2021 results, cost of sales would have been 46.1% of net revenues. The increase is also a result of increased volumes in a period of declining average selling prices across generic products and a shift in mix towards generic products, which have lower average selling prices. The negative impacts were tempered by $1.1 million in lower costs related to a current period decrease in sales of products subject to profit sharing arrangements.

During the three months ended March 31, 2022, one single vendor represented 16% of inventory purchases. During the three months ended March 31, 2021, we purchased approximately 11% of our inventory from one supplier.

Other Operating Expenses

(in thousands)	Three Months Ended March 31, 2022	2021	Change	% Change
Research and development	$ 5,274	$ 2,968	$ 2,306	77.7 %
Selling, general, and administrative	28,817	17,587	11,230	63.9 %
Depreciation and amortization	14,557	10,898	3,659	33.6 %
Contingent consideration fair value adjustment	753	—	753	NM (1)
Purified Cortrophin Gel pre-launch charges	—	38	(38)	(100.0)%
Total other operating expenses	$ 49,401	$ 31,491	$ 17,910	56.9 %

(1) Not meaningful

Other operating expenses consist of research and development costs, selling, general, and administrative expenses, depreciation and amortization, contingent consideration fair value adjustment, and Purified Cortrophin Gel pre-launch charges.

For the three months ended March 31, 2022, other operating expenses increased to $49.4 million from $31.5 million for the same period in 2021, an increase of $17.9 million, or 56.9%, primarily as a result of the following factors:

- Research and development expenses increased from $3.0 million to $5.3 million, an increase of 77.7%, primarily due to $3.5 million in expenses related to the Novitium activities during the three months ended March 31, 2022 and no comparable expenses in the three months ended March 31, 2021, and tempered by a $0.7 million decrease in expense associated with the completion of our Cortrophin development efforts.

- Selling, general, and administrative expenses increased from $17.6 million to $28.8 million, an increase of $11.2 million, or 63.9%, primarily due to $11.0 million increase in sales and marketing expenses related to our launch of Purified Cortrophin Gel, $2.7 million of expenses primarily related to the addition of Novitium headcount and activities during the three months ended March 31, 2022, with no comparable expenses in the 2021 period, and tempered by a $1.9 million decrease in transaction expenses related to the Novitium acquisition.

- Depreciation and amortization expense was $14.6 million for the three months ended March 31, 2022, compared to $10.9 million for the same period 2021, an increase of $3.7 million. The increase is primarily due to the amortization of intangible assets acquired in the Novitium acquisition.

- As described in Note 13, *Fair Value Disclosures*, in the unaudited interim condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q, we recognized a contingent consideration fair value adjustment of $0.8 million in the three months ended March 31, 2022. The expense is principally due to a decrease in the discount rate and the passage of time. No contingent consideration fair value adjustment was recognized in the three months ended March 31, 2021.

Other Expense, net

(in thousands)	Three Months Ended March 31, 2022	2021	Change	% Change
Interest expense, net	$ (6,613)	$ (2,454)	$ (4,159)	169.5 %
Other expense, net	(89)	(515)	426	(82.7)%
Total other expense, net	$ (6,702)	$ (2,969)	$ (3,733)	125.7 %

For the three months ended March 31, 2022, we recognized total other expense, net of $6.7 million versus total other expense of $3.0 million for the same period in 2021, an increase of $3.7 million. Interest expense, net for the three months ended March 31, 2022 consisted primarily of interest expense on borrowings under our new Term Facility. Interest expense, net for the three months ended March 31, 2021 consisted primarily of interest expense on borrowings under our existing Amended and Restated Credit Agreement, dated as of December 27, 2018 (the “Prior Credit

Agreement"), among the Company, as borrower, and Citizens Bank with other lenders. The increase in interest expense is due to an increase in the debt outstanding during the three months ended March 31, 2022 coupled with an increase borrowing rate on the $300.0 million Term Facility as compared to the borrowing rate on the Prior Credit Agreement borrowings and an increase in amortization of finance fees. During the three months ended March 31, 2022, there was $300.0 million of outstanding borrowings, compared to $184.6 million during the comparable 2021 period. For the three months ended March 31, 2022 and 2021, there was less than $0.1 million of interest capitalized into construction in progress.

Benefit for Income Taxes

	Three Months Ended March 31,			
(in thousands)	2022	2021	Change	% Change
Benefit for income taxes	$ 5,767	$ 10	$ 5,757	NM (1)

(1) Not meaningful

Our provision for income taxes consists of current and deferred components, which include changes in our deferred tax assets, our deferred tax liabilities, and our valuation allowance.

For the three months ended March 31, 2022, we recognized an income tax benefit of $5.8 million. The income tax benefit resulted from applying an estimated annual worldwide effective tax rate of 22.3% to pre-tax consolidated loss of $25.9 million reported during the period, as well as the net effects of certain discrete items occurring in 2022 which impact our income tax provision in the period in which they occur. There were no material discrete items occurring during the three months ended March 31, 2022.

For the three months ended March 31, 2021, we recognized an income tax benefit of less than $0.1 million. The income tax benefit resulted from applying an estimated annual worldwide effective tax rate of 27.7% to pre-tax consolidated income of $0.1 million reported during the period, reduced by the net effects of certain discrete items occurring in 2021
which impact our income tax provision in the period in which they occur. There were no material discrete items occurring during the three months ended March 31, 2021.

LIQUIDITY AND CAPITAL RESOURCES

Debt Financing

On November 19, 2021, the Company, as borrower, entered into a credit agreement (the "Credit Agreement") with Truist Bank and other lenders, which provides for credit facilities consisting of (i) a senior secured term loan facility in an aggregate principal amount of $300.0 million (the "Term Facility") and (ii) a senior secured revolving credit facility in an aggregate commitment amount of $40.0 million, which may be used for revolving credit loans, swingline loans and letters of credit (the "Revolving Facility," and together with the Term Facility, the "Credit Facility"). The Credit Facility is secured by substantially all our assets and the assets of our domestic subsidiaries.

The Term Facility proceeds were used to finance the cash portion of the consideration under the merger agreement between ANI and Novitium, repay borrowings under our Prior Credit Agreement, and pay fees, costs and expenses incurred in connection with the acquisition of Novitium. Proceeds of the Revolving Facility are expected to be used, subject to certain limitations, for working capital and other general corporate purposes.

The Term Facility matures in November 2027 and the Revolving Facility in November 2026. Each permits both base rate borrowings ("ABR Loans") and Eurodollar rate borrowings ("Eurodollar Loans"), plus a spread of (a) 5.00% above the base rate in the case of ABR Loans under the Term Facility and 6.00% above the LIBOR Rate (as defined in the Credit Agreement, which includes a floor of 0.75%) in the case of loans under the Term Facility and (b) 3.75% above the base rate in the case of ABR Loans under the Revolving Facility and 4.75% above the LIBOR Rate (as defined in the Credit Facility) in the case of loans under the Revolving Facility. The Credit Facility has a subjective acceleration clause in case of a material adverse effect. The Term Facility includes a repayment schedule, pursuant to which $750 thousand of the loan will be paid in quarterly installments during the 12 months ended December 31, 2022. As of March 31, 2022,

$3.0 million of principal of the loan was recorded as current borrowings in the consolidated balance sheet. As of March 31, 2022, we had not drawn on the Revolving Facility and $40.0 million remained available for borrowing.

Equity Financing

Concurrently with the execution of the Merger Agreement, on March 8, 2021, we entered into that certain Equity Commitment and Investment Agreement with Ampersand 2020 Limited Partnership (the "PIPE Investor") pursuant to which, on November 19, 2021, we issued and sold to the PIPE Investor, and the PIPE Investor purchased, 25,000 shares of our Series A Convertible Preferred Stock , for a purchase price of $1,000 per share and an aggregate purchase price of $25 million, in a private placement issued in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act of 1933, as amended, and/or Regulation D promulgated thereunder.

In November 2021, through a public offering, we completed the issuance and sale of 1,500,000 shares of ANI common stock, resulting in net proceeds after issuance costs of $69.7 million. The proceeds will be used to fund our Purified Cortrophin Gel commercialization efforts, including sales and marketing and consulting expenses related thereto, and for general corporate purposes.

We believe that our financial resources, consisting of current working capital, anticipated future operating revenue and corresponding collections from customers, and our Credit Facility, under which $40.0 million remains available for borrowing as of March 31, 2022, will be sufficient to enable us to meet our working capital requirements and debt obligations for at least the next 12 months.

Cash Flows

The following table summarizes the net cash and cash equivalents provided by/(used in) by operating activities, investing activities, and financing activities for the periods indicated:

	Three Months Ended March 31,	
(in thousands)	2022	2021
Operating Activities	$ (18,942)	$ 20,668
Investing Activities	$ (2,178)	$ (737)
Financing Activities	$ (2,270)	$ (2,725)

Net Cash (Used In) / Provided by Operations

Net cash used in operating activities was $18.9 million for the three months ended March 31, 2022, compared to $20.7 million provided by operating activities during the same period in 2021, a decrease of $39.6 million. The decrease was driven by our net loss and net changes in working capital.

Net Cash Used in Investing Activities

Net cash used in investing activities for the three months ended March 31, 2022 was $2.2 million, principally due to the $1.9 million of capital expenditures during the period. Net cash used in investing activities for the three months ended March 31, 2021 was $0.7 million, principally due to $0.7 million of capital expenditures during the period.

Net Cash Used in Financing Activities

Net cash used in financing activities for the three months ended March 31, 2022 was $2.3 million, principally due to the $0.8 million maturity payments on the Term Facility, $1.1 million of treasury stock purchased in relation to restricted stock vests, and $0.4 million convertible preferred stock dividends paid. Net cash used in financing activities was $2.7 million for the three months ended March 31, 2021, principally due to $2.3 million of maturity payments on borrowings under our Prior Credit Agreement and $0.3 million of treasury stock purchased in relation to restricted stock vests.

CRITICAL ACCOUNTING POLICIES AND USE OF ESTIMATES

This Management's Discussion and Analysis of Financial Condition and Results of Operations is based on our unaudited interim condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. In our consolidated financial statements, estimates are used for, but not limited to, stock-based compensation, revenue recognition, allowance for credit losses, variable consideration determined based on accruals for chargebacks, administrative fees and rebates, government rebates, returns and other allowances, allowance for inventory obsolescence, valuation of financial instruments and intangible assets, accruals for contingent liabilities, including contingent consideration in acquisitions, fair value of long-lived assets, income tax provision or benefit, deferred taxes and valuation allowance, determination of right-of-use assets and lease liabilities, purchase price allocations, and the depreciable lives of long-lived assets.

A summary of our significant accounting policies is included in Part II, Item 8. Consolidated Financial Statements, Note 1, *Description of Business and Summary of Significant Accounting Policies*, in our Annual Report on Form 10-K for the year ended December 31, 2021. Certain of our accounting policies are considered critical, as these policies require significant, difficult or complex judgments by management, often requiring the use of estimates about the effects of matters that are inherently uncertain. Such policies are summarized in Part I, Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our Annual Report on Form 10-K for the year ended December 31, 2021.

RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

A discussion of the recently issued accounting pronouncements is described in Note 1, *Business, Presentation, and Recent Accounting Pronouncements*, in the unaudited interim condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q and is incorporated herein by reference.

CONTRACTUAL OBLIGATIONS

As of March 31, 2022, our contractual obligations have not changed materially from the amounts reported in our most recent Annual Report on Form 10-K.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Market risks include interest rate risk, equity risk, foreign currency exchange rate risk, commodity price risk, and other relevant market rate or price risks. Of these risks, interest rate risk, equity risk, and foreign currency exchange rate risk could have a significant impact on our results of operations.

On November 19, 2021, we entered into the Credit Agreement, which is secured by substantially all of the personal property and certain material real property owned by ANI and our wholly-owned domestic subsidiaries, and obligations under the Credit Agreement are guaranteed by certain of our wholly-owned domestic subsidiaries.

The Term Facility proceeds were used to finance a portion of the consideration under the Merger Agreement, repay our existing credit facility, refinance certain indebtedness of Novitium and its subsidiaries, and pay fees, costs and expenses incurred in connection with the acquisition. Proceeds of the Revolving Facility are expected to be used, subject to certain limitations, for working capital and other general corporate purposes.

The Term Facility matures on the six-year anniversary of the Closing Date and the Revolving Facility matures on the five-year anniversary of the Closing Date. The Revolving Facility and the Term Facility each permit both base rate borrowings ("ABR Loans") and Eurodollar rate borrowings ("Eurodollar Loans"), plus a spread of (a) 5.00% above the base rate in the case of ABR Loans under the Term Facility and 6.00% above the LIBOR Rate (as defined in the Credit Facility) in the case of Eurodollar Loans under the Term Facility and (b) 3.75% above the base rate in the case of ABR Loans under the

Revolving Facility and 4.75% above the LIBOR Rate (as defined in the Credit Facility) in the case of Eurodollar Loans under the Revolving Facility.

The Credit Agreement contains usual and customary representations and warranties of the parties for credit facilities of this type, subject to customary exceptions and materiality standards. In addition, we are required to maintain, a total net leverage ratio not to exceed 4.75:1.00 and, solely with respect to the Revolving Facility, (a) during the period beginning on October 1, 2022 and ending on September 30, 2023, a total net leverage ratio not to exceed 4.50:1.00 and (b) for all periods thereafter, a total net leverage ratio not to exceed 4.25:1.00.

The Credit Agreement also contains certain customary covenants and events of default, as well as, in the event of an occurrence of an event of default under the Credit Agreement, customary remedies for the lenders, including the acceleration of any amounts outstanding under the Credit Agreement.

In April 2020, we entered into an interest rate swap with Citizens Bank, N.A. to manage our exposure to changes in LIBOR-based interest rates underlying total borrowings under term facilities related to our Prior Credit Agreement. The interest rate swap matures in December 2026. Concurrent with the termination of the Prior Credit Agreement and entry into the Credit Facility with Truist Bank, the interest rate swap was novated and is now with Truist Bank and is used to manage changes in LIBOR-based interest rates underlying a portion of the borrowing under the Term Facility. We are exposed to interest rate risk on the unhedged portion of our Term Facility and if interest rates increased or decreased by 1%, interest expense would have increased or decreased by approximately $1.4 million. If our Revolving Facility were fully drawn and interest rates increased or decreased by 1%, interest expense would have increased or decreased by approximately $0.4 million. The interest rate swap provides an effective fixed interest rate of 2.26% and has been designated as an effective cash flow hedge and therefore qualifies for hedge accounting. As a result of the interest rate swap, our exposure to interest rate volatility is minimized.

We are exposed to risks associated with changes in interest rates. The returns from certain of our cash and cash equivalents will vary as short-term interest rates change. A 100 basis-point adverse movement (decrease) in short-term interest rates would decrease the interest income earned on our cash balance in the three months ended March 31, 2022 by approximately $6,000.

We are exposed to risks associated with foreign currency exchange rate risks as we remeasure certain Canadian dollar-denominated and Indian rupee-denominated transactions from ANI Pharmaceuticals Canada Inc. and our Indian subsidiary from the Canadian dollar to the U.S. dollar and the Indian-rupee to the U.S. dollar. Changes in exchange rates can positively or negatively impact our revenue, income, assets, liabilities, and equity. Currency exchange rates did not have a material impact on our revenue, income, assets, liabilities, or equity during the three months ended March 31, 2022.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), is recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in our reports filed under the Exchange Act is accumulated and communicated to management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management has carried out an evaluation, under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), as of March 31, 2022. Based upon that evaluation, our principal executive officer and principal financial officer concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective. In designing and evaluating our

disclosure controls and procedures, we recognize that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting during the quarter ended March 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting, except as noted below.

On November 19, 2021, we acquired all the issued and outstanding equity interests of Novitium Pharma LLC ("Novitium"). In conjunction with the transaction, we are currently in the process of integrating Novitium's policies, processes, people, technology, and operations into the consolidated company, and integrating Novitium's operations into our system of internal control over financial reporting.

Part II — OTHER INFORMATION

Item 1. Legal Proceedings

Please refer to Note 12, *Commitments and Contingencies*, in the unaudited interim condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q, which is incorporated into this item by reference.

Item 1A. Risk Factors

In addition to the other information set forth in this report, please carefully consider the factors described under the heading "Risk Factors" in our most recent Annual Report on Form 10-K for the fiscal year ended December 31, 2021 in Part I, Item 1A. Risk Factors. The risks described are not the only risks facing us. Additional risks and uncertainties not currently known to us, or that our management currently deems to be immaterial, also may adversely affect our business, financial condition, and/or operating results. There have been no material changes to those risk factors since their disclosure in our most recent Annual Report on Form 10-K.

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

Sales of Unregistered Securities

None.

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased[1]	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number (or approximate dollar value) of Shares that may yet be Purchased Under the Plans or Programs
January 1 - January 31, 2022	—	$ —	—	$ —
February 1 - February 28, 2022	2,351	$ 40.25	—	$ —
March 1 - March 31, 2022	37,695	$ 27.16	—	$ —
Total	40,046	$ 27.92	—	

[1] Shares purchased during the period were transferred to the Company from employees in satisfaction of minimum tax withholding obligations associated with the vesting of restricted stock awards during the period.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

The exhibits listed in the Index to Exhibits, which is incorporated herein by reference, are filed or furnished as part of this Quarterly Report on Form 10-Q.

INDEX TO EXHIBITS

Exhibit No.	Description
10.1	Asset Purchase Agreement between Cranford Pharmaceuticals, LLC and ANI Pharmaceuticals, Inc. (1)
10.2	Asset Purchase Agreement between Holmdel Pharmaceuticals, LP and ANI Pharmaceuticals, Inc. (1)
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, Rule 13(a)-14(a)/15d-14(a).
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, Rule 13(a)-14(a)/15d-14(a).
32.1	Certification of Chief Executive Officer and Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following financial information from this quarterly report on Form 10-Q for the fiscal quarter ended March 31, 2022 formatted in Inline XBRL: (i) Condensed Consolidated Balance Sheets; (ii) Condensed Consolidated Statements of Operations; (iii) Condensed Consolidated Statements of Comprehensive Income; (iv) Condensed Consolidated Statements of Changes in Stockholders' Equity; (v) Condensed Consolidated Statements of Cash Flows; and (vi) Notes to Condensed Consolidated Financial Statements.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

(1) Confidential treatment has been granted with respect to redacted portions of this document or certain information has been omitted from this exhibit in accordance with Regulation S-K Item 601(b)(10)(iv). The Company agrees to furnish supplementally a copy of any omitted information to the Securities and Exchange Commission upon its request.

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.

ANI Pharmaceuticals, Inc. (Registrant)

Date: May 10, 2022

By: /s/ Nikhil Lalwani
Nikhil Lalwani
President and
Chief Executive Officer
(principal executive officer)

Date: May 10, 2022

By: /s/ Stephen P. Carey
Stephen P. Carey
Senior Vice President, Finance and
Chief Financial Officer
(principal financial and accounting officer)

Exhibit 10.1

EXECUTION COPY

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH EXCLUDED INFORMATION HAS BEEN MARKED WITH "[***]."

ASSET PURCHASE AGREEMENT

between

CRANFORD PHARMACEUTICALS, LLC

and

ANI PHARMACEUTICALS, INC.

DATED AS OF FEBRUARY 23, 2017

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EXHIBITS

SCHEDULES OTHER THAN DISCLOSURE SCHEDULES

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement is made and entered into as of the 23rd day of February 2017, by and between Cranford Pharmaceuticals, LLC, a Delaware limited liability company ("Seller") and ANI Pharmaceuticals, Inc., a corporation organized under the laws of Delaware ("Purchaser").

RECITALS

WHEREAS, Seller holds the rights to manufacture, market, sell and distribute the Product in the Territory (the "Business"); and

WHEREAS, Seller desires to sell, transfer and assign to Purchaser, and Purchaser desires to acquire and assume from Seller, all of the Purchased Assets and Assumed Liabilities, all as more specifically provided herein.

NOW, **THEREFORE**, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS AND TERMS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

"Acquisition Proposal" shall have the meaning set forth in Section 6.9.

"Affiliate" means with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. Without limitation, Mist, Holmdel Pharmaceuticals, LP, and Akrimax shall each be deemed for all purposes hereunder an Affiliate of Seller. Solely for purposes of Section 6.11 and Section 7.1, Cranford Therapeutics LLC and its respective Affiliates shall be deemed Affiliates of Seller.1

"Affiliate Agreements" means those agreements listed on Schedule 1.1.

"Agreement" means this Asset Purchase Agreement.

"Akrimax" means Akrimax Pharmaceuticals, LLC.

"AMP" means the average manufacturer price, as defined at 42 U.S.C. § 1396r-8(k)(1) and 42 C.F.R. § 447.500 et seq.

"Ancillary Agreements" means, collectively, the Services Agreement, Bill of Sale, assignments of Assumed Contracts, assumption agreements or other instruments evidencing the assumption by Purchaser of the Assumed Liabilities, and each other agreement, document, instrument and/or certificate contemplated by this Agreement to be executed by Purchaser or Seller in connection with the transactions contemplated hereby.

"Assumed Contracts" shall have the meaning set forth in Section 2.1(a).

"Assumed Liabilities" shall have the meaning set forth in Section 2.4(a).

"Audited Financial Statements" shall have the meaning set forth in Section 4.13(a).

"Bankruptcy and Equity Exception" shall have the meaning set forth in Section 4.2(b).

"Bill of Sale" means a bill of sale, dated as of the Closing Date, in the form set forth as Exhibit A hereto.

"Business" shall have the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are authorized or obligated by applicable law or executive order to close.

"Cap" shall have the meaning set forth in Section 9.6(c).

"Challenged Amount" shall have the meaning set forth in Section 2.7(e).

"Closing" means the closing of the transactions contemplated by this Agreement pursuant to the terms of this Agreement.

"Closing Date" shall have the meaning set forth in Section 3.1(a).

"Closing Date Inventory Value" means the aggregate value of all the Purchased Inventory, determined on the basis of the Seller's cost basis in such Inventories, up to a maximum of [***]; provided, however, that the cost basis of any Purchased Inventories that are damaged, defective or otherwise not saleable in the ordinary course of business on customary terms shall be excluded from the calculation of Closing Date Inventory Value.

"Code" means the Internal Revenue Code of 1986, as amended, from time to time.

"Collateral Source" shall have the meaning set forth in Section 9.7.

"Competing Business" shall have the meaning set forth in Section 7.1.

"Confidential Information" shall have the meaning set forth in the Confidentiality Agreement.

"Confidentiality Agreement" means the Confidentiality Agreement between Seller and Purchaser, dated February 16, 2017, as amended or supplemented from time to time.

"Contract" means any binding contract, agreement, lease, license or commitment.

"Copyrights" shall have the meaning set forth in the definition for Intellectual Property.

"Covered Proceeds" shall have the meaning set forth in Section 2.1(h).

"[***]" means [***].

"Dentons" shall have the meaning set forth in Section 11.17(b).

"Distribution Activities" shall have the meaning set forth in Section 6.8(d).

"Excluded Assets" shall have the meaning set forth in Section 2.3.

"Excluded Inventory" means the Inventory which is not Purchased Inventory.

"Exploitation" (including, with correlative meanings, the terms "Exploit" and "Exploited") means developing, commercializing, manufacturing, labeling, packaging, marketing, promoting, selling, distributing and/or transporting.

"FDA Act" means the Food, Drug and Cosmetics Act of 1938, as amended, supplemented or replaced.

"Final Inventory Value" shall have the meaning set forth in Section 2.7(d).

"Financial Statements" shall have the meaning set forth in Section 4.13(b).

"Fundamental Representations" shall have the meaning set forth in Section 9.5.

"GAAP" means United States generally accepted accounting principles, consistently applied.

"Governmental Authority" means any supranational, national, federal, state or local or foreign judicial, legislative, executive or regulatory authority.

"Governmental Authorizations" means all licenses, permits, certificates and other authorizations and approvals pertaining to the Product under the applicable Laws of any Governmental Authority.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Gross Profit" means the amount equal [***].

"Indemnity Notice" shall have the meaning set forth in Section 9.3(a).

"Indemnified Party" shall have the meaning set forth in Section 9.3(a).

"Indemnifying Party" shall have the meaning set forth in Section 9.3(a).

"Indemnity Threshold" shall have the meaning set forth in Section 9.6(b).

"Independent Accountant" shall have the meaning set forth in Section 2.6(c).

"Intellectual Property" means any and all worldwide rights in, arising from or associated with the following, whether protected, created or arising under the Laws of the United States or any other jurisdiction or under any international convention: (1) all trade secrets and other proprietary information which derives independent economic value from not being generally known to the public (collectively, "Trade Secrets"); (2) all copyrights, copyrights registrations and applications therefor ("Copyrights"); (3) all uniform resource locators, e-mail and other internet addresses and domain names and applications and registrations therefor ("URLs"); and (6) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

"Inventories" means all inventory of finished goods Product and all samples of Product owned by Seller or Mist on the Closing Date.

"Inventory Excess Amount" shall have the meaning set forth in Section 2.7(g)(ii).

"Inventory Shortfall Amount" shall have the meaning set forth in Section 2.7(g)(i).

"Knowledge of Purchaser" means the actual knowledge any of the individuals listed on Schedule 1.1(b)(i) has or would have following reasonable inquiry into the subject matter in the ordinary course of performing each of their respective duties.

"Knowledge of Seller" means the actual knowledge any of the individuals listed on Schedule 1.1(b)(ii) has or would have following reasonable inquiry into the subject matter in the ordinary course of performing each of their respective duties.

"Laws" means any federal, state, foreign or local law, common law, statute, ordinance, rule, regulation, code or Governmental Order.

"Liabilities" means any and all Losses, debts, liabilities and obligations, whether accrued or unaccrued, fixed, known or unknown, absolute or contingent, matured or unmatured or determined or determinable, including all costs and expenses relating thereto.

"Licensed Intellectual Property" shall have the meaning set forth in Section 4.9(b)(i).

"Licensed Know-How" shall have the meaning set forth in Section 6.12.

"Liens" means any lien, security interest, mortgage, pledge, assessment, hypothecation, easement, title retention clause, title defect, right of first refusal, charge or similar encumbrance.

"Loss" or "Losses" means any liabilities, losses, damages, fines or penalties that are suffered or sustained, or that have required an outlay or payment of cash or other non-cash consideration, whether resulting from a judgment, a settlement or an award, including those arising out of any Proceeding, Law or Contract, including the Taxes, costs and expenses (including reasonable fees and expenses of counsel, consultants, experts, and other professional fees) associated therewith.

"Lowenstein" shall have the meaning set forth in Section 11.17(a).

"Material Adverse Effect" means any event, fact, condition, occurrence, change or effect that is or would reasonably be expected to be materially adverse to the Exploitation of the Product or the Purchased Assets, taken as a whole; provided, however, that none of the following shall be deemed, either alone or in combination, to constitute a Material Adverse Effect, or be taken into account in determining whether there has or will be a Material Adverse Effect: (a) changes in political or economic conditions (including changes in interest or exchange rates) in any country in which Purchased Assets are located or in which the Business operates, or in the securities, syndicated loan, credit or financial markets of any such country; (b) changes in general market conditions affecting the Exploitation of the Product in general or within the United States; (c) changes in GAAP; (d) changes or effects that arise out of or are attributable to the acts or omissions of, or circumstances affecting, Purchaser and/or its Affiliates; (e) changes or effects that generally affect the markets in which the Product is Exploited; (f) changes or effects that arise out of or are attributable to the commencement, occurrence, continuation or intensification or reduction or cessation of any war (whether or not declared), sabotage, armed hostilities or acts of terrorism; (g) changes or effects that arise out of or are attributable to earthquakes, hurricanes or other natural disasters, epidemics or other outbreaks of disease; (h) changes or effects that relate to any failure by Seller to meet internal projections or forecasts for any period (including with respect to the Purchased Assets or Product), or that arise out of or are attributable to market conditions with respect to the Product, including the availability of generic alternatives or alternative therapies and treatments; and (i) any action taken by Seller as required by this Agreement or with Purchaser's consent, except, in the case of clauses (a), (b), (c), (e) and (f), for those changes or effects that have a disproportionate impact on the Exploitation of the Product relative to other comparable pharmaceutical product.

"Mist" means Mist Pharmaceuticals, LLC.

"NDC Number" means the unique 10-digit, 3-segment number assigned by the U.S. Food & Drug Administration to each human drug processed for commercial distribution, which number is published in the NDC Directory pursuant to Section 510 of the FDA Act.

"Net Sales" means the gross amount received by Seller or Subsidiary of Seller, as applicable, for sales of the Product (other than applicable, sales, use or VAT Taxes), less the deductions taken by the Seller or an Affiliate or Subsidiary of Seller, as applicable, with respect to such sales in accordance with GAAP:

(i) [***];

(ii) [***];

(iii) [***]; and

(iv) [***].

Notwithstanding the foregoing, sales of Product for patient assistance programs, research or development or complimentary samples shall not be deemed "sales" for purposes of calculating Net Sales.

"Non-Compete Period" has the meaning set forth in Section 7.1.

"NonFAMP Eligible Transactions" means those transactions relating to a Product that are used to calculate the Non-Federal Average Manufacturer Price as defined by Veteran's Health Care Act of 1992.

"Objection Notice" shall have the meaning set forth in Section 2.7(c).

"Outside Date" shall have the meaning set forth in Section 10.1(b).

"Owned Intellectual Property" shall have the meaning set forth in Section 4.9(a).

"Party" means each of Purchaser and Seller.

"Permitted Encumbrances" means (i) statutory Liens arising by operation of Law with respect to a Liability incurred in the ordinary course of business and which is not delinquent; (ii) Liens for Taxes not yet subject to penalties for nonpayment or that are being contested in good faith by appropriate proceedings; (iii) mechanics', materialmens', carriers', workmens', warehousemens', repairmens', landlords' or other like Liens and security obligations that are not delinquent; (iv) Liens set forth on Schedule 1.1(c) hereto, all of which will be released and, as appropriate, removed of record, at or prior to the Closing Date in accordance with the terms of this Agreement; and (v) Liens arising under this Agreement.

"Person" means an individual, a limited liability company, joint venture, a corporation, a partnership, an association, a trust, a division or operating group of any of the foregoing or any other entity or organization.

"Post-Closing Tax Period" means any Tax period (or portion thereof) beginning after the Closing Date.

"Pre-Closing Tax Period" means any Tax period (or portion thereof) ending on or before the Closing Date.

"Proceeding" means any claim, action, arbitration, mediation, hearing, proceeding, suit, warning letter, or notice of violation.

"Product" means the Product listed on Schedule 1.1(d) hereto.

"Property Taxes" shall have the meaning set forth in Section 11.8(b).

"Purchased Assets" shall have the meaning set forth in Section 2.1, it being understood that the Purchased Assets do not include the Excluded Assets.

"Purchased Documents" means originals, or if originals are unavailable, copies of all books, records, files and papers, whether in hard copy or computer format, to the extent related to the Product (including with respect to research and development, medical safety or regulatory affairs), including (i) all documents, if any, relating to the calculation of baseline AMP (but excluding any proprietary methodology documents created by Seller or any of its Affiliates with respect to the calculation of baseline AMP), (ii) an electronic version of the Product's Medical Information Inquiry Database and the documents set forth in Schedule 1.1(e), (iii) any and all regulatory files (including correspondence with regulatory authorities) owned by or in the possession or control of Seller or any Affiliate thereof to the extent relating to the Purchased Assets or the operation of the Business (including safety and adverse event data) and (iv) copies of all books, records, files and papers, whether in hard copy or computer format, to the extent related to NonFAMP Eligible Transactions from the third fiscal quarter of 2013 through the Closing Date.

"Purchased Inventory" means that portion of the Inventory that is set forth on Schedule 1.1(a).

"Purchase Price" shall have the meaning set forth in Section 2.6(a).

"Purchaser" has the meaning set forth in the preamble of this Agreement.

"Purchaser Disclosure Schedules" shall have the meaning set forth in Article V.

"Purchaser Indemnified Parties" shall have the meaning set forth in Section 9.1.

"Representatives" means, with respect to any Person, the directors, managers, employees, independent contractors, agents or consultants of such Person.

"Required Third Party Consents" means the consents and approvals set forth on Schedule 1.1(f).

"Retained Liabilities" shall have the meaning set forth in Section 2.5.

"Seller" shall have the meaning set forth in the preamble of this Agreement.

"Seller Company Identifiers" shall have the meaning set forth in Section 6.7(a).

"Seller Disclosure Schedules" shall have the meaning set forth in Article IV.

"Seller Indemnified Parties" shall have the meaning set forth in Section 9.2.

"Services Agreement" means a services agreement, dated as of the Closing Date, in the form set forth as Exhibit B hereto.

"Side Letter" shall have the meaning set forth in Section 3.1(b)(xii).

"Solvent", when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "fair saleable value" of the assets of such Person on a going concern basis will, as of such date, exceed (i) the value of all "liabilities of such Person, including contingent and other liabilities" as of such date, as such quoted terms are generally determined in accordance with applicable United States federal laws governing determinations of the insolvency of debtors and (ii) the amount that will be required to pay the probable liabilities of such Person on its existing debts (including contingent liabilities) as such debts become absolute and matured, (b) such Person will not have, as of such date, an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged following such date and (c) such Person will be able to pay its liabilities, including contingent and other liabilities, as they mature. For purposes of this definition, each of the phrases "not have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged" and "able to pay its liabilities, including contingent and other liabilities, as they mature" means that such Person will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due.

"Subsidiary" or "Subsidiaries" means an entity as to which Seller or Purchaser or any other relevant entity, as the case may be, owns directly or indirectly 50% or more of the voting power or other similar interests. Any Person which comes within this definition as of the date of this Agreement but thereafter fails to meet such definition shall from and after such time not be deemed to be a Subsidiary of Seller or Purchaser or any other relevant entity, as the case may be. Similarly, any Person which does not come within such definition as of the date of this Agreement but which thereafter meets such definition shall, from and after such time, be deemed to be a Subsidiary of Seller or Purchaser or any other relevant entity, as the case may be.

"Tax" or "Taxes" means all taxes, levies or other assessments, including income, excise, property, sales or use, value added, profits, license, withholding (with respect to compensation or otherwise), payroll, employment, net worth, capital gains, transfer, stamp, social security, environmental, occupation and franchise taxes, imposed by any Taxing Authority, and including any interest, penalties and additions attributable thereto.

"Tax Return" or "Tax Returns" means any return, report, declaration, information return, statement or other document filed or required to be filed with any Taxing Authority, in connection with the determination, assessment or collection of any Tax or the administration of any Laws relating to any Tax.

"Taxing Authority" means any Governmental Authority, body or instrumentality exercising any authority to impose, regulate or administer the imposition of Taxes.

"Termination Agreement" shall have the meaning set forth in Section 3.1(b)(xiii).

"Territory" means the United States and its territories and possessions, including Puerto Rico and U.S. military bases abroad.

"Third Party Claim" shall have the meaning set forth in Section 9.4(a).

"Trade Secrets" shall have the meaning set forth in the definition for Intellectual Property.

"Trademark License-Back Agreement" means the Trademark License-Back Agreement dated as of April 1, 2016, by and between Purchaser and Seller.

"Transfer Taxes" means any federal, state, county, local, foreign and other sales, use, transfer, value added, conveyance, documentary transfer, stamp, recording, registration or other similar Tax (including any notarial fee) imposed in connection with, or otherwise relating to, the transactions contemplated by this Agreement or the recording of any sale, transfer or assignment of property (or any interest therein) effected pursuant to this Agreement.

"Treasury Regulations" means the regulations promulgated by the Treasury Department under the Code.

"Unaudited Financial Statements" shall have the meaning set forth in Section 4.13(b).

"URLs" shall have the meaning set forth in the definition for Intellectual Property.

Section 1.2 Other Definitional and Interpretive Provisions. (a) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) The terms "dollars" and "$" shall mean United States of America dollars.

(d) The term "including" (and with correlative meaning "include") shall mean "including, without limitation."

(e) Reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity.

(f) Reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended, modified or supplemented and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.

(g) When a reference is made in this Agreement to an Article, a Section, an Exhibit or a Schedule, such reference shall be to an Article of, a Section of, an Exhibit to or a Schedule to, this Agreement unless otherwise indicated.

(h) The Parties acknowledge that: (i) this Agreement is the result of negotiations between the Parties and shall not be deemed or construed as having been drafted by any one Party; (ii) each Party and its counsel have reviewed and negotiated the terms and provisions of this Agreement (including any exhibits and disclosure schedules attached hereto) and have contributed to its revision; (iii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iv) the terms and provisions of this Agreement shall be construed fairly as to all Parties and not in favor of or against any Party, regardless of which party was generally responsible for the preparation of this Agreement.

ARTICLE II

PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets. Upon the terms and subject to the conditions set forth herein, at the Closing, Seller shall, and with respect to Section 2.1(b) shall cause Akrimax to, and with respect to Section 2.1(d) shall cause Mist to, sell, convey, assign and transfer to Purchaser, and Purchaser shall purchase, acquire and accept from Seller, Mist and Akrimax, as applicable, free and clear of all Liens, other than Permitted Encumbrances, all right, title and interest of Seller, Akrimax and Mist, as applicable, in, to and under those assets described in the following clauses (a) through (i) related to Seller's Product (collectively, the "Purchased Assets"):

(a) all the Contracts relating to the Product set forth on Schedule 2.1(a), including with respect to the Licensed Intellectual Property (the "Assumed Contracts");

(b) all of the Owned Intellectual Property (including the URL registration owned by Akrimax as set forth on Schedule 4.9(a)(ii));

(c) all customer lists for the Product and research data to the extent related to the Product and in the possession or control of Seller or any Affiliate thereof;

(d) the Purchased Inventory;

(e) all the Purchased Documents; provided, however, that Seller shall have the right to retain one copy (subject to the confidentiality provisions set forth in Section 6.11) of all or any portion of the Purchased Documents to comply with applicable Laws and regulatory guidance;

(f) all refunds for Taxes relating to the Purchased Assets with respect to a Post-Closing Tax Period;

(g) all of Seller's rights under warranties, guaranties, indemnities and similar rights against third parties, including any predecessors in title, to the extent related to the Assumed Liabilities or the Exploitation of the Purchased Assets and the Product on or after the Closing Date, including rights to proceeds under insurance policies in respect of damage or loss to the Purchased Assets which have not been fully remediated as of the Closing ("Covered Proceeds"); and

(h) all of Seller's claims, counterclaims, causes of action and all other rights of any kind against any third party in connection with the Assumed Liabilities or related to the Exploitation of the Purchased Assets on or after the Closing Date.

Section 2.2 Consents. Purchaser acknowledges that certain consents to the transactions contemplated by this Agreement (other than the Required Third Party Consents) may be required from counterparties to Contracts and that such consents may not be obtained prior to Closing. Seller shall use its commercially reasonable efforts (which shall not require Seller to pay any money or other consideration to any Person, to initiate any claim or proceeding against any Person or to otherwise grant any accommodation (financial or otherwise) to any Person) (i) to obtain such approval or consent and (ii) if such approval or consent cannot be obtained, to secure an arrangement reasonably satisfactory to Purchaser ensuring that Purchaser will receive the benefits under the Purchased Asset for which such consent is being sought and Purchaser will bear the burden of the Liabilities related to such Purchased Asset; provided, however, that notwithstanding anything to the contrary herein

or otherwise (A) Seller shall have no obligation to obtain such consent or approval or to provide such an alternative arrangement other than the undertaking to use commercially reasonable efforts to obtain or provide the same as set forth in this Section 2.2, and (B) Purchaser shall indemnify Seller in respect of all Liabilities incurred by Seller in respect of any such alternative arrangement and the underlying Purchased Asset. To the extent that, in connection with obtaining a third party's consent under any Assumed Contract, one or more of the parties hereto enter into an agreement with such third party that provides for an allocation of Liability among the parties hereto with respect to such Assumed Contract that is inconsistent with the terms of this Agreement, the parties agree that, as among themselves, the provisions of this Agreement shall control.

Section 2.3 Excluded Assets. Nothing herein contained shall be deemed to sell, transfer, assign or convey the Excluded Assets to Purchaser, and Seller shall retain all right, title and interest to, in and under the Excluded Assets. "Excluded Assets" means all assets, properties, interests and rights of Seller other than the Purchased Assets to be sold by Seller, including each of the following assets:

(a) all cash, cash equivalents, bank deposits or similar cash items and accounts receivable of Seller;

(b) all books and records of Seller other than the Purchased Documents; provided, however, that Purchaser shall have the right to make copies of any portions of any such retained books and records to the extent related to any of the Purchased Assets;

(c) all rights of Seller to (i) the Seller Company Identifiers and (ii) any other Intellectual Property, other than Intellectual Property included in the Purchased Assets;

(d) all insurance policies or rights to proceeds thereof relating to the Purchased Assets or the Product (except Covered Proceeds);

(e) subject to Section 2.1(i), all rights, claims or causes of action of Seller against third parties in connection with the Exploitation of the Purchased Assets and the Product prior to the Closing Date;

(f) all Tax Returns and financial statements of Seller and all records (including working papers) related thereto;

(g) all refunds for Taxes relating to the Purchased Assets with respect to a Pre-Closing Tax Period;

(h) all of Seller's rights in respect of real property, including leasehold interests;

(i) the membership interests in and other equity or ownership interests in Seller;

(j) all rights that accrue to Seller under this Agreement and the Ancillary Agreements; and

(k) all of Seller's causes of action, claims, credits, demands or rights of set-off against third parties, to the extent related to any Excluded Asset.

Section 2.4 Assumption of Liabilities.

(a) Upon the terms and subject to the conditions of this Agreement, Purchaser agrees, effective at the Closing, to assume and to satisfy and discharge when due the Liabilities of Seller (other than the Retained Liabilities), specifically set forth below (all of such Liabilities and other than the Retained Liabilities being herein collectively referred to as the "Assumed Liabilities"):

(i) all Liabilities arising from the Exploitation of any Product after the Closing Date, including Liabilities for returns, rebates and chargebacks related to any of the Product shipped after the Closing Date;

(ii) all Liabilities for Taxes relating to the Purchased Assets or the Product with respect to a Post-Closing Tax Period, including those allocated in accordance with Section 11.8(b);

(iii) all Liabilities for materials and services relating to the Purchased Assets contracted for in the ordinary course of business prior to the Closing pursuant to an Assumed Contract, but scheduled to be delivered or provided thereafter, and all Liabilities to customers under purchase orders for Product that have not yet been shipped at Closing, in each case to the extent not related to any breach of Seller occurring prior to the Closing;

(iv) all Liabilities under Assumed Contracts (including Liabilities to customers under purchase orders made in the ordinary course of the sale and marketing of the Product consistent with past practice for any Product that has not been shipped prior to the Closing) relating to the period following the Closing Date, other than any Liabilities to the extent arising out of, or resulting from, a breach of any such Assumed Contract by Seller prior to the Closing Date;

(v) all Liabilities arising out of or relating to any product liability, breach of warranty or similar claim for injury to any Person or property that resulted from the use or misuse of the Product on or after the Closing Date or otherwise relates to the Product sold (including any Proceeding relating to any such Liabilities) on or after the Closing Date, which, in the case of any split lots of Product, shall be determined based on the percentage of any such lot sold on or after the Closing Date; and

(vi) all other Liabilities relating to the Purchased Assets or the Product, or Purchaser's use thereof, solely to the extent that such are not Retained Liabilities, including to any Governmental Authority, and all fees arising from or related to any Intellectual Property included in the Purchased Assets, but only to the extent not related to or arising out of any act, omission or event occurring prior to the Closing.

Section 2.5 Retained Liabilities. Notwithstanding any provision in this Agreement, Seller shall retain and be responsible only for the following Liabilities (the "Retained Liabilities"):

(a) all Liabilities of Seller and/or any Affiliate of Seller other than Assumed Liabilities, including all Liabilities related to the Excluded Assets and all Liabilities under Assumed Contracts relating to the period prior to the Closing Date (including the Assumed Contracts set forth on Schedule 4.12(e));

(b) all Liabilities of Seller and/or any of its Affiliates under the Ancillary Agreements;

(c) all Liabilities of Seller and/or any of its Affiliates in respect of any Proceeding (whether class, individual or otherwise in nature, in law or in equity) commenced or asserted prior to the Closing, or based on acts or omissions of Seller and/or any of its Affiliates or their respective equityholders, officers, directors or managers occurring prior to the Closing, and arising out of or to the extent relating to or otherwise in any way relating to the Purchased Assets or the Product, including, without limitation, any Liability to any equityholder of Seller or any Affiliate of Seller and including all Liabilities arising out of or related to the litigation described on Schedule 4.6 of the Seller Disclosure Schedules;

(d) all Liabilities of Seller to its suppliers for materials and services relating to the Product that were delivered or provided to Seller prior to Closing;

(e) all Liabilities arising out of or relating to any product liability, breach of warranty or similar claim for injury to any Person or property that resulted from the use or misuse of the Product prior to the Closing Date or otherwise relates to the Product sold (including any Proceeding relating to any such Liabilities) prior to the Closing Date, which, in the case of any split lots of Product, shall be determined based on the percentage of any such lot sold prior to the Closing Date;

(f) any Liability under Seller's employee benefits or compensation arrangements; and

(g) all Liabilities for Taxes relating to the Purchased Assets or the Product with respect to a Pre-Closing Tax Period, including those allocated in accordance with Section 11.8(b).

Section 2.6 Purchase Price.

(a) On the terms and subject to the conditions set forth herein, in consideration of the sale and transfer of the Purchased Assets, at the Closing, Purchaser shall (i) assume the Assumed Liabilities and (ii) pay an amount in cash equal to the sum of (*x*) Nineteen Million Eight Hundred and Eleven Thousand Dollars ($19,811,000), *plus* (*y*) the Closing Date Inventory Value, subject to adjustment pursuant to the terms of Section 2.7(g) (the "Purchase Price") to Seller in immediately available funds by wire transfer to the account(s) specified in written instructions given by Seller to Purchaser not less than two (2) Business Days prior to the Closing.

(b) To the extent that Purchaser is required under any provision of Law to deduct and withhold Taxes on any payment hereunder, Purchaser shall withhold and deduct from the Purchase Price such required amounts and such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Persons in respect of which such deductions and withholdings were made; provided, however, that Purchaser may deduct such amounts only if Purchaser shall (i) give Seller reasonable advance notice of the intention to make such deduction or withholding; (ii) explain the basis for such deduction or withholding, and (iii) cooperate with Seller to the extent reasonably requested to obtain any applicable reduction of or relief from such deduction or withholding; provided, further, that, except as otherwise required by Law or applicable court order, Purchaser shall not withhold any portion of the Purchase Price if Seller delivers a non-foreign affidavit under Section 1445 of the Code and the Treasury Regulations promulgated thereunder.

(c) The allocation of the Purchase Price among the Purchased Assets and Assumed Liabilities shall be prepared by Purchaser within ninety (90) days following the Closing. Purchaser shall deliver to Seller a copy of such proposed allocation promptly after Purchaser's determination of the proposed allocation, and Seller shall have the right to review and raise any objections in writing to the proposed allocation during the fifteen (15) day period after Seller's receipt thereof. If Seller does not notify Purchaser in writing of a disagreement with the proposed allocation during such fifteen (15) day period, the proposed allocation shall become final. If Seller disagrees with respect to any item in the allocation, the Parties shall negotiate in good faith to resolve the dispute. If the Parties are unable to agree on the allocation within thirty (30) days after the commencement of such good faith negotiations (or such longer period as Seller and Purchaser may mutually agree in writing), then the parties shall refer such dispute to an independent internationally recognized accounting firm ("Independent Accountant") at that time to review the allocation, and make a determination as to the resolution of such allocation. The determination of the Independent Accountant regarding the allocation shall be delivered as soon as practicable following engagement of the Independent Accountant, but in no event more than sixty (60) days thereafter, and shall be final, conclusive and binding upon Seller and Purchaser, and Purchaser shall revise the original proposed allocation accordingly. Seller, on the one hand, and Purchaser on the other hand, shall each pay one-half of the cost of the Independent Accountant. The finalized allocation shall be binding on Seller and Purchaser for all Tax reporting purposes and Seller and Purchaser agree to refrain from taking any position inconsistent therewith, unless required by applicable Law or a final determination of a Taxing Authority.

Section 2.7 Purchase Price Adjustment.

(a) On the Closing Date, Seller shall deliver to Purchaser a statement (the "Closing Statement") containing Seller's final calculation of the Closing Date Inventory Value and shall be accompanied with reasonably detailed documentation supporting Seller's calculation thereof. The Closing Statement will be in the form as set forth in Schedule 2.7(a).

(b) The Purchaser will have a period of twenty (20) Business Days to review the Closing Statement and all calculations set forth therein. Seller shall give Purchaser (upon reasonable advance notice and during normal business hours in a manner that does not materially interfere with Seller's business) reasonable access to the applicable personnel and books and records of Seller and its Affiliates as reasonably requested by Purchaser, as well as use commercially reasonable efforts to cause [***] to provide Purchaser reasonable access to the premises of [***] and the records kept by them of the Purchased Inventories, to reasonably enable Purchaser to fully review

the Closing Statement and such access shall be provided in a timely manner to allow Purchaser to complete such review in such twenty (20) Business Day period.

(c) The Closing Statement shall be conclusive of the amount of the Closing Date Inventory Value and shall be final and binding upon the Parties unless on or before the twentieth (20th) Business Day after the date on which the Closing Statement is delivered to Purchaser, Purchaser delivers to Seller a notice of objection (an "Objection Notice") to any matter stated in the Closing Statement. Any Objection Notice shall specify, in reasonable detail to the extent Purchaser has the available information, those items or amounts as to which Purchaser disputes in good faith and Purchaser shall be deemed to have agreed with all other items and amounts contained in the Closing Statement and the calculations of the Closing Date Inventory Value set forth therein.

(d) If Purchaser fails to deliver an Objection Notice within such twenty (20) Business Day period, Purchaser shall be deemed to have waived its rights to contest the Closing Statement and the calculation of the Closing Date Inventory Value set forth therein shall be deemed to be final and binding upon the Parties (the "Final Inventory Value") and such amount shall be used for the purposes of adjustment to the Purchase Price pursuant to Section 2.7(g).

(e) If Purchaser delivers an Objection Notice to Seller on or before such twenty (20) Business Day period, then the Parties shall meet within ten (10) Business Days after Purchaser delivers an Objection Notice, by telephone or at a mutually agreeable location to discuss in good faith and attempt to reconcile their differences with respect to the amount of the Closing Date Inventory Value that is being challenged by Purchaser (the "Challenged Amount(s)"). In the event the Parties are unable to reach agreement on the Challenged Amounts, either Party may at any time thereafter submit such remaining disagreements to the Independent Accountant.

(f) The Parties shall use commercially reasonable efforts to cause the Independent Accountant, once appointed, to resolve all remaining disagreements with respect to Challenged Amounts as soon as practicable, but in any event shall direct the Independent Accountant to render a determination within thirty (30) days after retention of the Independent Accountant. Each Party will be afforded the opportunity to present to the Independent Accountant any material such Party deems relevant to the determination. The Independent Accountant shall consider only those items and amounts in Purchaser's and Seller's respective calculations of the Challenged Amounts that are identified as being items and amounts to which Purchaser and Seller have been unable to agree. In resolving any disputed item, the Independent Accountant may not assign a value to any item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party. The Independent Accountant's determination of the Challenged Amounts shall be based solely on written materials submitted by the Parties (*i.e.*, not on independent review) and on the definitions included in this Agreement. The determination of the Independent Accountant shall be conclusive and binding upon the Parties and shall not be subject to appeal or further review and shall be deemed as the Final Inventory Value for all purposes hereunder. The costs and expenses of the Independent Accountant in determining any Challenged Amounts shall be borne equally by Purchaser, on the one hand, and Seller, on the other hand.

(g) On the date of the binding determination of the Final Inventory Value pursuant to the terms of this Section 2.7, if:

(i) the Final Inventory Value is equal to an amount that is *less* than the Closing Date Inventory Value set forth in the Closing Statement (the aggregate total amount of the shortfall equal to the sum of (*x*) the Closing Date Inventory Value, *minus* (y) the Final Inventory Value, the "Inventory Shortfall Amount"), then Seller shall, within ten (10) Business Days of the binding determination of the Final Inventory Value, pay an amount in cash equal to the Inventory Shortfall Amount to Purchaser in immediately available funds by wire transfer to the account(s) specified in written instructions provided by Purchaser to Seller; or

(ii) the Final Inventory Value is *more* than Closing Date Inventory Value set forth in the Closing Statement (the aggregate total amount of the excess equal to the sum of (*x*) the Final Inventory Value, *minus* (*y*) the Closing Date Inventory Value, the "Inventory Excess Amount"), then Purchaser shall, within ten (10) Business Days of the binding determination of the Final Inventory Value, pay an amount in cash equal to the Inventory Excess Amount to Seller in

immediately available funds by wire transfer to the account(s) specified in written instructions provided by Seller to Purchaser.

(iii) Notwithstanding anything to the contrary set forth above, in no event will the Final Inventory Value be deemed to exceed [***].

ARTICLE III

CLOSING

Section 3.1 Closing. (a) The Closing shall take place remotely via the exchange of documents and signatures by electronic mail and overnight courier service on (i) the second (2nd) Business Day following the satisfaction (or, to the extent permitted hereby and by applicable Law, waiver) of the conditions set forth in Article VIII (other than the conditions that by their nature are to be satisfied by actions to be taken on the Closing Date, but subject to the waiver or satisfaction of such conditions) or (ii) at such other time and place as the Parties may mutually agree in writing. The date on which the Closing occurs is called the "Closing Date." The Closing shall be deemed to occur and be effective as of 12:01 a.m. on the Closing Date.

(b) At the Closing, Seller shall deliver or cause to be delivered to Purchaser the following instruments and documents, in each case, in form and substance reasonably acceptable to Purchaser:

(i) a receipt for payment of the Purchase Price;

(ii) a certificate of an authorized officer of Seller as to the resolutions adopted by the members, board of managers or similar governing body of Seller relating to the transactions contemplated hereby;

(iii) executed copies of the Required Third Party Consents;

(iv) assignments of Assumed Contracts, duly executed by Seller or its applicable Affiliate;

(v) the Bill of Sale, duly executed by an authorized officer of Seller;

(vi) general assignments duly executed by Seller and all of the Seller Affiliates assigning to Purchaser all right, title and interest they may have in and to any of the Purchased Assets, including assignments of all URLs to the extent owned by any Seller Affiliate and used or held for use in connection with the Exploitation of the Product;

(vii) physical or, to the extent available, electronic copies of the Purchased Documents;

(viii) a duly executed non-foreign affidavit under Section 1445 of the Code and the Treasury Regulations promulgated thereunder;

(ix) the Services Agreement, duly executed by an authorized officer of Seller;

(x) evidence reasonably satisfactory to Purchaser of the termination of the Affiliate Agreements;

(xi) either (A) evidence in form and substance reasonably satisfactory to Purchaser that those Liens on the Purchased Assets (other than Permitted Encumbrances) set forth on Schedule 1.1(b) have been or will be released at the Closing or (B) written authorization from the appropriate Lien holders authorizing Purchaser to file terminations or releases of such Liens set forth on Schedule 1.1(b);

(xii) a side letter, in form and substance reasonably satisfactory to Purchaser, duly executed by authorized officers of the applicable Affiliates of Seller, addressing only those matters set forth in Exhibit C (the "Side Letter"); and

(xiii) a termination agreement, in form and substance reasonably satisfactory to Purchaser, duly executed by an authorized officer of Purchaser, Purchaser, terminating in all respects the Trademark License-Back Agreement (the "Termination Agreement").

(c) At the Closing, Purchaser shall deliver or cause to be delivered to Seller, the following: (x) the Purchase Price, as provided in Section 2.6(a), and (y) the following instruments and documents, in each case, in form and substance reasonably acceptable to Seller:

(i) Assignments of Assumed Contracts duly executed by Purchaser;

(ii) executed assumption agreements and all other instruments appropriate to evidence Purchaser's assumption of the Assumed Liabilities;

(iii) certificates of an authorized officer of Purchaser as to the resolutions adopted by the Boards of Directors of Purchaser relating to the transactions contemplated hereby;

(iv) the Services Agreement, duly executed by an authorized officer of Purchaser;

(v) the Termination Agreement, duly executed by an authorized officer of Purchaser; and

(vi) the Side Letter, duly executed by an authorized officer of Purchaser.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the correspondingly numbered section of the disclosure schedules attached hereto that relates to such Section of this Agreement (the "Seller Disclosure Schedules"), Seller hereby makes the representations and warranties contained in this Article IV to Purchaser.

Section 4.1 Organization. Seller is (i) a limited liability company duly organized, validly existing and in good standing under the Laws of Delaware and (ii) is duly qualified or licensed to do business and is in good standing in each jurisdiction in which such qualification or licensing is necessary under applicable Laws or where the Exploitation of Seller's Product requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect. Seller has no Subsidiaries.

Section 4.2 Authority; Binding Effect. (a) Seller has all requisite limited partnership power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder. The execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary limited liability action on behalf of Seller.

(b) This Agreement has been duly executed and delivered by Seller and, assuming the valid execution and delivery by Purchaser, constitutes a valid and binding obligation of Seller, and each Ancillary Agreement will be, prior to the Closing, duly executed and delivered by Seller and will, assuming the valid execution and delivery by Purchaser, from and after the Closing, constitute a valid and binding obligation of Seller, in each case enforceable against Seller in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or law) (the "Bankruptcy and Equity Exception").

Section 4.3 No Conflicts; Consents. The execution, delivery and performance of this Agreement and the Ancillary Agreements by Seller and the consummation of the transactions contemplated hereby and thereby

do not and will not (i) violate any provision of the organizational documents of Seller; (ii) subject to obtaining the Required Third Party Consents as well as the other consents referred to in Schedule 4.3 of the Seller Disclosure Schedules, conflict with, or result in the breach of, constitute a default under, result in the termination, cancellation or acceleration (whether after the giving of notice or the lapse of time or both) of any right or obligation of Seller under, or to a loss of any benefit to which Seller is entitled under, any Assumed Contract, or any other Contract to which the assets of Seller or any of its Affiliates are subject to the extent such relate to the Purchased Assets; and (iii) assuming compliance with the matters set forth in Section 4.4 and Section 5.5, violate or result in a breach of or constitute a default under any Law or other restriction of any Governmental Authority to which Seller is subject; except, with respect to clauses (ii) and (iii), for any violations, breaches, conflicts, defaults, terminations, cancellations or accelerations as would not reasonably be expected to be material to the Business, Purchased Assets or the Product.

Section 4.4 Governmental Authorization. The execution and delivery of this Agreement and the Ancillary Agreements by Seller or any Affiliate thereof does not require any consent or approval of any Governmental Authority included within the Required Third Party Consents.

Section 4.5 Absence of Material Changes. Except as otherwise contemplated or permitted by this Agreement, from December 31, 2015 to the date of this Agreement:

(a) there has not been any Material Adverse Effect; and

(b) other than with respect to the transactions contemplated by this Agreement and the exploration of strategic alternatives for the Purchased Assets by Seller, Seller operated the Purchased Assets, in all material respects, in the ordinary course of business.

Section 4.6 No Litigation. No proceeding by or before any Governmental Authority is pending against or, to the Knowledge of Seller, threatened in writing against Seller with respect to the Purchased Assets that would reasonably be expected to be material to the Business, the Purchased Assets and the Product, taken as a whole, or that in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated by this Agreement or the Ancillary Agreements. None of Seller or any of its Purchased Assets are subject to any Governmental Order or arbitration award that is material to the Purchased Assets, taken as a whole, or that imposes any material limitation on the ability of Seller to operate its Business as currently conducted.

Section 4.7 Compliance with Laws. Except as to matters otherwise set forth in this Agreement:

(a) Since January 1, 2015, Seller and its Affiliates have operated the Business in material compliance with all Laws applicable to the Purchased Assets, including the FDA Act;

(b) Seller possesses all Governmental Authorizations necessary for the operation of the Business and the Purchased Assets as currently conducted; and

(c) since January 1, 2015, no Governmental Authority has notified Seller or any Affiliate of Seller in writing that Seller or an Affiliate of Seller (with respect to the Product, the Purchased Assets or the operation of the Business) is in violation of any applicable Law.

Section 4.8 Regulatory Compliance.

(a) Schedule 4.8(a) of the Seller Disclosure Schedules sets forth, as of the date hereof, a list of all product registrations with respect to the Product in the United States, which constitute all material registrations, applications, approvals, licenses or permits granted by any Governmental Authority and used by Seller or any Affiliate of Seller in the Exploitation of the Product since January 1, 2015.

(b) All of the Product sold are, and at all times since January 1, 2015, have been manufactured and marketed in accordance with applicable Laws, except where the failure to comply therewith would not reasonably be expected to be material to the Business, the Purchased Assets and the Product, taken as a whole.

(c) To the Knowledge of Seller, there are no pending requirements to conduct any Phase IV or other clinical studies with respect to any Product of Seller in the United States for any approved indication.

(d) Neither Seller nor any of Seller's Affiliates or any of their respective contractors has (nor, to the Knowledge of Seller, has any other Person) at any time since January 1, 2015 (i) received or been subject to a warning letter, untitled letter, Form FDA 483, or any other similar Governmental Authority notice or action relating to any Product; (ii) been subject to any Governmental Authority detention, seizure, injunction, consent decree, notice of criminal investigation, indictment, sentencing memorandum, plea agreement, court order, target or no-target letter, or other investigation relating to any Product; or (iii) initiated or been subject to any product recall, market withdrawal, stock replacement or post-sale warning relating to any Product.

Section 4.9 Intellectual Property.

(a) Schedule 4.9(a)(i) – (iv) of the Seller Disclosure Schedules set forth a true and correct list of all (i) URL registrations and (ii) applications and registrations for Copyrights, in each case to the extent owned by Seller or any Seller Affiliate and used or held for use in connection with the Exploitation of Product as of the date of this Agreement ("Owned Intellectual Property").

(b) Except as set forth on Schedule 4.9(b)(i) – (iii) of the Seller Disclosure Schedule:

(i) there is no action or proceeding pending, nor any notice of any objection or claim (other than objections or claims that have been previously resolved) asserted in writing or, to the Knowledge of Seller, threatened by any Person, with respect to or challenging, the ownership, validity or enforceability of any Owned Intellectual Property (or, to the Knowledge of Seller, any Intellectual Property licensed to Seller or a Seller Affiliate pursuant to an Assumed Contract or the Trademark License-Back Agreement ("Licensed Intellectual Property"));

(ii) the Owned Intellectual Property and the rights of Seller or a Seller Affiliate to any Licensed Intellectual Property are free and clear of any Liens, other than Permitted Encumbrances; and

(iii) none of the Owned Intellectual Property (nor, to the Knowledge of Seller, the rights of Seller or a Seller Affiliate to any Licensed Intellectual Property) is the subject of (A) any pending (or, to the Knowledge of Seller, threatened) material adverse claim, judgment, injunction, order, decree or agreement restricting (1) its use in connection with any Product or (2) assignment thereof to Purchaser or termination thereof as contemplated hereunder, or (B) any other pending (or, to the Knowledge of Seller, threatened) material litigation or claim of infringement.

(c) Except for the rights and assets set forth on Schedule 4.9(c) of the Seller Disclosure Schedules, the (i) Owned Intellectual Property, (ii) the rights of Seller to Licensed Intellectual Property under the Assumed Contracts or Trademark License-Back Agreement, (iii) any Intellectual Property with respect to the Seller Company Identifiers and (iv) the Licensed Know-How, collectively, include all of the material Intellectual Property used by Seller or any Affiliate of Seller to Exploit the Product since January 1, 2015.

(d) Except as set forth on Schedule 4.9(d), to the Knowledge of Seller the Exploitation of Seller's Product in the manner in which such Product has been Exploited since January 1, 2015, does not infringe, misappropriate or otherwise violate any Intellectual Property or proprietary right of any Person.

(e) Except as set forth on Schedule 4.9(e) of the Seller Disclosure Schedule, Seller has not granted any license, option or other rights with respect to any of its Owned Intellectual Property or, with respect to the Product, any rights of Seller to any Licensed Intellectual Property to any other Person, in each case to the extent such license, option or other rights is material to the Exploitation of the Product.

Section 4.10 Assets.

(a) Except as otherwise expressly provided in this Agreement, Seller owns or has the legal right to use all of its Purchased Assets. Seller has good and marketable title to all its Purchased Assets (other than Intellectual Property, which is the subject of Section 4.9), free of Liens, except for Permitted Encumbrances.

(b) Except for the rights and assets set forth on Schedule 4.10 of the Seller Disclosure Schedules, the Purchased Assets, together with the rights granted to Purchaser under the Ancillary Agreements, constitute all of the assets and rights of Seller and/or its Affiliates pertaining to the Product or used or held for use by Seller in the Exploitation of the Product. Except as set forth on Schedule 4.10 of the Seller Disclosure Schedules, (i) no Affiliate of Seller has any rights to or interest in any of the Purchased Assets, except for (A) such rights or interest that will be assigned to Purchaser at the Closing and (B) such rights or interest under the Affiliate Agreements, which Affiliate Agreements will be terminated at the Closing and (ii) Rouses Point Pharmaceuticals, LLC has no rights to or interest in any of the Purchased Assets and is not and has not been a party to any agreement with Seller with respect to or otherwise relating to the Product.

Section 4.11 Taxes.

(a) Seller has duly and timely filed, including extensions (or caused to be filed) with the appropriate Taxing Authorities all income and other material Tax Returns relating to its Purchased Assets required to be filed. No claim has ever been made in writing by a Taxing Authority in any jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction as a result of its operation, ownership or use of Purchased Assets.

(b) Seller has paid (or caused to be paid) all income and other material Taxes relating to its Purchased Assets due and payable (whether or not shown on any Tax Return) on or prior to the Closing Date. Seller has withheld or collected (or caused to be withheld or collected) all material Taxes relating to its Purchased Assets required to be withheld or collected.

(c) There are no Liens for Taxes, nor, to the Knowledge of Seller, is any Taxing Authority in the process of imposing any Lien, on the Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition. There are no written claims, assessments, deficiencies or other adjustments for Taxes against Seller which, if not satisfied or resolved, would result in a Lien on the Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition, that would survive the Closing Date or in a Liability of Purchaser or its Affiliates as a transferee of or successor to Seller's Purchased Assets.

(d) Seller has not waived any statute of limitations, agreed to any extension of time, or entered into any written agreement in respect of Taxes, the nonpayment or underpayment of which would result in a Lien on its Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition, that would survive the Closing Date, or in a Liability of Purchaser or its Affiliates as a transferee of or successor to such Purchased Assets.

Section 4.12 Contracts.

(a) Schedule 4.12(a) of the Seller Disclosure Schedules sets forth, as of the date of this Agreement, a true, correct and complete list of all of the Assumed Contracts (including all amendments or modifications thereto), to which Seller is a party which are used in the Exploitation of the Product or by which any of its Purchased Assets are bound, including:

(i) any Contract that, in accordance with its terms, requires aggregate payments of [***] or more within the twelve (12) month period following the date hereof and that is not cancelable without Liability on sixty (60) or fewer days' notice to the other party thereto;

(ii) any Contracts or agreements relating to or evidencing indebtedness in excess of [***] which is secured in whole or part by the Purchased Assets;

(iii) any Contracts that contain any non-compete or exclusivity provisions (or obligates Purchaser or any of its Affiliates to enter into any non-compete or exclusivity arrangements following the Closing) with respect to any line of business or geographic area;

(iv) any Contract that requires (or would require upon the happening of a contingency) the disposition of any assets or line of business of Seller prior to Closing, or by Purchaser or any of its Affiliates following the Closing;

(v) any Contract that grants a contractual counterparty "most favored nation" or similar status;

(vi) any Contract that restricts the conduct of any line of business (including the ability to research, develop, distribute, sell, supply, market or manufacture any product (including Product under development) for any indication in any product market, therapeutic area or geographic area) by Purchaser or any of its Affiliates following the Closing;

(vii) any Contract that requires or obligates Purchaser or any of its Affiliates to purchase specified minimum amounts of any product or material or to perform or conduct research, clinical trials or development for the benefit of any Person other than Purchaser or any of its Affiliates;

(viii) any Contract that prohibits or limits in any material respect the right of Seller prior to Closing, or Purchaser or any of its Affiliates following the Closing, to make, sell or distribute any Product or services or use, transfer, license, distribute or enforce any of its Intellectual Property;

(ix) any Contract that could reasonably be expected to account for sales of one or more of the Product by Seller or any Seller Affiliate of [***] or more in the aggregate during the fiscal years ending December 31, 2016 or 2017;

(x) any Contract that is a settlement agreement, other than (A) releases or separation agreements entered into with former employees or current or former independent contractors and (B) settlement agreements under which there are no continuing obligations, Liabilities or rights (excluding releases);

(xi) any Contract pursuant to which Seller is granted a license, covenant not to sue, option or other right with respect to any Licensed Intellectual Property that is material to the Exploitation of the Product;

(xii) any Contract pursuant to which Seller grants a third party a license, covenant not to sue, option or other right with respect to any Purchased Intellectual, excluding licenses, covenants not to sue, options and other rights granted in the ordinary course of business; and

(xiii) any Contract that contains any liability or obligation to indemnify any Person against any Tax Liability or to share any Tax Liability with any Person (other than commercial Contracts, the primary purpose of which is not related to Taxes, none of which are Assumed Contracts).

(b) Seller has made available to Purchaser true, complete and correct copies of all Assumed Contracts including any and all amendments, supplements or modifications thereto, or detailed descriptions of any oral Assumed Contracts, to which it is a party. Each Assumed Contract is a legal, valid and binding obligation, and is enforceable against Seller, and, to the Knowledge of Seller, the other party thereto, and is in full force and effect, subject to the Bankruptcy and Equity Exception. Neither Seller nor, to the Knowledge of Seller, any other party thereto (i) is in breach or violation of, or default under, or has delivered a notice of termination of, any such Assumed Contract and no event has occurred that, with the giving of notice or lapse of time or both, would constitute a breach or default of any such Assumed Contract, (ii) has not communicated any intention or threat to Seller, to reduce the prices it will pay to Seller pursuant thereto, to terminate or to cancel any such Assumed

Contract or has failed to renew or extend the term of any such Assumed Contract upon the expiration of any such term.

(c) From and after the Closing, the Purchaser will have no obligation to make any payment to or perform any obligation for the benefit of any Affiliate of Seller (whether pursuant to an Assumed Contract or otherwise), except to the extent expressly set forth herein or in an Ancillary Agreement.

(d) Schedule 4.12(d) of the Seller Disclosure Schedules sets forth, as of the date of this Agreement, a true, correct and complete list, with respect to the Product, any Contract between Seller or any Seller Affiliate and each of (A) the ten (10) largest customers and (B) the two sole suppliers of the Product during either the fiscal year ended December 31, 2015 or the fiscal year ended December 31, 2016.

(e) Seller has (i) accurately calculated and paid all royalty payments or license fees in respect of sales of the Product for all periods ending on or prior to December 31, 2016 owed pursuant to (A) the Assumed Contracts and (B) all other contracts in connection with which Seller pays a royalty or other fee based on the sales of the Product, each of which is set forth on Schedule 4.12(e), and (ii) not received any written notice from any counterparty to any such Assumed Contract or other contract alleging that Seller has failed to pay any amounts due thereunder.

(f) No Assumed Contract contains any provision that would impose a 'failure to supply' penalty on the Purchaser following the Closing.

(g) There are no outstanding purchase orders issued by Seller or any Affiliate of Seller (including Mist) to the manufacturer or packager of the Product with a scheduled delivery date prior to January 1, 2018 or which would otherwise result in the delivery of any Product to Seller or Purchaser prior to January 1, 2018.

Section 4.13 Financial Statements.

(a) Seller has provided to Purchaser a correct and complete copy of an audited balance sheet (including any related notes thereto) of Seller for the year ended December 31, 2015 together with the audited statement of income and cash flows for the year ended December 31, 2015 (the "Audited Financial Statements"). The Audited Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), are consistent with and were prepared from the books and records of Seller, and fairly present in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the of the respective dates thereof and for the respective periods, except as otherwise set forth in the notes thereto.

(b) Seller has provided to Purchaser a correct and complete copy of the unaudited balance sheet of Seller for the three (3) month period ended December 31, 2016, together with the unaudited consolidated statement of income and cash flows for the three (3) month period ended on December 31, 2016 (the "Unaudited Financial Statements" and, collectively with the Audited Financial Statements, the "Financial Statements"). The Unaudited Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in any notes thereto), are consistent with and were prepared from the books and records of Seller, and fairly present in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the respective dates thereof and for the respective periods indicated, except that the Unaudited Financial Statements do not contain notes and are subject to normal year-end adjustments (none of which would be materially adverse).

(c) Section 4.13(c) of the Seller Disclosure Schedule sets forth, in all material respects, a complete and correct calculation of Net Sales and Gross Profits of Seller and its Affiliates, based on unaudited financial statements available as of the date hereof, with respect to the Product (calculated on a consolidated basis and consistent with and prepared from the books and records of Seller) for the year ended December 31, 2016.

(d) Seller maintains books and records accurately reflecting its material assets and material liabilities and a system of internal controls that management reasonably believes is sufficient to ensure that transactions are recorded as necessary to permit preparation of financial statements of Seller in conformity with

GAAP and to maintain asset accountability, and to provide adequate assurance that material transactions and access to assets are authorized only by management. Such books and records are accurate and complete in all material respects. Seller does not maintain any off-the-book accounts. Seller has disclosed to Purchaser any known or, to the knowledge of Seller, alleged fraud, respecting Seller or any Affiliate of Seller since January 1, 2015, that involves management or other employees who have had a significant role in the internal control over financial reporting.

Section 4.14 Suppliers and Customers. No customer or supplier identified in Section 4.14 of the Seller Disclosure Schedule has, since January 1, 2016, ceased, failed to renew or materially altered its relationship with Seller or an Affiliate of Seller with respect to the Business in a manner adverse to Seller or such Affiliate or, to the Knowledge of Seller, has threatened in writing to cease or materially alter such relationship in a manner materially adverse to Seller or its Affiliate. No such customer has notified Seller or an Affiliate of Seller in writing, that it shall stop, or materially decrease the rate of, buying Product from Seller or an Affiliate of Seller which would be materially adverse to Seller or its Affiliate. No such supplier has notified Seller or an Affiliate of Seller in writing that it shall stop, or materially decrease the rate of, supplying materials, Product or services to Seller or an Affiliate of Seller with respect to the Business which would be materially adverse to Seller.

Section 4.15 Brokers. Except as set forth on Schedule 4.15 of the Seller Disclosure Schedule (whose fees will be paid by Seller), no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

Section 4.16 Inventories. As of the Closing, the Purchased Inventories: (i) are in material compliance with all applicable specifications, (ii) have been manufactured in all material respects in accordance with current Good Manufacturing Practices, as set forth in the United States Code of Federal Regulations, and (iii) are not misbranded or adulterated, within the meaning of the Food, Drug and Cosmetics Act.

Section 4.17 Ordinary Course. Except as set forth on Schedule 4.17 of the Seller Disclosure Schedule, since January 1, 2016, the Seller and each of its Affiliates has maintained the Purchased Assets and Exploited the Product in the ordinary course of business consistent in all material respects, with past practice. Except as set forth on Schedule 4.17 of the Seller Disclosure Schedule, since September 30, 2016, neither Seller nor any Affiliate of the Seller has offered any discounts or sales promotions intended to increase sales of the Product, except as required under Contracts existing as of such date.

Section 4.18 Base Period AMP. The base period AMP set forth on Schedule 4.18 for the Product has been calculated in accordance with all applicable Laws, and to Seller's knowledge, there are no facts or circumstances that would require a restatement of the base period AMP for any Product.

Section 4.19 No Other Representations or Warranties. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY CONTAINED IN THIS Article IV (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES), NEITHER SELLER NOR ANY OTHER PERSON MAKES ANY OTHER EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), REPRESENTATION OR WARRANTY WITH RESPECT TO SELLER, THE PURCHASED ASSETS, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE ASSUMED LIABILITIES AND ANY OTHER RIGHTS OR OBLIGATIONS TO BE TRANSFERRED HEREUNDER OR PURSUANT HERETO, AND SELLER DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY SELLER OR ANY OF ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, AND WITHOUT LIMITING THE EXPRESS REPRESENTATIONS AND WARRANTIES OF SELLER SET FORTH HEREIN (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES), IT IS THE EXPLICIT INTENT AND UNDERSTANDING OF EACH PARTY HERETO THAT PURCHASER TAKES THE PURCHASED ASSETS "AS IS," "WHERE IS" AND "WITH ALL KNOWN AND UNKNOWN FAULTS." EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY CONTAINED IN THIS Article IV (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES) OR IN THE ANCILLARY AGREEMENTS, SELLER HEREBY DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED OR FURNISHED (ORALLY OR IN WRITING) TO PURCHASER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION OR ADVICE THAT

MAY HAVE BEEN OR MAY BE PROVIDED TO PURCHASER BY ANY DIRECTOR, OFFICER, EMPLOYEE, AGENT, CONSULTANT OR REPRESENTATIVE OF SELLER OR ANY OF ITS AFFILIATES). SELLER MAKES NO REPRESENTATIONS OR WARRANTIES TO PURCHASER REGARDING THE PROBABLE SUCCESS OR PROFITABILITY OF THE PURCHASED ASSETS OR THE PRODUCT.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the section of the disclosure schedules attached hereto that relates to such Section of this Agreement (the "Purchaser Disclosure Schedules"), Purchaser hereby represents and warrants to Seller as follows:

Section 5.1 Organization and Qualification. Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation and has full corporate power and authority to conduct its business as it is presently being conducted and to own and lease its properties and assets.

Section 5.2 Corporate Authorization. No vote of holders of capital stock of Purchaser or any of its Affiliates is necessary to approve this Agreement or the transactions contemplated by this Agreement. Purchaser has all requisite corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to which it will be a party, and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Purchaser of this Agreement and each such Ancillary Agreement, and the performance by Purchaser of its obligations hereunder and thereunder, have been duly authorized by all requisite or other legal entity action on the part of Purchaser.

Section 5.3 Binding Effect. This Agreement has been duly executed and delivered by Purchaser and constitutes a valid and binding obligation of Purchaser, and each Ancillary Agreement will be, prior to the Closing, duly executed and delivered by Purchaser and will, after the Closing, constitute a valid and binding obligation of Purchaser, in each case, enforceable against Purchaser in accordance with its terms subject to the Bankruptcy and Equity Exception.

Section 5.4 No Conflict; Consents. The execution, delivery and performance by Purchaser of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not (i) violate any provision of the certificate of incorporation, bylaws or other organizational documents of Purchaser; (ii) result in a breach of, or default under, or right to accelerate with respect to, any term or provision of any Contract to which Purchaser or any of its Affiliates is a party or is subject; (iii) assuming compliance with the matters set forth in Section 4.4 and Section 5.5, violate or result in a breach of or constitute a default under any Law or other restriction of any Governmental Authority to which Purchaser is subject; or (iv) require any consents, waivers, authorizations or approvals of, filings with, any Persons which have not been obtained by Purchaser (other than as contemplated by Section 5.5).

Section 5.5 Governmental Authorization. The execution and delivery of this Agreement by Purchaser do not and will not require any material consent or approval of any Governmental Authority, except for the consents or approvals set forth in Schedule 5.5 of the Purchaser Disclosure Schedules.

Section 5.6 Financing. Purchaser has, and will have at the Closing, sufficient immediately available funds necessary to pay the Purchase Price, to consummate the transactions contemplated by this Agreement and to perform its obligations in connection with this Agreement and such transactions and to pay any expenses it incurs in connection therewith. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates in connection with the transactions contemplated by this Agreement be a condition to any of Purchaser's obligations hereunder.

Section 5.7 Compliance with Laws.

(a) The businesses of each of Purchaser and its Subsidiaries are being conducted in compliance in all material respects with applicable Laws. No material audit or, to the Knowledge of Purchaser, investigation, or

review by any Governmental Authority with respect to Purchaser or any of its Subsidiaries is pending or, to the knowledge of Purchaser, threatened, nor has any Governmental Authority indicated an intention to conduct the same, in each case which would be reasonably expected to adversely affect the Exploitation of the Product or Purchaser's ability to consummate the Transaction.

(b) Purchaser and each of its Subsidiaries has obtained and is in compliance with all licenses necessary for it to own, lease or operate its properties, rights and other assets and to conduct its business and operations as presently conducted in all material respects and all such licenses are in full force and effect in all material respects. No material default under, or material violation of, any material License has occurred. To Purchaser's knowledge there is not currently threatened any revocation, adverse modification or cancellation of any material license.

Section 5.8 Condition of the Purchased Assets. PURCHASER ACKNOWLEDGES AND AGREES THAT IT (I) HAS MADE ITS OWN INQUIRY AND INVESTIGATION INTO, AND, BASED THEREON, HAS FORMED AN INDEPENDENT JUDGMENT CONCERNING SELLER, THE PURCHASED ASSETS, THE PRODUCT, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE ASSUMED LIABILITIES AND ANY OTHER ASSETS, RIGHTS OR OBLIGATIONS TO BE TRANSFERRED HEREUNDER OR PURSUANT HERETO, AND (II) HAS BEEN FURNISHED WITH, OR GIVEN ADEQUATE ACCESS TO, SUCH INFORMATION ABOUT SELLER, THE PURCHASED ASSETS, THE PRODUCT, THE ASSUMED LIABILITIES AND ANY OTHER RIGHTS OR OBLIGATIONS TO BE TRANSFERRED HEREUNDER OR PURSUANT HERETO, AS IT HAS REQUESTED. EXCEPT FOR THE SPECIFIC REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN Article IV OF THIS AGREEMENT AND IN THE ANCILLARY AGREEMENTS, (I) PURCHASER ACKNOWLEDGES AND AGREES THAT (A) SELLER IS NOT MAKING AND HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF THE PURCHASED ASSETS, SELLER, SELLER'S AFFILIATES, OR ANY OF SELLER'S OR ITS AFFILIATES' RESPECTIVE BUSINESSES, ASSETS, LIABILITIES, OPERATIONS, PROSPECTS OR CONDITION (FINANCIAL OR OTHERWISE), INCLUDING WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY ASSETS, THE NATURE OR EXTENT OF ANY LIABILITIES, THE PROSPECTS OF THE PURCHASED ASSETS OR THE PRODUCT, THE EFFECTIVENESS OR THE SUCCESS OF ANY OPERATIONS, OR THE ACCURACY OR COMPLETENESS OF ANY CONFIDENTIAL INFORMATION MEMORANDA, DOCUMENTS, PROJECTIONS, MATERIAL OR OTHER INFORMATION (FINANCIAL OR OTHERWISE) REGARDING THE PURCHASED ASSETS OR THE PRODUCT, SELLER OR SELLER'S AFFILIATES FURNISHED TO PURCHASER OR ITS REPRESENTATIVES OR MADE AVAILABLE TO PURCHASER AND ITS REPRESENTATIVES IN SELLER'S ELECTRONIC DATA ROOM, MANAGEMENT PRESENTATIONS OR IN ANY OTHER FORM IN EXPECTATION OF, OR IN CONNECTION WITH, THE TRANSACTIONS CONTEMPLATED HEREBY, AND (B) NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF SELLER OR ANY OF SELLER'S AFFILIATES HAS ANY AUTHORITY, EXPRESS OR IMPLIED, TO MAKE ANY REPRESENTATIONS, WARRANTIES OR AGREEMENTS NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT AND IN THE ANCILLARY AGREEMENTS AND SUBJECT TO THE LIMITED REMEDIES HEREIN PROVIDED; (II) PURCHASER SPECIFICALLY DISCLAIMS THAT IT IS RELYING UPON OR HAS RELIED UPON ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES THAT MAY HAVE BEEN MADE BY ANY PERSON, AND ACKNOWLEDGES AND AGREES THAT SELLER HAS SPECIFICALLY DISCLAIMED AND DOES HEREBY SPECIFICALLY DISCLAIM ANY SUCH OTHER REPRESENTATION OR WARRANTY MADE BY ANY PERSON; (III) PURCHASER SPECIFICALLY DISCLAIMS ANY OBLIGATION OR DUTY BY SELLER TO MAKE ANY DISCLOSURES OF FACT NOT REQUIRED TO BE DISCLOSED PURSUANT TO THE SPECIFIC REPRESENTATIONS AND WARRANTIES SET FORTH IN Article IV OF THIS AGREEMENT OR IN THE ANCILLARY AGREEMENTS; AND (IV) PURCHASER IS ACQUIRING THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES IN "AS IS" CONDITION AND ON A "WHERE IS" BASIS, SUBJECT ONLY TO THE SPECIFIC REPRESENTATIONS AND WARRANTIES SET FORTH IN Article IV OF THIS AGREEMENT (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULE) OR IN THE ANCILLARY AGREEMENTS AS FURTHER LIMITED BY THE SPECIFICALLY BARGAINED FOR EXCLUSIVE REMEDIES SET FORTH IN Article IX**.**

Section 5.9 Litigation. There is no material action, order, writ, injunction, judgment or decree outstanding, or Proceeding, labor dispute (other than routine grievance procedures or routine, uncontested claims for benefits under any benefit plans for any officers, employees or agents of Purchaser), arbitration, investigation or reported claim, pending or, to the Knowledge of Purchaser, threatened, before any court, Governmental Authority or arbitrator, which seeks to delay or prevent the consummation of the transactions contemplated by this Agreement or would, if successful, materially and adversely affect the Business or the Purchased Assets or ability of Purchaser to consummate the transactions contemplated by this Agreement.

Section 5.10 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser.

Section 5.11 Solvency. Immediately after the Closing, and after giving effect to the transactions contemplated by this Agreement, Purchaser will be Solvent.

ARTICLE VI

COVENANTS

Section 6.1 Information and Documents. (a) From and after the date hereof and pending Closing, upon reasonable advance notice, Seller shall (and shall cause each of its Affiliates to) (i) permit Purchaser and its Representatives to have reasonable access, during regular business hours to all offices and facilities, and the assets, books, records, agreements, documents, data, files and personnel of, and such other information relating to the Purchased Assets (including the Books and Records), (ii) furnish, or cause to be furnished, to Purchaser any financial and operating data and other information that is available with respect to Seller's Purchased Assets as Purchaser from time to time reasonably requests and (iii) instruct the personnel, and their counsels and financial advisors to cooperate with Purchaser in its investigation of the Purchased Assets, including instructing its accountants to give Purchaser access to their work papers; provided, however, that no such access shall unreasonably interfere in any material respect with Seller's or any of its Affiliate's operation of business; and provided further that Seller may restrict the foregoing access to the extent that (A) in the opinion of Seller's counsel (a copy of which is provided to Purchaser), any applicable Law requires Seller or any of its Affiliates to restrict or prohibit access to any information, (B) in the reasonable judgment of Seller, the disclosure of information would result in Seller or any of its Affiliates being in violation of confidentiality obligations to a third party, or (C) disclosure of any such information or document could result in the loss or waiver of the attorney-client privilege. If Seller seeks to withhold information from Purchaser for any reason permitted by this Section 6.1, Seller and Purchaser shall cooperate in good faith to implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided. It is further agreed that, prior to Closing, except for announcements or filings required by applicable securities laws, Purchaser and its Representatives shall not make any announcements or statements targeted at, or otherwise communicate directly with, any of the customers, manufacturers or suppliers of Seller or its Affiliates, in connection with the transactions contemplated by this Agreement, whether in person or by telephone, mail or other means of communication, without the specific prior authorization by Seller, which authorization shall not be unreasonably withheld, conditioned or delayed.

(b) Prior to the Closing, all information received by Purchaser and given by or on behalf of Seller in connection with this Agreement and the transactions contemplated hereby shall be held by Purchaser and its Affiliates, agents and Representatives as "Confidential Information", as defined in, and pursuant to the terms of, the Confidentiality Agreement.

Section 6.2 Conduct.

(a) From and after the date hereof until the earlier of the date on which this Agreement is terminated pursuant to ARTICLE X and the Closing, except (1) as set forth on Schedule 6.2 of the Seller Disclosure Schedules or as otherwise required by this Agreement or (2) as Purchaser shall otherwise consent in writing, which consent shall not be unreasonably withheld, Seller agrees that it shall (and shall cause its Affiliates to) Exploit the

Product and maintain the Purchased Assets in the ordinary course of business, and use commercially reasonable efforts to preserve intact the Purchased Assets and related relationships with customers, suppliers and other third parties. From and after the date hereof until the Closing, except (x) as set forth on Schedule 6.2 of the Seller Disclosure Schedules or as otherwise required by this Agreement, or (y) as Purchaser shall otherwise consent in writing, which consent shall not be unreasonably withheld, Seller covenants and agrees that, with respect to its Purchased Assets, it shall (and shall cause its Affiliates to):

(i) not incur, create or assume any Lien, other than Permitted Encumbrances;

(ii) not incur or suffer to exist any indebtedness except (A) for working capital borrowings incurred in the ordinary course of business, (B) incurrence of trade payables in the ordinary course of business or (C) indebtedness incurred in the ordinary course of business or (D) indebtedness incurred solely in connection with Retained Liabilities or Excluded Assets;

(iii) not amend, modify or terminate any material term of, or waive any material right under, any Assumed Contract or amend or modify any agreement that would increase the liability of Purchaser under the Services Agreement;

(iv) not enter into any Contract, agreement or commitment that would constitute an Assumed Contract if it were in effect on the date of this Agreement or would increase the liability of Purchaser under the Services Agreement;

(v) not divest, sell, assign, license, transfer, abandon, cancel, convey, lease or otherwise dispose of any assets that would constitute Purchased Assets;

(vi) not adopt a plan or agreement of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other material reorganization of Seller;

(vii) not change the accounting policies or procedures except to the extent required to conform with GAAP;

(viii) not settle any Proceeding (i) that would (A) materially affect the Exploitation of any Product after the Closing or adversely affect, in a material manner, the expected Net Sales or Gross Profit of the Product in respect of the period after the Closing or (B) result in its operations with respect to any Product being subject to any Governmental Order or other equitable relief or admission of wrongdoing or (ii) for an amount, individually or in the aggregate, exceeding [***]; provided, that clause (ii) shall not apply to any Proceeding that is solely related to a Retained Liability;

(ix) submit all adverse event reports required to be submitted to any Governmental Authority under any Law;

(x) not dispose of or permit to expire, terminate or otherwise lapse any rights in, to or for the use of any Purchased Intellectual Property that is material to the Exploitation of the Product;

(xi) not grant any license, covenant not to sue or other right under any Purchased Intellectual Property;

(xii) not offer any discounts or sales promotions other than as required under Contracts existing as of January 1, 2017;

(xiii) not issue any purchase orders that would result in delivery of any additional Product; and

(xiv) not authorize, agree or resolve or consent to any of the foregoing.

(b) Nothing contained in this Agreement is intended to give Purchaser, directly or indirectly, the right to control or direct any Seller's or its Affiliate's businesses or operations prior to the consummation of the transactions contemplated by this Agreement. Prior to the consummation of the transactions contemplated by this Agreement, Seller and Purchaser shall exercise, consistent with and subject to the terms and conditions of this Agreement, complete control and supervision over their respective operations.

Section 6.3 Member Approvals; Efforts to Consummate Generally.

(a) On or prior to the date hereof, Seller shall obtain all approvals of its and its Affiliates' members, board of managers or analogous governing body required to be obtained under Seller's and its Affiliates organizational documents and applicable Law in order to consummate the transactions contemplated by this Agreement.

(b) Subject to the terms and conditions of this Agreement (and without limiting the requirements of Section 6.3, each Party shall use its reasonable best efforts to cause the Closing to occur as soon as possible after the date hereof, including (i) satisfying the conditions precedent set forth in Article VIII within the control of such Party and (ii) drafting, negotiating, executing and delivering to each other in good faith such other agreements, documents, instruments and/or certificates, and doing such other acts and things, as may be reasonably necessary or desirable for the implementation of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby.

(c) Seller shall use commercially reasonable best efforts to give all notices to, make all filings with and obtain all third party consents, including the Required Third Party Consents, necessary to be obtained from any Persons (including Governmental Authorities) to consummate the transactions contemplated hereby and by the Ancillary Agreements without resulting in any breach or violation of, a default under, or an acceleration of any obligations or the creation of a Lien on the Product or the Purchased Assets (without the expenditure of any funds therefor other than filing, recordation or similar fees and related legal fees and expenses, which shall be borne by Seller).

(d) Promptly following the Closing, Seller shall provide written notice to AstraZeneca UK Limited of the consummation of the transactions contemplated hereby, which notice shall be in form and substance mutually agreeable to Seller and Purchaser.

Section 6.4 Bulk Transfer Laws. Notwithstanding anything else to the contrary in this Agreement, Purchaser hereby waives compliance by Seller with the requirements and provisions of any "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Purchaser.

Section 6.5 Insurance. As of the Closing Date, the coverage under all insurance policies related to the Purchased Assets shall continue in force only for the benefit of Seller and not for the benefit of Purchaser or any of its Affiliates, except to the extent set forth herein. Purchaser agrees to arrange for its own insurance policies with respect to the Purchased Assets covering all periods and, except in connection with enforcing its rights to indemnification pursuant to Article IX, agrees not to seek, through any means, to benefit from any of Seller's insurance policies that may provide coverage for claims relating in any way to the Purchased Assets prior to the Closing.

Section 6.6 Trade Notification. Subject to the provisions set forth below, Seller and Purchaser shall agree on the method and content of the notifications to customers of the sale of the Purchased Assets to Purchaser. Seller and Purchaser agree that said notifications are to provide sufficient advance notice of the sale and the plans associated therewith.

Section 6.7 Seller-Labeled Product.

(a) From and after Closing, Purchaser and its Affiliates may use, reproduce and display, and Seller hereby grants (effective upon Closing) to Purchaser and its Affiliates, a non-exclusive, paid-up and royalty-free right and license to use, reproduce and display, the NDC Numbers, company names, company marks and company trade

dress of Seller and its Affiliates and distributors related to the Product (collectively, the "Seller Company Identifiers"), solely to the extent the foregoing are affixed to: (i) the Purchased Inventory of finished, packaged Product that are included in the Purchased Assets, or (ii) in respect of rebate coupons or other promotional materials related to Product bearing Seller's NDC Numbers consistent with past practice; provided, that the license set forth in this Section 6.7(a) shall continue until Purchaser and its Affiliates have disposed of all such Purchased Inventory.

(b) Except as set forth in Section 6.7(a), Purchaser and its Affiliates shall have no right under this Agreement to use any of the trademarks, service marks, brand names, certification marks, trade dress, logos or domain names containing the name of any Seller or any of their respective Affiliates or distributors, or any word or expression confusingly similar thereto or constituting an abbreviation or extension thereof or any logos containing or comprising the foregoing or any NDC Numbers of Seller or any of their respective Affiliates or distributors.

(c) Immediately following the Closing, Seller shall destroy and/or cause the destruction of all Excluded Inventory and promptly provide Purchaser with written confirmation thereof.

(d) Seller shall deliver to Purchaser copies of wholesaler inventory reports and an inventory report from [***], each as of the day prior to the Closing Date, no later than February 27, 2017.

Section 6.8 NDC Numbers.

(a) As soon as reasonably possible, but in any event no later than nine (9) months after the Closing Date, Purchaser shall obtain a new NDC Number and labeler code for the Product. Purchaser, at its own expense, shall prepare and file with the FDA any and all reports, documents and materials, and take such other actions, as are necessary to undertake the foregoing.

(b) Purchaser shall fully reimburse Seller and its Affiliates and distributors for any increased cost or Liability (including any returns, rebates or chargeback claims) incurred by them and associated with any changes in pricing, including any changes in wholesale acquisition cost, made by Purchaser or any of its Affiliates to any Product that bears an NDC Number of Seller or any of its Affiliates. Purchaser shall pay any such reimbursement within thirty (30) days of receiving a written request for such reimbursement from Seller, which shall be accompanied by supporting documentation that reasonably evidences the increased cost or Liability to be reimbursed. Purchaser shall notify Seller promptly of any such changes in pricing to a Product that bears an NDC Number of Seller or any of its Affiliates or distributors.

(c) Purchaser shall fully cooperate with Seller and its Affiliates and distributors by providing whatever assistance, product sales and other information and access as may be required by Seller or any of its Affiliates or distributors to comply with any reporting obligations that arise as a result of the sale by Purchaser of Product bearing an NDC Number of Seller or any of its Affiliates, and to enable Seller and its Affiliates, one time within the period of 12 months from and after the date of last commercial sale to an end customer of Product bearing an NDC Number of Seller or any Affiliate thereof, to audit the books and records of Purchaser and its Affiliates with respect to any such sales (provided, that such audit takes place upon reasonable advance written notice to Purchaser, during normal business hours of Purchaser and does not materially interfere with Purchaser's business). Purchaser represents and warrants that all Product sales and other information provided to Seller or any of its Affiliates or distributors in connection with the foregoing shall be accurate and complete in all material respects, and shall be calculated in accordance with applicable Laws and regulatory guidance.

(d) Subject to appropriate confidentiality protection, after the Closing Date and for a period of [***] years thereafter (except with respect to government claims not subject to a statute of limitations, such as Medicaid rebate claims, which shall continue as long as there is potential for a claim), Purchaser and its Affiliates shall reasonably cooperate (at Seller's expense) with Seller and its Affiliates, distributors and Representatives, subject to confidentiality protections reasonably satisfactory to Purchaser, during normal business hours and upon reasonable advance notice, to provide reasonable access to records maintained by Purchaser and its Affiliates relating to Purchaser and its Affiliates' distribution of Seller's Seller-Labeled Product or related regulatory filing and reporting requirements and activities with respect to Seller's Seller-Labeled Product, including, without limitation, government price reporting ("Distribution Activities"), to provide reports reasonably requested by Seller or its Affiliates or distributors regarding such records and information, and to permit copying at the expense of Seller or,

for the purposes of (i) any financial reporting or Tax matters relating to Distribution Activities, (ii) any claims or litigation involving Distribution Activities or (iii) any investigation being conducted by any federal, state or local Governmental Authority relating to Distribution Activities.

Section 6.9 No-Shop.

(a) From the date hereof until the Closing or earlier termination of this Agreement in accordance with the terms hereof, Seller and its Affiliates shall not, and shall not authorize or permit any of their Representatives to, directly or indirectly, (i) knowingly encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal other than to state that Seller, its Affiliates and each of their Representatives are restricted from entering into, continuing or participating in such discussions or negotiations pursuant to the terms of this Section 6.9; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller and its Affiliates shall immediately cease and cause to be terminated, and shall cause their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could reasonably be expected to lead to, an Acquisition Proposal and shall revoke all access in favor of any Person (other than Purchaser and its Representatives) to any virtual data room established for the purposes of evaluating a potential acquisition of all or a part of the Purchased Assets or the Business. For purposes of this Section 6.9, "Acquisition Proposal" shall mean any inquiry, proposal or offer from any Person (other than Purchaser or any of its Affiliates) concerning (i) the direct or indirect purchase, whether by sale, merger or otherwise, or license of all or any portion of the Purchased Assets (including by way of the purchase of the equity interests of Seller or any Affiliate thereof); or (ii) the disclosure, directly or indirectly, to any Person of any confidential information or data concerning the Purchased Assets or the Business except as necessary to conduct business in the ordinary course consistent with past practice.

(b) Seller agrees that the rights and remedies for noncompliance with this Section 6.9 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Purchaser and that money damages would not provide an adequate remedy to Purchaser.

Section 6.10 Certain Regulatory Matters. Promptly after the Closing and in any event within thirty (30) calendar days after the Closing, Seller and Purchaser shall make all appropriate filings and submissions with Governmental Authorities, including the Centers for Medicare & Medicaid Services, the Veteran's Administration and the FDA to transfer all regulatory responsibilities, if any (excluding all Retained Liabilities and except as contemplated by Section 6.8 (NDC Numbers) and the Services Agreement), attaching thereto of the Product, from Seller to Purchaser.

Section 6.11 Confidentiality. From and after the Closing:

(a) The Confidentiality Agreement will terminate without further action by the parties thereto.

(b) Seller shall treat (and shall cause each of its Affiliates to treat) as confidential and shall safeguard any and all information, knowledge and data included in the Purchased Assets by using the same degree of care, but no less than a reasonable standard of care, to prevent the unauthorized use, dissemination or disclosure of such information, knowledge and data as Seller or its Affiliates used with respect thereto prior to the execution of this Agreement.

(c) Purchaser shall treat as confidential and shall safeguard any and all information, knowledge or data included in any information relating to the business of Seller, other than the Business, Product, the Purchased Assets or the Assumed Liabilities, and except as otherwise agreed to by Seller in writing; provided, however, that nothing in this Section 6.11(c) shall prevent the disclosure of any such information, knowledge or data to any agents, advisors, directors, officers or employees of Purchaser to whom such disclosure is necessary or desirable in the conduct of Purchaser's business if such Persons are informed by Purchaser of the confidential nature of such information and are directed by Purchaser to comply with the provisions of this Section 6.11(c).

(d) Purchaser and Seller acknowledge that the confidentiality obligations set forth herein shall not extend to information, knowledge and data that is publicly available or becomes publicly available through no act or omission of the Party owing a duty of confidentiality, or becomes available on a non-confidential basis from a source other than a party owing a duty of confidentiality so long as such source is not known by such Party to be bound by a confidentiality agreement with or other obligations of secrecy to the other Party.

(e) In the event of a breach of the obligations hereunder by Purchaser or Seller, the non-breaching party, in addition to all other available remedies, will be entitled to injunctive relief to enforce the provisions of this Section 6.11 in any court of competent jurisdiction.

Section 6.12 Know-How License. Effective as of the Closing, Seller hereby grants to Purchaser (on behalf of itself and its Affiliates) a perpetual, irrevocable, transferable (as set forth in this Section 6.12), sublicensable (as set forth in this Section 6.12), non-exclusive, paid-up, royalty-free, worldwide right and license to use and otherwise exploit the trade secrets, technical information, data and know-how owned by Seller or any Affiliate of Seller related to the Product (the "Licensed Know-How") in developing, commercializing, manufacturing, using, packaging, marketing, promoting, importing, exporting, researching, transporting, selling and distributing the Product. Purchaser may (but it is not obligated to) transfer the foregoing license, and/or grant sublicenses thereunder, to (a) any of its Affiliates, and (b) any acquirer of any of the assets or business of Purchaser and its Affiliates relating to any of the Product.

Section 6.13 Correspondence. Seller authorizes Purchaser on and after the Closing Date to receive and open all mail and other communications received by Purchaser relating to the Purchased Assets and to deal with the contents of such communications in good faith and in a proper manner. Seller shall use commercially reasonable efforts to promptly deliver, or cause to be delivered, to Purchaser any mail or other communications received by Seller or any Affiliate of Seller from any Person (including the FDA) related to the Purchased Assets (including any mail or other communications in respect of the Product, the subject matter of this Agreement and the Ancillary Agreements).

Section 6.14 Pharmacovigilance. Prior to the Closing, Seller shall cooperate with Purchaser and shall facilitate and assist in negotiating arrangements between the third party that currently provides pharmacovigilance services to Seller and the third party that currently provides pharmacovigilance services to Purchaser for the reporting of adverse events and provision of other required regulating information with respect to the Product, all in form and substance reasonably satisfactory to Purchaser. Until such arrangements are in place, Seller shall promptly report adverse events to Purchaser to permit Purchaser to comply with applicable Law.

Section 6.15 [Reserved].

Section 6.16 Certain Financial Information. Within two (2) Business Days after Seller obtains audited Financial Statements for the year ended December 31, 2016, but not later than June 1, 2017, Seller shall deliver to Purchaser the audited Financial Statements of Seller for the year ended December 31, 2016, including a balance sheet, statement of operations and statement of income and cash flows certified by the Chief Financial Officer of Seller as (i) prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), (ii) consistent with and were prepared from the books and records of Seller, and (iii) fairly presenting in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the date thereof and for the period thereof, except as otherwise set forth in the notes thereto. In addition, no later than March 31, 2017, Seller shall deliver to Purchaser the unaudited Financial Statements of Seller for the year ended December 31, 2016, including a balance sheet, statement of operations and statement of income and cash flows certified by the Chief Financial Officer of Seller as (A) prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), (B) consistent with and were prepared from the books and records of Seller, and (C) fairly presenting in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the date thereof and for the period thereof, except as otherwise set forth in the notes thereto.

Section 6.17 Wrong-Pocket Assets. If at any time or from time to time after the Closing Date, a Seller any of its Affiliates, on the one hand, or Purchaser or any of its Affiliates, on the other, shall receive or otherwise possess any asset (including cash) that should belong to Purchaser or its Affiliates, on the one hand, or

Seller or its Affiliates, on the other, pursuant to this Agreement, such Person shall promptly transfer, or cause to be transferred, such asset to the Person so entitled thereto. Prior to any such transfer in accordance with this Section 6.17, the Person receiving or possessing such asset shall hold such asset in trust for such other Person.

Section 6.18 Consultation and Cooperation. In connection with any claims with respect to, or enforcement of: (i) any of Seller's rights under warranties, guaranties, indemnitees and similar rights against third parties, including any predecessors in title, to the extent related to the Exploitation of the Purchased Assets and the Product prior to the Closing Date, or (ii) any other rights, claims or causes of action of Seller against third parties in connection with the Exploitation of the Purchased Assets and the Product prior to the Closing Date, Seller hereby agrees to consult and reasonably cooperate in good faith with Purchaser prior to the commencement of any such claim or enforcement and Seller shall refrain from commencing any Proceeding or asserting any such right to the extent Purchaser in good faith concludes that any such claim or enforcement may reasonably be expected to have an adverse effect on the ability of Purchaser to Exploit the Purchased Assets and the Product in a manner consistent with Purchaser's ordinary course of business with respect to the Purchased Assets and the Product.

ARTICLE VII

NON-COMPETE

Section 7.1 Non-Compete. For a period of seven (7) years from and after the Closing Date (the "Non-Compete Period"), neither Seller nor any Affiliate thereof (which, for the purposes of this Section 7.1, shall not include JCP IICI AIV, LP or any of its respective Affiliates) shall market or sell, or license to any other party the right to market or sell, the Product, or any "AB-rated" generic thereof, in the Territory (a "Competing Business"); provided, that, notwithstanding the foregoing, Seller and its Affiliates shall not be restricted from:

(a) collectively owning less than five percent (5%) of any class of securities of any publicly traded company conducting a Competing Business if such securities are held as a passive investment; or

(b) acquiring one or more Persons or businesses that include within its business a Competing Business, so long as (i) the Competing Business comprises no more than twenty-five percent (25%) of the acquired business (and is not reasonably expected to comprise more than twenty-five percent (25%) of the acquired business prior to the end of the Non-Compete Period), based on net sales attributable to such Competing Business as compared to the aggregate net sales of the acquired business as a whole, and (ii) Seller or its Affiliate, as applicable, completes the sale of the Competing Business within six (6) months of the acquisition; provided, however, that if such sale is subject to regulatory approval, then such six-(6) month period shall be extended until five (5) Business Days after all regulatory approvals have been received, but only to the extent that the parties to such sale are using commercially reasonable efforts to obtain any such approvals.

ARTICLE VIII

CONDITIONS TO CLOSING

Section 8.1 Conditions to the Obligations of Purchaser and Seller. The respective obligations of each of the Parties to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) There shall be no Governmental Order in existence that prohibits or materially restrains the transactions contemplated by this Agreement or the Ancillary Agreements, and there shall be no Proceeding pending by any Governmental Authority seeking such a Governmental Order.

(b) The transactions contemplated by that certain Asset Purchase Agreement, dated as of the date hereof, by and between Holmdel Pharmaceuticals, LP and Purchaser shall be consummated, in accordance with the terms of such purchase agreement, concurrently with the Closing.

Section 8.2 Conditions to the Obligations of Purchaser. The obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) The representations and warranties of Seller contained herein shall be true and correct in all material respects as of the Closing, as if made as of the Closing (except for those representations and warranties that address matters as of a particular date, which need be true and correct only as of such date), (disregarding for purposes of this clause (a) any Material Adverse Effect, materiality or similar qualifier contained in such other representations and warranties, other than the representations and warranties made in Section 4.5(a)). Purchaser shall have received a certificate of Seller, dated as of the Closing Date and signed by an officer of Seller in such capacity, certifying as to the fulfillment of the foregoing.

(b) Seller shall have performed in all material respects its agreements and obligations contained in this Agreement required to be performed by it at or before the Closing. Purchaser shall have received a certificate of Seller, dated as of the Closing Date and signed by an officer of Seller in such capacity, certifying as to the fulfillment of the foregoing.

(c) Seller shall have made or caused to be made delivery to Purchaser of the items required by Section 3.1(b).

(d) No event shall have occurred since the date hereof which has had a Material Adverse Effect.

Section 8.3 Conditions to the Obligations of Seller. The obligation of Seller to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) The representations and warranties of Purchaser contained herein shall be true and correct in all material respects as of the Closing, as if made as of the Closing (except for those representations and warranties that address matters as of a particular date, which need be true in all material respects only as of such date). Seller shall have received a certificate of Purchaser, dated as of the Closing Date and signed by an officer of Purchaser in such capacity, certifying as to the fulfillment of the foregoing.

(b) Purchaser shall have performed in all material respects its agreements and obligations contained in this Agreement required to be performed by it at or before the Closing. Seller shall have received a certificate of Purchaser, dated as of the Closing Date and signed by an officer of Purchaser in such capacity, certifying as to the fulfillment of the foregoing.

(c) Purchaser and its Affiliates shall have made or caused to be made delivery to Seller of the items required by Section 3.1(c).

Section 8.4 Frustration of Closing Conditions. Neither of Seller or Purchaser may rely on the failure of any condition set forth in this Article VIII to be satisfied if such failure was caused by such Party's failure to act in good faith or to use its reasonable best efforts to cause the Closing to occur, as required by Section 6.4.

ARTICLE IX

INDEMNIFICATION

Section 9.1 Indemnification by Seller. Subject to the provisions of this Article IX, from and after the Closing, Seller agrees to and shall defend, indemnify and hold harmless Purchaser and its Affiliates, and, if applicable, their respective directors, officers, agents, employees, successors and assigns (collectively, the "Purchaser Indemnified Parties") from and against any Losses to the extent arising out of or related to:

(a) any breach of any representation or warranty of Seller or any Affiliate of Seller contained in this Agreement or any Ancillary Agreement, or any failure to perform or breach by Seller or an Affiliate of Seller of

any of its covenants or agreements contained in this Agreement or any Ancillary Agreement that by their express terms contemplate performance prior to or on the Closing Date;

(b) any failure of Seller or any Affiliate of Seller to perform or any breach by Seller or any Affiliate of Seller of any of its covenants or agreements contained in this Agreement or any Ancillary Agreement that by their terms expressly contemplate performance after the Closing Date; or

(c) any Retained Liability.

Section 9.2 Indemnification by Purchaser. Subject to the provisions of this Article IX, from and after the Closing, Purchaser agrees to and shall defend, indemnify and hold harmless Seller and its Affiliates, and, if applicable, their respective directors, officers, agents, employees, successors and assigns (collectively, the "Seller Indemnified Parties") from and against any and all Losses to the extent arising out of or related to:

(a) any breach of any representation or warranty of Purchaser contained in this Agreement or any Ancillary Agreement, or any failure to perform or breach by Purchaser of any of its covenants or agreements in this Agreement or any Ancillary Agreement that by their express terms contemplate performance prior to or on the Closing Date;

(b) any failure to perform or breach by Purchaser of any of its covenants or agreements in this Agreement or any Ancillary Agreement that by their terms expressly contemplate performance after the Closing Date;

(c) any Assumed Liability, or

(d) the Exploitation of the Product by the Purchaser following the Closing (except for Liabilities expressly agreed to be borne by Seller pursuant to this Agreement or any Ancillary Agreement).

Section 9.3 Notice of Direct Claims. (a) If any of the Persons to be indemnified under this Article IX (the "Indemnified Party") has suffered or incurred any Loss subject to indemnification under this Article IX that does not involve a Third Party Claim, the Indemnified Party shall so notify the Party responsible for providing indemnification therefor under this Agreement (the "Indemnifying Party") promptly in a writing describing such Loss, the basis for indemnification hereunder, the amount or estimated amount of such Loss, if known or reasonably capable of estimation, and the method of computation of such Loss, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss shall have occurred (an "Indemnity Notice"). A failure by the Indemnified Party to give notice in a timely manner pursuant to this Section 9.3 shall not limit the obligation of the Indemnifying Party under this Article IX, except (i) to the extent such Indemnifying Party is materially prejudiced thereby or (ii) as provided by Section 9.5. In the event that the Indemnifying Party agrees to or is determined to have an obligation to reimburse the Indemnified Party for Losses as provided in this Article IX, the Indemnifying Party shall, subject to the provisions of Section 9.6, promptly (but, in any event, within 30 calendar days) pay such amount to the Indemnified Party by wire transfer of immediately available funds to the account specified in writing by the Indemnified Party; provided, that the Indemnifying Party may defer making such payment if it objects in a written statement to the claim made in an Indemnity Notice and delivers such statement to the Indemnifying Party prior to the expiration of such 30- calendar day period; provided, further that an Indemnifying Party's failure to object within such 30- calendar day period to any claim set forth in an Indemnity Notice shall be deemed to be the Indemnifying Party's acceptance of, and waiver of any objections to, such claim. If an Indemnifying Party shall so object in writing to any claim or claims made in any Indemnity Notice, the Indemnifying Party and the Indemnified Party shall attempt in good faith for a period of 20 calendar days following the Indemnified Party's receipt of such objection notice to agree upon the respective rights of the parties with respect to each of such claims. If no such agreement can be reached after such 20-calendar day period of good faith negotiation, either the Indemnifying Party or the Indemnified Party may initiate a Proceeding for purposes of having the matter settled in accordance with the terms of this Agreement.

(b) Except when a notice, report or other filing must be filed immediately pursuant to applicable Law, Purchaser shall provide notice and an opportunity to comment to Seller before Purchaser files any report, notification or filing with any Governmental Authority or third party in connection with an event that would be

reasonably likely to result in a Loss subject to the indemnification provisions of Section 9.1. In the event Purchaser is required to file a report, notification or filing immediately, Purchaser shall, to the extent permitted by Law provide simultaneous notice to Seller when it submits such report, notification or filing to the applicable Governmental Authority.

Section 9.4 Third Party Claims.

(a) If any Proceeding is instituted by or against a third party with respect to which the Indemnified Party intends to seek indemnity under this Article IX (a "Third Party Claim"), the Indemnified Party shall promptly notify the Indemnifying Party of such Third Party Claim and tender to the Indemnifying Party the conduct or defense of such Third Party Claim. A failure by the Indemnified Party to give notice and to tender the conduct or defense of the Third Party Claim in a timely manner pursuant to this Section 9.4 shall not limit the obligation of the Indemnifying Party under this Article IX, except (i) to the extent such Indemnifying Party is materially prejudiced thereby, (ii) with respect to out-of-pocket expenses incurred during the period in which notice was not provided, and (iii) if such notice is not given within the applicable time period provided under Section 9.5

(b) The Indemnifying Party shall have the right to defend the Indemnified Party against such Third Party Claim as provided herein. If the Indemnifying Party notifies the Indemnified Party that the Indemnifying Party elects to assume the defense of the Third Party Claim (such election to be without prejudice to the right of the Indemnifying Party to dispute whether such claim is an indemnifiable Loss under this Article IX), then the Indemnifying Party shall have the right to defend such Third Party Claim with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party, in all appropriate proceedings, to a final conclusion or settlement in accordance with this Section 9.4(b). The Indemnifying Party shall use reasonably diligent and good faith efforts to defend or prosecute such Third Party Claim and shall keep the Indemnified Party reasonably advised of the status of such claim and defense thereof and shall consider in good faith recommendations made by the Indemnified Party with respect thereto. The Indemnifying Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; however, neither Party shall enter into any settlement agreement without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, such consent shall not be required if (i) the settlement agreement contains a complete and unconditional general release by the third party asserting the Third Party Claim to all Indemnified Parties affected by the claim, (ii) the settlement agreement does not contain any admission of liability by or other obligation on the part of the Indemnified Party or sanction or restriction upon the conduct or operation of any business by the Indemnified Party or its Affiliates and (iii) the settlement does not require any payment to be made by the Indemnified Party to any Person. The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim controlled by the Indemnifying Party pursuant to this Section 9.4(b), and the Indemnified Party shall bear its own costs and expenses with respect to such participation; provided, however, that if the Indemnifying Party assumes control of the defense of such claim and the Indemnifying Party and the Indemnified Party have, in the opinion of legal counsel, materially conflicting interests or different defenses available with respect to such claim that cause the Indemnified Party to hire its own separate counsel with respect to such proceeding, the reasonable fees and expenses of a single counsel to the Indemnified Party shall be considered "Losses" for purposes of this Agreement.

(c) If the Indemnifying Party does not notify the Indemnified Party that the Indemnifying Party elects to defend the Indemnified Party pursuant to Section 9.4(b) within thirty (30) calendar days after receipt of any Claim Notice, then the Indemnified Party shall defend, and be reimbursed by the Indemnifying Party for its reasonable cost and expense in regard to the Third Party Claim with counsel selected by the Indemnified Party, in all appropriate proceedings, which proceedings shall be prosecuted diligently by the Indemnified Party; provided, that if it is ultimately determined that the Indemnified Party would not be entitled to indemnification hereunder, even if the facts alleged in the Third Party Claim were true as alleged, the Indemnified Party shall promptly repay in full such reimbursed amounts to the Indemnifying Party. In the circumstances described in this Section 9.4(c), the Indemnified Party shall defend any such Third Party Claim in good faith and have full control of such defense and proceedings; provided, however, that the Indemnified Party may not enter into any compromise or settlement of such Third Party Claim if indemnification is to be sought hereunder, without the Indemnifying Party's consent (which consent shall not be unreasonably withheld, conditioned or delayed). The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to this Section 9.4(c), and the Indemnifying Party shall bear its own costs and expenses with respect to such participation.

(d) If requested by the Party controlling the defense of a Third Party Claim, the other Party agrees, at the sole cost and expense of such controlling Party (but only if the controlling Party is actually entitled to indemnification hereunder), to cooperate with the controlling Party and its counsel in contesting any Third Party Claim being contested, including providing access to documents, records and information. In addition, the Party that is not controlling the defense will make its personnel available at no cost to the Indemnifying Party for conferences, discovery, proceedings, hearings, trials or appeals as may be reasonably required by the Indemnifying Party. The Party not controlling the defense also agrees to cooperate with the controlling Party and its counsel in the making of any related counterclaim against the Person asserting the Third Party Claim or any cross complaint against any Person and executing powers of attorney to the extent necessary.

Section 9.5 Expiration. Each Party's obligation to indemnify any Indemnified Party under this Article IX shall expire and terminate as follows, unless a claim therefor is asserted in writing in accordance with the terms of this Agreement prior to the applicable survival date, failing which such claim shall be waived and extinguished: the date that is (i) thirty (30) days after the statute of limitations expires with respect to any claim for indemnification under based on a breach of Section 4.1, Section 4.2, Section 4.10(a), Section 5.1, or Section 5.2 ("Fundamental Representations"), (ii) twelve (12) months from the Closing Date, in the case of any claim for indemnification based on the representations or warranties of the other Party contained in this Agreement other than the Fundamental Representations and Section 4.16, or (iii) the [***] anniversary of the Closing Date in the case of indemnification for a breach of Section 4.16 or in respect of any other matter not addressed in the foregoing sub-clauses (i) or (ii) or (iii), excluding claims related to Section 9.1(b), Section 9.1(c), Section 9.2(b), Section 9.2(c) or Section 9.2(d). Each Party's obligation to indemnify any Indemnified Party in connection with Section 9.1(b), Section 9.1(c), Section 9.2(b), Section 9.2(c) or Section 9.2(d), as applicable, shall, in each case, survive indefinitely. For the avoidance of doubt, none of the covenants or agreements contained in this Agreement shall survive the Closing other than those that by their terms expressly contemplate performance after the Closing Date, which such covenants and agreements shall survive the Closing until fully performed.

Section 9.6 Limitations on Indemnification and other Matters.

(a) De Minimis. Notwithstanding any other provision of this Agreement to the contrary, no Indemnifying Party shall be required to indemnify, defend or hold harmless any Indemnified Party pursuant to Section 9.1(a) or Section 9.2(a) against, or reimburse any Indemnified Party for, any Losses with respect to any individual claims (or series of related claims) unless such claim (or series of claims) involves Losses in excess of [***] (nor shall such item be applied to or considered for purposes of calculating the Indemnity Threshold).

(b) Threshold. Except for Losses arising out of a breach of a Fundamental Representation, no Indemnifying Party shall be liable to provide indemnification pursuant to Section 9.1(a) or Section 9.2(a) for any Losses suffered by any Indemnified Party unless the aggregate of all Losses suffered by the Indemnified Parties exceeds, on a cumulative basis, an amount equal to [***] (the "Indemnity Threshold"), and then an Indemnifying Party shall only be liable to provide indemnification to the extent of any such excess Losses.

(c) Cap. In no event shall any Indemnified Party be liable to provide indemnification pursuant to Article IX for Losses in the aggregate in excess of an amount equal to [***] (the "Cap"), other than with respect to claims for indemnification for Losses arising out of any Retained Liability or the breach of a Fundamental Representation, fraud or intentional misconduct of an Indemnifying Party in respect of a provision of this Agreement. In no event shall an Indemnifying Party be liable for Losses in excess of an aggregate amount equal to the Purchase Price.

(d) Waiver. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any such covenant or agreements, will not affect the right to indemnification or any other remedy based on such representations, warranties, covenants and agreements.

(e) Read Out of Materiality Qualifiers. Solely for purposes of calculating Losses hereunder, any materiality or Material Adverse Effect qualifications in the representations (other than Section 4.5(a) above), warranties, covenants and agreements herein shall be disregarded.

(f) Exclusion of Certain Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT ARISING OUT OF OR ASSERTED IN A THIRD PARTY CLAIM OR ARISING OUT OF A RETAINED LIABILITY OR AN ASSUMED LIABILITY OR FRAUD OR INTENTIONAL MISCONDUCT, NO INDEMNIFIED PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, TREBLE, REMOTE, SPECIAL, EXEMPLARY, OPPORTUNITY COST, CONSEQUENTIAL OR PUNITIVE DAMAGES OR DAMAGES FOR, MEASURED BY OR BASED ON LOST PROFITS, LOSS OF REVENUE OR INCOME, DIMUNITION IN VALUE, MULTIPLE OR EARNINGS, PROFITS OR CASH FLOWS, OR OTHER SIMILAR MEASURES OR FOR ANY LOSS OF BUSINESS REPUTATION OR OPPORTUNITY THAT ARISES OUT OF OR RELATES TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF.

(g) Adjustment to Purchase Price. Seller and Purchaser agree to treat all payments made either to or for the benefit of the other Party under this Agreement (including all payments made pursuant to Section 2.7(g) or Article IX) as adjustments to the Purchase Price for Tax purposes to the extent permitted under applicable Tax Law.

Section 9.7 Losses Net of Insurance, Etc. Any indemnifiable Losses with respect to any matter shall be net of (i) any amounts recovered by the Indemnified Party pursuant to any indemnification by or indemnification agreement with any third party and (ii) any insurance proceeds or other cash receipts or sources of reimbursement received as an offset against such Loss (each Person named in clauses (i) and (ii), a "Collateral Source"), in each case net of any costs of recovery or collection from any such Collateral Source. No Indemnifying Party shall have an indemnification payment obligation in respect of any contingent liability unless and until such liability becomes due and payable.

Section 9.8 Reimbursement. If an Indemnified Party recovers an amount from a Collateral Source in respect of a Loss that is the subject of indemnification hereunder after all or a portion of such Loss has been paid by an Indemnifying Party pursuant to this Article IX, the Indemnified Party shall promptly remit to the Indemnifying Party the amount received from the third party in respect thereof, net of all costs associated with the recovery thereof, up to the amount of the Loss paid by the Indemnifying Party.

Section 9.9 Subrogation. If the Indemnifying Party makes any payment on any Loss pursuant to Section 9.1 or Section 9.2, the Indemnifying Party shall be subrogated, to the extent of such payment, to all rights and remedies of the Indemnified Party to any insurance benefits or other claims of the Indemnified Party with respect to such claim. Without limiting the generality or effect of any other provision hereof, each Indemnified Party shall duly execute upon request all instruments reasonably necessary to evidence and perfect the subrogation rights detailed herein and otherwise reasonably cooperate in the prosecution of such claims (at the expense of the Indemnifying Party).

Section 9.10 Sole Remedy/Waiver. Should the Closing occur, the remedies provided for in this Article IX shall be the sole and exclusive remedies of any Indemnified Party in respect of this Agreement, the Ancillary Agreements, the Purchased Assets, the Product, the Excluded Assets, the Assumed Liabilities, the Retained Liabilities or the transactions contemplated hereby or by the Ancillary Agreements, other than (i) for actions for specific performance or other equitable remedies or (ii) for claims against a Party directly arising out of the fraud or intentional misconduct of such Party. In furtherance of the foregoing, each Party hereby waives (on behalf of itself and the relevant Indemnified Parties) any provision of applicable Law to the extent that it would limit or restrict the agreement contained in this Section 9.10, and each Party hereby waives (on behalf of itself and the relevant Indemnified Parties) for periods following the Closing any and all rights, claims or causes of action it or its Affiliates or relevant Indemnified Parties may have (other than pursuant to this ARTICLE IX or as described in clauses (i) or (ii) of this Section 9.10) against the other Party or its Affiliates or Representatives.

ARTICLE X

TERMINATION

Section 10.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by written agreement of Purchaser and Seller;

(b) by either Purchaser or Seller, by giving written notice of such termination to the other Party, if the Closing shall not have occurred on or prior to March 31, 2017 (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b) shall not be available to any Party hereto whose action or failure to fulfill any obligation under this Agreement has been a principal cause of, or resulted in, the failure of the Parties to consummate the Closing by such date;

(c) by Seller, if any of the representations or warranties of Purchaser set forth in this Agreement shall not be true and correct, or if Purchaser has failed to perform any covenant or agreement on the part of such Purchaser set forth in this Agreement (including an obligation to consummate the Closing), in each case, such that the conditions to the Closing set forth in Section 8.3(a) or Section 8.3(b) would not be satisfied as of the Closing Date and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured within twenty (20) Business Days after written notice thereof is delivered to Purchaser;

(d) by Purchaser, if any of the representations or warranties of Seller set forth in this Agreement shall not be true and correct, or if Seller has failed to perform any covenant or agreement on the part of Seller set forth in this Agreement (including an obligation to consummate the Closing), in each case, such that the conditions to the Closing set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied as of the Closing Date and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured within twenty (20) Business Days after written notice thereof is delivered to Seller; or

Section 10.2 Effect of Termination. (a) In the event of the termination of this Agreement in accordance with Section 10.1 hereof, this Agreement shall thereafter become void and have no effect, and no Party hereto shall have any liability to the other Party hereto or their respective Affiliates, directors, officers or employees; provided, that (i) no such termination shall relieve the obligations of the Parties hereto contained in this Section 10.2 and in Section 6.1(b) ("Information and Documents"), Section 11.1 ("Notices"), Section 11.6 ("Public Disclosure"), Section 11.7 ("Return of Information"), Section 11.8 ("Expenses, Transfer Taxes and Property Taxes"), Section 11.10 ("Governing Law; Jurisdiction"), Section 11.11 ("Waiver of Jury Trial"), and Section 11.16 ("Non-Recourse") hereof and (ii) nothing herein shall relieve any Party from Liability for any breach of any representation, warranty or covenant set forth in this Agreement prior to such termination.

(b) In the event this Agreement shall be terminated and at such time any Party is in material breach of or default under any term or provision hereof, such termination shall be without prejudice to, and shall not affect, any and all rights to damages that the other Party may have hereunder or otherwise under applicable Law. The damages recoverable by the non-defaulting Party shall include all attorneys' fees reasonably incurred by such Party in connection with the transactions contemplated hereby.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices.

(a) All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via facsimile to the number set out below (with transmission confirmed) or to the address set out below, (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid. Notices, demands and communications, in each case to the respective Parties, shall be sent to the applicable address or facsimile number set forth below, unless another address or facsimile number has been previously specified in writing by such Party:

To Seller:

Cranford Pharmaceuticals, LLC
11 Commerce Drive, 1st Floor
Cranford, New Jersey 07016
Facsimile: [Fax number]
Attn: Greg Ford, President

with a copy to:
Lowenstein Sandler LLP
65 Livingston Avenue
Roseland, New Jersey 07068
Facsimile: [Fax number]
Attn: Michael J. Lerner

to Purchaser:
ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
Telephone: [Tel. number]
Facsimile: [Fax number]
Attn: Arthur Przybyl

with a copy to:
Dentons US LLP
1221 Avenue of the Americas
New York, NY 10020
Telephone: [Tel. number]
Facsimile: [Fax number]
Attn: Paul A. Gajer

(b) This Agreement and any signed agreement entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or scanned pages via electronic mail, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. No Party hereto or to any such contract shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or contract was transmitted or communicated through the use of facsimile machine or email as a defense to the formation of a contract and each such Party forever waives any such defense. This Agreement is not binding unless and until signature pages are executed and delivered by each of Purchaser and Seller.

Section 11.2 Amendment; Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Purchaser and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any Party 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.

Section 11.3 Assignment. No Party to this Agreement may assign any of its rights or obligations under this Agreement; provided, that (i) either Party may assign all or part of its rights under this Agreement without consent to any of its Affiliates, in each case, so long as such assigning Party shall remain liable in full for the performance of its obligations hereunder and for any breach thereof by its assignee, and (ii) Purchaser may assign all or part of its rights under this Agreement to any third party to whom it sells the Product in a single transaction.

Section 11.4 Entire Agreement. This Agreement (including all Schedules and Exhibits hereto) contains the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for (i) the Confidentiality

Agreement which will remain in full force and effect for the term provided for therein and (ii) any written agreement of the Parties that expressly provides that it is not superseded by this Agreement.

Section 11.5 Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Purchaser, Seller, or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement, provided, that (i) the provisions of Article IX shall inure to the benefit of the Indemnified Parties and (ii) the provisions of Section 11.17 shall inure to the benefit of the Persons referenced therein.

Section 11.6 Public Disclosure. Notwithstanding anything herein to the contrary, each of the Parties to this Agreement hereby agrees with the other Parties hereto that, except as may be required to comply with the requirements of any applicable Laws, and the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, if any, no press release or similar public announcement or communication shall, if prior to the Closing, be made or caused to be made concerning the execution or performance of this Agreement unless the Parties shall have consulted in advance with respect thereto.

Section 11.7 Return of Information. If the transactions contemplated by this Agreement are terminated as provided herein:

(a) notwithstanding anything in the Confidentiality Agreement to the contrary, Purchaser shall return to Seller or destroy all documents and other material received by Purchaser, its Affiliates and their respective Representatives from Seller, or any of its respective Affiliates, relating to the transactions contemplated hereby and by the Ancillary Agreements, whether so obtained before or after the execution hereof; and

(b) all confidential information received by Purchaser, its Affiliates and their respective Representatives with respect to a Seller, or any of its respective Affiliates, the Purchased Assets and the Assumed Liabilities shall be treated in accordance with the Confidentiality Agreement, which shall remain in full force and effect in accordance with its terms notwithstanding the termination of this Agreement.

Section 11.8 Expenses, Transfer Taxes and Property Taxes. (a) Except as otherwise expressly provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such expenses. Notwithstanding the foregoing, all Transfer Taxes shall be paid 50% by Purchaser and 50% by Seller.

(b) In the case of any taxable period that includes (but does not end on) the Closing Date, real, personal and intangible property Taxes and similar Taxes imposed with respect to the Purchased Assets ("Property Taxes") shall be allocated between the Pre-Closing Tax Period and the Post-Closing Tax Period on a per diem basis. Seller shall be responsible for any Property Taxes for the Pre-Closing Period and Purchaser shall be responsible for any Property Taxes for the Post-Closing Period. Seller and Purchaser shall promptly reimburse each other in accordance with such allocation for any such Property Taxes which any Party is required to pay under applicable Law. Liability for any fees payable to any Governmental Authority with respect to the Purchased Assets shall be allocated in the same manner.

Section 11.9 Schedules. The disclosure of any matter in the Disclosure Schedule shall be deemed to be a disclosure with respect to any other section or subsection of ARTICLE IV of this Agreement with respect to which its relevance is reasonably apparent on its face, but shall expressly not be deemed to constitute an admission by Seller or Purchaser, or to otherwise imply, that any such matter is material for the purposes of this Agreement.

Section 11.10 Governing Law; Jurisdiction. (a) This Agreement and its negotiation, execution, performance or non-performance, interpretation, termination, construction and all claims or causes of action (whether in contract, in tort, at law or otherwise) that may be based upon, arise out of, or relate to this Agreement, or the transactions contemplated hereby (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in connection with this Agreement or as an inducement to enter this Agreement), shall be exclusively governed by, and construed in accordance with, the laws of the State of New York regardless of Laws that might otherwise govern under any applicable conflict of laws principles.

(b) Any Proceeding based upon, arising out of, or related to this Agreement and its negotiation, execution, performance, non-performance, interpretation, termination, construction or the transactions contemplated hereby shall be heard and determined in the courts of the State of New York sitting in the Borough of Manhattan and the United States District Court for the Southern District of New York. The Parties hereto hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Proceeding and irrevocably and unconditionally waive the defense of an inconvenient forum, or lack of jurisdiction to the maintenance of any such Proceeding. The consents to jurisdiction and venue set forth herein shall not constitute general consents to service of process in the State of New York and shall have no effect for any purpose except as provided in this Section 11.10 and shall not be deemed to confer rights on any Person other than the Parties hereto. Each Party hereto agrees that the service of process upon such Party in any Proceeding arising out of or relating to this Agreement shall be effective if notice is given by overnight courier at the address set forth in Section 11.1. Each of the Parties also agrees that any final, non-appealable judgment against a Party in connection with any Proceeding arising out of or relating to this Agreement may be enforced in any court of competent jurisdiction, either within or outside of the United States. A certified or exemplified copy of such judgment shall be conclusive evidence of the fact and amount of such judgment.

Section 11.11 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HERETO HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY PROCEEDING (WHETHER IN CONTRACT, IN TORT, AT LAW OR OTHERWISE) BASED UPON, ARISING OUT OF, OR RELATED TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THE PARTIES HERETO ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. THE PARTIES HERETO FURTHER WARRANT AND REPRESENT THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Section 11.12 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or electronic .pdf submission), each of which shall be deemed an original, and all of which shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered (by telecopy or otherwise) to the other Party, it being understood that both Parties need not sign the same counterpart.

Section 11.13 Headings. The heading references herein and the table of contents hereto are for convenience purposes only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

Section 11.14 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any term or other provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid, illegal or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons, entities or circumstances shall not be affected by such invalidity, illegality or unenforceability, nor shall such invalidity, illegality or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 11.15 Specific Performance. Each of the Parties acknowledges that the rights of each Party to consummate the transactions contemplated hereby are unique and recognizes and affirms that in the event of a breach of this Agreement by any Party, money damages may be inadequate and the non-breaching Party may have no adequate remedy at Law. Accordingly, the Parties agree that prior to a valid termination of this Agreement in accordance with this Agreement, such non-breaching Party shall have the right, in addition to any other rights and remedies existing in its favor at Law or in equity, to enforce its rights and the other Party's obligations hereunder not only by an Proceeding or Proceedings for damages but also by an Proceeding or Proceedings for specific performance, injunctive and/or other equitable relief (without posting of bond or other security). Each of the Parties agrees that it shall not oppose the granting of an injunction, specific performance and other equitable relief when expressly available pursuant to the terms of this Agreement, and hereby waives (x) any defenses in any Proceeding for an injunction, specific performance or other equitable relief, including the defense that the other Parties have an adequate remedy at Law or an award of specific performance is not an appropriate remedy for any reason at Law or equity and (y) any requirement under Law to post a bond, undertaking or other security as a prerequisite to obtaining equitable relief.

Section 11.16 Non-Recourse.

(a) This Agreement may only be enforced against, and any claim or cause of action based upon, arising out of or related to this Agreement may only be brought against the entities that are expressly named as Parties hereto and then only with respect to the specific obligations set forth herein with respect to such Party (or, in the case of Article VI and Article VII, the relevant Affiliates of Seller). Except to the extent a named Party to this Agreement (and then only to the extent of the specific obligations undertaken by such named Party in this Agreement) (or, in the case of Article VI and Article VII,, the relevant Affiliates of Seller), no past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any Party hereto shall have any liability (whether in contract or in tort, in law or in equity, or based upon any theory that seeks to impose liability of an entity party against its owners or Affiliates) for any obligations or liabilities of any Party hereto under this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any oral representations made or alleged to have been made in connection herewith (except with respect to claims of fraud or intentional misconduct).

(b) The provisions of this Section 11.16 are intended to be for the benefit of, and enforceable by, the directors, officers, employees, incorporators, members, partners, stockholders, Affiliates, agents, attorneys and other Representatives of the Parties hereto, and each such Person shall be a third party beneficiary of this Section 11.16.

Section 11.17 Conflict of Interest.

(a) Lowenstein Sandler LLP ("Lowenstein") shall be permitted to represent Seller after the Closing in connection with any matter relating to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, after the Closing, Lowenstein shall be permitted to represent Seller, any of its agents and Affiliates, or any one or more of them, in connection with any negotiation or transaction with Purchaser or any of its agents or Affiliates under or relating to this Agreement, the transactions contemplated hereby, and any related matter.

(b) Dentons US LLP ("Dentons") shall be permitted to represent Purchaser after the Closing in connection with any matter relating to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, after the Closing, Dentons shall be permitted to represent Purchaser, any of its agents and Affiliates, or any one or more of them, in connection with any negotiation or transaction with Seller or any of its agents or Affiliates under or relating to this Agreement, the transactions contemplated hereby, and any related matter.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the Parties have executed or caused this Agreement to be executed as of the date first written above.

CRANFORD PHARMACEUTICALS, LLC

By: /s/ J. Gregory Ford
Name: J. Gregory Ford
Title: President

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

ANI PHARMACEUTICALS, INC.

By: /s/ Stephen Carey
Name: Stephen Carey
Title: VP & CFO

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

Exhibit 10.2

EXECUTION COPY

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH EXCLUDED INFORMATION HAS BEEN MARKED WITH "[***]."

ASSET PURCHASE AGREEMENT

between

HOLMDEL PHARMACEUTICALS, LP

and

ANI PHARMACEUTICALS, INC.

DATED AS OF FEBRUARY 23, 2017

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SCHEDULES OTHER THAN DISCLOSURE SCHEDULES

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement is made and entered into as of the 23rd day of February 2017, by and between Holmdel Pharmaceuticals, LP, a Delaware limited partnership ("Seller") and ANI Pharmaceuticals, Inc., a corporation organized under the laws of Delaware ("Purchaser").

RECITALS

WHEREAS, Seller holds the rights to manufacture, market, sell and distribute the Product in the Territory (the "Business"); and

WHEREAS, Seller desires to sell, transfer and assign to Purchaser, and Purchaser desires to acquire and assume from Seller, all of the Purchased Assets and Assumed Liabilities, all as more specifically provided herein.

NOW, **THEREFORE**, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS AND TERMS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

"Acquisition Proposal" shall have the meaning set forth in Section 6.9.

"Affiliate" means with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. Without limitation, Rouses Point Pharmaceuticals, LLC, Mist Pharmaceuticals, LLC and Akrimax shall each be deemed for all purposes hereunder an Affiliate of Seller, but in no event shall the SWK Affiliates be deemed to be Affiliates of the Seller.

"Affiliate Agreements" means those agreements listed on Schedule 1.1.

"Agreement" means this Asset Purchase Agreement.

"Akrimax" means Akrimax Pharmaceuticals, LLC.

"AMP" means the average manufacturer price, as defined at 42 U.S.C. § 1396r-8(k)(1) and 42 C.F.R. § 447.500 et seq.

"Ancillary Agreements" means, collectively, the Services Agreement, Bill of Sale, assignments of Assumed Contracts, patent assignments, trademark assignments, assumption agreements or other instruments evidencing the assumption by Purchaser of the Assumed Liabilities, and each other agreement, document, instrument and/or certificate contemplated by this Agreement to be executed by Purchaser or Seller in connection with the transactions contemplated hereby.

"Assumed Contracts" shall have the meaning set forth in Section 2.1(a).

"Assumed Liabilities" shall have the meaning set forth in Section 2.4(a).

"Audited Financial Statements" shall have the meaning set forth in Section 4.13(a).

"Bankruptcy and Equity Exception" shall have the meaning set forth in Section 4.2(b).

"Bill of Sale" means a bill of sale, dated as of the Closing Date, in the form set forth as Exhibit A hereto.

"Business" shall have the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are authorized or obligated by applicable law or executive order to close.

"Cap" shall have the meaning set forth in Section 9.6(c).

"Challenged Amount" shall have the meaning set forth in Section 2.7(e).

"Closing" means the closing of the transactions contemplated by this Agreement pursuant to the terms of this Agreement.

"Closing Date" shall have the meaning set forth in Section 3.1(a).

"Closing Date Inventory Value" means the aggregate value of all the Purchased Inventory, determined on the basis of the cost basis of Seller or Akrimax in such Inventories, up to a maximum of [***]; provided, however, that the cost basis of any Purchased Inventories that are damaged, defective or otherwise not saleable in the ordinary course of business on customary terms shall be excluded from the calculation of Closing Date Inventory Value.

"Code" means the Internal Revenue Code of 1986, as amended, from time to time.

"Collateral Source" shall have the meaning set forth in Section 9.7.

"Competing Business" shall have the meaning set forth in Section 7.1.

"Confidential Information" shall have the meaning set forth in the Confidentiality Agreement.

"Confidentiality Agreement" means the Confidentiality Agreement between Seller and Purchaser, dated February 16, 2017, as amended or supplemented from time to time.

"Contract" means any binding contract, agreement, lease, license or commitment.

"Copyrights" shall have the meaning set forth in the definition for Intellectual Property.

"Covered Proceeds" shall have the meaning set forth in Section 2.1(h).

"[***]" means [***].

"Dentons" shall have the meaning set forth in Section 11.17(b).

"Distribution Activities" shall have the meaning set forth in Section 6.8(d).

"Excluded Assets" shall have the meaning set forth in Section 2.3.

"Excluded Inventory" means the Inventory which is not Purchased Inventory.

"Exploitation" (including, with correlative meanings, the terms "Exploit" and "Exploited") means developing, commercializing, manufacturing, labeling, packaging, marketing, promoting, selling, distributing and/or transporting.

"FDA Act" means the Food, Drug and Cosmetics Act of 1938, as amended, supplemented or replaced.

"Final Inventory Value" shall have the meaning set forth in Section 2.7(d).

"Financial Statements" shall have the meaning set forth in Section 4.13(b).

"Fundamental Representations" shall have the meaning set forth in Section 9.5.

"GAAP" means United States generally accepted accounting principles, consistently applied.

"Governmental Authority" means any supranational, national, federal, state or local or foreign judicial, legislative, executive or regulatory authority.

"Governmental Authorizations" means all licenses, permits, certificates and other authorizations and approvals pertaining to the Product under the applicable Laws of any Governmental Authority.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Gross Profit" means the amount equal to [***].

"Indemnity Notice" shall have the meaning set forth in Section 9.3(a).

"Indemnified Party" shall have the meaning set forth in Section 9.3(a).

"Indemnifying Party" shall have the meaning set forth in Section 9.3(a).

"Indemnity Threshold" shall have the meaning set forth in Section 9.6(b).

"Independent Accountant" shall have the meaning set forth in Section 2.6(c).

"Intellectual Property" means any and all worldwide rights in, arising from or associated with the following, whether protected, created or arising under the Laws of the United States or any other jurisdiction or under any international convention: (1) all patents and applications therefor and all reissues, divisions, re-examinations, renewals, extensions, provisionals, substitutions, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions and discoveries including, without limitation, invention disclosures ("Patent Rights"); (2) all trade secrets and other proprietary information which derives independent economic value from not being generally known to the public (collectively, "Trade Secrets"); (3) all copyrights, copyrights registrations and applications therefor ("Copyrights"); (4) all uniform resource locators, e-mail and other internet addresses and domain names and applications and registrations therefor ("URLs"); (5) all trade names, corporate names, logos, slogans, trade dress, trademarks, service marks, and trademark and service mark registrations and applications therefor and all goodwill associated therewith ("Trademarks") and (6) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

"Inventories" means all inventory of finished goods Product and all samples of Product owned by Seller or Akrimax on the Closing Date.

"Inventory Excess Amount" shall have the meaning set forth in Section 2.7(g)(ii).

"Inventory Shortfall Amount" shall have the meaning set forth in Section 2.7(g)(i).

"Knowledge of Purchaser" means the actual knowledge any of the individuals listed on Schedule 1.1(b)(i) has or would have following reasonable inquiry into the subject matter in the ordinary course of performing each of their respective duties.

"Knowledge of Seller" means the actual knowledge any of the individuals listed on Schedule 1.1(b)(ii) has or would have following reasonable inquiry into the subject matter in the ordinary course of performing each of their respective duties.

"Laws" means any federal, state, foreign or local law, common law, statute, ordinance, rule, regulation, code or Governmental Order.

"Liabilities" means any and all Losses, debts, liabilities and obligations, whether accrued or unaccrued, fixed, known or unknown, absolute or contingent, matured or unmatured or determined or determinable, including all costs and expenses relating thereto.

"Licensed Intellectual Property" shall have the meaning set forth in Section 4.9(b)(i).

"Licensed Know-How" shall have the meaning set forth in Section 6.12.

"Liens" means any lien, security interest, mortgage, pledge, assessment, hypothecation, easement, title retention clause, title defect, right of first refusal, charge or similar encumbrance.

"Loss" or "Losses" means any liabilities, losses, damages, fines or penalties that are suffered or sustained, or that have required an outlay or payment of cash or other non-cash consideration, whether resulting from a judgment, a settlement or an award, including those arising out of any Proceeding, Law or Contract, including the Taxes, costs and expenses (including reasonable fees and expenses of counsel, consultants, experts, and other professional fees) associated therewith.

"Lowenstein" shall have the meaning set forth in Section 11.17(a).

"Material Adverse Effect" means any event, fact, condition, occurrence, change or effect that is or would reasonably be expected to be materially adverse to the Exploitation of the Product or the Purchased Assets, taken as a whole; provided, however, that none of the following shall be deemed, either alone or in combination, to constitute a Material Adverse Effect, or be taken into account in determining whether there has or will be a Material Adverse Effect: (a) changes in political or economic conditions (including changes in interest or exchange rates) in any country in which Purchased Assets are located or in which the Business operates, or in the securities, syndicated loan, credit or financial markets of any such country; (b) changes in general market conditions affecting the Exploitation of the Product in general or within the United States; (c) changes in GAAP; (d) changes or effects that arise out of or are attributable to the acts or omissions of, or circumstances affecting, Purchaser and/or its Affiliates; (e) changes or effects that generally affect the markets in which the Product is Exploited; (f) changes or effects that arise out of or are attributable to the commencement, occurrence, continuation or intensification or reduction or cessation of any war (whether or not declared), sabotage, armed hostilities or acts of terrorism; (g) changes or effects that arise out of or are attributable to earthquakes, hurricanes or other natural disasters, epidemics or other outbreaks of disease; (h) changes or effects that relate to any failure by Seller to meet internal projections or forecasts for any period (including with respect to the Purchased Assets or Product), or that arise out of or are attributable to market conditions with respect to the Product, including the availability of generic alternatives or alternative therapies and treatments or the availability of Patent Rights; and (i) any action taken by Seller as required by this Agreement or with Purchaser's consent, except, in the case of clauses (a), (b), (c), (e) and (f), for those changes or effects that have a disproportionate impact on the Exploitation of the Product relative to other comparable pharmaceutical product.

"NDC Number" means the unique 10-digit, 3-segment number assigned by the U.S. Food & Drug Administration to each human drug processed for commercial distribution, which number is published in the NDC Directory pursuant to Section 510 of the FDA Act.

"Net Sales" means the gross amount received by Seller or Subsidiary of Seller, as applicable, for sales of the Product (other than applicable, sales, use or VAT Taxes), *less* the deductions taken by the Seller or an Affiliate or Subsidiary of Seller, as applicable, with respect to such sales in accordance with GAAP:

(i) [***];

(ii) [***];

(iii) [***]; and

(iv) [***].

Notwithstanding the foregoing, sales of Product for patient assistance programs, research or development or complimentary samples shall not be deemed "sales" for purposes of calculating Net Sales.

"Non-Compete Period" has the meaning set forth in Section 7.1.

"NonFAMP Eligible Transactions" means those transactions relating to a Product that are used to calculate the Non-Federal Average Manufacturer Price as defined by Veteran's Health Care Act of 1992.

"Objection Notice" shall have the meaning set forth in Section 2.7(c).

"Outside Date" shall have the meaning set forth in Section 10.1(b).

"Owned Intellectual Property" shall have the meaning set forth in Section 4.9(a).

"Party" means each of Purchaser and Seller.

"Patent Rights" shall have the meaning set forth in the definition for Intellectual Property.

"Permitted Encumbrances" means (i) statutory Liens arising by operation of Law with respect to a Liability incurred in the ordinary course of business and which is not delinquent; (ii) Liens for Taxes not yet subject to penalties for nonpayment or that are being contested in good faith by appropriate proceedings; (iii) mechanics', materialmens', carriers', workmens', warehousemens', repairmens', landlords' or other like Liens and security obligations that are not delinquent; (iv) Liens set forth on Schedule 1.1(c) hereto, all of which will be released and, as appropriate, removed of record, at or prior to the Closing Date in accordance with the terms of this Agreement; and (v) Liens arising under this Agreement.

"Person" means an individual, a limited liability company, joint venture, a corporation, a partnership, an association, a trust, a division or operating group of any of the foregoing or any other entity or organization.

"Post-Closing Tax Period" means any Tax period (or portion thereof) beginning after the Closing Date.

"Pre-Closing Tax Period" means any Tax period (or portion thereof) ending on or before the Closing Date.

"Proceeding" means any claim, action, arbitration, mediation, hearing, proceeding, suit, warning letter, or notice of violation.

"Product Registrations" means all Governmental Authorizations (including NDAs, ANDAs and INDs) and comparable regulatory filings granted to Seller or any Affiliate thereof by, or applications therefor in the name of Seller or any Affiliate thereof that are pending with, any Governmental Authority (including applications that are in the process of being prepared by Seller or any Affiliate thereof) required to manufacture, commercialize, develop, package, label, store, use, market, import, export, distribute and/or sell any of the Product.

"Product" means the Product listed on Schedule 1.1(d) hereto.

"Property Taxes" shall have the meaning set forth in Section 11.8(b).

"Purchased Assets" shall have the meaning set forth in Section 2.1, it being understood that the Purchased Assets do not include the Excluded Assets.

"Purchased Documents" means originals, or if originals are unavailable, copies of all books, records, files and papers, whether in hard copy or computer format, to the extent related to the Product or Product Registrations (including with respect to research and development, medical safety or regulatory affairs), including (i) all documents, if any, relating to the calculation of baseline AMP (but excluding any proprietary methodology documents created by Seller or any of its Affiliates with respect to the calculation of baseline AMP), (ii) an electronic version of the Product's Medical Information Inquiry Database and the documents set forth in Schedule 1.1(e), (iii) any and all regulatory files (including correspondence with regulatory authorities) owned by or in the possession or control of Seller or any Affiliate thereof to the extent relating to the Purchased Assets or the operation of the Business (including safety and adverse event data) and (iv) copies of all books, records, files and papers, whether in hard copy or computer format, to the extent related to NonFAMP Eligible Transactions from the third fiscal quarter of 2013 through the Closing Date.

"Purchased Inventory" means that portion of the Inventory that is set forth on Schedule 1.1(a).

"Purchase Price" shall have the meaning set forth in Section 2.6(a).

"Purchaser" has the meaning set forth in the preamble of this Agreement.

"Purchaser Disclosure Schedules" shall have the meaning set forth in Article V.

"Purchaser Indemnified Parties" shall have the meaning set forth in Section 9.1.

"Representatives" means, with respect to any Person, the directors, managers, employees, independent contractors, agents or consultants of such Person.

"Required Third Party Consents" means the consents and approvals set forth on Schedule 1.1(f).

"Retained Liabilities" shall have the meaning set forth in Section 2.5.

"Seller" shall have the meaning set forth in the preamble of this Agreement.

"Seller Company Identifiers" shall have the meaning set forth in Section 6.7(a).

"Seller Disclosure Schedules" shall have the meaning set forth in Article IV.

"Seller Indemnified Parties" shall have the meaning set forth in Section 9.2.

"Services Agreement" means a services agreement, dated as of the Closing Date, in the form set forth as Exhibit B hereto.

"Side Letter" shall have the meaning set forth in Section 3.1(b)(xiii).

"Solvent", when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "fair saleable value" of the assets of such Person on a going concern basis will, as of such date, exceed (i) the value of all "liabilities of such Person, including contingent and other liabilities" as of such date, as such quoted terms are generally determined in accordance with applicable United States federal laws governing determinations of the insolvency of debtors and (ii) the amount that will be required to pay the probable liabilities of such Person on its existing debts (including contingent liabilities) as such debts become absolute and matured, (b) such Person will not have, as of such date, an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged following such date and (c) such Person will be able to pay its liabilities, including contingent and other liabilities, as they mature. For purposes of this definition, each of the phrases "not have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged" and "able to pay its liabilities, including contingent and other liabilities, as they

mature" means that such Person will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due.

"Subsidiary" or "Subsidiaries" means an entity as to which Seller or Purchaser or any other relevant entity, as the case may be, owns directly or indirectly 50% or more of the voting power or other similar interests. Any Person which comes within this definition as of the date of this Agreement but thereafter fails to meet such definition shall from and after such time not be deemed to be a Subsidiary of Seller or Purchaser or any other relevant entity, as the case may be. Similarly, any Person which does not come within such definition as of the date of this Agreement but which thereafter meets such definition shall, from and after such time, be deemed to be a Subsidiary of Seller or Purchaser or any other relevant entity, as the case may be.

"SWK Affiliates" means SWK HP Holdings, L.P. together with its owners and their Affiliates.

"Tax" or "Taxes" means all taxes, levies or other assessments, including income, excise, property, sales or use, value added, profits, license, withholding (with respect to compensation or otherwise), payroll, employment, net worth, capital gains, transfer, stamp, social security, environmental, occupation and franchise taxes, imposed by any Taxing Authority, and including any interest, penalties and additions attributable thereto.

"Tax Return" or "Tax Returns" means any return, report, declaration, information return, statement or other document filed or required to be filed with any Taxing Authority, in connection with the determination, assessment or collection of any Tax or the administration of any Laws relating to any Tax.

"Taxing Authority" means any Governmental Authority, body or instrumentality exercising any authority to impose, regulate or administer the imposition of Taxes.

"Territory" means the United States and its territories and possessions, including Puerto Rico and U.S. military bases abroad.

"Third Party Claim" shall have the meaning set forth in Section 9.4(a).

"Trade Secrets" shall have the meaning set forth in the definition for Intellectual Property.

"Trademarks" shall have the meaning set forth in the definition for Intellectual Property.

"Transfer Taxes" means any federal, state, county, local, foreign and other sales, use, transfer, value added, conveyance, documentary transfer, stamp, recording, registration or other similar Tax (including any notarial fee) imposed in connection with, or otherwise relating to, the transactions contemplated by this Agreement or the recording of any sale, transfer or assignment of property (or any interest therein) effected pursuant to this Agreement.

"Treasury Regulations" means the regulations promulgated by the Treasury Department under the Code.

"Unaudited Financial Statements" shall have the meaning set forth in Section 4.13(b).

"URLs" shall have the meaning set forth in the definition for Intellectual Property.

Section 1.2 Other Definitional and Interpretive Provisions. (a) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) The terms "dollars" and "$" shall mean United States of America dollars.

(d) The term "including" (and with correlative meaning "include") shall mean "including, without limitation."

(e) Reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity.

(f) Reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended, modified or supplemented and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.

(g) When a reference is made in this Agreement to an Article, a Section, an Exhibit or a Schedule, such reference shall be to an Article of, a Section of, an Exhibit to or a Schedule to, this Agreement unless otherwise indicated.

(h) The Parties acknowledge that: (i) this Agreement is the result of negotiations between the Parties and shall not be deemed or construed as having been drafted by any one Party; (ii) each Party and its counsel have reviewed and negotiated the terms and provisions of this Agreement (including any exhibits and disclosure schedules attached hereto) and have contributed to its revision; (iii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iv) the terms and provisions of this Agreement shall be construed fairly as to all Parties and not in favor of or against any Party, regardless of which party was generally responsible for the preparation of this Agreement.

ARTICLE II

PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets. Upon the terms and subject to the conditions set forth herein, at the Closing, Seller shall, and with respect to Section 2.1(b) and Section 2.1(e) shall cause Akrimax to, sell, convey, assign and transfer to Purchaser, and Purchaser shall purchase, acquire and accept from Seller and Akrimax, as applicable, free and clear of all Liens, other than Permitted Encumbrances, all right, title and interest of Seller and Akrimax, as applicable, in, to and under those assets described in the following clauses (a) through (i) related to Seller's Product (collectively, the "Purchased Assets"):

(a) all the Contracts relating to the Product set forth on Schedule 2.1(a), including with respect to the Licensed Intellectual Property (the "Assumed Contracts");

(b) all of the Owned Intellectual Property (including the registrations for Trademarks owned by Akrimax set forth on Schedule 4.9(a)(ii), and the URL registrations owned by Akrimax as set forth on Schedule 4.9(a)(iii));

(c) the Product Registrations;

(d) all customer lists for the Product and research data to the extent related to the Product and in the possession or control of Seller or any Affiliate thereof;

(e) the Purchased Inventory;

(f) all the Purchased Documents; provided, however, that Seller shall have the right to retain one copy (subject to the confidentiality provisions set forth in Section 6.11) of all or any portion of the Purchased Documents to comply with applicable Laws and regulatory guidance;

(g) all refunds for Taxes relating to the Purchased Assets with respect to a Post-Closing Tax Period;

(h) all of Seller's rights under warranties, guaranties, indemnities and similar rights against third parties, including any predecessors in title, to the extent related to the Assumed Liabilities or the Exploitation of the Purchased Assets and the Product on or after the Closing Date, including rights to proceeds under insurance policies

in respect of damage or loss to the Purchased Assets which have not been fully remediated as of the Closing ("Covered Proceeds"); and

(i) all of Seller's claims, counterclaims, causes of action and all other rights of any kind against any third party in connection with the Assumed Liabilities or related to the Exploitation of the Purchased Assets on or after the Closing Date.

Section 2.2 Consents. Purchaser acknowledges that certain consents to the transactions contemplated by this Agreement (other than the Required Third Party Consents) may be required from counterparties to Contracts and that such consents may not be obtained prior to Closing. Seller shall use its commercially reasonable efforts (which shall not require Seller to pay any money or other consideration to any Person, to initiate any claim or proceeding against any Person or to otherwise grant any accommodation (financial or otherwise) to any Person) (i) to obtain such approval or consent and (ii) if such approval or consent cannot be obtained, to secure an arrangement reasonably satisfactory to Purchaser ensuring that Purchaser will receive the benefits under the Purchased Asset for which such consent is being sought and Purchaser will bear the burden of the Liabilities related to such Purchased Asset; provided, however, that notwithstanding anything to the contrary herein or otherwise (A) Seller shall have no obligation to obtain such consent or approval or to provide such an alternative arrangement other than the undertaking to use commercially reasonable efforts to obtain or provide the same as set forth in this Section 2.2, and (B) Purchaser shall indemnify Seller in respect of all Liabilities incurred by Seller in respect of any such alternative arrangement and the underlying Purchased Asset. To the extent that, in connection with obtaining a third party's consent under any Assumed Contract, one or more of the parties hereto enter into an agreement with such third party that provides for an allocation of Liability among the parties hereto with respect to such Assumed Contract that is inconsistent with the terms of this Agreement, the parties agree that, as among themselves, the provisions of this Agreement shall control.

Section 2.3 Excluded Assets. Nothing herein contained shall be deemed to sell, transfer, assign or convey the Excluded Assets to Purchaser, and Seller shall retain all right, title and interest to, in and under the Excluded Assets. "Excluded Assets" means all assets, properties, interests and rights of Seller other than the Purchased Assets to be sold by Seller, including each of the following assets:

(a) all cash, cash equivalents, bank deposits or similar cash items and accounts receivable of Seller;

(b) all books and records of Seller other than the Purchased Documents; provided, however, that Purchaser shall have the right to make copies of any portions of any such retained books and records to the extent related to any of the Purchased Assets;

(c) all rights of Seller to (i) the Seller Company Identifiers and (ii) any other Intellectual Property, other than Intellectual Property included in the Purchased Assets;

(d) all insurance policies or rights to proceeds thereof relating to the Purchased Assets or the Product (except Covered Proceeds);

(e) subject to Section 2.1(i), all rights, claims or causes of action of Seller against third parties in connection with the Exploitation of the Purchased Assets and the Product prior to the Closing Date;

(f) all Tax Returns and financial statements of Seller and all records (including working papers) related thereto;

(g) all refunds for Taxes relating to the Purchased Assets with respect to a Pre-Closing Tax Period;

(h) all of Seller's rights in respect of real property, including leasehold interests;

(i) the partnership interests in and other equity or ownership interests in Seller;

(j) all rights that accrue to Seller under this Agreement and the Ancillary Agreements; and

(k) all of Seller's causes of action, claims, credits, demands or rights of set-off against third parties, to the extent related to any Excluded Asset.

Section 2.4 Assumption of Liabilities.

(a) Upon the terms and subject to the conditions of this Agreement, Purchaser agrees, effective at the Closing, to assume and to satisfy and discharge when due the Liabilities of Seller (other than the Retained Liabilities), specifically set forth below (all of such Liabilities and other than the Retained Liabilities being herein collectively referred to as the "Assumed Liabilities"):

(i) all Liabilities arising from the Exploitation of any Product after the Closing Date, including Liabilities for returns, rebates and chargebacks related to any of the Product shipped after the Closing Date;

(ii) all Liabilities for Taxes relating to the Purchased Assets or the Product with respect to a Post-Closing Tax Period, including those allocated in accordance with Section 11.8(b);

(iii) all Liabilities for materials and services relating to the Purchased Assets contracted for in the ordinary course of business prior to the Closing pursuant to an Assumed Contract, but scheduled to be delivered or provided thereafter, and all Liabilities to customers under purchase orders for Product that have not yet been shipped at Closing, in each case to the extent not related to any breach of Seller occurring prior to the Closing;

(iv) all Liabilities under Assumed Contracts (including Liabilities to customers under purchase orders made in the ordinary course of the sale and marketing of the Product consistent with past practice for any Product that has not been shipped prior to the Closing) relating to the period following the Closing Date, other than any Liabilities to the extent arising out of, or resulting from, a breach of any such Assumed Contract by Seller prior to the Closing Date;

(v) all Liabilities arising out of or relating to any product liability, breach of warranty or similar claim for injury to any Person or property that resulted from the use or misuse of the Product on or after the Closing Date or otherwise relates to the Product sold (including any Proceeding relating to any such Liabilities) on or after the Closing Date, which, in the case of any split lots of Product, shall be determined based on the percentage of any such lot sold on or after the Closing Date;

(vi) all other Liabilities relating to the Purchased Assets or the Product, or Purchaser's use thereof, solely to the extent that such are not Retained Liabilities, including to any Governmental Authority, and all fees arising from or related to any Product Registrations and Intellectual Property included in the Purchased Assets, but only to the extent not related to or arising out of any act, omission or event occurring prior to the Closing; and

(vii) all Liabilities for branded prescription drug fees occurring after January 1, 2017, it being understood and agreed, for the avoidance of doubt, that Purchaser will report ownership of Product NDCs on IRS Form 8947 beginning with the 2017 reporting year (due November 2018).

Section 2.5 Retained Liabilities. Notwithstanding any provision in this Agreement, Seller shall retain and be responsible only for the following Liabilities (the "Retained Liabilities"):

(a) all Liabilities of Seller and/or any Affiliate of Seller other than Assumed Liabilities, including all Liabilities related to the Excluded Assets and all Liabilities under Assumed Contracts relating to the period prior to the Closing Date (including the Assumed Contracts set forth on Schedule 4.12(e));

(b) all Liabilities of Seller and/or any of its Affiliates under the Ancillary Agreements;

(c) all Liabilities of Seller and/or any of its Affiliates in respect of any Proceeding (whether class, individual or otherwise in nature, in law or in equity) commenced or asserted prior to the Closing, or based on acts or omissions of Seller and/or any of its Affiliates or their respective equityholders, officers, directors or managers occurring prior to the Closing, and arising out of or to the extent relating to or otherwise in any way relating to the Purchased Assets or the Product, including, without limitation, any Liability to any equityholder of Seller or any Affiliate of Seller and including all Liabilities arising out of or related to the litigation described on Schedule 4.6 of the Seller Disclosure Schedules;

(d) all Liabilities of Seller to its suppliers for materials and services relating to the Product that were delivered or provided to Seller prior to Closing;

(e) all Liabilities arising out of or relating to any product liability, breach of warranty or similar claim for injury to any Person or property that resulted from the use or misuse of the Product prior to the Closing Date or otherwise relates to the Product sold (including any Proceeding relating to any such Liabilities) prior to the Closing Date, which, in the case of any split lots of Product, shall be determined based on the percentage of any such lot sold prior to the Closing Date;

(f) any Liability under Seller's employee benefits or compensation arrangements;

(g) all Liabilities for branded prescription drug fees occurring prior to January 1, 2017, it being understood and agreed, for the avoidance of doubt, that Seller will report ownership of Product NDCs on IRS Form 8947 for all periods up to and including the 2016 reporting year (due November 2017); and

(h) all Liabilities for Taxes relating to the Purchased Assets or the Product with respect to a Pre-Closing Tax Period, including those allocated in accordance with Section 11.8(b); and

Section 2.6 Purchase Price.

(a) On the terms and subject to the conditions set forth herein, in consideration of the sale and transfer of the Purchased Assets, at the Closing, Purchaser shall (i) assume the Assumed Liabilities and (ii) pay an amount in cash equal to the sum of (*x*) Thirty Million One Hundred and Eighty-Nine Thousand Dollars ($30,189,000), *plus* (*y*) the Closing Date Inventory Value, subject to adjustment pursuant to the terms of Section 2.7(g) (the "Purchase Price") to Seller in immediately available funds by wire transfer to the account(s) specified in written instructions given by Seller to Purchaser not less than two (2) Business Days prior to the Closing.

(b) To the extent that Purchaser is required under any provision of Law to deduct and withhold Taxes on any payment hereunder, Purchaser shall withhold and deduct from the Purchase Price such required amounts and such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Persons in respect of which such deductions and withholdings were made; provided, however, that Purchaser may deduct such amounts only if Purchaser shall (i) give Seller reasonable advance notice of the intention to make such deduction or withholding; (ii) explain the basis for such deduction or withholding, and (iii) cooperate with Seller to the extent reasonably requested to obtain any applicable reduction of or relief from such deduction or withholding; provided, further, that, except as otherwise required by Law or applicable court order, Purchaser shall not withhold any portion of the Purchase Price if Seller delivers a non-foreign affidavit under Section 1445 of the Code and the Treasury Regulations promulgated thereunder.

(c) The allocation of the Purchase Price among the Purchased Assets and Assumed Liabilities shall be prepared by Purchaser within ninety (90) days following the Closing. Purchaser shall deliver to Seller a copy of such proposed allocation promptly after Purchaser's determination of the proposed allocation, and Seller shall have the right to review and raise any objections in writing to the proposed allocation during the fifteen (15) day period after Seller's receipt thereof. If Seller does not notify Purchaser in writing of a disagreement with the proposed allocation during such fifteen (15) day period, the proposed allocation shall become final. If Seller disagrees with respect to any item in the allocation, the Parties shall negotiate in good faith to resolve the dispute. If the Parties are unable to agree on the allocation within thirty (30) days after the commencement of such good faith negotiations (or such longer period as Seller and Purchaser may mutually agree in writing), then the parties shall refer such dispute to an independent internationally recognized accounting firm ("Independent Accountant") at that

time to review the allocation, and make a determination as to the resolution of such allocation. The determination of the Independent Accountant regarding the allocation shall be delivered as soon as practicable following engagement of the Independent Accountant, but in no event more than sixty (60) days thereafter, and shall be final, conclusive and binding upon Seller and Purchaser, and Purchaser shall revise the original proposed allocation accordingly. Seller, on the one hand, and Purchaser on the other hand, shall each pay one-half of the cost of the Independent Accountant. The finalized allocation shall be binding on Seller and Purchaser for all Tax reporting purposes and Seller and Purchaser agree to refrain from taking any position inconsistent therewith, unless required by applicable Law or a final determination of a Taxing Authority.

Section 2.7 Purchase Price Adjustment.

(a) On the Closing Date, Seller shall deliver to Purchaser a statement (the "Closing Statement") containing Seller's final calculation of the Closing Date Inventory Value and shall be accompanied with reasonably detailed documentation supporting Seller's calculation thereof. The Closing Statement will be in the form as set forth in Schedule 2.7(a).

(b) The Purchaser will have a period of twenty (20) Business Days to review the Closing Statement and all calculations set forth therein. Seller shall give Purchaser (upon reasonable advance notice and during normal business hours in a manner that does not materially interfere with Seller's business) reasonable access to the applicable personnel and books and records of Seller and its Affiliates as reasonably requested by Purchaser, as well as use commercially reasonable efforts to cause [***] to provide Purchaser reasonable access to the premises of [***] and the records kept by them of the Purchased Inventories, to reasonably enable Purchaser to fully review the Closing Statement and such access shall be provided in a timely manner to allow Purchaser to complete such review in such twenty (20) Business Day period.

(c) The Closing Statement shall be conclusive of the amount of the Closing Date Inventory Value and shall be final and binding upon the Parties unless on or before the twentieth (20th) Business Day after the date on which the Closing Statement is delivered to Purchaser, Purchaser delivers to Seller a notice of objection (an "Objection Notice") to any matter stated in the Closing Statement. Any Objection Notice shall specify, in reasonable detail to the extent Purchaser has the available information, those items or amounts as to which Purchaser disputes in good faith and Purchaser shall be deemed to have agreed with all other items and amounts contained in the Closing Statement and the calculations of the Closing Date Inventory Value set forth therein.

(d) If Purchaser fails to deliver an Objection Notice within such twenty (20) Business Day period, Purchaser shall be deemed to have waived its rights to contest the Closing Statement and the calculation of the Closing Date Inventory Value set forth therein shall be deemed to be final and binding upon the Parties (the "Final Inventory Value") and such amount shall be used for the purposes of adjustment to the Purchase Price pursuant to Section 2.7(g).

(e) If Purchaser delivers an Objection Notice to Seller on or before such twenty (20) Business Day period, then the Parties shall meet within ten (10) Business Days after Purchaser delivers an Objection Notice, by telephone or at a mutually agreeable location to discuss in good faith and attempt to reconcile their differences with respect to the amount of the Closing Date Inventory Value that is being challenged by Purchaser (the "Challenged Amount(s)"). In the event the Parties are unable to reach agreement on the Challenged Amounts, either Party may at any time thereafter submit such remaining disagreements to the Independent Accountant.

(f) The Parties shall use commercially reasonable efforts to cause the Independent Accountant, once appointed, to resolve all remaining disagreements with respect to Challenged Amounts as soon as practicable, but in any event shall direct the Independent Accountant to render a determination within thirty (30) days after retention of the Independent Accountant. Each Party will be afforded the opportunity to present to the Independent Accountant any material such Party deems relevant to the determination. The Independent Accountant shall consider only those items and amounts in Purchaser's and Seller's respective calculations of the Challenged Amounts that are identified as being items and amounts to which Purchaser and Seller have been unable to agree. In resolving any disputed item, the Independent Accountant may not assign a value to any item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party. The Independent Accountant's determination of the Challenged Amounts shall be based solely on written materials

submitted by the Parties (*i.e.*, not on independent review) and on the definitions included in this Agreement. The determination of the Independent Accountant shall be conclusive and binding upon the Parties and shall not be subject to appeal or further review and shall be deemed as the Final Inventory Value for all purposes hereunder. The costs and expenses of the Independent Accountant in determining any Challenged Amounts shall be borne equally by Purchaser, on the one hand, and Seller, on the other hand.

(g) On the date of the binding determination of the Final Inventory Value pursuant to the terms of this Section 2.7, if:

(i) the Final Inventory Value is equal to an amount that is *less* than the Closing Date Inventory Value set forth in the Closing Statement (the aggregate total amount of the shortfall equal to the sum of (*x*) the Closing Date Inventory Value, *minus* (y) the Final Inventory Value, the "Inventory Shortfall Amount"), then Seller shall, within ten (10) Business Days of the binding determination of the Final Inventory Value, pay an amount in cash equal to the Inventory Shortfall Amount to Purchaser in immediately available funds by wire transfer to the account(s) specified in written instructions provided by Purchaser to Seller; or

(ii) the Final Inventory Value is *more* than Closing Date Inventory Value set forth in the Closing Statement (the aggregate total amount of the excess equal to the sum of (*x*) the Final Inventory Value, *minus* (*y*) the Closing Date Inventory Value, the "Inventory Excess Amount"), then Purchaser shall, within ten (10) Business Days of the binding determination of the Final Inventory Value, pay an amount in cash equal to the Inventory Excess Amount to Seller in immediately available funds by wire transfer to the account(s) specified in written instructions provided by Seller to Purchaser.

(iii) notwithstanding anything to the contrary set forth above, in no event will the Final Inventory Value be deemed to exceed [***].

ARTICLE III

CLOSING

Section 3.1 Closing. (a) The Closing shall take place remotely via the exchange of documents and signatures by electronic mail and overnight courier service on (i) the second (2nd) Business Day following the satisfaction (or, to the extent permitted hereby and by applicable Law, waiver) of the conditions set forth in Article VIII (other than the conditions that by their nature are to be satisfied by actions to be taken on the Closing Date, but subject to the waiver or satisfaction of such conditions) or (ii) at such other time and place as the Parties may mutually agree in writing. The date on which the Closing occurs is called the "Closing Date." The Closing shall be deemed to occur and be effective as of 12:01 a.m. on the Closing Date.

(b) At the Closing, Seller shall deliver or cause to be delivered to Purchaser the following instruments and documents, in each case, in form and substance reasonably acceptable to Purchaser:

(i) a receipt for payment of the Purchase Price;

(ii) a certificate of an authorized officer of Seller as to the resolutions adopted by the general partner, board of managers or similar governing body of Seller relating to the transactions contemplated hereby;

(iii) executed copies of the Required Third Party Consents;

(iv) assignments of Assumed Contracts, duly executed by Seller or its applicable Affiliate;

(v) the Bill of Sale, duly executed by an authorized officer of Seller;

(vi) (A) general patent assignments and general trademark assignments, in recordable form, with respect to patents and trademarks included within the Purchased Assets, duly executed by Seller or Akrimax, as applicable;

(B) general assignments executed by all of the Seller Affiliates assigning to Purchaser all right, title and interest they may have in and to any of the Purchased Assets;

(C) except as provided in Section 6.3(d), assignments of all URLs, to the extent owned by Seller or Akrimax and used or held for use in connection with the Exploitation of the Product, duly executed by an authorized officer of Seller or Akrimax, as applicable;

(vii) physical or, to the extent available, electronic copies of the Purchased Documents including copies of all the Purchased Documents comprising the NDA;

(viii) executed copies of the FDA transfer letters referenced in Section 6.10;

(ix) a duly executed non-foreign affidavit under Section 1445 of the Code and the Treasury Regulations promulgated thereunder;

(x) the Services Agreement, duly executed by an authorized officer of Seller;

(xi) evidence reasonably satisfactory to Purchaser of the termination of the Affiliate Agreements;

(xii) either (A) evidence in form and substance reasonably satisfactory to Purchaser that those Liens on the Purchased Assets (other than Permitted Encumbrances) set forth on Schedule 1.1(b) have been or will be released at the Closing or (B) written authorization from the appropriate Lien holders authorizing Purchaser to file terminations or releases of such Liens set forth on Schedule 1.1(b); and

(xiii) a side letter, in form and substance reasonably satisfactory to Purchaser, duly executed by authorized officers of the applicable Affiliates of Seller, addressing only those matters set forth in Exhibit C (the "Side Letter").

(c) At the Closing, Purchaser shall deliver or cause to be delivered to Seller, the following: (x) the Purchase Price, as provided in Section 2.6(a), and (y) the following instruments and documents, in each case, in form and substance reasonably acceptable to Seller:

(i) Assignments of Assumed Contracts duly executed by Purchaser;

(ii) executed assumption agreements and all other instruments appropriate to evidence Purchaser's assumption of the Assumed Liabilities;

(iii) certificates of an authorized officer of Purchaser as to the resolutions adopted by the Boards of Directors of Purchaser relating to the transactions contemplated hereby;

(iv) the Services Agreement, duly executed by an authorized officer of Purchaser; and

(v) the Side Letter, duly executed by an authorized officer of Purchaser.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the correspondingly numbered section of the disclosure schedules attached hereto that relates to such Section of this Agreement (the "Seller Disclosure Schedules"), Seller hereby makes the representations and warranties contained in this Article IV to Purchaser.

Section 4.1 Organization. Seller is (i) a limited partnership duly organized, validly existing and in good standing under the Laws of Delaware and (ii) is duly qualified or licensed to do business and is in good standing in each jurisdiction in which such qualification or licensing is necessary under applicable Laws or where the Exploitation of Seller's Product requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect. Seller has no Subsidiaries.

Section 4.2 Authority; Binding Effect. (a) Seller has all requisite limited partnership power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder. The execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary limited liability action on behalf of Seller.

(b) This Agreement has been duly executed and delivered by Seller and, assuming the valid execution and delivery by Purchaser, constitutes a valid and binding obligation of Seller, and each Ancillary Agreement will be, prior to the Closing, duly executed and delivered by Seller and will, assuming the valid execution and delivery by Purchaser, from and after the Closing, constitute a valid and binding obligation of Seller, in each case enforceable against Seller in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or law) (the "Bankruptcy and Equity Exception").

Section 4.3 No Conflicts; Consents. The execution, delivery and performance of this Agreement and the Ancillary Agreements by Seller and the consummation of the transactions contemplated hereby and thereby do not and will not (i) violate any provision of the organizational documents of Seller; (ii) subject to obtaining the Required Third Party Consents as well as the other consents referred to in Schedule 4.3 of the Seller Disclosure Schedules, conflict with, or result in the breach of, constitute a default under, result in the termination, cancellation or acceleration (whether after the giving of notice or the lapse of time or both) of any right or obligation of Seller under, or to a loss of any benefit to which Seller is entitled under, any Assumed Contract, or any other Contract to which the assets of Seller or any of its Affiliates are subject to the extent such relate to the Purchased Assets; and (iii) assuming compliance with the matters set forth in Section 4.4 and Section 5.5, violate or result in a breach of or constitute a default under any Law or other restriction of any Governmental Authority to which Seller is subject; except, with respect to clauses (ii) and (iii), for any violations, breaches, conflicts, defaults, terminations, cancellations or accelerations as would not reasonably be expected to be material to the Business, Purchased Assets or the Product.

Section 4.4 Governmental Authorization. The execution and delivery of this Agreement and the Ancillary Agreements by Seller or any Affiliate thereof does not require any consent or approval of any Governmental Authority included within the Required Third Party Consents.

Section 4.5 Absence of Material Changes. Except as otherwise contemplated or permitted by this Agreement, from December 31, 2015 to the date of this Agreement:

(a) there has not been any Material Adverse Effect; and

(b) other than with respect to the transactions contemplated by this Agreement and the exploration of strategic alternatives for the Purchased Assets by Seller, Seller operated the Purchased Assets, in all material respects, in the ordinary course of business.

Section 4.6 No Litigation. No proceeding by or before any Governmental Authority is pending against or, to the Knowledge of Seller, threatened in writing against Seller with respect to the Purchased Assets that would reasonably be expected to be material to the Business, the Purchased Assets and the Product, taken as a whole, or that in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions

contemplated by this Agreement or the Ancillary Agreements. None of Seller or any of its Purchased Assets are subject to any Governmental Order or arbitration award that is material to the Purchased Assets, taken as a whole, or that imposes any material limitation on the ability of Seller to operate its Business as currently conducted.

Section 4.7 Compliance with Laws. Except as to matters otherwise set forth in this Agreement:

(a) Since January 1, 2015, Seller and its Affiliates have operated the Business in material compliance with all Laws applicable to the Purchased Assets, including the FDA Act;

(b) Seller possesses all Governmental Authorizations necessary for the operation of the Business and the Purchased Assets as currently conducted; and

(c) since January 1, 2015, no Governmental Authority has notified Seller or any Affiliate of Seller in writing that Seller or an Affiliate of Seller (with respect to the Product, the Purchased Assets or the operation of the Business) is in violation of any applicable Law.

Section 4.8 Product Registrations; Regulatory Compliance.

(a) Schedule 4.8(a) of the Seller Disclosure Schedules sets forth, as of the date hereof, a list of all Product Registrations with respect to the Product in the United States, which constitute all material registrations, applications, approvals, licenses or permits granted by any Governmental Authority and used by Seller or any Affiliate of Seller in the Exploitation of the Product since January 1, 2015.

(b) All of the Product sold under the Product Registrations are, and at all times since January 1, 2015, have been manufactured and marketed in accordance with the specifications and standards contained in such Product Registrations and in accordance with applicable Laws, except where the failure to comply therewith would not reasonably be expected to be material to the Business, the Purchased Assets and the Product, taken as a whole.

(c) Seller is the sole and exclusive owner of the Product Registrations, free and clear of any Liens, other than Permitted Encumbrances.

(d) (i) The Product Registrations are in full force and effect, (ii) all product fees, establishment fees and other fees invoiced by or payable to any Governmental Authority with respect to any of the Product Registrations for the annual period commencing October 1, 2016, have been paid (other than any branded prescription drug fees that are Assumed Liabilities) and (iii) there are no Proceedings pending (or, to the Knowledge of Seller, threatened) which could result in the revocation, cancellation or suspension of any of the Product Registrations.

(e) Except as set forth on Schedule 4.8(e), no right of reference has been granted to any Person with respect to any of the Product Registrations.

(f) To the Knowledge of Seller, there are no pending requirements to conduct any Phase IV or other clinical studies with respect to any Product of Seller in the United States for any approved indication.

(g) Neither Seller nor any of Seller's Affiliates or any of their respective contractors has (nor, to the Knowledge of Seller, has any other Person) at any time since January 1, 2015 (i) received or been subject to a warning letter, untitled letter, Form FDA 483, or any other similar Governmental Authority notice or action relating to any Product; (ii) been subject to any Governmental Authority detention, seizure, injunction, consent decree, notice of criminal investigation, indictment, sentencing memorandum, plea agreement, court order, target or no-target letter, or other investigation relating to any Product; or (iii) initiated or been subject to any product recall, market withdrawal, stock replacement or post-sale warning relating to any Product.

Section 4.9 Intellectual Property.

(a) Schedule 4.9(a)(i) – (iv) of the Seller Disclosure Schedules set forth a true and correct list of all (i) Patent Rights, (ii) applications and registrations for Trademarks, (iii) URL registrations and (iv) applications and

registrations for Copyrights, in each case to the extent owned by Seller or any Seller Affiliate and used or held for use in connection with the Exploitation of the Product as of the date of this Agreement ("Owned Intellectual Property").

(b) Except as set forth on Schedule 4.9(b)(i) – (iii) of the Seller Disclosure Schedule:

(i) there is no action or proceeding pending, nor any notice of any objection or claim (other than objections or claims that have been previously resolved) asserted in writing or, to the Knowledge of Seller, threatened by any Person, with respect to or challenging, the ownership, validity or enforceability of any Owned Intellectual Property (or, to the Knowledge of Seller, any Intellectual Property licensed to Seller or a Seller Affiliate pursuant to an Assumed Contract ("Licensed Intellectual Property"));

(ii) the Owned Intellectual Property and the rights of Seller or a Seller Affiliate to any Licensed Intellectual Property are free and clear of any Liens, other than Permitted Encumbrances; and

(iii) none of the Owned Intellectual Property (nor, to the Knowledge of Seller, the rights of Seller or a Seller Affiliate to any Licensed Intellectual Property) is the subject of (A) any pending (or, to the Knowledge of Seller, threatened) material adverse claim, judgment, injunction, order, decree or agreement restricting (1) its use in connection with any Product or (2) assignment thereof to Purchaser as contemplated hereunder, or (B) any other pending (or, to the Knowledge of Seller, threatened) material litigation or claim of infringement.

(c) Except for the rights and assets set forth on Schedule 4.9(c) of the Seller Disclosure Schedules, the (i) Owned Intellectual Property, (ii) the rights of Seller to Licensed Intellectual Property under the Assumed Contracts, (iii) any Intellectual Property with respect to the Seller Company Identifiers and (iv) the Licensed Know-How, collectively, include all of the material Intellectual Property used by Seller or any Affiliate of Seller to Exploit the Product since January 1, 2015.

(d) Except as set forth on Schedule 4.9(d), to the Knowledge of Seller the Exploitation of Seller's Product in the manner in which such Product has been Exploited since January 1, 2015, does not infringe, misappropriate or otherwise violate any Intellectual Property or proprietary right of any Person.

(e) Except as set forth on Schedule 4.9(e) of the Seller Disclosure Schedule, Seller has not granted any license, option or other rights with respect to any of its Owned Intellectual Property or, with respect to the Product, any rights of Seller to any Licensed Intellectual Property to any other Person, in each case to the extent such license, option or other rights is material to the Exploitation of the Product.

Section 4.10 Assets.

(a) Except as otherwise expressly provided in this Agreement, Seller owns or has the legal right to use all of its Purchased Assets. Seller has good and marketable title to all its Purchased Assets (other than Product Registrations and Intellectual Property, which are the subject of Section 4.8 and Section 4.9, respectively), free of Liens, except for Permitted Encumbrances.

(b) Except for the rights and assets set forth on Schedule 4.10 of the Seller Disclosure Schedules, the Purchased Assets, together with the rights granted to Purchaser under the Ancillary Agreements, constitute all of the assets and rights of Seller and/or its Affiliates pertaining to the Product or used or held for use by Seller in the Exploitation of the Product. Except as set forth on Schedule 4.10 of the Seller Disclosure Schedules, (i) no Affiliate of Seller has any rights to or interest in any of the Purchased Assets, except for (A) such rights or interest that will be assigned to Purchaser at the Closing and (B) such rights or interest under the Affiliate Agreements, which Affiliate Agreements will be terminated at the Closing, (ii) no SWK Affiliate has any rights to or interest in (other than by virtue of any ownership interest in the Seller) any of the Purchased Assets and is not and has not been a party to any agreement with Seller with respect to or otherwise relating to the Product, and (iii) Cranford Pharmaceuticals, LLC has no rights to or interest in any of the Purchased Assets.

Section 4.11 Taxes.

(a) Seller has duly and timely filed, including extensions (or caused to be filed) with the appropriate Taxing Authorities all income and other material Tax Returns relating to its Purchased Assets required to be filed. No claim has ever been made in writing by a Taxing Authority in any jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction as a result of its operation, ownership or use of Purchased Assets.

(b) Seller has paid (or caused to be paid) all income and other material Taxes relating to its Purchased Assets due and payable (whether or not shown on any Tax Return) on or prior to the Closing Date. Seller has withheld or collected (or caused to be withheld or collected) all material Taxes relating to its Purchased Assets required to be withheld or collected.

(c) There are no Liens for Taxes, nor, to the Knowledge of Seller, is any Taxing Authority in the process of imposing any Lien, on the Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition. There are no written claims, assessments, deficiencies or other adjustments for Taxes against Seller which, if not satisfied or resolved, would result in a Lien on the Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition, that would survive the Closing Date or in a Liability of Purchaser or its Affiliates as a transferee of or successor to Seller's Purchased Assets.

(d) Seller has not waived any statute of limitations, agreed to any extension of time, or entered into any written agreement in respect of Taxes, the nonpayment or underpayment of which would result in a Lien on its Purchased Assets, other than for Permitted Encumbrances set forth in clause (ii) of such definition, that would survive the Closing Date, or in a Liability of Purchaser or its Affiliates as a transferee of or successor to such Purchased Assets.

Section 4.12 Contracts.

(a) Schedule 4.12(a) of the Seller Disclosure Schedules sets forth, as of the date of this Agreement, a true, correct and complete list of all of the Assumed Contracts (including all amendments or modifications thereto), to which Seller is a party which are used in the Exploitation of the Product or by which any of its Purchased Assets are bound, including:

(i) any Contract that, in accordance with its terms, requires aggregate payments of [***] or more within the twelve (12) month period following the date hereof and that is not cancelable without Liability on sixty (60) or fewer days' notice to the other party thereto;

(ii) any Contracts or agreements relating to or evidencing indebtedness in excess of [***] which is secured in whole or part by the Purchased Assets;

(iii) any Contracts that contain any non-compete or exclusivity provisions (or obligates Purchaser or any of its Affiliates to enter into any non-compete or exclusivity arrangements following the Closing) with respect to any line of business or geographic area;

(iv) any Contract that requires (or would require upon the happening of a contingency) the disposition of any assets or line of business of Seller prior to Closing, or by Purchaser or any of its Affiliates following the Closing;

(v) any Contract that grants a contractual counterparty "most favored nation" or similar status;

(vi) any Contract that restricts the conduct of any line of business (including the ability to research, develop, distribute, sell, supply, market or manufacture any product (including Product under development) for any indication in any product market, therapeutic area or geographic area) by Purchaser or any of its Affiliates following the Closing;

(vii) any Contract that requires or obligates Purchaser or any of its Affiliates to purchase specified minimum amounts of any product or material or to perform or conduct research, clinical trials or development for the benefit of any Person other than Purchaser or any of its Affiliates;

(viii) any Contract that prohibits or limits in any material respect the right of Seller prior to Closing, or Purchaser or any of its Affiliates following the Closing, to make, sell or distribute any Product or services or use, transfer, license, distribute or enforce any of its Intellectual Property;

(ix) any Contract that could reasonably be expected to account for sales of one or more of the Product by Seller or any Seller Affiliate of [***] or more in the aggregate during the fiscal years ending December 31, 2016 or 2017;

(x) any Contract that is a settlement agreement, other than (A) releases or separation agreements entered into with former employees or current or former independent contractors and (B) settlement agreements under which there are no continuing obligations, Liabilities or rights (excluding releases);

(xi) any Contract pursuant to which Seller is granted a license, covenant not to sue, option or other right with respect to any Licensed Intellectual Property that is material to the Exploitation of the Product;

(xii) any Contract pursuant to which Seller grants a third party a license, covenant not to sue, option or other right with respect to any Purchased Intellectual, excluding licenses, covenants not to sue, options and other rights granted in the ordinary course of business; and

(xiii) any Contract that contains any liability or obligation to indemnify any Person against any Tax Liability or to share any Tax Liability with any Person (other than commercial Contracts, the primary purpose of which is not related to Taxes, none of which are Assumed Contracts).

(b) Seller has made available to Purchaser true, complete and correct copies of all Assumed Contracts including any and all amendments, supplements or modifications thereto, or detailed descriptions of any oral Assumed Contracts, to which it is a party. Each Assumed Contract is a legal, valid and binding obligation, and is enforceable against Seller, and, to the Knowledge of Seller, the other party thereto, and is in full force and effect, subject to the Bankruptcy and Equity Exception. Neither Seller nor, to the Knowledge of Seller, any other party thereto (i) is in breach or violation of, or default under, or has delivered a notice of termination of, any such Assumed Contract and no event has occurred that, with the giving of notice or lapse of time or both, would constitute a breach or default of any such Assumed Contract, (ii) has not communicated any intention or threat to Seller, to reduce the prices it will pay to Seller pursuant thereto, to terminate or to cancel any such Assumed Contract or has failed to renew or extend the term of any such Assumed Contract upon the expiration of any such term.

(c) From and after the Closing, the Purchaser will have no obligation to make any payment to or perform any obligation for the benefit of any Affiliate of Seller (whether pursuant to an Assumed Contract or otherwise), except to the extent expressly set forth herein or in an Ancillary Agreement.

(d) Schedule 4.12(d) of the Seller Disclosure Schedules sets forth, as of the date of this Agreement, a true, correct and complete list, with respect to the Product, any Contract between Seller or any Seller Affiliate and each of (A) the ten (10) largest customers and (B) the two sole suppliers of the Product during either the fiscal year ended December 31, 2015 or the fiscal year ended December 31, 2016.

(e) Seller has (i) accurately calculated and paid all royalty payments or license fees owed pursuant to the Assumed Contracts set forth on Schedule 4.12(e) in respect of sales of the Product for all periods ending on or prior to December 31, 2016 and (ii) not received any written notice from any counterparty to an Assumed Contract alleging that Seller has failed to pay any amounts due thereunder.

(f) No Assumed Contract contains any provision that would impose a 'failure to supply' penalty on the Purchaser following the Closing.

(g) There are no outstanding purchase orders issued by Seller or any Affiliate of Seller (including Akrimax) to the manufacturer or packager of the Product with a scheduled delivery date prior to January 1, 2018 or which would otherwise result in the delivery of any Product to Seller or Purchaser prior to January 1, 2018.

Section 4.13 Financial Statements.

(a) Seller has provided to Purchaser a correct and complete copy of an audited balance sheet (including any related notes thereto) of Seller for the year ended December 31, 2015 together with the audited statement of income and cash flows for the year ended December 31, 2015 (the "Audited Financial Statements"). The Audited Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), are consistent with and were prepared from the books and records of Seller, and fairly present in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the of the respective dates thereof and for the respective periods, except as otherwise set forth in the notes thereto.

(b) Seller has provided to Purchaser a correct and complete copy of the unaudited balance sheet of Seller for the three (3) month period ended December 31, 2016, together with the unaudited consolidated statement of income and cash flows for the three (3) month period ended on December 31, 2016 (the "Unaudited Financial Statements" and, collectively with the Audited Financial Statements, the "Financial Statements"). The Unaudited Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in any notes thereto), are consistent with and were prepared from the books and records of Seller, and fairly present in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the respective dates thereof and for the respective periods indicated, except that the Unaudited Financial Statements do not contain notes and are subject to normal year-end adjustments (none of which would be materially adverse).

(c) Section 4.13(c) of the Seller Disclosure Schedule sets forth, in all material respects, a complete and correct calculation of Net Sales and Gross Profits of Seller and its Affiliates, based on unaudited financial statements available as of the date hereof, with respect to the Product (calculated on a consolidated basis and consistent with and prepared from the books and records of Seller) for the year ended December 31, 2016.

(d) Seller maintains books and records accurately reflecting its material assets and material liabilities and a system of internal controls that management reasonably believes is sufficient to ensure that transactions are recorded as necessary to permit preparation of financial statements of Seller in conformity with GAAP and to maintain asset accountability, and to provide adequate assurance that material transactions and access to assets are authorized only by management. Such books and records are accurate and complete in all material respects. Seller does not maintain any off-the-book accounts. Seller has disclosed to Purchaser any known or, to the knowledge of Seller, alleged fraud, respecting Seller or any Affiliate of Seller since January 1, 2015, that involves management or other employees who have had a significant role in the internal control over financial reporting.

Section 4.14 Suppliers and Customers. No customer or supplier identified in Section 4.14 of the Seller Disclosure Schedule has, since January 1, 2016, ceased, failed to renew or materially altered its relationship with Seller or an Affiliate of Seller with respect to the Business in a manner adverse to Seller or such Affiliate or, to the Knowledge of Seller, has threatened in writing to cease or materially alter such relationship in a manner materially adverse to Seller or its Affiliate. No such customer has notified Seller or an Affiliate of Seller in writing, that it shall stop, or materially decrease the rate of, buying Product from Seller or an Affiliate of Seller which would be materially adverse to Seller or its Affiliate. No such supplier has notified Seller or an Affiliate of Seller in writing that it shall stop, or materially decrease the rate of, supplying materials, Product or services to Seller or an Affiliate of Seller with respect to the Business which would be materially adverse to Seller.

Section 4.15 Brokers. Except as set forth on Schedule 4.15 of the Seller Disclosure Schedule (whose fees will be paid by Seller), no broker, finder or investment banker is entitled to any brokerage, finder's or

other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

Section 4.16 Inventories. As of the Closing, the Purchased Inventories: (i) are in material compliance with all applicable specifications, (ii) have been manufactured in all material respects in accordance with current Good Manufacturing Practices, as set forth in the United States Code of Federal Regulations, and (iii) are not misbranded or adulterated, within the meaning of the Food, Drug and Cosmetics Act.

Section 4.17 Ordinary Course. Except as set forth on Schedule 4.17 of the Seller Disclosure Schedule, since January 1, 2016, the Seller and each of its Affiliates has maintained the Purchased Assets and Exploited the Product in the ordinary course of business consistent in all material respects, with past practice. Except as set forth on Schedule 4.17 of the Seller Disclosure Schedule, since September 30, 2016, neither Seller nor any Affiliate of the Seller has offered any discounts or sales promotions intended to increase sales of the Product, except as required under Contracts existing as of such date.

Section 4.18 Base Period AMP. The base period AMP set forth on Schedule 4.18 for the Product has been calculated in accordance with all applicable Laws, and to Seller's knowledge, there are no facts or circumstances that would require a restatement of the base period AMP for any Product.

Section 4.19 No Other Representations or Warranties. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY CONTAINED IN THIS Article IV (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES), NEITHER SELLER NOR ANY OTHER PERSON MAKES ANY OTHER EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), REPRESENTATION OR WARRANTY WITH RESPECT TO SELLER, THE PURCHASED ASSETS, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE ASSUMED LIABILITIES AND ANY OTHER RIGHTS OR OBLIGATIONS TO BE TRANSFERRED HEREUNDER OR PURSUANT HERETO, AND SELLER DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY SELLER OR ANY OF ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, AND WITHOUT LIMITING THE EXPRESS REPRESENTATIONS AND WARRANTIES OF SELLER SET FORTH HEREIN (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES), IT IS THE EXPLICIT INTENT AND UNDERSTANDING OF EACH PARTY HERETO THAT PURCHASER TAKES THE PURCHASED ASSETS "AS IS," "WHERE IS" AND "WITH ALL KNOWN AND UNKNOWN FAULTS." EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY CONTAINED IN THIS Article IV (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULES) OR IN THE ANCILLARY AGREEMENTS, SELLER HEREBY DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED OR FURNISHED (ORALLY OR IN WRITING) TO PURCHASER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO PURCHASER BY ANY DIRECTOR, OFFICER, EMPLOYEE, AGENT, CONSULTANT OR REPRESENTATIVE OF SELLER OR ANY OF ITS AFFILIATES). SELLER MAKES NO REPRESENTATIONS OR WARRANTIES TO PURCHASER REGARDING THE PROBABLE SUCCESS OR PROFITABILITY OF THE PURCHASED ASSETS OR THE PRODUCT.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the section of the disclosure schedules attached hereto that relates to such Section of this Agreement (the "Purchaser Disclosure Schedules"), Purchaser hereby represents and warrants to Seller as follows:

Section 5.1 Organization and Qualification. Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation and has full corporate power and authority to conduct its business as it is presently being conducted and to own and lease its properties and assets.

Section 5.2 Corporate Authorization. No vote of holders of capital stock of Purchaser or any of its Affiliates is necessary to approve this Agreement or the transactions contemplated by this Agreement. Purchaser has all requisite corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to which it will be a party, and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Purchaser of this Agreement and each such Ancillary Agreement, and the performance by Purchaser of its obligations hereunder and thereunder, have been duly authorized by all requisite or other legal entity action on the part of Purchaser.

Section 5.3 Binding Effect. This Agreement has been duly executed and delivered by Purchaser and constitutes a valid and binding obligation of Purchaser, and each Ancillary Agreement will be, prior to the Closing, duly executed and delivered by Purchaser and will, after the Closing, constitute a valid and binding obligation of Purchaser, in each case, enforceable against Purchaser in accordance with its terms subject to the Bankruptcy and Equity Exception.

Section 5.4 No Conflict; Consents. The execution, delivery and performance by Purchaser of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not (i) violate any provision of the certificate of incorporation, bylaws or other organizational documents of Purchaser; (ii) result in a breach of, or default under, or right to accelerate with respect to, any term or provision of any Contract to which Purchaser or any of its Affiliates is a party or is subject; (iii) assuming compliance with the matters set forth in Section 4.4 and Section 5.5, violate or result in a breach of or constitute a default under any Law or other restriction of any Governmental Authority to which Purchaser is subject; or (iv) require any consents, waivers, authorizations or approvals of, filings with, any Persons which have not been obtained by Purchaser (other than as contemplated by Section 5.5).

Section 5.5 Governmental Authorization. The execution and delivery of this Agreement by Purchaser do not and will not require any material consent or approval of any Governmental Authority, except for the consents or approvals set forth in Schedule 5.5 of the Purchaser Disclosure Schedules.

Section 5.6 Financing. Purchaser has, and will have at the Closing, sufficient immediately available funds necessary to pay the Purchase Price, to consummate the transactions contemplated by this Agreement and to perform its obligations in connection with this Agreement and such transactions and to pay any expenses it incurs in connection therewith. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates in connection with the transactions contemplated by this Agreement be a condition to any of Purchaser's obligations hereunder.

Section 5.7 Compliance with Laws.

(a) The businesses of each of Purchaser and its Subsidiaries are being conducted in compliance in all material respects with applicable Laws. No material audit or, to the Knowledge of Purchaser, investigation, or review by any Governmental Authority with respect to Purchaser or any of its Subsidiaries is pending or, to the knowledge of Purchaser, threatened, nor has any Governmental Authority indicated an intention to conduct the same, in each case which would be reasonably expected to adversely affect the Exploitation of the Product or Purchaser's ability to consummate the Transaction.

(b) Purchaser and each of its Subsidiaries has obtained and is in compliance with all licenses necessary for it to own, lease or operate its properties, rights and other assets and to conduct its business and operations as presently conducted in all material respects and all such licenses are in full force and effect in all material respects. No material default under, or material violation of, any material License has occurred. To Purchaser's knowledge there is not currently threatened any revocation, adverse modification or cancellation of any material license.

Section 5.8 Condition of the Purchased Assets. PURCHASER ACKNOWLEDGES AND AGREES THAT IT (I) HAS MADE ITS OWN INQUIRY AND INVESTIGATION INTO, AND, BASED THEREON, HAS FORMED AN INDEPENDENT JUDGMENT CONCERNING SELLER, THE PURCHASED ASSETS, THE PRODUCT, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE ASSUMED LIABILITIES AND ANY OTHER ASSETS, RIGHTS OR OBLIGATIONS TO BE TRANSFERRED

HEREUNDER OR PURSUANT HERETO, AND (II) HAS BEEN FURNISHED WITH, OR GIVEN ADEQUATE ACCESS TO, SUCH INFORMATION ABOUT SELLER, THE PURCHASED ASSETS, THE PRODUCT, THE ASSUMED LIABILITIES AND ANY OTHER RIGHTS OR OBLIGATIONS TO BE TRANSFERRED HEREUNDER OR PURSUANT HERETO, AS IT HAS REQUESTED. EXCEPT FOR THE SPECIFIC REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN Article IV OF THIS AGREEMENT AND IN THE ANCILLARY AGREEMENTS, (I) PURCHASER ACKNOWLEDGES AND AGREES THAT (A) SELLER IS NOT MAKING AND HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF THE PURCHASED ASSETS, SELLER, SELLER'S AFFILIATES, OR ANY OF SELLER'S OR ITS AFFILIATES' RESPECTIVE BUSINESSES, ASSETS, LIABILITIES, OPERATIONS, PROSPECTS OR CONDITION (FINANCIAL OR OTHERWISE), INCLUDING WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY ASSETS, THE NATURE OR EXTENT OF ANY LIABILITIES, THE PROSPECTS OF THE PURCHASED ASSETS OR THE PRODUCT, THE EFFECTIVENESS OR THE SUCCESS OF ANY OPERATIONS, OR THE ACCURACY OR COMPLETENESS OF ANY CONFIDENTIAL INFORMATION MEMORANDA, DOCUMENTS, PROJECTIONS, MATERIAL OR OTHER INFORMATION (FINANCIAL OR OTHERWISE) REGARDING THE PURCHASED ASSETS OR THE PRODUCT, SELLER OR SELLER'S AFFILIATES FURNISHED TO PURCHASER OR ITS REPRESENTATIVES OR MADE AVAILABLE TO PURCHASER AND ITS REPRESENTATIVES IN SELLER'S ELECTRONIC DATA ROOM, MANAGEMENT PRESENTATIONS OR IN ANY OTHER FORM IN EXPECTATION OF, OR IN CONNECTION WITH, THE TRANSACTIONS CONTEMPLATED HEREBY, AND (B) NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF SELLER OR ANY OF SELLER'S AFFILIATES HAS ANY AUTHORITY, EXPRESS OR IMPLIED, TO MAKE ANY REPRESENTATIONS, WARRANTIES OR AGREEMENTS NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT AND IN THE ANCILLARY AGREEMENTS AND SUBJECT TO THE LIMITED REMEDIES HEREIN PROVIDED; (II) PURCHASER SPECIFICALLY DISCLAIMS THAT IT IS RELYING UPON OR HAS RELIED UPON ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES THAT MAY HAVE BEEN MADE BY ANY PERSON, AND ACKNOWLEDGES AND AGREES THAT SELLER HAS SPECIFICALLY DISCLAIMED AND DOES HEREBY SPECIFICALLY DISCLAIM ANY SUCH OTHER REPRESENTATION OR WARRANTY MADE BY ANY PERSON; (III) PURCHASER SPECIFICALLY DISCLAIMS ANY OBLIGATION OR DUTY BY SELLER TO MAKE ANY DISCLOSURES OF FACT NOT REQUIRED TO BE DISCLOSED PURSUANT TO THE SPECIFIC REPRESENTATIONS AND WARRANTIES SET FORTH IN Article IV OF THIS AGREEMENT OR IN THE ANCILLARY AGREEMENTS; AND (IV) PURCHASER IS ACQUIRING THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES IN "AS IS" CONDITION AND ON A "WHERE IS" BASIS, SUBJECT ONLY TO THE SPECIFIC REPRESENTATIONS AND WARRANTIES SET FORTH IN Article IV OF THIS AGREEMENT (AS MODIFIED BY THE SELLER DISCLOSURE SCHEDULE) OR IN THE ANCILLARY AGREEMENTS AS FURTHER LIMITED BY THE SPECIFICALLY BARGAINED FOR EXCLUSIVE REMEDIES SET FORTH IN Article IX**.**

Section 5.9 Litigation. There is no material action, order, writ, injunction, judgment or decree outstanding, or Proceeding, labor dispute (other than routine grievance procedures or routine, uncontested claims for benefits under any benefit plans for any officers, employees or agents of Purchaser), arbitration, investigation or reported claim, pending or, to the Knowledge of Purchaser, threatened, before any court, Governmental Authority or arbitrator, which seeks to delay or prevent the consummation of the transactions contemplated by this Agreement or would, if successful, materially and adversely affect the Business or the Purchased Assets or ability of Purchaser to consummate the transactions contemplated by this Agreement.

Section 5.10 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser.

Section 5.11 Solvency. Immediately after the Closing, and after giving effect to the transactions contemplated by this Agreement, Purchaser will be Solvent.

ARTICLE VI

COVENANTS

Section 6.1 Information and Documents. (a) From and after the date hereof and pending Closing, upon reasonable advance notice, Seller shall (and shall cause each of its Affiliates to) (i) permit Purchaser and its Representatives to have reasonable access, during regular business hours to all offices and facilities, and the assets, books, records, agreements, documents, data, files and personnel of, and such other information relating to the Purchased Assets (including the Books and Records), (ii) furnish, or cause to be furnished, to Purchaser any financial and operating data and other information that is available with respect to Seller's Purchased Assets as Purchaser from time to time reasonably requests and (iii) instruct the personnel, and their counsels and financial advisors to cooperate with Purchaser in its investigation of the Purchased Assets, including instructing its accountants to give Purchaser access to their work papers; provided, however, that no such access shall unreasonably interfere in any material respect with Seller's or any of its Affiliate's operation of business; and provided further that Seller may restrict the foregoing access to the extent that (A) in the opinion of Seller's counsel (a copy of which is provided to Purchaser), any applicable Law requires Seller or any of its Affiliates to restrict or prohibit access to any information, (B) in the reasonable judgment of Seller, the disclosure of information would result in Seller or any of its Affiliates being in violation of confidentiality obligations to a third party, or (C) disclosure of any such information or document could result in the loss or waiver of the attorney-client privilege. If Seller seeks to withhold information from Purchaser for any reason permitted by this Section 6.1, Seller and Purchaser shall cooperate in good faith to implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided. It is further agreed that, prior to Closing, except for announcements or filings required by applicable securities laws, Purchaser and its Representatives shall not make any announcements or statements targeted at, or otherwise communicate directly with, any of the customers, manufacturers or suppliers of Seller or its Affiliates, in connection with the transactions contemplated by this Agreement, whether in person or by telephone, mail or other means of communication, without the specific prior authorization by Seller, which authorization shall not be unreasonably withheld, conditioned or delayed.

(b) Prior to the Closing, all information received by Purchaser and given by or on behalf of Seller in connection with this Agreement and the transactions contemplated hereby shall be held by Purchaser and its Affiliates, agents and Representatives as "Confidential Information", as defined in, and pursuant to the terms of, the Confidentiality Agreement.

Section 6.2 Conduct.

(a) From and after the date hereof until the earlier of the date on which this Agreement is terminated pursuant to ARTICLE X and the Closing, except (1) as set forth on Schedule 6.2 of the Seller Disclosure Schedules or as otherwise required by this Agreement or (2) as Purchaser shall otherwise consent in writing, which consent shall not be unreasonably withheld, Seller agrees that it shall (and shall cause its Affiliates to) Exploit the Product and maintain the Purchased Assets in the ordinary course of business, and use commercially reasonable efforts to preserve intact the Purchased Assets and related relationships with customers, suppliers and other third parties. From and after the date hereof until the Closing, except (x) as set forth on Schedule 6.2 of the Seller Disclosure Schedules or as otherwise required by this Agreement, or (y) as Purchaser shall otherwise consent in writing, which consent shall not be unreasonably withheld, Seller covenants and agrees that, with respect to its Purchased Assets, it shall (and shall cause its Affiliates to):

(i) not incur, create or assume any Lien, other than Permitted Encumbrances;

(ii) not incur or suffer to exist any indebtedness except (A) for working capital borrowings incurred in the ordinary course of business, (B) incurrence of trade payables in the ordinary course of business or (C) indebtedness incurred in the ordinary course of business or (D) indebtedness incurred solely in connection with Retained Liabilities or Excluded Assets;

(iii) not amend, modify or terminate any material term of, or waive any material right under, any Assumed Contract or amend or modify any agreement that would increase the liability of Purchaser under the Services Agreement;

(iv) not enter into any Contract, agreement or commitment that would constitute an Assumed Contract if it were in effect on the date of this Agreement or would increase the liability of Purchaser under the Services Agreement;

(v) not divest, sell, assign, license, transfer, abandon, cancel, convey, lease or otherwise dispose of any assets that would constitute Purchased Assets;

(vi) not adopt a plan or agreement of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other material reorganization of Seller;

(vii) not change the accounting policies or procedures except to the extent required to conform with GAAP;

(viii) not settle any Proceeding (i) that would (A) materially affect the Exploitation of any Product after the Closing or adversely affect, in a material manner, the expected Net Sales or Gross Profit of the Product in respect of the period after the Closing or (B) result in its operations with respect to any Product being subject to any Governmental Order or other equitable relief or admission of wrongdoing or (ii) for an amount, individually or in the aggregate, exceeding [***]; provided, that clause (ii) shall not apply to any Proceeding that is solely related to a Retained Liability;

(ix) not withdraw, amend, modify or terminate any Product Registrations;

(x) submit all adverse event reports required to be submitted to any Governmental Authority under any Law;

(xi) not dispose of or permit to expire, terminate or otherwise lapse any rights in, to or for the use of any Purchased Intellectual Property that is material to the Exploitation of the Product;

(xii) not grant any license, covenant not to sue or other right under any Purchased Intellectual Property;

(xiii) not offer any discounts or sales promotions other than as required under Contracts existing as of January 1, 2017;

(xiv) not issue any purchase orders that would result in delivery of any additional Product; and

(xv) not authorize, agree or resolve or consent to any of the foregoing.

(b) Nothing contained in this Agreement is intended to give Purchaser, directly or indirectly, the right to control or direct any Seller's or its Affiliate's businesses or operations prior to the consummation of the transactions contemplated by this Agreement. Prior to the consummation of the transactions contemplated by this Agreement, Seller and Purchaser shall exercise, consistent with and subject to the terms and conditions of this Agreement, complete control and supervision over their respective operations.

Section 6.3 Approvals; Efforts to Consummate Generally.

(a) On or prior to the date hereof, Seller shall obtain all approvals of its and its Affiliates' general partners, members, board of managers or analogous governing body required to be obtained under Seller's and its Affiliates organizational documents and applicable Law in order to consummate the transactions contemplated by this Agreement.

(b) Subject to the terms and conditions of this Agreement (and without limiting the requirements of Section 6.3, each Party shall use its reasonable best efforts to cause the Closing to occur as soon as possible after the date hereof, including (i) satisfying the conditions precedent set forth in Article VIII within the control of such

Party and (ii) drafting, negotiating, executing and delivering to each other in good faith such other agreements, documents, instruments and/or certificates, and doing such other acts and things, as may be reasonably necessary or desirable for the implementation of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby.

(c) Seller shall use commercially reasonable best efforts to give all notices to, make all filings with and obtain all third party consents, including the Required Third Party Consents, necessary to be obtained from any Persons (including Governmental Authorities) to consummate the transactions contemplated hereby and by the Ancillary Agreements without resulting in any breach or violation of, a default under, or an acceleration of any obligations or the creation of a Lien on the Product or the Purchased Assets (without the expenditure of any funds therefor other than filing, recordation or similar fees and related legal fees and expenses, which shall be borne by Seller).

(d) Seller shall obtain and deliver to Purchaser, no later than March 31, 2017, assignments of the URLs described on Schedule 6.3(d), duly executed by an authorized person of the third party service provider holding title thereto.

Section 6.4 Bulk Transfer Laws. Notwithstanding anything else to the contrary in this Agreement, Purchaser hereby waives compliance by Seller with the requirements and provisions of any "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Purchaser.

Section 6.5 Insurance. As of the Closing Date, the coverage under all insurance policies related to the Purchased Assets shall continue in force only for the benefit of Seller and not for the benefit of Purchaser or any of its Affiliates, except to the extent set forth herein. Purchaser agrees to arrange for its own insurance policies with respect to the Purchased Assets covering all periods and, except in connection with enforcing its rights to indemnification pursuant to Article IX, agrees not to seek, through any means, to benefit from any of Seller's insurance policies that may provide coverage for claims relating in any way to the Purchased Assets prior to the Closing.

Section 6.6 Trade Notification. Subject to the provisions set forth below, Seller and Purchaser shall agree on the method and content of the notifications to customers of the sale of the Purchased Assets to Purchaser. Seller and Purchaser agree that said notifications are to provide sufficient advance notice of the sale and the plans associated therewith.

Section 6.7 Seller-Labeled Product.

(a) From and after Closing, Purchaser and its Affiliates may use, reproduce and display, and Seller hereby grants (effective upon Closing) to Purchaser and its Affiliates, a non-exclusive, paid-up and royalty-free right and license to use, reproduce and display, the NDC Numbers, company names, company marks and company trade dress of Seller and its Affiliates and distributors related to the Product (collectively, the "Seller Company Identifiers"), solely to the extent the foregoing are affixed to: (i) the Purchased Inventory of finished, packaged Product that are included in the Purchased Assets, or (ii) in respect of rebate coupons or other promotional materials related to Product bearing Seller's NDC Numbers consistent with past practice; provided, that the license set forth in this Section 6.7(a) shall continue until Purchaser and its Affiliates have disposed of all such Purchased Inventory.

(b) Except as set forth in Section 6.7(a) and except for the rights to Trademarks that are included in the Purchased Assets, Purchaser and its Affiliates shall have no right under this Agreement to use any of the trademarks, service marks, brand names, certification marks, trade dress, logos or domain names containing the name of any Seller or any of their respective Affiliates or distributors, or any word or expression confusingly similar thereto or constituting an abbreviation or extension thereof or any logos containing or comprising the foregoing or any NDC Numbers of Seller or any of their respective Affiliates or distributors.

(c) Immediately following the Closing, Seller shall destroy and/or cause the destruction of all Excluded Inventory and promptly provide Purchaser with written confirmation thereof.

(d) Seller shall deliver to Purchaser copies of wholesaler inventory reports and an inventory report from [***], each as of the day prior to the Closing Date, no later than February 27, 2017.

Section 6.8 NDC Numbers.

(a) As soon as reasonably possible, but in any event no later than nine (9) months after the Closing Date, Purchaser shall obtain a new NDC Number and labeler code for the Product. Purchaser, at its own expense, shall prepare and file with the FDA any and all reports, documents and materials, and take such other actions, as are necessary to undertake the foregoing.

(b) Purchaser shall fully reimburse Seller and its Affiliates and distributors for any increased cost or Liability (including any returns, rebates or chargeback claims) incurred by them and associated with any changes in pricing, including any changes in wholesale acquisition cost, made by Purchaser or any of its Affiliates to any Product that bears an NDC Number of Seller or any of its Affiliates. Purchaser shall pay any such reimbursement within thirty (30) days of receiving a written request for such reimbursement from Seller, which shall be accompanied by supporting documentation that reasonably evidences the increased cost or Liability to be reimbursed. Purchaser shall notify Seller promptly of any such changes in pricing to a Product that bears an NDC Number of Seller or any of its Affiliates or distributors.

(c) Purchaser shall fully cooperate with Seller and its Affiliates and distributors by providing whatever assistance, product sales and other information and access as may be required by Seller or any of its Affiliates or distributors to comply with any reporting obligations that arise as a result of the sale by Purchaser of Product bearing an NDC Number of Seller or any of its Affiliates, and to enable Seller and its Affiliates, one time within the period of 12 months from and after the date of last commercial sale to an end customer of Product bearing an NDC Number of Seller or any Affiliate thereof, to audit the books and records of Purchaser and its Affiliates with respect to any such sales (provided, that such audit takes place upon reasonable advance written notice to Purchaser, during normal business hours of Purchaser and does not materially interfere with Purchaser's business). Purchaser represents and warrants that all Product sales and other information provided to Seller or any of its Affiliates or distributors in connection with the foregoing shall be accurate and complete in all material respects, and shall be calculated in accordance with applicable Laws and regulatory guidance.

(d) Subject to appropriate confidentiality protection, after the Closing Date and for a period of [***] years thereafter (except with respect to government claims not subject to a statute of limitations, such as Medicaid rebate claims, which shall continue as long as there is potential for a claim), Purchaser and its Affiliates shall reasonably cooperate (at Seller's expense) with Seller and its Affiliates, distributors and Representatives, subject to confidentiality protections reasonably satisfactory to Purchaser, during normal business hours and upon reasonable advance notice, to provide reasonable access to records maintained by Purchaser and its Affiliates relating to Purchaser and its Affiliates' distribution of Seller's Seller-Labeled Product or related regulatory filing and reporting requirements and activities with respect to Seller's Seller-Labeled Product, including, without limitation, government price reporting ("Distribution Activities"), to provide reports reasonably requested by Seller or its Affiliates or distributors regarding such records and information, and to permit copying at the expense of Seller or, for the purposes of (i) any financial reporting or Tax matters relating to Distribution Activities, (ii) any claims or litigation involving Distribution Activities or (iii) any investigation being conducted by any federal, state or local Governmental Authority relating to Distribution Activities.

(e) Seller will maintain Seller's NDC numbers for the Product at all times after the Closing Date until the shelf life of all Purchased Inventory has expired based on the respective expiration dates set forth on the labels for the Product included in the Purchased Inventory and thereafter remove (or delist) the Product from the DailyMed website as soon as reasonably practicable. Seller will work with the Purchaser to update the prescribing information, or other required update, in the drug listing files to maintain regulatory compliance when necessary prior to the delisting.

Section 6.9 No-Shop.

(a) From the date hereof until the Closing or earlier termination of this Agreement in accordance with the terms hereof, Seller and its Affiliates shall not, and shall not authorize or permit any of their

Representatives to, directly or indirectly, (i) knowingly encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal other than to state that Seller, its Affiliates and each of their Representatives are restricted from entering into, continuing or participating in such discussions or negotiations pursuant to the terms of this Section 6.9; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller and its Affiliates shall immediately cease and cause to be terminated, and shall cause their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could reasonably be expected to lead to, an Acquisition Proposal and shall revoke all access in favor of any Person (other than Purchaser and its Representatives) to any virtual data room established for the purposes of evaluating a potential acquisition of all or a part of the Purchased Assets or the Business. For purposes of this Section 6.9, "Acquisition Proposal" shall mean any inquiry, proposal or offer from any Person (other than Purchaser or any of its Affiliates) concerning (i) the direct or indirect purchase, whether by sale, merger or otherwise, or license of all or any portion of the Purchased Assets (including by way of the purchase of the equity interests of Seller or any Affiliate thereof); or (ii) the disclosure, directly or indirectly, to any Person of any confidential information or data concerning the Purchased Assets or the Business except as necessary to conduct business in the ordinary course consistent with past practice.

(b) Seller agrees that the rights and remedies for noncompliance with this Section 6.9 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Purchaser and that money damages would not provide an adequate remedy to Purchaser.

Section 6.10 Transfer of Product Registrations, Related Applications and Dossiers.

(a) On the Closing Date, Seller shall deliver a letter to the FDA transferring the rights to the Product Registrations to Purchaser (or its designee) in the form attached hereto as Exhibit D. On the Closing Date, Purchaser shall deliver a letter to the FDA assuming responsibility for the Product Registrations from Seller. As soon as practical after the Closing Date and in no event more than sixty (60) calendar days following the Closing Date, Seller shall deliver to Purchaser, or its Affiliate as directed by Purchaser, in physical and electronic form, the regulatory documentation in the possession or control of Seller or any Affiliate of Seller related to such Product Registrations.

(b) Promptly after the Closing and in any event within thirty (30) calendar days after the Closing, Seller and Purchaser shall make all appropriate filings and submissions with Governmental Authorities, including the Centers for Medicare & Medicaid Services, the Veteran's Administration and the FDA to transfer all regulatory responsibilities, if any (excluding all Retained Liabilities and except as contemplated by Section 6.8 (NDC Numbers) and the Services Agreement) attaching thereto of the Product, from Seller to Purchaser.

(c) Without limiting the Parties' respective obligations under Section 6.10(a) with respect to any Product that is marketed in the United States on the basis of an existing Product Registration, (i) Seller shall use all commercially reasonable efforts to complete the transfer of the corresponding Product Registrations as promptly as practicable after the Closing Date to the benefit of Purchaser or its Affiliates as directed by Purchaser in accordance with this Section 6.10(c) and (ii) Purchaser or its Affiliates shall use all commercially reasonable efforts to assist Seller in the transfer of such Product Registrations, accept the transfer of the corresponding Product Registrations and formalize with Seller and any applicable Governmental Authority, as promptly as practicable after the Closing Date, all necessary documents. Following the transfer of the Product Registration, neither Seller nor any Affiliate of Seller shall retain any rights in the Product Registration, including any rights to use or reference.

Section 6.11 Confidentiality. From and after the Closing:

(a) The Confidentiality Agreement will terminate without further action by the parties thereto.

(b) Seller shall treat (and shall cause each of its Affiliates to treat) as confidential and shall safeguard any and all information, knowledge and data included in the Purchased Assets by using the same degree of care, but no less than a reasonable standard of care, to prevent the unauthorized use, dissemination or disclosure

of such information, knowledge and data as Seller or its Affiliates used with respect thereto prior to the execution of this Agreement.

(c) Purchaser shall treat as confidential and shall safeguard any and all information, knowledge or data included in any information relating to the business of Seller, other than the Business, Product, the Purchased Assets or the Assumed Liabilities, and except as otherwise agreed to by Seller in writing; provided, however, that nothing in this Section 6.11(c) shall prevent the disclosure of any such information, knowledge or data to any agents, advisors, directors, officers or employees of Purchaser to whom such disclosure is necessary or desirable in the conduct of Purchaser's business if such Persons are informed by Purchaser of the confidential nature of such information and are directed by Purchaser to comply with the provisions of this Section 6.11(c).

(d) Purchaser and Seller acknowledge that the confidentiality obligations set forth herein shall not extend to information, knowledge and data that is publicly available or becomes publicly available through no act or omission of the Party owing a duty of confidentiality, or becomes available on a non-confidential basis from a source other than a party owing a duty of confidentiality so long as such source is not known by such Party to be bound by a confidentiality agreement with or other obligations of secrecy to the other Party.

(e) In the event of a breach of the obligations hereunder by Purchaser or Seller, the non-breaching party, in addition to all other available remedies, will be entitled to injunctive relief to enforce the provisions of this Section 6.11 in any court of competent jurisdiction.

Section 6.12 Know-How License. Effective as of the Closing, Seller hereby grants to Purchaser (on behalf of itself and its Affiliates) a perpetual, irrevocable, transferable (as set forth in this Section 6.12), sublicensable (as set forth in this Section 6.12), non-exclusive, paid-up, royalty-free, worldwide right and license to use and otherwise exploit the trade secrets, technical information, data and know-how owned by Seller or any Affiliate of Seller related to the Product (the "Licensed Know-How") in developing, commercializing, manufacturing, using, packaging, marketing, promoting, importing, exporting, researching, transporting, selling and distributing the Product. Purchaser may (but it is not obligated to) transfer the foregoing license, and/or grant sublicenses thereunder, to (a) any of its Affiliates, and (b) any acquirer of any of the assets or business of Purchaser and its Affiliates relating to any of the Product.

Section 6.13 Correspondence. Seller authorizes Purchaser on and after the Closing Date to receive and open all mail and other communications received by Purchaser relating to the Purchased Assets and to deal with the contents of such communications in good faith and in a proper manner. Seller shall use commercially reasonable efforts to promptly deliver, or cause to be delivered, to Purchaser any mail or other communications received by Seller or any Affiliate of Seller from any Person (including the FDA) related to the Purchased Assets (including any mail or other communications in respect of the Product, the subject matter of this Agreement and the Ancillary Agreements).

Section 6.14 Pharmacovigilance. Prior to the Closing, Seller shall cooperate with Purchaser and shall facilitate and assist in negotiating arrangements between the third party that currently provides pharmacovigilance services to Seller and the third party that currently provides pharmacovigilance services to Purchaser for the reporting of adverse events and provision of other required regulating information with respect to the Product, all in form and substance reasonably satisfactory to Purchaser. Until such arrangements are in place, Seller shall promptly report adverse events to Purchaser to permit Purchaser to comply with applicable Law.

Section 6.15 [Reserved].

Section 6.16 Certain Financial Information. Within two (2) Business Days after Seller obtains audited Financial Statements for the year ended December 31, 2016, but not later than June 1, 2017, Seller shall deliver to Purchaser the audited Financial Statements of Seller for the year ended December 31, 2016, including a balance sheet, statement of operations and statement of income and cash flows certified by the Chief Financial Officer of Seller as (i) prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), (ii) consistent with and were prepared from the books and records of Seller, and (iii) fairly presenting in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the date thereof and for the period thereof, except as otherwise set forth in

the notes thereto. In addition, no later than March 31, 2017, Seller shall deliver to Purchaser the unaudited Financial Statements of Seller for the year ended December 31, 2016, including a balance sheet, statement of operations and statement of income and cash flows certified by the Chief Financial Officer of Seller as (A) prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), (B) consistent with and were prepared from the books and records of Seller, and (C) fairly presenting in all material respects the financial condition, results of its operations and income and cash flows of Seller as of the date thereof and for the period thereof, except as otherwise set forth in the notes thereto.

Section 6.17 Wrong-Pocket Assets. If at any time or from time to time after the Closing Date, a Seller any of its Affiliates, on the one hand, or Purchaser or any of its Affiliates, on the other, shall receive or otherwise possess any asset (including cash) that should belong to Purchaser or its Affiliates, on the one hand, or Seller or its Affiliates, on the other, pursuant to this Agreement, such Person shall promptly transfer, or cause to be transferred, such asset to the Person so entitled thereto. Prior to any such transfer in accordance with this Section 6.17, the Person receiving or possessing such asset shall hold such asset in trust for such other Person.

Section 6.18 Consultation and Cooperation. In connection with any claims with respect to, or enforcement of: (i) any of Seller's rights under warranties, guaranties, indemnitees and similar rights against third parties, including any predecessors in title, to the extent related to the Exploitation of the Purchased Assets and the Product prior to the Closing Date, or (ii) any other rights, claims or causes of action of Seller against third parties in connection with the Exploitation of the Purchased Assets and the Product prior to the Closing Date, Seller hereby agrees to consult and reasonably cooperate in good faith with Purchaser prior to the commencement of any such claim or enforcement and Seller shall refrain from commencing any Proceeding or asserting any such right to the extent Purchaser in good faith concludes that any such claim or enforcement may reasonably be expected to have an adverse effect on the ability of Purchaser to Exploit the Purchased Assets and the Product in a manner consistent with Purchaser's ordinary course of business with respect to the Purchased Assets and the Product.

ARTICLE VII

NON-COMPETE

Section 7.1 Non-Compete. For a period of seven (7) years from and after the Closing Date (the "Non-Compete Period"), neither Seller nor any Affiliate thereof (which, for clarity shall not include any SWK Affiliate) shall market or sell, or license to any other party the right to market or sell, the Product, or any "AB-rated" generic thereof, in the Territory (a "Competing Business"); provided, that, notwithstanding the foregoing, Seller and its Affiliates shall not be restricted from:

(a) collectively owning less than five percent (5%) of any class of securities of any publicly traded company conducting a Competing Business if such securities are held as a passive investment; or

(b) acquiring one or more Persons or businesses that include within its business a Competing Business, so long as (i) the Competing Business comprises no more than twenty-five percent (25%) of the acquired business (and is not reasonably expected to comprise more than twenty-five percent (25%) of the acquired business prior to the end of the Non-Compete Period), based on net sales attributable to such Competing Business as compared to the aggregate net sales of the acquired business as a whole, and (ii) Seller or its Affiliate, as applicable, completes the sale of the Competing Business within six (6) months of the acquisition; provided, however, that if such sale is subject to regulatory approval, then such six-(6) month period shall be extended until five (5) Business Days after all regulatory approvals have been received, but only to the extent that the parties to such sale are using commercially reasonable efforts to obtain any such approvals.

ARTICLE VIII

CONDITIONS TO CLOSING

Section 8.1 Conditions to the Obligations of Purchaser and Seller. The respective obligations of each of the Parties to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) There shall be no Governmental Order in existence that prohibits or materially restrains the transactions contemplated by this Agreement or the Ancillary Agreements, and there shall be no Proceeding pending by any Governmental Authority seeking such a Governmental Order.

(b) The transactions contemplated by that certain Asset Purchase Agreement, dated as of the date hereof, by and between Cranford Pharmaceuticals, LLC and Purchaser shall be consummated, in accordance with the terms of such purchase agreement, concurrently with the Closing.

Section 8.2 Conditions to the Obligations of Purchaser. The obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) The representations and warranties of Seller contained herein shall be true and correct in all material respects as of the Closing, as if made as of the Closing (except for those representations and warranties that address matters as of a particular date, which need be true and correct only as of such date), (disregarding for purposes of this clause (a) any Material Adverse Effect, materiality or similar qualifier contained in such other representations and warranties, other than the representations and warranties made in Section 4.5(a)). Purchaser shall have received a certificate of Seller, dated as of the Closing Date and signed by an officer of Seller in such capacity, certifying as to the fulfillment of the foregoing.

(b) Seller shall have performed in all material respects its agreements and obligations contained in this Agreement required to be performed by it at or before the Closing. Purchaser shall have received a certificate of Seller, dated as of the Closing Date and signed by an officer of Seller in such capacity, certifying as to the fulfillment of the foregoing.

(c) Seller shall have made or caused to be made delivery to Purchaser of the items required by Section 3.1(b).

(d) No event shall have occurred since the date hereof which has had a Material Adverse Effect.

Section 8.3 Conditions to the Obligations of Seller. The obligation of Seller to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the following conditions precedent:

(a) The representations and warranties of Purchaser contained herein shall be true and correct in all material respects as of the Closing, as if made as of the Closing (except for those representations and warranties that address matters as of a particular date, which need be true in all material respects only as of such date). Seller shall have received a certificate of Purchaser, dated as of the Closing Date and signed by an officer of Purchaser in such capacity, certifying as to the fulfillment of the foregoing.

(b) Purchaser shall have performed in all material respects its agreements and obligations contained in this Agreement required to be performed by it at or before the Closing. Seller shall have received a certificate of Purchaser, dated as of the Closing Date and signed by an officer of Purchaser in such capacity, certifying as to the fulfillment of the foregoing.

(c) Purchaser and its Affiliates shall have made or caused to be made delivery to Seller of the items required by Section 3.1(c).

Section 8.4 Frustration of Closing Conditions. Neither of Seller or Purchaser may rely on the failure of any condition set forth in this Article VIII to be satisfied if such failure was caused by such Party's failure to act in good faith or to use its reasonable best efforts to cause the Closing to occur, as required by Section 6.4.

ARTICLE IX

INDEMNIFICATION

Section 9.1 Indemnification by Seller. Subject to the provisions of this Article IX, from and after the Closing, Seller agrees to and shall defend, indemnify and hold harmless Purchaser and its stockholders and Affiliates, and, if applicable, their respective directors, officers, agents, employees, successors and assigns (collectively, the "Purchaser Indemnified Parties") from and against any Losses to the extent arising out of or related to:

(a) any breach of any representation or warranty of Seller or any Affiliate of Seller contained in this Agreement or any Ancillary Agreement, or any failure to perform or breach by Seller or an Affiliate of Seller of any of its covenants or agreements contained in this Agreement or any Ancillary Agreement that by their express terms contemplate performance prior to or on the Closing Date;

(b) any failure of Seller or any Affiliate of Seller to perform or any breach by Seller or any Affiliate of Seller of any of its covenants or agreements contained in this Agreement or any Ancillary Agreement that by their terms expressly contemplate performance after the Closing Date; or

(c) any Retained Liability.

Section 9.2 Indemnification by Purchaser. Subject to the provisions of this Article IX, from and after the Closing, Purchaser agrees to and shall defend, indemnify and hold harmless Seller and its members and Affiliates, and, if applicable, their respective directors, officers, agents, employees, successors and assigns (collectively, the "Seller Indemnified Parties") from and against any and all Losses to the extent arising out of or related to:

(a) any breach of any representation or warranty of Purchaser contained in this Agreement or any Ancillary Agreement, or any failure to perform or breach by Purchaser of any of its covenants or agreements in this Agreement or any Ancillary Agreement that by their express terms contemplate performance prior to or on the Closing Date;

(b) any failure to perform or breach by Purchaser of any of its covenants or agreements in this Agreement or any Ancillary Agreement that by their terms expressly contemplate performance after the Closing Date;

(c) any Assumed Liability, or

(d) the Exploitation of the Product by the Purchaser following the Closing (except for Liabilities expressly agreed to be borne by Seller pursuant to this Agreement or any Ancillary Agreement).

Section 9.3 Notice of Direct Claims. (a) If any of the Persons to be indemnified under this Article IX (the "Indemnified Party") has suffered or incurred any Loss subject to indemnification under this Article IX that does not involve a Third Party Claim, the Indemnified Party shall so notify the Party responsible for providing indemnification therefor under this Agreement (the "Indemnifying Party") promptly in a writing describing such Loss, the basis for indemnification hereunder, the amount or estimated amount of such Loss, if known or reasonably capable of estimation, and the method of computation of such Loss, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss shall have occurred (an "Indemnity Notice"). A failure by the Indemnified Party to give notice in a timely manner pursuant to this Section 9.3 shall not limit the obligation of the Indemnifying Party under this Article IX, except (i) to the extent such Indemnifying Party is materially prejudiced thereby or (ii) as provided by Section 9.5. In the event that the Indemnifying Party agrees to or is determined to have an obligation to reimburse the Indemnified Party for Losses as provided in this Article IX, the Indemnifying Party shall, subject to the provisions of Section 9.6, promptly (but, in any event, within 30 calendar days) pay such amount to the Indemnified Party by wire transfer of immediately available funds to the account specified in writing by the Indemnified Party; provided, that the Indemnifying Party may defer making such payment if it objects in a written statement to the claim made in an Indemnity Notice and delivers such statement to the Indemnifying Party prior to the expiration of such 30- calendar day period; provided, further that an Indemnifying Party's failure to object within such 30- calendar day period to any claim set forth in an Indemnity Notice shall be deemed to be the Indemnifying Party's acceptance of, and waiver of any objections to, such claim. If an Indemnifying Party shall so object in writing to any claim or claims made in any Indemnity Notice, the

Indemnifying Party and the Indemnified Party shall attempt in good faith for a period of 20 calendar days following the Indemnified Party's receipt of such objection notice to agree upon the respective rights of the parties with respect to each of such claims. If no such agreement can be reached after such 20- calendar day period of good faith negotiation, either the Indemnifying Party or the Indemnified Party may initiate a Proceeding for purposes of having the matter settled in accordance with the terms of this Agreement.

(b) Except when a notice, report or other filing must be filed immediately pursuant to applicable Law, Purchaser shall provide notice and an opportunity to comment to Seller before Purchaser files any report, notification or filing with any Governmental Authority or third party in connection with an event that would be reasonably likely to result in a Loss subject to the indemnification provisions of Section 9.1. In the event Purchaser is required to file a report, notification or filing immediately, Purchaser shall, to the extent permitted by Law provide simultaneous notice to Seller when it submits such report, notification or filing to the applicable Governmental Authority.

Section 9.4 Third Party Claims.

(a) If any Proceeding is instituted by or against a third party with respect to which the Indemnified Party intends to seek indemnity under this Article IX (a "Third Party Claim"), the Indemnified Party shall promptly notify the Indemnifying Party of such Third Party Claim and tender to the Indemnifying Party the conduct or defense of such Third Party Claim. A failure by the Indemnified Party to give notice and to tender the conduct or defense of the Third Party Claim in a timely manner pursuant to this Section 9.4 shall not limit the obligation of the Indemnifying Party under this Article IX, except (i) to the extent such Indemnifying Party is materially prejudiced thereby, (ii) with respect to out-of-pocket expenses incurred during the period in which notice was not provided, and (iii) if such notice is not given within the applicable time period provided under Section 9.5

(b) The Indemnifying Party shall have the right to defend the Indemnified Party against such Third Party Claim as provided herein. If the Indemnifying Party notifies the Indemnified Party that the Indemnifying Party elects to assume the defense of the Third Party Claim (such election to be without prejudice to the right of the Indemnifying Party to dispute whether such claim is an indemnifiable Loss under this Article IX), then the Indemnifying Party shall have the right to defend such Third Party Claim with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party, in all appropriate proceedings, to a final conclusion or settlement in accordance with this Section 9.4(b). The Indemnifying Party shall use reasonably diligent and good faith efforts to defend or prosecute such Third Party Claim and shall keep the Indemnified Party reasonably advised of the status of such claim and defense thereof and shall consider in good faith recommendations made by the Indemnified Party with respect thereto. The Indemnifying Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; however, neither Party shall enter into any settlement agreement without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, such consent shall not be required if (i) the settlement agreement contains a complete and unconditional general release by the third party asserting the Third Party Claim to all Indemnified Parties affected by the claim, (ii) the settlement agreement does not contain any admission of liability by or other obligation on the part of the Indemnified Party or sanction or restriction upon the conduct or operation of any business by the Indemnified Party or its Affiliates and (iii) the settlement does not require any payment to be made by the Indemnified Party to any Person. The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim controlled by the Indemnifying Party pursuant to this Section 9.4(b), and the Indemnified Party shall bear its own costs and expenses with respect to such participation; provided, however, that if the Indemnifying Party assumes control of the defense of such claim and the Indemnifying Party and the Indemnified Party have, in the opinion of legal counsel, materially conflicting interests or different defenses available with respect to such claim that cause the Indemnified Party to hire its own separate counsel with respect to such proceeding, the reasonable fees and expenses of a single counsel to the Indemnified Party shall be considered "Losses" for purposes of this Agreement.

(c) If the Indemnifying Party does not notify the Indemnified Party that the Indemnifying Party elects to defend the Indemnified Party pursuant to Section 9.4(b) within thirty (30) calendar days after receipt of any Claim Notice, then the Indemnified Party shall defend, and be reimbursed by the Indemnifying Party for its reasonable cost and expense in regard to the Third Party Claim with counsel selected by the Indemnified Party, in all appropriate proceedings, which proceedings shall be prosecuted diligently by the Indemnified Party; provided, that

if it is ultimately determined that the Indemnified Party would not be entitled to indemnification hereunder, even if the facts alleged in the Third Party Claim were true as alleged, the Indemnified Party shall promptly repay in full such reimbursed amounts to the Indemnifying Party. In the circumstances described in this Section 9.4(c), the Indemnified Party shall defend any such Third Party Claim in good faith and have full control of such defense and proceedings; provided, however, that the Indemnified Party may not enter into any compromise or settlement of such Third Party Claim if indemnification is to be sought hereunder, without the Indemnifying Party's consent (which consent shall not be unreasonably withheld, conditioned or delayed). The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to this Section 9.4(c), and the Indemnifying Party shall bear its own costs and expenses with respect to such participation.

(d) If requested by the Party controlling the defense of a Third Party Claim, the other Party agrees, at the sole cost and expense of such controlling Party (but only if the controlling Party is actually entitled to indemnification hereunder), to cooperate with the controlling Party and its counsel in contesting any Third Party Claim being contested, including providing access to documents, records and information. In addition, the Party that is not controlling the defense will make its personnel available at no cost to the Indemnifying Party for conferences, discovery, proceedings, hearings, trials or appeals as may be reasonably required by the Indemnifying Party. The Party not controlling the defense also agrees to cooperate with the controlling Party and its counsel in the making of any related counterclaim against the Person asserting the Third Party Claim or any cross complaint against any Person and executing powers of attorney to the extent necessary.

Section 9.5 Expiration. Each Party's obligation to indemnify any Indemnified Party under this Article IX shall expire and terminate as follows, unless a claim therefor is asserted in writing in accordance with the terms of this Agreement prior to the applicable survival date, failing which such claim shall be waived and extinguished: the date that is (i) thirty (30) days after the statute of limitations expires with respect to any claim for indemnification under based on a breach of Section 4.1, Section 4.2, Section 4.10(a), Section 5.1, or Section 5.2 ("Fundamental Representations"), (ii) twelve (12) months from the Closing Date, in the case of any claim for indemnification based on the representations or warranties of the other Party contained in this Agreement other than the Fundamental Representations and Section 4.16, or (iii) the [***] anniversary of the Closing Date in the case of indemnification for a breach of Section 4.16 or in respect of any other matter not addressed in the foregoing sub-clauses (i) or (ii) or (iii), excluding claims related to Section 9.1(b), Section 9.1(c), Section 9.2(b), Section 9.2(c) or Section 9.2(d). Each Party's obligation to indemnify any Indemnified Party in connection with Section 9.1(b), Section 9.1(c), Section 9.2(b), Section 9.2(c) or Section 9.2(d), as applicable, shall, in each case, survive indefinitely. For the avoidance of doubt, none of the covenants or agreements contained in this Agreement shall survive the Closing other than those that by their terms expressly contemplate performance after the Closing Date, which such covenants and agreements shall survive the Closing until fully performed.

Section 9.6 Limitations on Indemnification and other Matters.

(a) De Minimis. Notwithstanding any other provision of this Agreement to the contrary, no Indemnifying Party shall be required to indemnify, defend or hold harmless any Indemnified Party pursuant to Section 9.1(a) or Section 9.2(a) against, or reimburse any Indemnified Party for, any Losses with respect to any individual claims (or series of related claims) unless such claim (or series of claims) involves Losses in excess of [***] (nor shall such item be applied to or considered for purposes of calculating the Indemnity Threshold).

(b) Threshold. Except for Losses arising out of a breach of a Fundamental Representation, no Indemnifying Party shall be liable to provide indemnification pursuant to Section 9.1(a) or Section 9.2(a) for any Losses suffered by any Indemnified Party unless the aggregate of all Losses suffered by the Indemnified Parties exceeds, on a cumulative basis, an amount equal to [***] (the "Indemnity Threshold"), and then an Indemnifying Party shall only be liable to provide indemnification to the extent of any such excess Losses.

(c) Cap. In no event shall any Indemnified Party be liable to provide indemnification pursuant to Article IX for Losses in the aggregate in excess of an amount equal to [***] (the "Cap"), other than with respect to claims for indemnification for Losses arising out of any Retained Liability or the breach of a Fundamental Representation, fraud or intentional misconduct of an Indemnifying Party in respect of a provision of this Agreement. In no event shall an Indemnifying Party be liable for Losses in excess of an aggregate amount equal to the Purchase Price.

(d) Waiver. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any such covenant or agreements, will not affect the right to indemnification or any other remedy based on such representations, warranties, covenants and agreements.

(e) Read Out of Materiality Qualifiers. Solely for purposes of calculating Losses hereunder, any materiality or Material Adverse Effect qualifications in the representations (other than Section 4.5(a) above), warranties, covenants and agreements herein shall be disregarded.

(f) Exclusion of Certain Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT ARISING OUT OF OR ASSERTED IN A THIRD PARTY CLAIM OR ARISING OUT OF A RETAINED LIABILITY OR AN ASSUMED LIABILITY OR FRAUD OR INTENTIONAL MISCONDUCT, NO INDEMNIFIED PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, TREBLE, REMOTE, SPECIAL, EXEMPLARY, OPPORTUNITY COST, CONSEQUENTIAL OR PUNITIVE DAMAGES OR DAMAGES FOR, MEASURED BY OR BASED ON LOST PROFITS, LOSS OF REVENUE OR INCOME, DIMUNITION IN VALUE, MULTIPLE OR EARNINGS, PROFITS OR CASH FLOWS, OR OTHER SIMILAR MEASURES OR FOR ANY LOSS OF BUSINESS REPUTATION OR OPPORTUNITY THAT ARISES OUT OF OR RELATES TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF.

(g) Adjustment to Purchase Price. Seller and Purchaser agree to treat all payments made either to or for the benefit of the other Party under this Agreement (including all payments made pursuant to Section 2.7(g) or Article IX) as adjustments to the Purchase Price for Tax purposes to the extent permitted under applicable Tax Law.

Section 9.7 Losses Net of Insurance, Etc. Any indemnifiable Losses with respect to any matter shall be net of (i) any amounts recovered by the Indemnified Party pursuant to any indemnification by or indemnification agreement with any third party and (ii) any insurance proceeds or other cash receipts or sources of reimbursement received as an offset against such Loss (each Person named in clauses (i) and (ii), a "Collateral Source"), in each case net of any costs of recovery or collection from any such Collateral Source. No Indemnifying Party shall have an indemnification payment obligation in respect of any contingent liability unless and until such liability becomes due and payable.

Section 9.8 Reimbursement. If an Indemnified Party recovers an amount from a Collateral Source in respect of a Loss that is the subject of indemnification hereunder after all or a portion of such Loss has been paid by an Indemnifying Party pursuant to this Article IX, the Indemnified Party shall promptly remit to the Indemnifying Party the amount received from the third party in respect thereof, net of all costs associated with the recovery thereof, up to the amount of the Loss paid by the Indemnifying Party.

Section 9.9 Subrogation. If the Indemnifying Party makes any payment on any Loss pursuant to Section 9.1 or Section 9.2, the Indemnifying Party shall be subrogated, to the extent of such payment, to all rights and remedies of the Indemnified Party to any insurance benefits or other claims of the Indemnified Party with respect to such claim. Without limiting the generality or effect of any other provision hereof, each Indemnified Party shall duly execute upon request all instruments reasonably necessary to evidence and perfect the subrogation rights detailed herein and otherwise reasonably cooperate in the prosecution of such claims (at the expense of the Indemnifying Party).

Section 9.10 Sole Remedy/Waiver. Should the Closing occur, the remedies provided for in this Article IX shall be the sole and exclusive remedies of any Indemnified Party in respect of this Agreement, the Ancillary Agreements, the Purchased Assets, the Product, the Excluded Assets, the Assumed Liabilities, the Retained Liabilities or the transactions contemplated hereby or by the Ancillary Agreements, other than (i) for actions for specific performance or other equitable remedies or (ii) for claims against a Party directly arising out of the fraud or intentional misconduct of such Party. In furtherance of the foregoing, each Party hereby waives (on behalf of itself and the relevant Indemnified Parties) any provision of applicable Law to the extent that it would limit or restrict the agreement contained in this Section 9.10, and each Party hereby waives (on behalf of itself and the relevant Indemnified Parties) for periods following the Closing any and all rights, claims or causes of action it or its

Affiliates or relevant Indemnified Parties may have (other than pursuant to this ARTICLE IX or as described in clauses (i) or (ii) of this Section 9.10) against the other Party or its Affiliates or Representatives.

ARTICLE X

TERMINATION

Section 10.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by written agreement of Purchaser and Seller;

(b) by either Purchaser or Seller, by giving written notice of such termination to the other Party, if the Closing shall not have occurred on or prior to March 31, 2017 (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b) shall not be available to any Party hereto whose action or failure to fulfill any obligation under this Agreement has been a principal cause of, or resulted in, the failure of the Parties to consummate the Closing by such date;

(c) by Seller, if any of the representations or warranties of Purchaser set forth in this Agreement shall not be true and correct, or if Purchaser has failed to perform any covenant or agreement on the part of such Purchaser set forth in this Agreement (including an obligation to consummate the Closing), in each case, such that the conditions to the Closing set forth in Section 8.3(a) or Section 8.3(b) would not be satisfied as of the Closing Date and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured within twenty (20) Business Days after written notice thereof is delivered to Purchaser;

(d) by Purchaser, if any of the representations or warranties of Seller set forth in this Agreement shall not be true and correct, or if Seller has failed to perform any covenant or agreement on the part of Seller set forth in this Agreement (including an obligation to consummate the Closing), in each case, such that the conditions to the Closing set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied as of the Closing Date and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured within twenty (20) Business Days after written notice thereof is delivered to Seller; or

Section 10.2 Effect of Termination. (a) In the event of the termination of this Agreement in accordance with Section 10.1 hereof, this Agreement shall thereafter become void and have no effect, and no Party hereto shall have any liability to the other Party hereto or their respective Affiliates, directors, officers or employees; provided, that (i) no such termination shall relieve the obligations of the Parties hereto contained in this Section 10.2 and in Section 6.1(b) ("Information and Documents"), Section 11.1 ("Notices"), Section 11.6 ("Public Disclosure"), Section 11.7 ("Return of Information"), Section 11.8 ("Expenses, Transfer Taxes and Property Taxes"), Section 11.10 ("Governing Law; Jurisdiction"), Section 11.11 ("Waiver of Jury Trial"), and Section 11.16 ("Non-Recourse") hereof and (ii) nothing herein shall relieve any Party from Liability for any breach of any representation, warranty or covenant set forth in this Agreement prior to such termination.

(b) In the event this Agreement shall be terminated and at such time any Party is in material breach of or default under any term or provision hereof, such termination shall be without prejudice to, and shall not affect, any and all rights to damages that the other Party may have hereunder or otherwise under applicable Law. The damages recoverable by the non-defaulting Party shall include all attorneys' fees reasonably incurred by such Party in connection with the transactions contemplated hereby.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices.

(a) All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via facsimile to the number set out below (with transmission confirmed) or to the address set out below, (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid. Notices, demands and communications, in each case to the respective Parties, shall be sent to the applicable address or facsimile number set forth below, unless another address or facsimile number has been previously specified in writing by such Party:

To Seller:
Holmdel Pharmaceuticals, LP
c/o HP General Partner, LLC
15770 Dallas Parkway, Suite 1290
Dallas, Texas 75248
Facsimile:
Attn:

with a copy to:
Lowenstein Sandler LLP
65 Livingston Avenue
Roseland, New Jersey 07068
Facsimile: [Fax number]
Attn: Michael J. Lerner

to Purchaser:
ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
Telephone: [Tel. number]
Facsimile: [Fax number]
Attn: Arthur Przybyl

with a copy to:
Dentons US LLP
1221 Avenue of the Americas
New York, NY 10020
Telephone: [Tel. number]
Facsimile: [Fax number]
Attn: Paul A. Gajer

(b) This Agreement and any signed agreement entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or scanned pages via electronic mail, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. No Party hereto or to any such contract shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or contract was transmitted or communicated through the use of facsimile machine or email as a defense to the formation of a contract and each such Party forever waives any such defense. This Agreement is not binding unless and until signature pages are executed and delivered by each of Purchaser and Seller.

Section 11.2 Amendment; Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Purchaser and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any Party 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.

Section 11.3 Assignment. No Party to this Agreement may assign any of its rights or obligations under this Agreement; provided, that (i) either Party may assign all or part of its rights under this Agreement without consent to any of its Affiliates, in each case, so long as such assigning Party shall remain liable in full for the performance of its obligations hereunder and for any breach thereof by its assignee, and (ii) Purchaser may assign all or part of its rights under this Agreement to any third party to whom it sells the Product in a single transaction.

Section 11.4 Entire Agreement. This Agreement (including all Schedules and Exhibits hereto) contains the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for (i) the Confidentiality Agreement which will remain in full force and effect for the term provided for therein and (ii) any written agreement of the Parties that expressly provides that it is not superseded by this Agreement.

Section 11.5 Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Purchaser, Seller, or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement, provided, that (i) the provisions of Article IX shall inure to the benefit of the Indemnified Parties and (ii) the provisions of Section 11.17 shall inure to the benefit of the Persons referenced therein.

Section 11.6 Public Disclosure. Notwithstanding anything herein to the contrary, each of the Parties to this Agreement hereby agrees with the other Parties hereto that, except as may be required to comply with the requirements of any applicable Laws, and the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, if any, no press release or similar public announcement or communication shall, if prior to the Closing, be made or caused to be made concerning the execution or performance of this Agreement unless the Parties shall have consulted in advance with respect thereto. It is understood and agreed that the foregoing shall not prevent any member of the Seller or their respective Affiliates (including the SWK Affiliates), from disclosing any publicly available information relating to the transactions contemplated hereby in connection with any disclosure it may be required to provide to comply with the requirements of any applicable Laws, and the rules and regulations of each stock exchange upon which the securities of any such Person may be listed.

Section 11.7 Return of Information. If the transactions contemplated by this Agreement are terminated as provided herein:

(a) notwithstanding anything in the Confidentiality Agreement to the contrary, Purchaser shall return to Seller or destroy all documents and other material received by Purchaser, its Affiliates and their respective Representatives from Seller, or any of its respective Affiliates, relating to the transactions contemplated hereby and by the Ancillary Agreements, whether so obtained before or after the execution hereof; and

(b) all confidential information received by Purchaser, its Affiliates and their respective Representatives with respect to a Seller, or any of its respective Affiliates, the Purchased Assets and the Assumed Liabilities shall be treated in accordance with the Confidentiality Agreement, which shall remain in full force and effect in accordance with its terms notwithstanding the termination of this Agreement.

Section 11.8 Expenses, Transfer Taxes and Property Taxes. (a) Except as otherwise expressly provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such expenses. Notwithstanding the foregoing, all Transfer Taxes shall be paid 50% by Purchaser and 50% by Seller.

(b) In the case of any taxable period that includes (but does not end on) the Closing Date, real, personal and intangible property Taxes and similar Taxes imposed with respect to the Purchased Assets ("Property Taxes") shall be allocated between the Pre-Closing Tax Period and the Post-Closing Tax Period on a per diem basis. Seller shall be responsible for any Property Taxes for the Pre-Closing Period and Purchaser shall be responsible for

any Property Taxes for the Post-Closing Period. Seller and Purchaser shall promptly reimburse each other in accordance with such allocation for any such Property Taxes which any Party is required to pay under applicable Law. Liability for any fees payable to any Governmental Authority with respect to the Purchased Assets shall be allocated in the same manner.

Section 11.9 Schedules. The disclosure of any matter in the Disclosure Schedule shall be deemed to be a disclosure with respect to any other section or subsection of ARTICLE IV of this Agreement with respect to which its relevance is reasonably apparent on its face, but shall expressly not be deemed to constitute an admission by Seller or Purchaser, or to otherwise imply, that any such matter is material for the purposes of this Agreement.

Section 11.10 Governing Law; Jurisdiction. (a) This Agreement and its negotiation, execution, performance or non-performance, interpretation, termination, construction and all claims or causes of action (whether in contract, in tort, at law or otherwise) that may be based upon, arise out of, or relate to this Agreement, or the transactions contemplated hereby (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in connection with this Agreement or as an inducement to enter this Agreement), shall be exclusively governed by, and construed in accordance with, the laws of the State of New York regardless of Laws that might otherwise govern under any applicable conflict of laws principles.

(b) Any Proceeding based upon, arising out of, or related to this Agreement and its negotiation, execution, performance, non-performance, interpretation, termination, construction or the transactions contemplated hereby shall be heard and determined in the courts of the State of New York sitting in the Borough of Manhattan and the United States District Court for the Southern District of New York. The Parties hereto hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Proceeding and irrevocably and unconditionally waive the defense of an inconvenient forum, or lack of jurisdiction to the maintenance of any such Proceeding. The consents to jurisdiction and venue set forth herein shall not constitute general consents to service of process in the State of New York and shall have no effect for any purpose except as provided in this Section 11.10 and shall not be deemed to confer rights on any Person other than the Parties hereto. Each Party hereto agrees that the service of process upon such Party in any Proceeding arising out of or relating to this Agreement shall be effective if notice is given by overnight courier at the address set forth in Section 11.1. Each of the Parties also agrees that any final, non-appealable judgment against a Party in connection with any Proceeding arising out of or relating to this Agreement may be enforced in any court of competent jurisdiction, either within or outside of the United States. A certified or exemplified copy of such judgment shall be conclusive evidence of the fact and amount of such judgment.

Section 11.11 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HERETO HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY PROCEEDING (WHETHER IN CONTRACT, IN TORT, AT LAW OR OTHERWISE) BASED UPON, ARISING OUT OF, OR RELATED TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THE PARTIES HERETO ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. THE PARTIES HERETO FURTHER WARRANT AND REPRESENT THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Section 11.12 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or electronic .pdf submission), each of which shall be deemed an original, and all of which

shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered (by telecopy or otherwise) to the other Party, it being understood that both Parties need not sign the same counterpart.

Section 11.13 Headings. The heading references herein and the table of contents hereto are for convenience purposes only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

Section 11.14 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any term or other provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid, illegal or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons, entities or circumstances shall not be affected by such invalidity, illegality or unenforceability, nor shall such invalidity, illegality or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 11.15 Specific Performance. Each of the Parties acknowledges that the rights of each Party to consummate the transactions contemplated hereby are unique and recognizes and affirms that in the event of a breach of this Agreement by any Party, money damages may be inadequate and the non-breaching Party may have no adequate remedy at Law. Accordingly, the Parties agree that prior to a valid termination of this Agreement in accordance with this Agreement, such non-breaching Party shall have the right, in addition to any other rights and remedies existing in its favor at Law or in equity, to enforce its rights and the other Party's obligations hereunder not only by an Proceeding or Proceedings for damages but also by an Proceeding or Proceedings for specific performance, injunctive and/or other equitable relief (without posting of bond or other security). Each of the Parties agrees that it shall not oppose the granting of an injunction, specific performance and other equitable relief when expressly available pursuant to the terms of this Agreement, and hereby waives (x) any defenses in any Proceeding for an injunction, specific performance or other equitable relief, including the defense that the other Parties have an adequate remedy at Law or an award of specific performance is not an appropriate remedy for any reason at Law or equity and (y) any requirement under Law to post a bond, undertaking or other security as a prerequisite to obtaining equitable relief.

Section 11.16 Non-Recourse.

(a) This Agreement may only be enforced against, and any claim or cause of action based upon, arising out of or related to this Agreement may only be brought against the entities that are expressly named as Parties hereto and then only with respect to the specific obligations set forth herein with respect to such Party (or, in the case of Article VI and Article VII, the relevant Affiliates of Seller). Except to the extent a named Party to this Agreement (and then only to the extent of the specific obligations undertaken by such named Party in this Agreement) (or, in the case of Article VI and Article VII,, the relevant Affiliates of Seller), no past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any Party hereto shall have any liability (whether in contract or in tort, in law or in equity, or based upon any theory that seeks to impose liability of an entity party against its owners or Affiliates) for any obligations or liabilities of any Party hereto under this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any oral representations made or alleged to have been made in connection herewith (except with respect to claims of fraud or intentional misconduct).

(b) The provisions of this Section 11.16 are intended to be for the benefit of, and enforceable by, the directors, officers, employees, incorporators, members, partners, stockholders, Affiliates, agents, attorneys and other Representatives of the Parties hereto, and each such Person shall be a third party beneficiary of this Section 11.16.

Section 11.17 Conflict of Interest.

(a) Lowenstein Sandler LLP ("Lowenstein") shall be permitted to represent Seller after the Closing in connection with any matter relating to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, after the Closing, Lowenstein shall be permitted to represent Seller, any of its agents and Affiliates, or any one or more of them, in connection with any negotiation or transaction with Purchaser or any of its agents or Affiliates under or relating to this Agreement, the transactions contemplated hereby, and any related matter.

(b) Dentons US LLP ("Dentons") shall be permitted to represent Purchaser after the Closing in connection with any matter relating to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, after the Closing, Dentons shall be permitted to represent Purchaser, any of its agents and Affiliates, or any one or more of them, in connection with any negotiation or transaction with Seller or any of its agents or Affiliates under or relating to this Agreement, the transactions contemplated hereby, and any related matter.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the Parties have executed or caused this Agreement to be executed as of the date first written above.

HOLMDEL PHARMACEUTICALS, LP
By: HP General Partner, LLC
it's general partner
By: /s/ Joseph J. Krivulka
Name: Joseph J. Krivulka
Title: Manager

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

ANI PHARMACEUTICALS, INC.

By: /s/ Stephen Carey

Name: Stephen Carey

Title: VP & CFO

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Nikhil Lalwani, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of ANI Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer 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: May 10, 2022

/s/ Nikhil Lalwani
Nikhil Lalwani
President and
Chief Executive Officer
(principal executive officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Stephen P. Carey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of ANI Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer 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: May 10, 2022

/s/ Stephen P. Carey
Stephen P. Carey
Senior Vice President, Finance and Chief Financial Officer
(principal financial and accounting officer)

Exhibit 32.1

CERTIFICATION
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the quarterly report on Form 10-Q of ANI Pharmaceuticals, Inc. (the "Company") for the quarterly period ended March 31, 2022 (the "Report") as filed with the Securities and Exchange Commission on the date hereof, the undersigned Chief Executive Officer and Chief Financial Officer of the Company hereby certify that, to such officer's knowledge:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification is provided solely pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

Dated: May 10, 2022

/s/ Nikhil Lalwani
Nikhil Lalwani
President and Chief Executive Officer
(principal executive officer)

Dated: May 10, 2022

/s/ Stephen P. Carey
Stephen P. Carey
Senior Vice President, Finance and Chief Financial Officer
(principal financial and accounting officer)

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.