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

FORM 8-K

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

Date of Report (Date of earliest event reported): September 15, 2011

**ALKERMES PLC**  
**(f/k/a/ Antler Science Two plc)**

(Exact name of registrant as specified in its charter)

**Ireland**  
(State or other jurisdiction  
of incorporation)

**001-35299**  
(Commission  
File Number)

**98-1007018**  
(IRS Employer  
Identification No.)

**Treasury Building, Lower Grand Canal Street**  
**Dublin 2, Ireland**  
(Address of principal executive offices)

(Zip Code)

**(Registrant's telephone number, including area code): 011-353-1-709-4000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## **Item 1.01. Entry into a Material Definitive Agreement.**

### *Shareholder's Agreement*

The information set forth under Item 2.01 below is incorporated by reference in response to this item.

### *Term Loan Facilities*

The information set forth under Item 2.03 below is incorporated by reference in response to this item.

## **Item 2.01. Completion of Acquisition or Disposition of Assets.**

### *Completion of the Acquisition of the EDT Business*

On September 16, 2011, the business of Alkermes, Inc. ("Alkermes") and the drug technologies business ("EDT") of Elan Corporation, plc ("Elan") were combined (the "Business Combination") under Alkermes plc (f/k/a Antler Science Two plc) (the "Company"). As part of the Business Combination, Antler Acquisition Corp., a wholly owned subsidiary of the Company, merged with and into Alkermes (the "Merger"), with Alkermes surviving as a wholly owned subsidiary of the Company. Prior to the Merger, EDT was carved-out of Elan and reorganized under the Company.

At the effective time of the Merger (the "Effective Time"), (i) each share of Alkermes common stock then issued and outstanding and all associated rights were canceled and automatically converted into and became the right to receive one ordinary share of the Company; (ii) all then issued and outstanding options to purchase Alkermes common stock granted under any stock option plan were converted into options to purchase on substantially the same terms and conditions the same number of ordinary shares of the Company at the same exercise price; and (iii) all then issued and outstanding awards of Alkermes common stock were converted into awards of the same number on substantially the same terms and conditions of ordinary shares of the Company. As a result, upon consummation of the Merger and the issuance of the ordinary shares of the Company in exchange for the canceled shares of Alkermes common stock, the former shareholders of Alkermes own approximately 75% of the Company, with the remaining approximately 25% of the Company owned by a subsidiary of Elan (the "Elan Shareholder") pursuant to the terms of a shareholder's agreement described below.

This description of the Business Combination does not purport to be complete and is qualified in its entirety by reference to the Business Combination Agreement and Plan of Merger, dated as of May 9, 2011, among the Company, Elan, Alkermes, and certain other parties (the "Business Combination Agreement"), which is attached to this report as Exhibit 2.1, and incorporated herein by reference, and to the description of the Business Combination Agreement included in the Proxy Statement/Prospectus forming part of the Registration Statement on Form S-4, as amended, of the Company which was declared effective by the Securities and Exchange Commission (the "SEC") on August 4, 2011 (Registration No. 333-175078) (the "Proxy Statement/Prospectus").

A copy of the press release announcing the completion of the Merger is attached to this report as Exhibit 99.1, which is incorporated by reference herein.

Also, on September 16, 2011, at the Effective Time, the Company, Elan and the Elan Shareholder entered into a Shareholder's Agreement, which is attached as Exhibit 4.1 to this Report, which provides for certain terms and conditions concerning the ordinary shares of the Company owned by the Elan Shareholder as and from the Effective Time.

The Proxy Statement/Prospectus contains a description of the Shareholder's Agreement, which is incorporated by reference herein.

### *IP Transfer Agreement*

On September 15, 2011, Alkermes, Alkermes Controlled Therapeutics, Inc. ("ACT"), a Pennsylvania corporation and a subsidiary of Alkermes, and Alkermes Pharma Ireland Limited (f/k/a/ EDT Pharma Holdings Limited) ("APIL"), an Irish subsidiary of the Company, entered into an Intellectual Property Transfer Agreement pursuant to which Alkermes and ACT agreed to transfer all of their rights with respect to the intellectual property and related contractual rights related specifically to *Bydureon*<sup>TM</sup> (exenatide for extended-release injectable suspension) to APIL in exchange for \$202.1 million in the form of an interest-bearing note.

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This description of the Intellectual Property Transfer Agreement does not purport to be complete and is qualified in its entirety by reference to the Intellectual Property Transfer Agreement, which is attached to this report as Exhibit 10.3 and incorporated by reference herein.

### **Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off Balance Sheet Arrangement of a Registrant**

#### *Term Loan Facilities*

On September 16, 2011, Alkermes entered into a \$310 million first lien term loan facility (the "First Lien Term Loan Facility") and a \$140 million second lien term loan facility (the "Second Lien Term Loan Facility" and, together with the First Lien Term Loan Facility, the "Term Loan Facilities") with certain of its subsidiaries, as guarantors, Morgan Stanley Senior Funding, Inc., ("MSSF") as administrative agent and as collateral agent, Morgan Stanley Senior Funding, Inc and HSBC Securities (USA) Inc., ("HSBC") as co-syndication agents, joint lead arrangers and joint bookrunners, and various other financial institutions, as lenders. The First Lien Term Loan Facility has a term of six years and is secured by a first priority lien on substantially all of the combined company assets and properties of Alkermes and the guarantors. The Second Lien Term Loan Facility has a term of seven years and is secured by a second priority lien on substantially all of the combined company assets and properties of Alkermes and the guarantors.

Borrowings under the Term Loan Facilities bear interest at a rate per annum equal to an applicable margin plus, at Alkermes' option, either (1) LIBOR determined by reference to the costs of funds for eurodollar deposits for the interest period relevant to such borrowing adjusted for certain additional costs or (2) a base rate determined by reference to the highest of (a) the rate the Wall Street Journal publishes as the U.S. Prime Rate, (b) the federal funds effective rate plus one-half of 1.00% and (c) LIBOR described in subclause (1) plus 1.00%. LIBOR is subject to an interest rate floor of 1.50% and the base rate is subject to an interest rate floor of 2.50%.

The initial applicable margin for borrowings under the First Lien Term Loan Facility will be 5.25% with respect to LIBOR borrowings and 4.25% with respect to base rate borrowings. Commencing with completion of Alkermes' first fiscal quarter ending after the Merger, the applicable margin under the First Lien Term Loan Facility is subject to adjustment each fiscal quarter, based upon meeting a certain consolidated leverage ratio during the preceding quarter. The initial applicable margin for borrowings under the Second Lien Term Loan Facility will be 8.00% with respect to LIBOR borrowings and 7.00% with respect to base rate borrowings and is not subject to adjustment. Alkermes will enter into one or more hedge agreements to fix the interest rates on a portion of the borrowings under the Term Loan Facilities.

Each of the Term Loan Facilities has incremental facility capacity in an amount of \$50 million, plus additional amounts so long as Alkermes meets certain conditions, including a specified leverage ratio. The agreements governing the Term Loan Facilities include a number of restrictive covenants that, among other things and subject to certain exceptions and baskets, impose operating and financial restrictions on Alkermes, the Company and the restricted subsidiaries. These financing agreements also contain customary affirmative covenants and events of default.

Each of MSSF and HSBC are affiliated with full service financial institutions, which institutions have in the past engaged, and may in the future engage, in transactions with and perform services, including securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities, for Alkermes and its affiliates in the ordinary course of business for which they have received or will receive customary fees and expenses. In addition, MSSF is affiliated with Morgan Stanley & Co. LLC, which is serving as the financial advisor in connection with the Business Combination.

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This description of the Term Loan Facilities does not purport to be complete and is qualified in its entirety by references to the First Lien Term Loan Facility and the Second Lien Term Loan Facility, which are attached to this report as Exhibits 10.1 and 10.2, respectively, which disclosure is incorporated by reference herein.

#### **Item 4.01. Change in Registrant's Certifying Accountant**

##### *a) Dismissal of Independent Registered Public Accounting Firm*

For accounting purposes, the Business Combination described in Item 2.01 of this report is treated as a "reverse acquisition" and Alkermes is considered the accounting acquirer. Accordingly, Alkermes' financial statements became the historical financial statements of the Company and the Company's future periodic filings will reflect Alkermes' historical financial condition and results of operations shown for comparative purposes.

Prior to the Merger, Alkermes' historical financial statements were audited by PricewaterhouseCoopers LLP ("PwC") and the EDT's historical financial statements were audited by KPMG ("KPMG").

On September 16, 2011, prior to the Effective Time, the board of directors of the Company (the "Board") approved the engagement of PwC as the Company's independent registered public accountants to serve as its principal accountants to audit its financial statements, effective immediately.

Prior to the completion of the Business Combination, EDT's carve-out historical financial statements, which were included in the Proxy Statement/Prospectus, were audited by KPMG. The audit report of KPMG on the carve-out combined balance sheets as of December 31, 2010 and 2009 and the carve-out combined statements of operations, comprehensive income/(loss), invested equity and cash flows for each of the years in the three-year period ended December 31, 2010, did not contain any adverse opinion or disclaimer of opinion, and were not qualified or modified as to uncertainty, audit scope, or accounting principles. For EDT's fiscal years ended December 31, 2010 and 2009, and for EDT's unaudited interim condensed carve-out combined financial statements for the six month period ended June 30, 2011 and 2010, with regard to the financial statements referred to above, (i) there were no disagreements with KPMG on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to KPMG's satisfaction, would have caused KPMG to make reference to the subject matter of the disagreement in connection with its report, and (ii) there were no reportable events of the type described in Item 304(a)(1)(v) of Regulation S-K.

##### *b) Engagement of a New Independent Registered Public Accounting Firm*

As noted above, on September 16, 2011, prior to the Effective Time, the Board approved the engagement of PwC as the Company's independent registered public accountants to serve as its principal accountants to audit its financial statements, effective immediately.

Prior to the Merger, Alkermes' historical financial statements were audited by PwC. PwC was the independent registered public accounting firm for Alkermes during the fiscal years ended December 31, 2010 and 2009, and for the six month period ended June 30, 2011. During that time, neither Alkermes nor anyone acting on its behalf consulted PwC with respect to (i) the application of accounting principles to a specified transaction, either completed or proposed, (ii) the type of audit opinion that might be rendered on Alkermes' financial statements, or (iii) any other matter that was either the subject of a disagreement, as that term is defined in Item 304(a)(1)(iv) of Regulation S-K, or a reportable event of the type described in Item 304(a)(1)(v) of Regulation S-K.

#### **Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On September 16, 2011, pursuant to the terms of the Business Combination Agreement, the Company's Memorandum and Articles of Association were amended and restated as described in the Proxy Statement/Prospectus. For more information regarding the Memorandum and Articles of Association of the Company, see the copies of each attached hereto as Exhibit 3.1 and the Proxy Statement/Prospectus, which are incorporated by reference herein.

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## Item 5.05. Amendments to Registrant's Code of Ethics

On September 16, 2011, the Board adopted a code of business conduct and ethics (the "Code of Ethics") that applies to the directors, officers and employees of the Company. A copy of the Code of Ethics is attached to this report as Exhibit 14.1 and incorporated by reference herein.

## Item 8.01. Other Events

On September 16, 2011, the Company issued a joint press release with Elan, announcing the completion of the Merger, a copy of which is attached as Exhibit 99.1 hereto and is incorporated by reference herein.

## Item 9.01. Financial Statements and Exhibits

### (a) Financial statements of businesses acquired

The information required by this item is incorporated by reference to Alkermes' Annual Report on Form 10-K, filed with the SEC on May 20, 2011, as amended, and Alkermes' Quarterly Report on Form 10-Q for the period ended June 30, 2011, filed with the SEC on August 1, 2011. Those financial statements consist of (i) the audited combined balance sheets of Alkermes as of March 31, 2011 and 2010, and the related combined statements of operations, comprehensive income/(loss), invested equity and cash flows for each of the three years in the three-months period ended March 31, 2011, as well as the Report of Independent Registered Public Accounting Firm, PwC, with respect to such financial statements and (ii) the unaudited financial statements and related notes for the three-months periods ended June 30, 2011 and June 30, 2010.

### (b) Pro forma financial information

The pro forma condensed financial data required to be filed with this form have been reported previously in the Proxy Statement/Prospectus, which is incorporated by reference herein. This information consists of (i) the unaudited pro forma condensed consolidated statements of operations for the three months ended June 30, 2011, and for the twelve months ended March 31, 2011, assuming the Merger had occurred on April 1, 2010, and (ii) the unaudited pro forma condensed consolidated balance sheet as of June 30, 2011, assuming the Merger had been completed on June 30, 2011.

### (d) Exhibits

Exhibit Number	Description
2.1	Business Combination Agreement and Plan of Merger, dated as of May 9, 2011, by and among Elan, Alkermes Inc., Alkermes plc and certain other parties (incorporated by reference to Annex A to the proxy statement/prospectus forming a part of the Registration Statement on Form S-4, as amended (Registration No. 333-175078), which was declared effective by the Securities and Exchange Commission on August 4, 2011).
*3.1	Amended and Restated Memorandum and Articles of Association of Alkermes plc.
*4.1	Shareholder's Agreement by and among Elan, Elan Science Three Limited and Alkermes plc
*10.1	First Lien Term Loan Credit Agreement, dated as of September 16, 2011, among Alkermes, Inc., the guarantors party thereto, the lenders party thereto, Morgan Stanley Senior Funding, Inc. as Administrative Agent and Collateral Agent and the arrangers and agents party thereto.
*10.2	Second Lien Term Loan Credit Agreement, dated as of September 16, 2011, among Alkermes, Inc., the guarantors party thereto, the lenders party thereto, Morgan Stanley Senior Funding, Inc. as Administrative Agent and Collateral Agent and the arrangers and agents party thereto.
*10.3	Intellectual Property Transfer Agreement, dated as of September 15, 2011 between Alkermes, Inc., Alkermes Controlled Therapeutics, Inc. and Alkermes Pharma Holdings Limited.
*14.1	Code of Business Conduct and Ethics of Alkermes plc.
*99.1	Joint Press Release, dated September 16, 2011, issued by Alkermes plc and Elan.

\*Filed herewith

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**SIGNATURE**

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 hereunto duly authorized.

Dated: September 16, 2011

ALKERMES PLC

By: /s/ James M. Frates  
James M. Frates  
Chief Financial Officer

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EXHIBIT INDEX

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\*Filed herewith

Companies Acts 1963 to 2009

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A PUBLIC COMPANY LIMITED BY SHARES

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MEMORANDUM AND ARTICLES OF ASSOCIATION

of

ALKERMES PUBLIC LIMITED COMPANY

(Amended and restated by Special Resolution dated 15 September 2011)

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Incorporated the 4th day May of 2011

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Arthur Cox  
Earlsfort Centre  
Earlsfort Terrace  
Dublin 2

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**Companies Acts 1963 to 2009**

**A PUBLIC COMPANY LIMITED BY SHARES**

**MEMORANDUM OF ASSOCIATION**

**of**

**Alkermes Public Limited Company**

As amended and restated by Special Resolution dated 15 September 2011

1. The name of the Company is **Alkermes public limited company**.
2. The registered office of the Company shall be at Treasury Building, Lower Grand Canal Street, Dublin 2 or at such other place as the Board may from time to time decide.
3. The Company is to be a public limited company.
4. The objects for which the Company is established are:
  - 4.1
    - (a) To carry on all or any of the businesses of manufacturers, buyers, sellers, and distributing agents of and dealers in all kinds of patent, pharmaceutical, medicinal, and medicated preparations, patent medicines, drugs, herbs, and of and in pharmaceutical, medicinal, proprietary and industrial preparations, compounds, and articles of all kinds; and to manufacture, make up, prepare, buy, sell, and deal in all articles, substances, and things commonly or conveniently used in or for making up, preparing, or packing any of the products in which the Company is authorised to deal, or which may be required by customers of or persons having dealings with the Company.
    - (b) To establish, maintain and operate laboratories for the purpose of carrying on chemical, physical and other research in medicine, chemistry, industry or other unrelated or related fields.
    - (c) To carry on the business of a holding company and to co-ordinate the administration, finances and activities of any subsidiary companies or associated companies, to do all lawful acts and things whatever that are necessary or convenient in carrying on the business of such a holding company and in particular to carry on in all its branches the business of a management services company, to act as managers and to direct or coordinate the management of other companies or of the business, property and estates of any company or person and to undertake and carry out all such services in connection therewith as may be deemed expedient by the Company's Board and to exercise its powers as a shareholder of other companies.

- 4.2 To acquire and hold shares, stocks, debenture stock, bonds, mortgages, obligations and securities and interests of any kind issued or guaranteed by any company, corporation or undertaking of whatever nature and wherever constituted or carrying on business, whether in Ireland or elsewhere, and to vary, transpose, dispose of or otherwise deal with, from time to time as may be considered expedient, any of the Company's investments for the time being.
- 4.3 To acquire any such shares and other securities as are mentioned in the preceding paragraph by subscription, syndicate participation, tender, purchase, exchange or otherwise and to subscribe for the same, either conditionally or otherwise, and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by or incident to the ownership thereof.
- 4.4 To lease, acquire by purchase or otherwise and hold, sell, dispose of and deal in real property and in personal property of all kinds wheresoever situated.
- 4.5 To enter into any guarantee, contract of indemnity or suretyship and to assure, support or secure with or without consideration or benefit the performance of any obligations of any person or persons and to guarantee the fidelity of individuals filling or about to fill situations of trust or confidence.
- 4.6 To acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the Company is authorized to carry on.
- 4.7 To apply for, register, purchase, lease, acquire, hold, use, control, licence, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights.
- 4.8 To enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint venture, reciprocal concession or otherwise with any person carrying on or engaged in or about to carry on or engage in any business or transaction that the Company is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the Company.
- 4.9 To take or otherwise acquire and hold securities in any other body corporate having objects altogether or in part similar to those of the Company or carrying on any business capable of being conducted so as to benefit the Company.
- 4.10 To lend money to any employee or to any person having dealings with the Company or with whom the Company proposes to have dealings or to any other body corporate any of whose shares are held by the Company.
- 4.11 To apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege, that any government or authority or any body corporate or other public body may be empowered to grant, and to pay for, aid in and contribute toward carrying it into effect and to assume any liabilities or obligations incidental thereto and to enter into any arrangements with any governments or authorities, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them.
- 4.12 To perform any duty or duties imposed on the Company by or under any enactment and to exercise any power conferred on the Company by or under any enactment.
- 4.13 To incorporate or cause to be incorporated any one or more subsidiaries of the Company (within the meaning of section 155 of the 1963 Act) for the purpose of carrying on any business.

- 4.14 To establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees, directors and/or consultants or former employees, directors and/or consultants of the Company or its predecessors or any of its subsidiary or associated companies, or the dependants or connections of such employees, directors and/or consultants or former employees, directors and/or consultants and grant gratuities, pensions and allowances, including the establishment of share option schemes, enabling employees, directors and/or consultants of the Company or other persons aforesaid to become shareholders in the Company, or otherwise to participate in the profits of the Company upon such terms and in such manner as the Company thinks fit, and to make payments towards insurance or for any object similar to those set forth in this paragraph.
- 4.15 To establish and contribute to any scheme for the purchase by trustees of Shares in the Company to be held for the benefit of the Company's employees or the employees of any of its subsidiary or associated companies and to lend or otherwise provide money to the trustees of such schemes or the Company's employees or the employees of any of its subsidiary or associated companies to enable them to purchase Shares of the Company.
- 4.16 To grant bonuses to any person or persons who are or have been in the employment of the Company or any of its subsidiary or associated companies or any person or persons who are or have been directors of, or consultants to, the Company or any of its subsidiary or associated companies.
- 4.17 To establish any scheme or otherwise to provide for the purchase by or on behalf of customers of the Company of shares in the Company.
- 4.18 To subscribe or guarantee money for charitable, benevolent or educational objects or for any exhibition or for any public, general or useful objects.
- 4.19 To promote any company for the purpose of acquiring or taking over any of the property and liabilities of the Company or for any other purpose that may benefit the Company.
- 4.20 To purchase, lease, take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the Company considers necessary or convenient for the purposes of its business.
- 4.21 To construct, maintain, alter, renovate and demolish any buildings or works necessary or convenient for its objects.
- 4.22 To construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, watercourses, wharves, factories, warehouses, electric works, shops, stores and other works and conveniences that may advance the interests of the Company and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management and carrying out of control thereof.
- 4.23 To raise and assist in raising money for, and aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person and guarantee the performance or fulfilment of any contracts or obligations of any person, and in particular guarantee the payment of the principal of and interest on the debt obligations of any such person.
- 4.24 To guarantee, support, secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (both present and future) and uncalled capital of the Company, or by both such methods, the performance of the obligations of, and the repayment or payment of the principal amounts of and premiums, interest and dividends on any securities of, any person, firm, or company including (without prejudice to the generality of the foregoing) any company which is for the time being the Company's holding company as defined by section 155 of the 1963 Act, or a subsidiary as therein defined of any such holding company or otherwise associated by the Company in business.

- 4.25 To borrow or secure the payment of money in such manner as the Company shall think fit, and in particular by the issue of debentures, debenture stocks, bonds, obligations and securities of all kinds, either perpetual or terminable and either redeemable or otherwise and to secure the repayment of any money borrowed, raised or owing by trust deed, mortgage, charge, or lien upon the whole or any part of the Company's property or assets (whether present or future) including its uncalled capital, and also by a similar trust deed, mortgage, charge or lien to secure and guarantee the performance by the Company of any obligation or liability it may undertake.
- 4.26 To engage in currency exchange, interest rate and/or commodity or index linked transactions (whether in connection with or incidental to any other contract, undertaking or business entered into or carried on by the Company or whether as an independent object or activity) including, but not limited to, dealings in foreign currency, spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars, commodity or index linked swaps and any other foreign exchange, interest rate or commodity or index linked arrangements and such other instruments as are similar to or derive from any of the foregoing whether for the purpose of making a profit or avoiding a loss or managing a currency or interest rate exposure or any other purpose and to enter into any contract for and to exercise and enforce all rights and powers conferred by or incidental, directly or indirectly, to such transactions or termination of any such transactions.
- 4.27 To remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any of the shares of the Company's capital or any debentures, debenture stock or other securities of the Company or in or about the formation or promotion of the Company or the conduct of its business.
- 4.28 To draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments.
- 4.29 To sell, lease, exchange or otherwise dispose of the undertaking of the Company or any part thereof as an entirety or substantially as an entirety for such consideration as the Company thinks fit.
- 4.30 To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the Company in the ordinary course of its business.
- 4.31 To adopt such means of making known the products of the Company as may seem expedient, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes and rewards and making donations.
- 4.32 To cause the Company to be registered and recognized in any foreign jurisdiction, and designate persons therein according to the laws of that foreign jurisdiction or to represent the Company and to accept service for and on behalf of the Company of any process or suit.

- 4.33 To allot and issue fully-paid shares of the Company in payment or part payment of any property purchased or otherwise acquired by the Company or for any past services performed for the Company.
- 4.34 To distribute among the Members of the Company in cash, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner considered advisable, any property of the Company, but not so as to decrease the capital of the Company unless the distribution is made for the purpose of enabling the Company to be dissolved or the distribution, apart from this paragraph, would be otherwise lawful.
- 4.35 To promote freedom of contract, and to resist, insure against, counteract and discourage interference therewith, to join any lawful federation, union or association or do any other lawful act or thing with a view to preventing or resisting directly or indirectly any interruption of or interference with the Company's or any other trade or business or providing or safeguarding against the same, or resisting strike, movement or organisation, which may be thought detrimental to the interests or opposing any of the Company or its employees and to subscribe to any association or fund for any such purposes.
- 4.36 To make or receive gifts by way of capital contribution or otherwise.
- 4.37 To establish agencies and branches.
- 4.38 To take or hold mortgages, hypothecations, liens and charges to secure payment of the purchase price, or of any unpaid balance of the purchase price, of any part of the property of the Company of whatsoever kind sold by the Company, or for any money due to the Company from purchasers and others and to sell or otherwise dispose of any such mortgage, hypothec, lien or charge.
- 4.39 To pay all costs and expenses of or incidental to the incorporation and organization of the Company.
- 4.40 To invest and deal with the monies of the Company not immediately required for the objects of the Company in such manner as may be determined.
- 4.41 To do any of the things authorized by this memorandum as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others.
- 4.42 To do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Company.

The objects set forth in any sub-clause of this clause shall be regarded as independent objects and shall not, except, where the context expressly so requires, be in any way limited or restricted by reference to or inference from the terms of any other sub-clause, or by the name of the Company. None of such sub-clauses or the objects therein specified or the powers thereby conferred shall be deemed subsidiary or auxiliary merely to the objects mentioned in the first sub-clause of this clause, but the Company shall have full power to exercise all or any of the powers conferred by any part of this clause in any part of the world notwithstanding that the business, property or acts proposed to be transacted, acquired or performed do not fall within the objects of the first sub-clause of this clause.

5. The liability of each Member is limited to the amount from time to time unpaid on such Member's Shares.
6. The authorised share capital of the Company is €40,000 and US\$5,000,000 divided into 40,000 ordinary shares of €1.00 each, 450,000,000 ordinary shares of US\$0.01 each and 50,000,000 undesignated preferred shares of US\$0.01 each.
7. The shares forming the capital, increased or reduced, may be increased or reduced and be divided into such classes and issued with any special rights, privileges and conditions or with such qualifications as regards preference, dividend, capital, voting or other special incidents, and be held upon such terms as may be attached thereto or as may from time to time be provided by the original or any substituted or amended articles of association and regulations of the Company for the time being, but so that where shares are issued with any preferential or special rights attached thereto such rights shall not be alterable otherwise than pursuant to the provisions of the Company's articles of association for the time being.
8. Capitalised terms that are not defined in this memorandum of association bear the same meaning as those given in the articles of association of the Company.

WE, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into a Company in pursuance of this memorandum of association, and we agree to take the number of Shares in the capital of the Company set opposite our respective names.

---

Names, addresses and descriptions  
of subscribers

Number of Shares taken  
by each subscriber

---

Goodbody Subscriber One Limited  
International Financial Services Centre  
North Wall Quay  
Dublin 1

One ordinary share of US\$0.01

Limited liability company

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Dated the 29 day of April 2011

Witnesses to the above signatures:

Name: Isabel Hyde  
Trainee Solicitor  
Address: A&L Goodbody  
IFSC,  
North Wall Quay,  
Dublin 1

**Companies Acts 1963 to 2009**

**A PUBLIC COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**of**

**Alkermes Public Limited Company**

(Amended and restated by Special Resolution dated 15 September 2011)

**PRELIMINARY**

1. The regulations contained in Table A in the First Schedule to the 1963 Act shall not apply to the Company.

2.

2.1 In these Articles:

<b>“1963 Act”</b>	means the Companies Act 1963 (No. 33 of 1963) as amended by the Companies Acts 1977 to 2005 and Parts 2 and 3 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006 and all statutory instruments which are to be read as one with, or construed, or read together as one with the Companies Acts.
<b>“1983 Act”</b>	means the Companies (Amendment) Act 1983.
<b>“1990 Act”</b>	means the Companies Act 1990.
<b>“Address”</b>	includes, without limitation, any number or address used for the purposes of communication by way of electronic mail or other electronic communication.
<b>“Articles” or “Articles of Association”</b>	means these articles of association of the Company, as amended from time to time by Special Resolution.
<b>“Assistant Secretary”</b>	means any person appointed by the Secretary from time to time to assist the Secretary.
<b>“Auditors”</b>	means the persons for the time being performing the duties of auditors of the Company.
<b>“Board”</b>	means the board of directors for the time being of the Company.
<b>“clear days”</b>	means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.



<b>“Companies Acts”</b>	means the Companies Acts 1963-2009.
<b>“Company”</b>	means the above-named company.
<b>“Court”</b>	means the Irish High Court.
<b>“Directors”</b>	means the directors for the time being of the Company.
<b>“dividend”</b>	includes interim dividends and bonus dividends.
<b>“Dividend Periods”</b>	shall have the meaning given to such term in Article 15.2.
<b>“electronic communication”</b>	shall have the meaning given to those words in the Electronic Commerce Act 2000.
<b>“electronic signature”</b>	shall have the meaning given to those words in the Electronic Commerce Act 2000.
<b>“Exchange”</b>	means any securities exchange or other system on which the Shares of the Company may be listed or otherwise authorised for trading from time to time.
<b>“Exchange Act”</b>	shall have the meaning given to such term in Article 100.
<b>“Members”</b>	mean persons who have agreed to become a Member of the Company and whose name is entered in the Register of Members as a registered holder of Shares and each and any of them individually a Member.
<b>“Memorandum”</b>	means the memorandum of association of the Company as amended from time to time by Special Resolution.
<b>“Merger”</b>	means the merger between Alkermes, Inc. and Antler Acquisition Corp. consummated at the time these Articles became effective and as a result of which Alkermes, Inc. became the surviving entity and an indirect wholly-owned subsidiary of the Company.
<b>“month”</b>	means a calendar month.
<b>“officer”</b>	means any executive of the Company that has been designated by the Company the title “officer” and for the avoidance of doubt does not have the meaning given to such term under the 1963 Act.
<b>“Ordinary Resolution”</b>	means an ordinary resolution of the Company’s Members within the meaning of section 141 of the 1963 Act.

<b>“paid-up”</b>	means paid-up as to the nominal value and any premium payable in respect of the issue of any Shares and includes credited as paid-up.
<b>“Redeemable Shares”</b>	means redeemable shares in accordance with section 206 of the 1990 Act.
<b>“Register of Members” or “Register”</b>	means the register of Members of the Company maintained by or on behalf of the Company, in accordance with the Companies Acts and includes (except where otherwise stated) any duplicate Register of Members.
<b>“registered office”</b>	means the registered office for the time being of the Company.
<b>“Seal”</b>	means the seal of the Company, if any, and includes every duplicate seal.
<b>“Secretary”</b>	means the person appointed by the Board to perform any or all of the duties of secretary of the Company and includes an Assistant Secretary and any person appointed by the Board to perform the duties of secretary of the Company.
<b>“Share” and “Shares”</b>	means a share or shares in the capital of the Company.
<b>“Shareholder Rights Plan”</b>	means a shareholder rights plan providing for the right of Members to purchase securities of the Company in the event of any proposed acquisition of a majority of the Shares where such acquisition is not approved or recommended by the Board.
<b>“Special Resolution”</b>	means a special resolution of the Company’s Members within the meaning of section 141 of the 1963 Act.

## 2.2 In the Articles:

- (a) words importing the singular number include the plural number and vice-versa;
- (b) words importing the feminine gender include the masculine gender;
- (c) words importing persons include any company, partnership or other body of persons, whether corporate or not, any trust and any government, governmental body or agency or public authority, whether of Ireland or elsewhere;
- (d) “written” and “in writing” include all modes of representing or reproducing words in visible form, including electronic communication;
- (e) references to a company include any body corporate or other legal entity, whether incorporated or established in Ireland or elsewhere;

- (f) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced from time to time;
- (g) any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (h) reference to “officer” or “officers” in these Articles means any executive that has been designated by the Company as an “officer” and, for the avoidance of doubt, shall not have the meaning given to such term in the 1963 Act and any such officers shall not constitute officers of the Company within the meaning of Section 2(1) of the 1963 Act.
- (i) headings are inserted for reference only and shall be ignored in construing these Articles; and
- (j) references to US\$, USD, \$ or dollars shall mean United States dollars, the lawful currency of the United States of America and references to €, euro, or EUR shall mean the euro, the lawful currency of Ireland.

### **SHARE CAPITAL; ISSUE OF SHARES**

- 3. The authorised share capital of the Company is €40,000 and US\$5,000,000 divided into 40,000 ordinary shares of €1.00 each, 450,000,000 ordinary shares of US\$0.01 each and 50,000,000 undesignated preferred shares of US\$0.01 each.
- 4. Subject to the Companies Acts and the rights conferred on the holders of any other class of shares, any Share in the Company may be issued with or have attached to it such preferential, deferred, qualified or special rights, privileges or conditions as the Company may by Ordinary Resolution decide or, insofar as the Ordinary Resolution does not make specific provision, as the Board may from time to time determine.
- 5. Subject to the provisions of these Articles relating to new Shares, the Shares shall be at the disposal of the Directors, and they may (subject to the provisions of the Companies Acts) allot, grant options over or otherwise dispose of them to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its Members, but so that no Share shall be issued at a discount save in accordance with section 26(5) and 28 of the 1983 Act, and so that, in the case of Shares offered to the public for subscription, the amount payable on application on each Share shall not be less than one-quarter of the nominal amount of the Share and the whole of any premium thereon.
- 6. Subject to any requirement to obtain the approval of Members under any laws, regulations or the rules of any Exchange, the Board is authorised, from time to time, in its discretion, to grant such persons, for such periods and upon such terms as the Board deems advisable, options to purchase or subscribe for any number of Shares of any class or classes or of any series of any class as the Board may deem advisable, and to cause warrants or other appropriate instruments evidencing such options to be issued.
- 7. Subject to the provisions of Part XI of the 1990 Act and the other provisions of this Article 7, the Company may:
  - 7.1 pursuant to section 207 of the 1990 Act, issue any Shares of the Company which are to be redeemed or are liable to be redeemed at the option of the Company or the Member on such terms and in such manner as may be determined by the Company in general meeting (by Special Resolution) on the recommendation of the Directors;

- 7.2 redeem Shares of the Company on such terms as may be contained in, or be determined pursuant to the provisions of, these Articles. Subject as aforesaid, the Company may cancel any Shares so redeemed or may hold them as treasury shares and re-issue such treasury shares as Shares of any class or classes or cancel them;
- 7.3 subject to or in accordance with the provisions of the Companies Acts and without prejudice to any relevant special rights attached to any class of shares, pursuant to section 211 of the 1990 Act, purchase any of its own Shares (including any Redeemable Shares and without any obligation to purchase on any *pro rata* basis as between Members or Members of the same class) and may cancel any shares so purchased or hold them as treasury (as defined by section 209 of the 1990 Act) and may reissue any such shares as shares of any class or classes or cancel them; or
- 7.4 pursuant to section 210 of the 1990 Act, convert any of its Shares into Redeemable Shares provided that the total number of Shares which shall be redeemable pursuant to this authority shall not exceed the limit in section 210(4) of the 1990 Act.

8.

- 8.1 The Directors are, for the purposes of section 20 of the 1983 Act, generally and unconditionally authorised to exercise all powers of the Company to allot and issue relevant securities (as defined by the said section 20) up to the amount of the Company's authorised share capital as at the date of adoption of these Articles and to allot and issue any Shares purchased by the Company pursuant to the provisions of Part XI of the 1990 Act and held as treasury shares and this authority shall expire five years from the date of adoption of these Articles.
- 8.2 The Directors are hereby empowered pursuant to sections 23 and 24(1) of the 1983 Act to allot equity securities within the meaning of the said section 23 for cash pursuant to the authority conferred by Article 8.1 as if section 23(1) of the said 1983 Act did not apply to any such allotment. The Company may before the expiry of such authority make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of such an offer or agreement as if the power conferred by Article 8.1 had not expired.
- 8.3 The Company may issue share warrants to bearer pursuant to section 88 of the 1963 Act.

9. Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares or to the authority conferred on the Directors pursuant to Article 15 to issue the preferred shares, any Share in the Company may be issued with such preferred or deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the Company may from time to time by Ordinary Resolution determine.

10. The Company may pay commission to any person in consideration of any person subscribing or agreeing to subscribe, whether absolutely or conditionally, for the shares in the Company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company on such terms and, subject to the provisions of the Companies Acts and to such conditions as the Directors may determine, including, without limitation, by paying cash or allotting and issuing fully or partly paid shares or any combination of the two. The Company may also on any issue of Shares pay such brokerage as may be lawful.

## ORDINARY SHARES

11. The holders of the ordinary shares shall be:
- 11.1 entitled to dividends on a *pro rata* basis in accordance with the relevant provisions of these Articles;
  - 11.2 entitled to participate *pro rata* in the total assets of the Company in the event of the Company's winding up; and
  - 11.3 entitled, subject to the right of the Company to set record dates for the purpose of determining the identity of Members entitled to notice of and/or vote at a general meeting, to attend general meetings of the Company and shall be entitled to one vote for each ordinary share registered in her name in the Register of Members, both in accordance with the relevant provisions of these Articles.

The rights attaching to the ordinary shares may be subject to the terms of issue of any series or class of preferred share allotted by the Directors from time to time in accordance with Article 15.

12. An ordinary share shall be deemed to be a Redeemable Share on, and from the time of, the existence or creation of an agreement, transaction or trade between the Company and any third party pursuant to which the Company acquires or will acquire ordinary shares, or an interest in ordinary shares, from the relevant third party. In these circumstances, the acquisition of such shares by the Company shall constitute the redemption of a Redeemable Share in accordance with Part XI of the 1990 Act.
13. All ordinary shares shall rank *pari passu* with each other in all respects.
14. Pursuant to the terms of the Merger, ordinary shares in the share capital of the Company equal in number to the number of shares of common stock of Alkermes, Inc. held in certificated form immediately prior to the Merger becoming effective (the "**Effective Time**"), will be allotted and issued by the Company to the exchange agent in connection with the Merger (the "**Exchange Agent**") who shall hold such ordinary shares on trust for the holders of shares of common stock of Alkermes, Inc. in certificated form (the "**Certificated Holders**"). The Certificated Holders shall be entitled to have such number of ordinary shares in the share capital of the Company as is equal to the number of shares of common stock in Alkermes, Inc. held in certificated form immediately prior to the Effective Time transferred to them by the Exchange Agent following deposit of a share certificate and letter of transmittal with the Exchange Agent and any other documents reasonably required by the Exchange Agent and notified to the Certificated Holders (the "**Exchange Agent Documents**"), evidencing ownership of that number of shares of common stock of Alkermes, Inc.. Insofar as such Exchange Agent Documents are not deposited with the Exchange Agent prior to the first anniversary of the date on which Effective Time occurred (the "**First Anniversary**"), the Exchange Agent shall sell all such shares on the market (with no obligation to obtain the best possible price) and shall transfer the proceeds of such sale to the Company which shall hold such proceeds in an account, which does not need to be interest bearing, in trust for those Certificated Holders who have not by the First Anniversary deposited the Exchange Agent Documents. If and when such Exchange Agent Documents are deposited with the Secretary of the Company following the first anniversary of the date on which the Effective Time occurs, the Company shall arrange for a payment to be made to the Certificated Holder equal to the number of ordinary shares in the share capital of the Company sold by the Exchange Agent representing the number of shares of common stock of Alkermes, Inc. evidenced as being owned by her in the Exchange Agent Documents so deposited.

## PREFERRED SHARES

15. The Directors are authorised to issue all or any of the authorised but unissued preferred shares from time to time in one or more classes or series, and to fix for each such class or series such voting powers (full or limited or without voting powers), designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof as are stated and expressed, or in any resolution or resolutions providing for the issue of such class or series adopted by the Board as hereinafter provided, including, without limitation, and subject to the Memorandum and Articles and applicable law, the authority to provide that any such class or series may be:

15.1 redeemable at the option of the Company, or the Members, or both, with the manner of the redemption to be set by the Board, and redeemable at such time or times, including upon a fixed date, and at such price or prices;

15.2 entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions at such times and in respect of such dividend periods (the “**Dividend Periods**”), and payable in preference to, or in such relation to, the dividends payable on any other class or classes of shares or any other series;

15.3 entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Company; or

15.4 convertible into, or exchangeable for, shares of any other class or classes of shares, or of any other series of the same or any other class or classes of shares, of the Company at such price or prices or at such rates of exchange and with such adjustments as the Directors determine,

which rights and restrictions may be as stated in such resolution or resolutions of the Directors as determined by them in accordance with this Article 15. The Board may at any time before the allotment of any preferred share by further resolution in any way amend the designations, preferences, rights, qualifications, limitations or restrictions, or vary or revoke the designations of such preferred shares.

Notwithstanding the fixing of the number of preferred shares constituting a particular series upon the issuance thereof, the Board at any time thereafter may authorise the issuance of additional preferred shares of the same series subject always to the Companies Acts, the Memorandum and these Articles.

The rights conferred upon a Member holding any pre-existing shares in the share capital of the Company shall be deemed not to be varied by the creation, issue and allotment of preferred shares in accordance with this Article 15.

16. No dividend shall be declared and set apart for payment on any series of preferred shares in respect of any Dividend Period unless there shall likewise be or have been paid, or declared and set apart for payment, on all preferred shares of each other series entitled to cumulative dividends at the time outstanding that rank senior or equally as to dividends with the series in question, dividends rateably in accordance with the sums which would be payable on the said preferred shares through the end of the last preceding Dividend Period if all dividends were declared and paid in full.

17. If, upon the winding up of the Company, the assets of the Company distributable among the holders of any one or more series of preferred shares which (i) are entitled to a preference over the holders of the ordinary shares upon such winding up, and (ii) rank equally in connection with any such distribution, shall be insufficient to pay in full the preferential amount to which the holders of such preferred shares shall be entitled, then such assets, or the proceeds thereof, shall be distributed among the holders of each such series of the preferred shares rateably in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full.

## ISSUE OF WARRANTS

18. The Board may issue warrants to subscribe for any class of Shares or other securities of the Company on such terms as it may from time to time determine.

## CERTIFICATES FOR SHARES

19. Unless otherwise provided for by the Board or the rights attaching to or by the terms of issue of any particular Shares, or to the extent required by any stock exchange, depository, or any operator of any clearance or settlement system, no person whose name is entered as a Member in the Register of Members shall be entitled to receive a share certificate for all her Shares of each class held by her (nor on transferring a part of holding, to a certificate for the balance).
20. Any share certificate, if issued, shall specify the number of Shares in respect of which it is issued and the amount paid thereon or the fact that they are fully paid, as the case may be, and may otherwise be in such form as shall be determined by the Board. Such certificates may be under Seal. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. The name and address of the person to whom the Shares represented thereby are issued, with the number of Shares and date of issue, shall be entered in the Register of Members of the Company. All certificates surrendered to the Company for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of Shares shall have been surrendered and cancelled. The Board may authorise certificates to be issued with the seal and authorised signature(s) affixed by some method or system of mechanical process. In respect of a Share or Shares held jointly by several persons, the Company shall not be bound to issue a certificate or certificates to each such person, and the issue and delivery of a certificate or certificates to one of several joint holders shall be sufficient delivery to all such holders.
21. If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating such evidence, as the Board may prescribe, and, in the case of defacement or wearing out, upon delivery of the old certificate.

## REGISTER OF MEMBERS

22. The Company shall maintain or cause to be maintained a Register of its Members in accordance with the Companies Acts.
23. If the Board considers it necessary or appropriate, the Company may establish and maintain a duplicate Register or Registers of Members at such location or locations within or outside Ireland as the Board thinks fit. The original Register of Members shall be treated as the Register of Members for the purposes of these Articles and the Companies Acts.
24. The Company, or any agent(s) appointed by it to maintain the duplicate Register of Members in accordance with these Articles, shall as soon as practicable and on a regular basis record or procure the recording in the original Register of Members all transfers of Shares effected on any duplicate Register of Members and shall at all times maintain the original Register of Members in such manner as to show at all times the Members for the time being and the Shares respectively held by them, in all respects in accordance with the Companies Acts.

25. The Company shall not be bound to register more than four persons as joint holders of any Share. If any Share shall stand in the names of two or more persons, the person first named in the Register of Members shall be deemed the sole holder thereof as regards service of notices and, subject to the provisions of these Articles, all or any other matters connected with the Company.

#### **TRANSFER OF SHARES**

26. All transfers of Shares may be effected by an instrument of transfer in the usual common form or in such other form as the Board may approve. All instruments of transfer must be left at the registered office or at such other place as the Board may appoint and all such instruments of transfer shall be retained by the Company.
- 27.
- 27.1 The instrument of transfer shall be executed by or on behalf of the transferor. The instrument of transfer of any Share shall be in writing and shall be executed with a manual signature or facsimile signature (which may be machine imprinted or otherwise) by or on behalf of the transferor provided that in the case of execution by facsimile signature by or on behalf of a transferor, the Board shall have previously been provided with a list of specimen signatures of the authorised signatories of such transferor and the Board shall be reasonably satisfied that such facsimile signature corresponds to one of those specimen signatures.
- 27.2 The instrument of transfer of any Share may be executed for and on behalf of the transferor by the Secretary or an Assistant Secretary, and the Secretary or Assistant Secretary shall be deemed to have been irrevocably appointed agent for the transferor of such Share or Shares with full power to execute, complete and deliver in the name of and on behalf of the transferor of such Share or Shares all such transfers of Shares held by the Members in the share capital of the Company. Any document which records the name of the transferor, the name of the transferee, the class and number of Shares agreed to be transferred, the date of the agreement to transfer Shares, shall, once executed by the transferor or the Secretary or Assistant Secretary as agent for the transferor, be deemed to be a proper instrument of transfer for the purposes of section 81 of the 1963 Act. The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered on the Register in respect thereof, and neither the title of the transferee nor the title of the transferor shall be affected by any irregularity or invalidity in the proceedings in reference to the sale should the Directors so determine.
- 27.3 The Company, at its absolute discretion, may, or may procure that a subsidiary of the Company shall, pay Irish stamp duty arising on a transfer of Shares on behalf of the transferee of such Shares of the Company. If stamp duty resulting from the transfer of Shares in the Company which would otherwise be payable by the transferee is paid by the Company or any subsidiary of the Company on behalf of the transferee, then in those circumstances, the Company shall, on its behalf or on behalf of its subsidiary (as the case may be), be entitled to (i) seek reimbursement of the stamp duty from the transferee, (ii) set-off the stamp duty against any dividends payable to the transferee of those Shares and (iii) to claim a first and permanent lien on the Shares on which stamp duty has been paid by the Company or its subsidiary for the amount of stamp duty paid. The Company's lien shall extend to all dividends paid on those Shares.
- 27.4 Notwithstanding the provisions of these Articles and subject to any regulations made under section 239 of the 1990 Act, title to any Shares in the Company may also be evidenced and transferred without a written instrument in accordance with section 239 of the 1990 Act or any regulations made thereunder. The Directors shall have power to permit any class of Shares to be held in uncertificated form and to implement any arrangements they think fit for such evidencing and transfer which accord with such regulations and in particular shall, where appropriate, be entitled to disapply or modify all or part of the provisions in these Articles with respect to the requirement for written instruments of transfer and share certificates (if any), in order to give effect to such regulations.



28. The Board, may in its absolute discretion and without assigning any reason for its decision, decline to register any transfer of any Share which is not a fully paid Share. The Board may also, in its absolute discretion, and without assigning any reason, refuse to register a transfer of any Share unless:
- 28.1 the instrument of transfer is lodged with the Company accompanied by the certificate for the Shares (if any) to which it relates (which shall upon registration of the transfer be cancelled) and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer;
  - 28.2 the instrument of transfer is in respect of only one class of Shares;
  - 28.3 the instrument of transfer is properly stamped (in circumstances where stamping is required);
  - 28.4 in the case of a transfer to joint holders, the number of joint holders to which the Share is to be transferred does not exceed four;
  - 28.5 it is satisfied, acting reasonably, that all applicable consents, authorisations, permissions or approvals of any governmental body or agency in Ireland or any other applicable jurisdiction required to be obtained under relevant law prior to such transfer have been obtained; and
  - 28.6 it is satisfied, acting reasonably, that the transfer would not violate the terms of any agreement to which the Company (or any of its subsidiaries) and the transferor are party or subject.
29. If the Board shall refuse to register a transfer of any Share, it shall, within two (2) months after the date on which the transfer was lodged with the Company, send to each of the transferor and the transferee notice of such refusal.
30. The Company shall not be obligated to make any transfer to an infant or to a person in respect of whom an order has been made by a competent court or official on the grounds that she is or may be suffering from mental disorder or is otherwise incapable of managing her affairs or under other legal disability.
31. Upon every transfer of Shares the certificate (if any) held by the transferor shall be given up to be cancelled, and shall forthwith be cancelled accordingly, and subject to Article 19 a new certificate may be issued without charge to the transferee in respect of the Shares transferred to her, and if any of the Shares included in the certificate so given up shall be retained by the transferor, a new certificate in respect thereof may be issued to her without charge. The Company shall also retain the instrument(s) of transfer.

#### **REDEMPTION AND REPURCHASE OF SHARES**

32. Subject to the provisions of the Companies Act and these Articles, the Company may, pursuant to Section 207 of the 1990 Act, issue any Shares of the Company which are to be redeemed or are liable to be redeemed at the option of the Company or the Member of the Company on such terms and in such manner as may be determined by the Company in general meeting (by Special Resolution) on the recommendation of the Board.

33. Subject to the Companies Acts, the Company may, without prejudice to any relevant special rights attached to any class of Shares pursuant to section 211 of the 1990 Act, purchase any of its own Shares (including any Redeemable Shares and without any obligation to purchase on any *pro rata* basis as between Members or Members of the same class) and may cancel any Shares so purchased or hold them as treasury shares (as defined in section 209 of the 1990 Act) and may reissue any such Shares as Shares of any class or classes.
34. The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Companies Acts.
35. The holder of the Shares being purchased shall be bound to deliver up to the Company at its registered office or such other place as the Board shall specify, the certificate(s) (if any) thereof for cancellation and thereupon the Company shall pay to her the purchase or redemption monies or consideration in respect thereof.

#### **VARIATION OF RIGHTS OF SHARES**

36. If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may be varied or abrogated with the consent in writing of the holders of three-quarters of all the votes of the issued Shares of that class, or with the sanction of a Special Resolution passed at a general meeting of the holders of the Shares of that class.
37. The provisions of these Articles relating to general meetings of the Company shall apply *mutatis mutandis* to every such general meeting of the holders of one class of Shares except that the necessary quorum shall be one or more persons holding or representing by proxy at least one-half of the issued Shares of the class.
38. The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by (i) the creation or issue of further Shares ranking *pari passu* therewith; (ii) a purchase or redemption by the Company of its own Shares; or (iii) the creation or issue for full value (as determined by the Board) of further Shares ranking as regards participation in the profits or assets of the Company or otherwise in priority to them.

#### **LIEN ON SHARES**

39. The Company shall have a first and paramount lien on every Share (not being a fully paid Share) for all monies (whether presently payable or not) payable at a fixed time or called in respect of that Share. The Directors, at any time, may declare any Share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a Share shall extend to all monies payable in respect of it.
40. The Company may sell in such manner as the Directors determine any Share on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice demanding payment, and stating that if the notice is not complied with the Share may be sold, has been given to the holder of the Share or to the person entitled to it by reason of the death or bankruptcy of the holder.
41. To give effect to a sale, the Directors may authorise some person to execute an instrument of transfer of the Share sold to, or in accordance with the directions of, the transferee. The transferee shall be entered in the Register as the holder of the Share comprised in any such transfer and she shall not be bound to see to the application of the purchase monies nor shall her title to the Share be affected by any irregularity in or invalidity of the proceedings in reference to the sale, and after the name of the transferee has been entered in the Register, the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

42. The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable and any residue (upon surrender to the Company for cancellation of the certificate for the Shares sold and subject to a like lien for any monies not presently payable as existed upon the Shares before the sale) shall be paid to the person entitled to the Shares at the date of the sale.
43. Whenever any law for the time being of any country, state or place imposes or purports to impose any immediate or future or possible liability upon the Company to make any payment or empowers any government or taxing authority or government official to require the Company to make any payment in respect of any Shares registered in the Register as held either jointly or solely by any Members or in respect of any dividends, bonuses or other monies due or payable or accruing due or which may become due or payable to such Member by the Company on or in respect of any Shares registered as mentioned above or for or on account or in respect of any Member and whether in consequence of:
- 43.1 the death of such Member;
  - 43.2 the non-payment of any income tax or other tax by such Member;
  - 43.3 the non-payment of any estate, probate, succession, death, stamp or other duty by the executor or administrator of such Member or by or out of her estate; or
  - 43.4 any other act or thing;
- in every such case (except to the extent that the rights conferred upon holders of any class of Shares under the Company liable to make additional payments in respect of sums withheld on account of the foregoing):
- 43.5 the Company shall be fully indemnified by such Member or her executor or administrator from all liability;
  - 43.6 the Company shall have a lien upon all dividends and other monies payable in respect of the Shares registered in the Register as held either jointly or solely by such Member for all monies paid or payable by the Company as referred to above in respect of such Shares or in respect of any dividends or other monies thereon or for or on account or in respect of such Member under or in consequence of any such law, together with interest at the rate of 15% per annum (or such other rate as the Board may determine) thereon from the date of payment to date of repayment, and the Company may deduct or set off against such dividends or other monies so payable any monies paid or payable by the Company as referred to above together with interest at the same rate;
  - 43.7 the Company may recover as a debt due from such Member or her executor or administrator (wherever constituted) any monies paid by the Company under or in consequence of any such law and interest thereon at the rate and for the period referred to above in excess of any dividends or other monies then due or payable by the Company; and
  - 43.8 the Company may if any such money is paid or payable by it under any such law as referred to above refuse to register a transfer of any Shares by any such Member or her executor or administrator until such money and interest is set off or deducted as referred to above or in the case that it exceeds the amount of any such dividends or other monies then due or payable by the Company, until such excess is paid to the Company.

Subject to the rights conferred upon the holders of any class of Shares, nothing in this Article 43 will prejudice or affect any right or remedy which any law may confer or purport to confer on the Company. As between the Company and every such Member as referred to above (and, her executor, administrator and estate, wherever constituted), any right or remedy which such law shall confer or purport to confer on the Company shall be enforceable by the Company.

#### **CALLS ON SHARES**

44. Subject to the terms of allotment, the Directors may make calls upon the Members in respect of any monies unpaid on their Shares and each Member (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) shall pay to the Company as required by the notice the amount called on her Shares. A call may be required to be paid by instalments. A call may be revoked before receipt by the Company of a sum due thereunder, in whole or in part and payment of a call may be postponed in whole or in part.
45. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
46. A person on whom a call is made shall (in addition to a transferee) remain liable notwithstanding the subsequent transfer of the Share in respect of which the call is made.
47. The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
48. If a call remains unpaid after it has become due and payable, the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due until it is paid at the rate fixed by the terms of allotment of the Share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Companies Acts) but the Directors may waive payment of the interest wholly or in part.
49. An amount payable in respect of a Share on allotment or at any fixed date, whether in respect of nominal value by way of premium, shall be deemed to be a call and if it is not paid the provisions of these Articles shall apply as if that amount had become due and payable by virtue of a call.
50. Subject to the terms of allotment, the Directors may make arrangements on the issue of Shares for a difference between the holders in the amounts and times of payment of calls on their Shares.
51. The Directors may, if they think fit, receive from any Member willing to advance the same all or any part of the monies uncalled and unpaid upon any Shares held by her, and upon all or any of the monies so advanced may pay (until the same would, but for such advance, become payable) interest at such rate as may be agreed upon between the Directors and the Member paying such sum in advance.

#### **FORFEITURE**

52. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors, at any time thereafter during such times as any part of the call or instalment remains unpaid, may serve a notice on her requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued.

53. The notice shall state a further day (not earlier than the expiration of fourteen clear days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the Shares in respect of which the call was made will be liable to be forfeited.
54. If the requirements of any such notice as aforesaid are not complied with then, at any time thereafter before the payment required by the notice has been made, any Shares in respect of which the notice has been given may be forfeited by a resolution of the Directors to that effect. The forfeiture shall include all dividends or other monies payable in respect of the forfeited Shares and not paid before forfeiture. The Directors may accept a surrender of any Share liable to be forfeited hereunder.
55. On the trial or hearing of any action for the recovery of any money due for any call it shall be sufficient to prove that the name of the Member sued is entered in the Register as the holder, or one of the holders, of the Shares in respect of which such debt accrued, that the resolution making the call is duly recorded in the minute book and that notice of such call was duly given to the Member sued, in pursuance of these Articles, and it shall not be necessary to prove the appointment of the Directors who made such call nor any other matters whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt.
56. A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal such a Share is to be transferred to any person, the Directors may authorise some person to execute an instrument of transfer of the Share to that person. The Company may receive the consideration, if any, given for the Share on any sale or disposition thereof and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of and thereupon she shall be registered as the holder of the Share and shall not be bound to see to the application of the purchase money, if any, nor shall her title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.
57. A person whose Shares have been forfeited shall cease to be a Member in respect of the forfeited Shares, but nevertheless shall remain liable to pay to the Company all monies which, at the date of forfeiture, were payable by her to the Company in respect of the Shares, without any deduction or allowance for the value of the Shares at the time of forfeiture but her liability shall cease if and when the Company shall have received payment in full of all such monies in respect of the Shares.
58. A statutory declaration or affidavit that the declarant is a Director or the Secretary of the Company, and that a Share in the Company has been duly forfeited on the date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the Share.
59. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a Share, becomes payable at a fixed time, whether on account of the nominal value of the Share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.
60. The Directors may accept the surrender of any Share which the Directors have resolved to have been forfeited upon such terms and conditions as may be agreed and, subject to any such terms and conditions, a surrendered Share shall be treated as if it has been forfeited.

## **NON-RECOGNITION OF TRUSTS**

61. The Company shall not be obligated to recognise any person as holding any Share upon any trust (except as is otherwise provided in these Articles or to the extent required by law) and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future, or partial interest in any Share, or any interest in any fractional part of a Share, or (except only as is otherwise provided by these Articles or the Companies Acts) any other rights in respect of any Share except an absolute right to the entirety thereof in the registered holder. This shall not preclude the Company from requiring the Members or a transferee of Shares to furnish to the Company with information as to the beneficial ownership of any Share when such information is reasonably required by the Company.

## **TRANSMISSION OF SHARES**

62. In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where she was a sole holder, shall be the only persons recognised by the Company as having any title to her interest in the Shares, but nothing herein contained shall release the estate of any such deceased holder from any liability in respect of any Shares which had been held by her solely or jointly with other persons.
63. Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may from time to time be required by the Board and subject as hereinafter provided, elect either to be registered himself as holder of the Share or to make such transfer of the Share to such other person nominated by her and to have such person registered as the transferee thereof, but the Board shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by that Member before her death or bankruptcy as the case may be.
64. If the person so becoming entitled shall elect to be registered himself as holder, she shall deliver or send to the Company a notice in writing signed by her stating that she so elects.
65. Subject to Article 66, a person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of the holder (or in any other case than by transfer) shall be entitled to the same dividends and other advantages to which she would be entitled if she were the registered holder of the Share, except that she shall not, before being registered as a Member in respect of the Share, be entitled in respect of it to exercise any right conferred by Membership in relation to meetings of the Company provided however that the Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within ninety (90) days the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.
66. The Board may at any time give notice requiring a person entitled by transmission to a Share to elect either to be registered himself or to transfer the Share and if the notice is not complied with within sixty (60) days the Board may withhold payment of all dividends and other monies payable in respect of the Share until the requirements of the notice have been complied with.

## **AMENDMENT OF MEMORANDUM OF ASSOCIATION; CHANGE OF LOCATION OF REGISTERED OFFICE; AND ALTERATION OF CAPITAL**

67. The Company may by Ordinary Resolution:

- 67.1 divide its share capital into several classes and attach to them respectively any preferential, deferred, qualified or special rights, privileges or conditions;
- 67.2 increase the authorised share capital by such sum to be divided into Shares of such nominal value, as such Ordinary Resolution shall prescribe;
- 67.3 consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
- 67.4 by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller nominal value than is fixed by the Memorandum subject to section 68(1)(d) of the 1963 Act, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;
- 67.5 cancel any Shares that at the date of the passing of the relevant Ordinary Resolution have not been taken or agreed to be taken by any person; and
- 67.6 subject to applicable law, change the currency denomination of its share capital.

68. Subject to the provisions of the Companies Acts, the Company may:

- 68.1 by Special Resolution change its name, alter or add to the Memorandum with respect to any objects, powers or other matters specified therein or alter or add to these Articles;
- 68.2 by Special Resolution reduce its issued share capital and any capital redemption reserve fund or any share premium account. In relation to such reductions, the Company may by Special Resolution determine the terms upon which the reduction is to be effected, including in the case of a reduction of part only of any class of Shares, those Shares to be affected; and
- 68.3 by resolution of the Directors change the location of its registered office.

69. Whenever as a result of an alteration or reorganisation of the share capital of the Company any Members would become entitled to fractions of a Share, the Directors may, on behalf of those Members, sell the Shares representing the fractions for the best price reasonably obtainable to any person and distribute the proceeds of sale in due proportion among those Members, and the Directors may authorise any person to execute an instrument of transfer of the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall her title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

#### **CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE**

70. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any dividend, or in order to make a determination of Members for any other proper purpose, the Board may provide, subject to the requirements of section 121 of the 1963 Act, that the Register of Members shall be closed for transfers at such times and for such periods, not exceeding in the whole thirty (30) days in each year. If the Register of Members shall be so closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members such Register of Members shall be so closed for at least five (5) days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.

71. In lieu of, or apart from, closing the Register of Members, the Board may fix in advance a date as the record date (a) for any such determination of Members entitled to notice of or to vote at a meeting of the Members, which record date shall not be more than ninety (90) days nor less than ten (10) days before the date of such meeting, and (b) for the purpose of determining the Members entitled to receive payment of any dividend, or in order to make a determination of Members for any other proper purpose, which record date shall not be more than ninety (90) days prior to the date of payment of such dividend or the taking of any action to which such determination of Members is relevant. The record date shall not precede the date upon which the resolution fixing the record date is adopted by the Directors.
72. If the Register of Members is not so closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members or Members entitled to receive payment of a dividend, the date immediately preceding the date on which notice of the meeting is deemed given under these Articles or the date on which the resolution of the Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in these Articles, such determination shall apply to any adjournment thereof; provided, however, that the Directors may fix a new record date of the adjourned meeting, if they think fit.

#### **GENERAL MEETINGS**

73. The Board shall convene and the Company shall hold annual general meetings in accordance with the requirements of the Companies Acts.
74. The Board may, whenever it thinks fit, and shall, on the requisition in writing of Members holding such number of Shares as is prescribed by, and made in accordance with, section 132 of the 1963 Act, convene a general meeting in the manner required by the Companies Acts. All general meetings other than annual general meetings shall be called extraordinary general meetings.
75. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year, and shall specify the meeting as such in the notices calling it. Not more than fifteen (15) months shall elapse between the date of one annual general meeting of the Company and that of the next. Subject to section 140 of the 1963 Act, all general meetings may be held outside of Ireland.
76. Each general meeting shall be held at such time and place as specified in the notice of meeting.
77. The Board may, in its absolute discretion, authorise the Secretary to postpone any general meeting called in accordance with the provisions of these Articles (other than a meeting requisitioned under Article 74 of these Articles or the postponement of which would be contrary to the Companies Acts, law or a court order pursuant to the Companies Acts) if the Board considers that, for any reason, it is impractical or unreasonable to hold the general meeting, provided that notice of postponement is given to each Member before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Member in accordance with the provisions of these Articles.

#### **NOTICE OF GENERAL MEETINGS**

78. Subject to the provisions of the Companies Acts allowing a general meeting to be called by shorter notice, an annual general meeting, and an extraordinary general meeting called for the passing of a Special Resolution, shall be called by at least twenty-one (21) clear days' notice and all other extraordinary general meetings shall be called by at least fourteen (14) clear days' notice. Such notice shall state the date, time, place of the meeting and, in the case of an extraordinary general meeting, the general nature of the business to be considered. Every notice shall be exclusive of the day on which it is given or deemed to be given and of the day for which it is given and shall specify such other details as are required by applicable law or the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange.



79. A general meeting of the Company shall, whether or not the notice specified in this Article has been given and whether or not the provisions of the Articles regarding general meetings have been complied with, be deemed to have been duly convened if applicable law so permits and it is so agreed by the Auditors and by all the Members entitled to attend and vote thereat or their proxies.
80. The notice convening an annual general meeting shall specify the meeting as such, and the notice convening a meeting to pass a Special Resolution shall specify the intention to propose the resolution as a Special Resolution. Notice of every general meeting shall be given in any manner permitted by these Articles to all Members other than such as, under the provisions hereof or the terms of issue of the Shares they hold, are not entitled to receive such notice from the Company.
81. There shall appear with reasonable prominence in every notice of general meetings of the Company a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of her and that any proxy need not be a Member of the Company.
82. The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.
83. In cases where instruments of proxy are sent out with notices, the accidental omission to send such instrument of proxy to, or the non-receipt of such instrument of proxy by, any person entitled to receive notice shall not invalidate any resolution passed or any proceeding at any such meeting. A Member present, either in person or by proxy, at any general meeting of the Company or of the holders of any class of Shares in the Company, will be deemed to have received notice of that meeting and, where required, of the purpose for which it was called.

#### **PROCEEDINGS AT GENERAL MEETINGS**

84. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and the reports of the Directors and Auditors, the election of Directors, the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors.
85. No business shall be transacted at any general meeting unless a quorum is present. One or more Members present in person or by proxy holding not less than a majority of the issued and outstanding Shares of the Company entitled to vote at the meeting in question shall be a quorum.
86. If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other time or such other place as the Board may determine and if at the adjourned meeting a quorum is not present within one hour from the time appointed for the meeting the Members present shall be a quorum.

87. If the Board wishes to make this facility available to Members for a specific or all general meetings of the Company, a Member may participate in any general meeting of the Company, by means of a telephone, video, electronic or similar communication equipment by way of which all persons participating in such meeting can communicate with each other simultaneously and instantaneously and such participation shall be deemed to constitute presence in person at the meeting.
88. Each Director and the Auditors shall be entitled to attend and speak at any general meeting of the Company.
89. The Chairman, if any, of the Board, and, if the Chairman is not present, such officer or other person as the Board shall designate, shall preside as chairman at every general meeting of the Company.
90. The Chairman may, with the consent of any general meeting duly constituted hereunder, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished, or which might have been transacted, at the meeting from which the adjournment took place. When a general meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting; save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.
- 91.
- 91.1 Subject to the Companies Acts, a resolution may only be put to a vote at a general meeting of the Company or of any class of Members if:
- (a) it is proposed by or at the direction of the Board; or
  - (b) it is proposed at the direction of the Court; or
  - (c) it is proposed on the requisition in writing of such number of Members as is prescribed by, and is made in accordance with, section 132 of the 1963 Act;
  - (d) it is proposed pursuant to, and in accordance with the procedures and requirements of, Articles 99 or 100; or
  - (e) the Chairman of the meeting in her absolute discretion decides that the resolution may properly be regarded as within the scope of the meeting.
- 91.2 No amendment may be made to a resolution, at or before the time when it is put to a vote, unless the Chairman of the meeting in her absolute discretion decides that the amendment or the amended resolution may properly be put to a vote at that meeting.
- 91.3 If the Chairman of the meeting rules a resolution or an amendment to a resolution admissible or out of order (as the case may be), the proceedings of the meeting or on the resolution in question shall not be invalidated by any error in her ruling. Any ruling by the Chairman of the meeting in relation to a resolution or an amendment to a resolution shall be final and conclusive.
92. Except where a greater majority is required by the Companies Acts or these Articles or any applicable law or regulation to which the Company is subject, any question proposed for a decision of the Members at any general meeting of the Company or a decision of any class of Members at a separate meeting of any class of Shares shall be decided by an Ordinary Resolution.

93. At any general meeting a resolution put to the vote of the meeting shall be decided on a poll. The Board or the Chairman may determine the manner in which the poll is to be taken and the manner in which the votes are to be counted.
94. A poll demanded on the election of the Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time, not being more than ten (10) days from the date of the meeting or adjourned meeting at which the vote was taken, as the Chairman of the meeting directs, and any business other than that on which a poll has been demanded may be proceeded with pending the taking of the poll.
95. No notice need be given of a poll not taken immediately. The result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded. On a poll a Member entitled to more than one (1) vote need not use all her votes or cast all the votes she uses in the same way.
96. If authorised by the Board, any vote taken by written ballot may be satisfied by a ballot submitted by electronic or telephonic transmission, provided that any such electronic or telephonic submission must either set forth or be submitted with information from which it can be determined that the electronic submission has been authorised by the Member or proxy.
97. The Board may, and at any general meeting, the chairman of such meeting may make such arrangement and impose any requirement or restriction it or she considers appropriate to ensure the security of a general meeting including, without limitation, requirements for evidence of identity to be produced by those attending the meeting, the searching of personal property and the restriction of items that may be taken into the meeting place. The Board and, at any general meeting, the chairman of such meeting are entitled to refuse entry to a person who refuses to comply with such arrangements, requirements or restrictions.
98. Subject to section 141 of the 1963 Act, a resolution in writing signed by all of the Members for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly authorised representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held, and may consist of several documents in like form each signed by one or more persons, and if described as a special resolution shall be deemed to be a special resolution within the meaning of the 1963 Act. Any such resolution shall be served on the Company.

#### **NOMINATIONS OF DIRECTORS**

99. Nominations of persons for election to the Board (other than Directors to be nominated by any series of preferred shares, voting separately as a class) at a general meeting may only be made (a) pursuant to the Company's notice of meeting pursuant to Article 78 at the recommendation of the Board, (b) by or at the direction of the Board or any authorised committee thereof or (c) by any Member who (i) complies with the notice procedures set forth in Articles 100 or 101, as applicable, (ii) was a Member at the time such notice is delivered to the Secretary and on the record date for the determination of Members entitled to vote at such general meeting and (iii) is present at the relevant general meeting, either in person or by proxy, to present her nomination, provided, however, that Members shall only be entitled to nominate persons for election to the Board at annual general meetings or at general meetings called specifically for the purpose of electing Directors.

100. For nominations of persons for election to the Board (other than Directors to be nominated by any series of preferred shares, voting separately as a class) to be properly brought before an annual general meeting by a Member, such annual general meeting must have been called for the purpose of, among other things, electing Directors and such Member must have given timely notice thereof in writing to the Secretary. To be timely, a Member's notice shall be delivered to the Secretary at the registered office of the Company, or such other Address as the Secretary may designate, not less than ninety (90) days nor more than one hundred and fifty (150) days prior to the first anniversary of the date the Company's proxy statement was first released to Members in connection with the prior year's annual general meeting; provided, however, that in the event the date of the annual general meeting is changed by more than thirty (30) days from the first anniversary date of the prior year's annual general meeting, notice by the Member to be timely must be so delivered not earlier than the one hundred and fiftieth (150<sup>th</sup>) day prior to such annual general meeting and not later than the later of the ninetieth (90<sup>th</sup>) day prior to such annual general meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. Such Member's notice shall set forth (a) as to each person whom the Member proposes to nominate for election or re-election as a Director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934 of the United States of America, as amended (the "**Exchange Act**"), or any successor provisions thereto, including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director of the Company if elected and (b) as to the Member giving the notice (i) the name and Address of such Member, as they appear on the Register of Members, (ii) the class and number of Shares that are owned beneficially and/or of record by such Member, (iii) a representation that the Member is a registered holder of Shares entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination and (iv) a statement as to whether the Member intends or is part of a group that intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's outstanding share capital required to approve or elect the nominee and/or (xi) otherwise to solicit proxies from Members in support of such nomination. The Board may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a Director of the Company, including such evidence satisfactory to the Board that such nominee has no interests that would limit such nominee's ability to fulfil her duties as a Director.
101. For nominations of persons for election to the Board (other than directors to be nominated by any series of preferred shares, voting separately as a class) to be properly brought before a general meeting called for the purpose of the election of Directors, other than an annual general meeting by a Member, such Member must have given timely notice thereof in writing to the Secretary. To be timely, a Member's notice shall be delivered to the Secretary at the registered office of the Company or such other Address as the Secretary may designate, not earlier than the one hundred and fiftieth (150<sup>th</sup>) day prior to such general meeting and not later of the ninetieth (90<sup>th</sup>) day prior to such general meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement is first made of the date of the general meeting and of the nominees proposed by the Board to be elected at such meeting. Such Member's notice shall set forth the same information as is required by provisions (a) and (b) of Article 100.
102. Subject to the Companies Acts, unless otherwise provided by the terms of any series of preferred shares or any agreement among Members or other agreement approved by the Board, only persons who are nominated in accordance with the procedures set forth in Articles 100 and 101 shall be eligible to serve as Directors of the Company. If the Chairman of a general meeting determines that a proposed nomination was not made in compliance with Articles 100 and 101, she shall declare to the meeting that nomination is defective and such defective nomination shall be disregarded. Notwithstanding the foregoing provisions of these Articles, if the Member (or a qualified representative of the Member) does not appear at the general meeting to present her nomination, such nomination shall be disregarded.

## VOTES OF MEMBERS

103. Subject to any rights or restrictions for the time being attached to any class or classes of Shares, every Member of record present in person or by proxy shall have one vote for each Share registered in her name in the Register of Members.
104. In the case of joint holders of record the vote of the senior holder who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.
105. A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote by her committee, receiver, curator bonis, or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other persons may vote by proxy.
106. No Member shall be entitled to vote at any general meeting unless she is registered as a Member on the record date for such meeting.
107. No objection shall be raised to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at such general meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the general meeting whose decision shall be final and conclusive.
108. Votes may be given either personally or by proxy. A Member may appoint more than one proxy or the same proxy under one or more instruments to attend and vote at a meeting and may appoint one proxy to vote both in favour of and against the same resolution in such proportion as specified in the instrument appointing the proxy.

## PROXIES AND CORPORATE REPRESENTATIVES

- 109.
- 109.1 Every Member entitled to attend and vote at a general meeting may appoint a proxy to attend, speak and vote on her behalf and may appoint more than one proxy to attend, speak and vote at the same meeting. The appointment of a proxy or corporate representative shall be in such form and may be accepted by the Company at such place and at such time as the Board or the Secretary shall from time to time determine, subject to applicable requirements of the United States Securities and Exchange Commission and the Exchange on which the Shares are listed. No such instrument appointing a proxy or corporate representative shall be voted or acted upon after two (2) years from its date.
- 109.2 Without limiting the foregoing, the Directors may from time to time permit appointments of a proxy to be made by means of an electronic or internet communication or facility and may in a similar manner permit supplements to, or amendments or revocations of, any such electronic or internet communication or facility to be made. The Directors may in addition prescribe the method of determining the time at which any such electronic or internet communication or facility is to be treated as received by the Company. The Directors may treat any such electronic or internet communication or facility which purports to be or is expressed to be sent on behalf of a Member as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that Member.

110. Any body corporate which is a Member of the Company may authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which she represents as that body corporate could exercise if it were an individual Member of the Company. The Company may require evidence from the body corporate of the due authorisation of such person to act as the representative of the relevant body corporate.
111. An appointment of proxy relating to more than one meeting (including any adjournment thereof) having once been received by the Company for the purposes of any meeting shall not require to be delivered, deposited or received again by the Company for the purposes of any subsequent meeting to which it relates.
112. Receipt by the Company of an appointment of proxy in respect of a meeting shall not preclude a Member from attending and voting at the meeting or at any adjournment thereof which attendance and voting will automatically cancel any proxy previously submitted.
113. An appointment proxy shall be valid, unless the contrary is stated therein, as well for any adjournment of the meeting as for the meeting to which it relates.
- 114.
- 114.1 A vote given in accordance with the terms of an appointment of proxy or a resolution authorising a representative to act on behalf of a body corporate shall be valid notwithstanding the death or insanity of the principal, or the revocation of the appointment of proxy or of the authority under which the proxy was appointed or of the resolution authorising the representative to act or transfer of the Share in respect of which the proxy was appointed or the authorisation of the representative to act was given, provided that no intimation in writing (whether in electronic form or otherwise) of such death, insanity, revocation or transfer shall have been received by the Company at the Office, at least one hour before the commencement of the meeting or adjourned meeting at which the appointment of proxy is used or at which the representative acts; PROVIDED, HOWEVER, that where such intimation is given in electronic form it shall have been received by the Company at least 24 hours (or such lesser time as the Directors may specify) before the commencement of the meeting.
- 114.2 The Directors may send, at the expense of the Company, by post, electronic mail or otherwise, to the Members forms for the appointment of a proxy (with or without stamped envelopes for their return) for use at any general meeting or at any class meeting, either in blank or nominating any one or more of the Directors or any other persons in the alternative.

#### **DIRECTORS**

115. The Board may determine the size of the Board from time to time at its absolute discretion.
116. The remuneration to be paid to the Directors shall be such remuneration as the Directors shall determine. Such remuneration shall be deemed to accrue from day to day. The Directors shall also be entitled to be paid their travelling, hotel and other expenses properly incurred by them in going to, attending and returning from meetings of the Directors, or any committee of the Directors, or general meetings of the Company, or otherwise in connection with the business of the Company, or to receive a fixed allowance in respect thereof as may be determined by the Board from time to time, or a combination partly of one such method and partly the other.

117. The Board may approve additional remuneration to any Director undertaking any special work or services for, or undertaking any special mission on behalf of, the Company other than her ordinary routine work as a Director. Any fees paid to a Director who is also counsel or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to her remuneration as a Director.

#### **DIRECTORS' AND OFFICERS' INTERESTS**

118. A Director or an officer of the Company who is in any way, whether directly or indirectly, interested in a contract, transaction or arrangement or proposed contract, transaction or arrangement with the Company shall, in accordance with section 194 of the 1963 Act, declare the nature of her interest at the first opportunity either (a) at a meeting of the Board at which the question of entering into the contract, transaction or arrangement is first taken into consideration, if the Director or officer of the Company knows this interest then exists, or in any other case, at the first meeting of the Board after learning that she is or has become so interested or (b) by providing a general notice to the Directors declaring that she is a director or an officer of, or has an interest in, a person and is to be regarded as interested in any transaction or arrangement made with that person, and after giving such general notice it shall not be necessary to give special notice relating to any particular transaction.
119. A Director may hold any other office or place of profit under the Company (other than the office of its Auditors) in conjunction with her office of Director for such period and on such terms as to remuneration and otherwise as the Board may determine.
120. A Director may act by himself or her firm in a professional capacity for the Company (other than as its Auditors) and she or her firm shall be entitled to remuneration for professional services as if she were not a Director.
121. A Director may be or become a director, managing director, joint managing director, deputy managing director, executive director, manager or other officer or Member of any other company or otherwise interested in any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by her as a director, managing director, joint managing director, deputy managing director, executive director, manager or other officer or Member of such other company; provided that she has declared the nature of her position with, or interest in, such company to the Board in accordance with Article 118.
122. No person shall be disqualified from the office of Director or from being an officer of the Company or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director or officer of the Company shall be in any way interested be or be liable to be avoided, nor shall any Director or officer of the Company so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or transaction by reason of such Director or officer of the Company holding office or of the fiduciary relation thereby established; provided that:
- 122.1 she has declared the nature of her interest in such contract or transaction to the Board in accordance with Article 118; and
- 122.2 the contract or transaction is approved by a majority of the disinterested Directors, notwithstanding the fact that the disinterested Directors may represent less than a quorum.
123. A Director may be counted in determining the presence of a quorum at a meeting of the Board which authorises or approves the contract, transaction or arrangement in which she is interested and she shall be at liberty to vote in respect of any contract, transaction or arrangement in which she is interested, provided that the nature of the interest of any Director in any such contract or transaction shall be disclosed by her in accordance with Article 118, at or prior to its consideration and any vote thereon.

124. For the purposes of Article 118:-

124.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified;

124.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect her to have knowledge shall not be treated as an interest of her; and

124.3 a copy of every declaration made and notice given under Article 118 shall be entered within three (3) days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, the Auditors or Member of the Company at the registered office and shall be produced at every general meeting of the Company and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.

#### **POWERS AND DUTIES OF DIRECTORS**

125. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Companies Acts or by these Articles, required to be exercised by the Company in general meeting, subject, nevertheless, to any of these Articles and to the provisions of the Companies Acts. No resolution made by the Company in general meeting shall invalidate any prior act of the Directors that would have been valid if that resolution had not been made.

126. The Board shall have the power to appoint and remove executives in such terms as the Board sees fit and to give such titles and responsibilities to those executives as it sees fit.

127. The Company may exercise the powers conferred by Section 41 of the 1963 Act with regard to having an official seal for use abroad and such powers shall be vested in the Directors.

128. Subject as otherwise provided with these Articles, the Directors may exercise the voting powers conferred by shares of any other company held or owned by the Company in such manner in all respects as they think fit and in particular they may exercise their voting powers in favour of any resolution appointing the Directors or any of them as directors or officers of such other company or providing for the payment of remuneration or pensions to the directors or officers of such other company.

129. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Directors shall from time to time by resolution determine.

130. The Directors may from time to time authorise such person or persons as they see fit to perform all acts, including without prejudice to the foregoing, to effect a transfer of any shares, bonds, or other evidences of indebtedness or obligations, subscription rights, warrants, and other securities in another body corporate in which the Company holds an interest and to issue the necessary powers of attorney for the same; and each such person is authorised on behalf of the Company to vote such securities, to appoint proxies with respect thereto, and to execute consents, waivers and releases with respect thereto, or to cause any such action to be taken.



131. The Board may exercise all powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds or such other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.
132. The Directors may procure the establishment and maintenance of or participate in, or contribute to any non-contributory or contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement for the benefit of, and pay, provide for or procure the grant of donations, gratuities, pensions, allowances, benefits or emoluments to any persons (including Directors or other officers) who are or shall have been at any time in the employment or service of the Company or of any company which is or was a subsidiary of the Company or of the predecessor in business of the Company or any such subsidiary or holding company and the wives, widows, families, relatives or dependants of any such persons. The Directors may also procure the establishment and subsidy of or subscription to and support of any institutions, associations, clubs, funds or trusts calculated to be for the benefit of any such persons as aforesaid or otherwise to advance the interests and well being of the Company or of any such other company as aforesaid or its Members, and payments for or towards the issuance of any such persons as aforesaid and subscriptions or guarantees of money for charitable or benevolent objects or for any exhibition or for any public, general or useful object. Provided that any Director shall be entitled to retain any benefit received by her under this Article, subject only, where the Companies Acts require, to disclosure to the Members and the approval of the Company in general meeting.
133. The Board may from time to time provide for the management of the affairs of the Company in such manner as it shall think fit and the specific delegation provisions contained in the Articles shall not limit the general powers conferred by these Articles.

#### **MINUTES**

134. The Board shall cause minutes to be made in books kept for the purpose of all appointments of officers made by the Board, all resolutions and proceedings at meetings of the Company or the holders of any class of Shares, of the Directors and of committees of Directors, including the names of the Directors present at each meeting.

#### **DELEGATION OF THE BOARD'S POWERS**

135. The Board may delegate any of its powers (with power to sub-delegate) to any committee consisting of one or more Directors. The Board may also delegate to any Director such of its powers as it considers desirable to be exercised by her. Any such delegation may be made subject to any conditions the Board may impose, and either collaterally with or to the exclusion of its own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee of the Board shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.
136. The Board may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Board may determine, provided that the delegation is not to the exclusion of its own powers and may be revoked by the Board at any time.
137. The Board may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Board may think fit and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in her.

## EXECUTIVE OFFICERS

138. The Company shall have a chairman, who shall be a Director and shall be elected by the Board. In addition to the chairman, the Directors and the Secretary, the Company may have such officers as the Board may from time to time determine.

## PROCEEDINGS OF DIRECTORS

139. Except as otherwise provided by these Articles, the Directors shall meet together for the despatch of business, convening, adjourning and otherwise regulating their meetings and procedures as they think fit. Questions arising at any meeting shall be decided by a majority of votes of the Directors present at a meeting at which there is a quorum. Each Director shall have one vote.
140. Regular meetings of the Board may be held at such times and places as may be provided for in resolutions adopted by the Board. No additional notice of a regularly scheduled meeting of the Board shall be required.
141. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors by at least forty-eight (48) hours' notice in writing to every Director which notice shall set forth the general nature of the business to be considered unless notice is waived by all the Directors either at, before or after the meeting is held and provided further if notice is given in person, by telephone, cable, telex, telecopy or email the same shall be deemed to have been given on the day it is delivered to the Directors or transmitting organisation as the case may be. The accidental omission to give notice of a meeting of the Directors to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.
142. The quorum necessary for the transaction of the business of the Board may be fixed by the Board and unless so fixed shall be a majority of the Directors in office.
143. The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Company, but for no other purpose.
144. The Directors may elect a Chairman of their Board and determine the period for which she is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present within five (5) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be a Chairman of the meeting.
145. All acts done by any meeting of the Directors or of a committee of Directors shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and qualified to be a Director.
146. Members of the Board or of any committee thereof may participate in a meeting of the Board or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting. Unless otherwise determined by the Directors the meeting shall be deemed to be held at the place where the Chairman is at the start of the meeting.

147. A resolution in writing (in one or more counterparts), signed by all the Directors for the time being or all the members of a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors or committee as the case may be duly convened and held.

### **RESIGNATION AND DISQUALIFICATION OF DIRECTORS**

148. The office of a Director shall be vacated:

148.1 if she resigns her office, on the date on which notice of her resignation is delivered to the Registered Office or tendered at a meeting of the Board or on such later date as may be specified in such notice; or

148.2 on her being prohibited by law from being a Director; or

148.3 on her ceasing to be a Director by virtue of any provision of the Companies Acts.

149. The Company may, by Ordinary Resolution, of which extended notice has been given in accordance with section 142 of the 1963 Act, remove any Director before the expiration of her period of office notwithstanding anything in these Articles or in any agreement between the Company and such Director. Such removal shall be without prejudice to any claim such Director may have for damages for breach of any contract of service between her and the Company.

### **APPOINTMENT OF DIRECTORS**

150. The Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of Directors constituting the entire Board. The initial division of the Board into classes shall be made by the decision of the affirmative vote of a majority of the Directors in office. The term of the initial Class I directors shall terminate on the date of the 2012 annual general meeting; the term of the initial Class II directors shall terminate on the date of the 2013 annual general meeting; and the term of the initial Class III directors shall terminate on the date of the 2014 annual general meeting. At each annual general meeting of Members beginning in 2012, successors to the class of directors whose term expires at that annual general meeting shall be elected for a three-year term. Save as otherwise permitted in these Articles, Directors will be elected by way of Ordinary Resolution of the Company in general meeting. If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible. In no case will a decrease in the number of Directors shorten the term of any incumbent Director. A Director shall hold office until the annual general meeting for the year in which her or his term expires and until her or his successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office. Any vacancy on the Board, including a vacancy that results from an increase in the number of Directors or from the death, resignation, retirement, disqualification or removal of a Director, shall be deemed a casual vacancy. Subject to the terms of any one or more classes or series of preferred shares, any casual vacancy shall only be filled by decision of a majority of the Board then in office, provided that a quorum is present. Any Director of any class elected to fill a vacancy resulting from an increase in the number of Directors of such class shall hold office for a term that shall coincide with the remaining term of that class. Any Director elected to fill a vacancy not resulting from an increase in the number of Directors shall have the same remaining term as that of her predecessor. A Director retiring at a meeting shall retain office until the close or adjournment of the meeting.

151. During any vacancy in the Board, the remaining Directors shall have full power to act as the Board. If, at any general meeting of the Company, the number of Directors is reduced below the minimum prescribed by the Board in accordance with Article 115 due to the failure of any persons nominated to be Directors to be elected, then in those circumstances, the nominee or nominees who receive the highest number of votes in favour of election shall be elected in order to maintain the prescribed minimum number of Directors and each such Director shall remain a Director (subject to the provisions of the Companies Acts and these Articles) only until the conclusion of the next annual general meeting of the Company unless such Director is elected by the Members during such meeting.

152. The Company may by Ordinary Resolution appoint any person to be a Director.

#### **SECRETARY**

153. The Secretary shall be appointed by the Board at such remuneration (if any) and on such terms as it may think fit and any Secretary so appointed may be removed by the Board.

154. The duties of the Secretary shall be those prescribed by the Companies Acts, together with such other duties as shall from time to time be prescribed by the Board, and in any case, shall include the making and keeping of records of the votes, doings and proceedings of all meetings of the Members and the Board of the Company, and committees, and the authentication of records of the Company.

155. A provision of the Companies Acts or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

#### **SEAL**

156. The Company may, if the Board so determines, have a Seal (including any official seals kept pursuant to the Companies Acts) which shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that regard and every instrument to which the Seal has been affixed shall be signed by any person who shall be either a Director or the Secretary or Assistant Secretary or some other person authorised by the Board, either generally or specifically, for the purpose.

157. The Company may have for use in any place or places outside Ireland, a duplicate Seal or Seals each of which shall be a duplicate of the Seal of the Company except, in the case of a Seal for use in sealing documents creating or evidencing securities issued by the Company, for the addition on its face of the word "Securities" and if the Board so determines, with the addition on its face of the name of every place where it is to be used.

#### **DIVIDENDS, DISTRIBUTIONS AND RESERVES**

158. The Company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the Directors.

159. Subject to the Companies Acts, the Board may from time to time declare dividends (including interim dividends) and distributions on Shares of the Company outstanding and authorise payment of the same out of the funds of the Company lawfully available therefor.

160. The Board may, before declaring any dividends or distributions, set aside such sums as they think proper as a reserve or reserves which shall at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the like discretion, be employed in the business of the Company. The Directors may also, without placing the same to reserve, carry forward any profits which they may think it prudent not to divide.

161. No dividend, interim dividend or distribution shall be paid otherwise than in accordance with the provisions of Part IV of the 1983 Act.
162. Subject to the rights of persons, if any, entitled to Shares with special rights as to dividends or distributions, if dividends or distributions are to be declared on a class of Shares they shall be declared and paid according to the amounts paid or credited as paid on the Shares of such class outstanding on the record date for such dividend or distribution as determined in accordance with these Articles.
163. The Directors may deduct from any dividend payable to any Member all sums of money (if any) immediately payable by her to the Company in relation to the Shares of the Company.
164. The Board or any general meeting declaring a dividend (upon the recommendation of the Board), may direct that any dividend or distribution be paid wholly or partly by the distribution of specific assets and in particular of paid up Shares, debentures, or debenture stock of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Board may settle the same as they think expedient and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees as may seem expedient to the Board.
165. Any dividend, distribution, interest or other monies payable in cash in respect of Shares may be paid by cheque or warrant sent through the post, or sent by any electronic or other means of payment, directed to the registered Address of the holder or, in the case of joint holders, to the holder who is first named on the Register of Members or to such person and to such Address as such holder or joint holders may in writing direct. Every such cheque or warrant, electronic or other payment shall be made payable to the order of the person to whom it is sent and payment of the cheque or warrant shall be a good discharge to the Company. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other monies payable in respect of the Share held by them as joint holders. Any such dividend or other distribution may also be paid by any other method (including payment in a currency other than US\$, electronic funds transfer, direct debit, bank transfer or by means of a relevant system) which the Directors consider appropriate and any Member who elects for such method of payment shall be deemed to have accepted all of the risks inherent therein. The debiting of the Company's account in respect of the relevant amount shall be evidence of good discharge of the Company's obligations in respect of any payment made by any such methods.
166. No dividend or distribution shall bear interest against the Company.
167. If the Directors so resolve, any dividend which has remained unclaimed for twelve years from the date of its declaration shall be forfeited and cease to remain owing by the Company. The payment by the Directors of any unclaimed dividend or other monies payable in respect of a Share into a separate account shall not constitute the Company a trustee in respect thereof.

#### **CAPITALISATION**

168. Without prejudice to any powers conferred on the Directors as aforesaid, and subject to the Directors' authority to issue and allot Shares under Articles 8 and 9, the Directors may:

- 168.1 resolve to capitalise an amount standing to the credit of reserves (including a share premium account, capital redemption reserve and profit and loss account), whether or not available for distribution;
- 168.2 appropriate the sum resolved to be capitalised to the Members in proportion to the nominal amount of Shares held by them respectively and apply that sum on their behalf in or towards paying up in full unissued Shares or debentures of a nominal amount equal to that sum, and allot the Shares or debentures, credited as fully paid, to the Members (or as the Board may direct) in those proportions, or partly in one way and partly in the other, but the share premium account, the capital redemption reserve and profits that are not available for distribution may, for the purposes of this Article 116, only be applied in paying up unissued Shares to be allotted to Members credited as fully paid;
- 168.3 make any arrangements it thinks fit to resolve a difficulty arising in the distribution of a capitalised reserve and in particular, without limitation, where Shares or debentures become distributable in fractions the Board may deal with the fractions as it thinks fit;
- 168.4 authorise a person to enter (on behalf of all the Members concerned) into an agreement with the Company providing for the allotment to the Members respectively, credited as fully paid, of Shares or debentures to which they may be entitled on the capitalisation and any such agreement made under this authority being effective and binding on all those Members; and
- 168.5 generally do all acts and things required to give effect to the resolution.

#### **ACCOUNTS**

169. The Directors shall cause to be kept proper books of account, whether in the form of documents, electronic form or otherwise, that:
  - 169.1 correctly record and explain the transactions of the Company;
  - 169.2 will at any time enable the financial position of the Company to be determined with reasonable accuracy;
  - 169.3 will enable the Directors to ensure that any balance sheet, profit and loss account or income and expenditure account of the Company complies with the requirements of the Companies Acts;
  - 169.4 will record all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company; and
  - 169.5 will enable the accounts of the Company to be readily and properly audited.
170. Books of account shall be kept on a continuous and consistent basis and entries therein shall be made in a timely manner and be consistent from year to year. The Company may send by post, electronic mail or any other means of electronic communication a summary financial statement to its Members or persons nominated by any Member. The Company may meet, but shall be under no obligation to meet, any request from any of its Members to be sent additional copies of its full report and accounts or summary financial statement or other communications with its Members.

171. The books of account shall be kept at the registered office of the Company or, subject to the provisions of the Companies Acts, at such other place as the Directors think fit and shall be open at all reasonable times to the inspection of the Directors.
172. Proper books shall not be deemed to be kept as required by Articles 169 to 171, if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
173. In accordance with the provisions of the Companies Acts, the Board may from time to time cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.
174. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company together with a copy of the Directors' report and Auditors' report shall be sent by post, electronic mail or any other means of communication (electronic or otherwise), not less than twenty-one (21) clear days before the date of the annual general meeting, to every person entitled under the provisions of the Companies Acts to receive them; provided that in the case of those documents sent by electronic mail or any other means of electronic communication, such documents shall be sent with the consent of the recipient, to the Address of the recipient notified to the Company by the recipient for such purposes.

#### **AUDIT**

175. Auditors shall be appointed and their duties regulated in accordance with Sections 160 to 163 of the 1963 Act or any statutory amendment thereof, any other applicable law and such requirements not inconsistent with the Companies Acts as the Board may from time to time determine.

#### **NOTICES**

176. Any notice to be given, served, sent or delivered pursuant to these Articles shall be in writing (whether in electronic form or otherwise).
- 176.1 A notice or document to be given, served, sent or delivered in pursuance of these Articles may be given to, served on or delivered to any Member by the Company:
- (a) by handing same to her authorised agent;
  - (b) by leaving the same at her registered address;
  - (c) by sending the same by the post in a pre-paid cover addressed to her at her registered address; or
  - (d) by sending, with the consent of the Member to the extent required by law, the same by means of electronic mail or other means of electronic communication approved by the Directors, to the Address of the Member notified to the Company by the Member for such purpose (or if not so notified, then to the Address of the Member last known to the Company).
- 176.2 For the purposes of these Articles and the Companies Act, a document shall be deemed to have been sent to a Member if a notice is given, served, sent or delivered to the Member and the notice specifies the website or hotlink or other electronic link at or through which the Member may obtain a copy of the relevant document.

- 176.3 Where a notice or document is given, served or delivered pursuant to sub-paragraph 176.1(a) or 176.1(b) of this Article, the giving, service or delivery thereof shall be deemed to have been effected at the time the same was handed to the Member or her authorised agent, or left at her registered address (as the case may be).
- 176.4 Where a notice or document is given, served or delivered pursuant to sub-paragraph 176.1(c) of this Article, the giving, service or delivery thereof shall be deemed to have been effected at the expiration of twenty-four (24) hours after the cover containing it was posted. In proving service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.
- 176.5 Where a notice or document is given, served or delivered pursuant to sub-paragraph 176.1(d) of this Article, the giving, service or delivery thereof shall be deemed to have been effected at the expiration of forty-eight (48) hours after despatch.
- 176.6 Every legal personal representative, committee, receiver, curator bonis or other legal curator, assignee in bankruptcy, examiner or liquidator of a Member shall be bound by a notice given as aforesaid if sent to the last registered address of such Member, or, in the event of notice given or delivered pursuant to sub-paragraph 176.1(d), if sent to the address notified by the Company by the Member for such purpose notwithstanding that the Company may have notice of the death, lunacy, bankruptcy, liquidation or disability of such Member.
- 176.7 Notwithstanding anything contained in this Article, the Company shall not be obliged to take account of or make any investigations as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction.
- 176.8 Any requirement in these Articles for the consent of a Member in regard to the receipt by such Member of electronic mail or other means of electronic communications approved by the Directors, including the receipt of the Company's audited accounts and the Directors' and Auditor's reports thereon, shall be deemed to have been satisfied where the Company has written to the Member informing her/him of its intention to use electronic communications for such purposes and the Member has not, within four (4) weeks of the issue of such notice, served an objection in writing on the Company to such proposal. Where a Member has given, or is deemed to have given, her/his consent to the receipt by such Member of electronic mail or other means of electronic communications approved by the Directors, she may revoke such consent at any time by requesting the Company to communicate with her in documented form; provided, however, that such revocation shall not take effect until five (5) days after written notice of the revocation is received by the Company.
- 176.9 Without prejudice to the provisions of sub-paragraphs 176.1(a) and 176.1(b) of this Article, if at any time by reason of the suspension or curtailment of postal services in any territory, the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a public announcement (as defined below) and such notice shall be deemed to have been duly served on all Members entitled thereto at noon (New York time) on the day on which the said public announcement is made. In any such case the Company shall put a full copy of the notice of the general meeting on its website. A "public announcement" shall mean disclosure in a press release reported by a financial news service or in a document publicly filed by the Company with the U.S. Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.



177. Notice may be given by the Company to the joint Members of a Share by giving the notice to the joint Member whose name stands first in the Register in respect of the Share and notice so given shall be sufficient notice to all the joint Members.

178.

178.1 Every person who becomes entitled to a Share shall before her name is entered in the Register in respect of the Share, be bound by any notice in respect of that Share which has been duly given to a person from whom she derives her title.

178.2 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or bankruptcy of a Member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a Member, addressed to them at the Address, if any, supplied by them for that purpose. Until such an Address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

179. The signature (whether electronic signature, an advanced electronic signature or otherwise) to any notice to be given by the Company may be written (in electronic form or otherwise) or printed.

180. A Member present, either in person or by proxy, at any meeting of the Company or the Holders of any class of Shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

#### UNTRACED HOLDERS

181.

181.1 Without prejudice to Article 14, the Company shall be entitled to sell at the best price reasonably obtainable any Share or stock of a Member or any Share or stock to which a person is entitled by transmission if and provided that:

(a) for a period of twelve (12) years (not less than three (3) dividends having been declared and paid) no cheque or warrant sent by the Company through the post in a prepaid letter addressed to the Member or to the person entitled by transmission to the Share or stock at her Address on the Register or other last known Address given by the Member or the person entitled by transmission to which cheques and warrants are to be sent has been cashed and no communication has been received by the Company from the Member or the person entitled by transmission; and

(b) at the expiration of the said period of twelve (12) years the Company has given notice by advertisement in a leading Dublin newspaper and a newspaper circulating in the area in which the Address referred to in paragraph (a) of this Article is located of its intention to sell such Share or stock; and

(c) the Company has not during the further period of three (3) months after the date of the advertisement and prior to the exercise of the power of sale received any communication from the Member or person entitled by transmission.

181.2 To give effect to any such sale the Company may appoint any person to execute as transferor an instrument of transfer of such Share or stock and such instrument of transfer shall be as effective as if it had been executed by the Member or person entitled by transmission to such Share or stock. The Company shall account to the Member or other person entitled to such Share or stock for the net proceeds of such sale by carrying all monies in respect thereof to a separate account which shall be a permanent debt of the Company and the Company shall be deemed to be a debtor and not a trustee in respect thereof for such Member or other person. Monies carried to such separate account may either be employed in the business of the Company or invested in such investments (other than Shares of the Company or its holding company if any) as the Directors may from time to time think fit.

## DESTRUCTION OF DOCUMENTS

182. The Company may destroy:

182.1 any dividend mandate or any variation or cancellation thereof or any notification of change of name or address, at any time after the expiry of two (2) years from the date such mandate variation, cancellation or notification was recorded by the Company;

182.2 any instrument of transfer of Shares which has been registered, at any time after the expiry of six (6) years from the date of registration; and

182.3 any other document on the basis of which any entry in the Register was made, at any time after the expiry of six (6) years from the date an entry in the Register was first made in respect of it;

182.4 and it shall be presumed conclusively in favour of the Company that every share certificate (if any) so destroyed was a valid certificate duly and properly sealed and that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and that every other document destroyed hereunder was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company provided always that:

(a) the foregoing provisions of this Article shall apply only to the destruction of a document in good faith and without express notice to the Company that the preservation of such document was relevant to a claim;

(b) nothing contained in this Article shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any case where the conditions of proviso (a) above are not fulfilled; and

(c) references in this Article to the destruction of any document include references to its disposal in any manner.

## WINDING UP

183. If the Company shall be wound up and the assets available for distribution among the Members as such shall be insufficient to repay the whole of the paid up or credited as paid up share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the capital paid up or credited as paid up at the commencement of the winding up on the Shares held by them respectively. And if in a winding up the assets available for distribution among the Members shall be more than sufficient to repay the whole of the share capital paid up or credited as paid up at the commencement of the winding up, the excess shall be distributed among the Members in proportion to the capital at the commencement of the winding up paid up or credited as paid up on the said Shares held by them respectively. Provided that this Article shall not affect the rights of the Members holding Shares issued upon special terms and conditions.

- 183.1 In case of a sale by the liquidator under Section 260 of the 1963 Act, the liquidator may by the contract of sale agree so as to bind all the Members for the allotment to the Members directly of the proceeds of sale in proportion to their respective interests in the Company and may further by the contract limit a time at the expiration of which obligations or Shares not accepted or required to be sold shall be deemed to have been irrevocably refused and be at the disposal of the Company, but so that nothing herein contained shall be taken to diminish, prejudice or affect the rights of dissenting Members conferred by the said Section 260.
- 183.2 The power of sale of the liquidator shall include a power to sell wholly or partially debentures, debenture stock, or other obligations of another company, either then already constituted or about to be constituted for the purpose of carrying out the sale.
184. If the Company is wound up, the liquidator, with the sanction of a Special Resolution and any other sanction required by the Companies Acts, may divide among the Members *in specie* or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not), and, for such purpose, may value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The liquidator, with the like sanction, may vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as, with the like sanction, she determines, but so that no Member shall be compelled to accept any assets upon which there is a liability.

#### **INDEMNITY**

185.

- 185.1 Subject to the provisions of and so far as may be admitted by the Companies Acts, every Director and Secretary shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by her in the execution and discharge of her duties or in relation thereto including any liability incurred by her in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by her as an officer or employee of the Company and in which judgement is given in her favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on her part) or in which she is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to her by the Court.
- 185.2 As far as permissible under the Companies Acts, the Company shall indemnify any current or former executive of the Company (excluding any Directors or Secretary) or any person who is serving or has served at the request of the Company as a director, executive or trustee of another company, joint venture, trust or other enterprise against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by her in connection with any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Company, to which she, or she was, is, or is threatened to be made a party by reason of the fact that she, or she is or was such a director, executive or trustee, provided always that the indemnity contained in this Article 185.2 shall not extend to any matter which would render it void pursuant to the Companies Acts.

185.3 In the case of any threatened, pending or completed action, suit or proceeding by or in the right of the Company, the Company shall indemnify each person indicated in Article 185.2 of this Article against expenses, including attorneys' fees, actually and reasonably incurred in connection with the defence or the settlement thereof, except no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for fraud or dishonesty in the performance of her duty to the Company unless and only to the extent that the Court or the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the Court shall deem proper.

185.4 As far as permissible under the Companies Acts, expenses, including attorneys' fees, incurred in defending any action, suit or proceeding referred to in Articles 185.2 and 185.3 of this Article may be paid by the Company in advance of the final disposition of such action, suit or proceeding as authorised by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, executive or trustee, or other indemnitee to repay such amount, unless it shall ultimately be determined that she is entitled to be indemnified by the Company as authorised by these Articles.

185.5 It being the policy of the Company that indemnification of the persons specified in this Article shall be made to the fullest extent permitted by law, the indemnification provided by this Article shall not be deemed exclusive (a) of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Memorandum, Articles, any agreement, any insurance purchased by the Company, any vote of Members or disinterested Directors, or pursuant to the direction (however embodied) of any court of competent jurisdiction, or otherwise, both as to action in her official capacity and as to action in another capacity while holding such office, or (b) of the power of the Company to indemnify any person who is or was an employee or agent of the Company or of another company, joint venture, trust or other enterprise which she is serving or has served at the request of the Company, to the same extent and in the same situations and subject to the same determinations as are hereinabove set forth with respect to a director, executive or trustee. As used in this paragraph (b), references to the "Company" include all constituent companies in a consolidation or merger in which the Company or a predecessor to the Company by consolidation or merger was involved. The indemnification provided by this Article shall continue as to a person who has ceased to be a director, executive or trustee and shall inure to the benefit of the heirs, executors, and administrators of such a person.

185.6 The Directors shall have power to purchase and maintain for any Director, the Secretary or other officers or employees of the Company insurance against any such liability as referred to in Section 200 of the 1963 Act or otherwise.

185.7 The Company may additionally indemnify any employee or agent of the Company or any director, executive, employee or agent of any of its subsidiaries to the fullest extent permitted by law.

#### **FINANCIAL YEAR**

186. The financial year of the Company shall be as prescribed by the Board from time to time.

#### **SHAREHOLDER RIGHTS PLAN**

187. The Board is hereby expressly authorised to adopt any Shareholder Rights Plan, upon such terms and conditions as the Board deems expedient and in the best interests of the Company, subject to applicable law.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF

**ALKERMES PUBLIC LIMITED COMPANY**

Arthur Cox  
Arthur Cox Building  
Earlsfort Terrace  
Dublin 2

4046244.8



FIRST LIEN TERM LOAN CREDIT AGREEMENT

among

ALKERMES, INC.,  
as Borrower,

ALKERMES PLC,  
as Holdings,

ALKERMES PHARMA IRELAND LIMITED,  
as Intermediate Holdco,

ALKERMES US HOLDINGS, INC.,  
as Holdco,

The Several Lenders  
from Time to Time Parties Hereto,

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent,

MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC.,  
as co-Syndication Agents,

and

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

Dated as of September 16, 2011  
MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC.,  
as Joint Lead Arrangers and Joint Bookrunners

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THIS FIRST LIEN TERM LOAN CREDIT AGREEMENT, dated as of September 16, 2011, among ALKERMES, INC., a corporation organized under the laws of the Commonwealth of Pennsylvania (the "Borrower"), ALKERMES PLC, a company incorporated under the laws of the Republic of Ireland (registered number 498284) ("Holdings"), ALKERMES PHARMA IRELAND LIMITED, a private limited company organized under the laws of the Republic of Ireland (registered number 448848) and a wholly owned indirect subsidiary of Holdings (the "Intermediate Holdco") and ALKERMES US HOLDINGS, INC., a Delaware corporation and a wholly owned subsidiary of Intermediate Holdco ("Holdco"), the several banks and other financial institutions or entities from time to time parties to this Agreement as "Lenders", MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent (in such capacity, and together with its successors and assigns in such capacity, the "Administrative Agent"), MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC., as co-syndication agents (in such capacity, the "Syndication Agents"), and MORGAN STANLEY SENIOR FUNDING, INC., as collateral agent (in such capacity, and together with its successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, pursuant to the Acquisition Agreement, Elan Corporation, plc, a public limited company incorporated under the laws of the Republic of Ireland (registered number 30356) ("Elan") and certain of Elan's Subsidiaries and Affiliates have agreed to transfer the Business Assets and the Additional Assets (collectively, the "Acquired Business") to Holdings and its Subsidiaries (other than the Borrower) as more fully set forth in the Acquisition Agreement;

WHEREAS, following the consummation of the Acquisition, Merger Sub will merge with and into the Borrower, with the Borrower surviving as a wholly-owned indirect Subsidiary of Holdings;

WHEREAS, in connection with the transactions contemplated by the Acquisition Agreement, the Borrower has requested that the Lenders make available the Term Commitments and the Term Loans on the Closing Date to finance the Acquisition, to pay and redeem certain existing indebtedness and to pay related fees and expenses; and

WHEREAS, the Lenders are willing to make available the Term Commitments for such purposes on the terms and subject to the conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the premises and the agreements, provisions and covenants contained herein, the parties hereto agree as follows:

## SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of (a) the rate of interest published by the Wall Street Journal, from time to time, as the "U.S. Prime Rate," (b) ½ of 1% per annum above the Federal Funds Effective Rate; (c) the LIBOR Rate for an Interest Period of one month plus 1.00%, as adjusted to conform to changes as of the opening of business on the date of any such change of the LIBOR Rate and (d) 2.50%.

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“ABR Loans”: Term Loans the rate of interest applicable to which is based upon the ABR.

“Acquired Business”: as defined in the recitals to this Agreement.

“Acquired Person”: as defined in Section 7.1(i).

“Acquisition”: the purchase of the Acquired Business pursuant to the Acquisition Agreement.

“Acquisition Agreement”: the Business Combination Agreement and Plan of Merger, dated as of May 9, 2011, by and among Elan, Holdings, Elan Science Four Limited (n/k/a Alkermes Ireland Holdings Limited), a private limited company incorporated under the laws of the Republic of Ireland (registered number 476691), Intermediate Holdco, Holdco, Merger Sub and the Borrower.

“Acquisition Documentation”: collectively, the Acquisition Agreement, the Ancillary Agreements and all schedules, exhibits and annexes thereto and all side letters and agreements affecting the terms thereof or entered into in connection therewith.

“Additional Assets”: has the meaning set forth in the Acquisition Agreement.

“Administrative Agent”: as defined in the preamble to this Agreement.

“Administrative Agent Parties”: as defined in Section 10.2(c).

“Affected Lender”: as defined in Section 3.13.

“Affiliate”: as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the possession, direct or indirect, of the power to direct or cause the direction of management or policies of a Person, whether through ownership of securities, by contract or otherwise ; *provided*, however, that, for purposes of Section 7.8, the term “Affiliate” shall also include (i) any person that directly or indirectly owns more than 10% of any class of Capital Stock of the person specified or (ii) any person that is an officer or director of the person specified.

“Agent Related Parties”: the Administrative Agent, the Collateral Agent, and any of their respective Affiliates, officers, directors, employees, agents, advisors or representatives.

“Agents”: the collective reference to the Administrative Agent, the Collateral Agent, the Syndication Agents and the Lead Arrangers.

“Agreed Security Principles”: the principles set forth in Annex A.

“Agreement”: this Credit Agreement.

“Ancillary Agreements”: has the meaning set forth in the Acquisition Agreement.

“Anti-Terrorism Laws”: Executive Order No. 13224, the Patriot Act, the laws comprising or implementing the Bank Secrecy Act and the laws administered by the United States Treasury Department’s Office of Foreign Asset Control (each as from time to time in effect).

“Applicable Margin”: (i) from July 1, 2011 until the first Business Day that immediately follows the date on which a Compliance Certificate is delivered pursuant to Section 6.2(a)(iii) in respect of the first full fiscal quarter ending after the Closing Date, 5.25% for LIBOR Rate Loans and 4.25% for ABR Loans, and (ii) thereafter, the applicable percentage set forth below, as determined by reference to the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.2(a)(iii):

Pricing Level	Applicable Margin		
	Consolidated Leverage Ratio	LIBOR Rate Loans	ABR Loans
1	< 3.00:1.00	5.00%	4.00%
2	> 3.00:1.00	5.25%	4.25%

“Approved Fund”: with respect to any Lender, any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans, or similar extensions of credit in the ordinary course and is administered or managed by (a) such Lender, (b) an Affiliate of such Lender, or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

“Asset Sale”: any Disposition of Property or series of related Dispositions of Property (in each case, other than Intellectual Property), including, without limitation, any issuance of Capital Stock of any Subsidiary of Holdings to a Person other than to any Group Member (excluding in any case any such Disposition permitted by Section 7.4) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$2,500,000.

“Assignee”: as defined in Section 10.6(b).

“Assignment and Assumption”: an assignment and assumption entered into by a Lender and an Eligible Assignee and accepted by the Administrative Agent, and, if applicable, the Borrower, substantially in the form of Exhibit A.

“Assignment Effective Date”: as defined in Section 10.6(d).

“Available Amount” at any time, an amount, to the extent Not Otherwise Applied, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) the aggregate amount of Net Cash Proceeds of any capital contributions (that is converted or exchanged for Qualified Capital Stock) or issuances of Qualified Capital Stock (or for Qualified Capital Stock issued upon conversion of debt securities) received or made by Holdings (other than Section 7.5(d)) since the Closing Date; plus

(b) 50% of the cumulative Consolidated Net Income (excluding from Consolidated Net Income, for this purpose only, any amount that otherwise increased the Available Amount pursuant to clause (a) above), or if cumulative Consolidated Net Income shall be a loss, minus 100% of such loss earned from the Closing Date through the last day of the last fiscal quarter or fiscal year for which financial statements have been delivered pursuant to Section 6.1(a) (treating such period as a single accounting period); less

(c) any usage of such Available Amount pursuant to Sections 7.5(g), 7.5(j), 7.6(u) and 7.7(a)(i).

“Available Amount Condition”: after giving effect to any usage of the Available Amount, the Consolidated Leverage Ratio, on a *pro forma* basis, as of the last day of the period of four (4) fiscal quarters most recently completed for which financial statements were required to have been delivered pursuant to Section 6.1 is less than or equal to 4.00:1.00.

“Benefited Lender”: as defined in Section 10.7(a).

“Blocked Person”: as defined in Section 4.23(c).

“Board”: the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower”: as defined in the preamble to this Agreement.

“Borrowing Date”: any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

“Business”: has the meaning set forth in the Acquisition Agreement.

“Business Assets”: has the meaning set forth in the Acquisition Agreement.

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close; *provided*, that with respect to notices and determinations in connection with, and payments of principal and interest on, LIBOR Rate Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.



“Capital Expenditures”: for any period, with respect to any Person, the aggregate of all expenditures by such Person and its Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets (including Capitalized Software Expenditures) or additions to equipment (including replacements, capitalized repairs and improvements during such period) that should be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries, excluding expenditures financed with any Reinvestment Deferred Amount to the extent otherwise not taken into account in determining Consolidated Net Income.

“Capitalized Software Expenditures” shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by Holdings, the Borrower and the Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of Holdings, the Borrower and the Restricted Subsidiaries.

“Capital Lease Obligations”: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing; *provided* that Capital Stock shall not include any debt securities that are convertible into or exchangeable for any of the foregoing Capital Stock.

“Cash Collateralize”: in respect of an obligation, provide and pledge cash collateral in Dollars, or provide a letter of credit issued by a person reasonably satisfactory to the Administrative Agent, pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent (and “Cash Collateralization” has a corresponding meaning).

“Cash Contribution”: the payment in accordance with the Acquisition Agreement of cash of the Borrower and its Subsidiaries existing prior to the consummation of the Acquisition, in an amount of not less than the amount of the Cash Payment (as defined in the Acquisition Agreement) less the aggregate amount of the Term Loans and the Second Lien Loans borrowed by the Borrower on the Closing Date.

“Cash Equivalents”:

- (a) Dollars, Euros, Pounds Sterling and Swiss Francs (and such other currency that is approved by the Administrative Agent) held in the ordinary course of business of the relevant Person;
- (b) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year from the date of acquisition;

(c) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one (1) year or less from the date of acquisition issued by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than \$500,000,000;

(d) commercial paper of an issuer rated at least A-1 by S&P or P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one (1) year from the date of acquisition;

(e) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than thirty (30) days, with respect to securities issued or fully guaranteed or insured by the United States government;

(f) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's;

(g) securities with maturities of one (1) year or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition; or

(h) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition or money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, as amended and (ii) are rated AAA by S&P and Aaa by Moody's.

"CFC": any Subsidiary of the Borrower that is a "controlled foreign corporation" within the meaning of Section 957 of the Code and any Subsidiary of a CFC.

"Change of Control": an event or series of events by which:

(a) at any time, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person or its Subsidiaries and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, directly or indirectly, of thirty-five percent (35%) or more of the equity securities of Holdings entitled to vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis;

(b) at any time after the Closing Date, during any period of twenty-four (24) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election, nomination or appointment to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or

(c) (i) Holdings shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interest in the Capital Stock of Alkermes Ireland Holdings Limited or (ii) Holdco shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interest in the Capital Stock of the Borrower.

“Closing Date”: the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied and the initial funding occurs, which date shall be no later than the Outside Date.

“Closing Date Material Adverse Effect”: means any event, change, occurrence or development that, individually or when taken together with all other events, changes, occurrences or developments, has a material adverse effect on (a) the business, assets, liabilities, operations or condition (financial or otherwise) of the Business, taken as a whole, or (b) the ability of the Elan Entities to perform their material obligations under the Acquisition Agreement, the Reorganization Transfer Agreements and any Ancillary Agreement or to consummate the transactions contemplated hereby and thereby; *provided* that any such effect shall, to the extent resulting from the following, be disregarded, in the case of clause (a) only, in determining whether a “Closing Date Material Adverse Effect” has occurred or would reasonably be expected to occur: (i) any changes in Law (as defined in the Acquisition Agreement) (or official interpretations thereof) applicable to the Business; (ii) changes in general economic, monetary, market or financial conditions, whether in the United States, Ireland or any other country or international market; (iii) acts of God, calamities, national or international political or social conditions, including the engagement in or escalation by any country or any non-state actor in hostilities, whether commenced before or after the date hereof, and whether or not pursuant to a formal declaration of emergency or war, or the occurrence of any military or terrorist attack; or (iv) changes in U.S. GAAP, IFRS or other accounting principles applicable to the Business; except, in the case of each of the foregoing clauses (i) through (iv) to the extent the same has had or could reasonably be expected to have a disproportionate effect on the Business relative to the effect generally on other companies in industries or markets similar to the Business.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Collateral”: all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

“Collateral Agent”: as defined in the preamble to this Agreement.

“Commitment”: the Term Commitment of any Lender.

“Commonly Controlled Entity”: an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414 of the Code.

“Communications”: as defined in Section 10.2(b).

“Compliance Certificate”: a certificate duly executed by a Responsible Officer substantially in the form of Exhibit F-2.

“Confidential Information Memorandum”: the Confidential Information Memorandum dated June 9, 2011 and furnished to the Lenders in connection with the syndication of the Term Facility.

“Consolidated Current Assets”: at any date, all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption “total current assets” (or any like caption) on a consolidated balance sheet of the Loan Parties at such date.

“Consolidated Current Liabilities”: at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total current liabilities” (or any like caption) on a consolidated balance sheet of the Loan Parties at such date, but excluding the current portion of any Funded Debt, the current portion of interest expense (other than interest expense that is due and unpaid) and the current portion of current and deferred Taxes based upon income or profits of the Loan Parties.

“Consolidated EBITDA”: for any period, for Holdings, the Borrower and the Restricted Subsidiaries on a consolidated basis, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following, in each case, to the extent deducted (and not added back) in calculating such Consolidated Net Income:

- (i) provisions for Taxes based on income or profits or capital, plus franchise or similar taxes and foreign withholding taxes;
- (ii) interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Term Loans) for such period;
- (iii) depreciation and amortization expense;
- (iv) non-cash stock-based compensation expense for such period;

- (v) all extraordinary, unusual or nonrecurring cash expenses and charges for such period;
- (vi) non-cash purchase accounting adjustments;
- (vii) costs and expenses incurred in connection with the Transactions;
- (viii) any net loss from disposed or discontinued operations;
- (ix) all customary costs and expenses incurred or paid in connection with Investments (including Permitted Acquisitions) whether or not such Investment is consummated;
- (x) the amount of any minority interest expense (or income (loss) allocable to noncontrolling interests) consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly-owned Restricted Subsidiary of Holdings;
- (xi) all customary costs and expenses incurred in connection with the issuance, prepayment or amendment or refinancing of Indebtedness permitted hereunder or issuance of Capital Stock;
- (xii) other expenses reducing such Consolidated Net Income which do not represent a cash item in such period (but excluding any such charge which requires an accrual of, or a cash reserve for, anticipated cash charges in any future period);
- (xiii) the aggregate net loss on the Disposition of property (other than accounts (as defined in the Uniform Commercial Code) and inventory) outside the ordinary course of business;
- (xiv) the amount of net cost savings and synergies projected by the Borrower in good faith as a result of actions taken or committed to be taken (including pursuant to internal procedures) no later than twelve (12) months following the end of such period (calculated on a *pro forma* basis as though such cost savings and synergies had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; *provided* that (A) such cost savings and synergies are reasonably identifiable and factually supportable, (B) no cost savings shall be added pursuant to this clause (xiv) to the extent duplicative of any such expenses or changes that are included in clauses (v), (viii), (xii) and (xiii) above and clause (xvi) below with respect to such period, and (C) the benefits resulting therefrom are anticipated by the Borrower to be realized commencing not later than twelve (12) months of such actions having been taken, or having been committed to be taken; and *provided, further*, that the aggregate amount of net cost savings and synergies resulting from the Transactions that are added back pursuant to this clause (xiv) shall not exceed \$20,000,000 in the aggregate in any period;
- (xv) any expenses or charge for such period to the extent covered by, and actually reimbursed by, the insurer within 180 days with respect to any business interruption insurance or similar insurance of Holdings, the Borrower or any Restricted Subsidiary in respect thereof; and

(xvi) the actual amount of any restructuring charges, integration and facilities opening costs or other business optimization expenses (including cost and expenses relating to business optimization programs and new systems design and implementation costs) and project start-up costs; *provided* that no such restructuring charges, integration or optimization expenses shall be added pursuant to this clause (xvi), to the extent they are duplicative of any such expenses or changes that are included in clauses (v), (viii), (xii), (xiii) and (xiv) above;

less (b) the following to the extent added in calculating such Consolidated Net Income of the Loan Parties:

(A) all interest income for such period,

(B) all Tax benefits for such period to the extent not netted in determining the amount for clause (a)(i) above,

(C) non-cash purchase accounting adjustments,

(D) (i) the aggregate net gain from the Disposition of property (other than accounts (as defined in the Uniform Commercial Code) and inventory) outside the ordinary course of business, (ii) any net gain from disposed or discontinued operations, (iii) all extraordinary, unusual or nonrecurring gains for such period, and (iv) all non-cash items increasing Consolidated Net Income which do not represent a cash item in such period or any future period (but excluding any such items (x) in respect of which cash was received in a prior period or will be received in a future period or (y) which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period), and

(E) the amount of minority interest income (or income (loss) allocable to noncontrolling interests) consisting of Subsidiary loss attributable to minority equity interests of third parties in any non-wholly owned Restricted Subsidiary of Holdings.

For the purposes of calculating Consolidated EBITDA for any period of four consecutive fiscal quarters (each, a “Reference Period”) pursuant to any determination hereunder, (x) if at any time during such Reference Period any Group Member shall have made any Asset Sale, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Asset Sale for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period, in each case assuming the repayment of Indebtedness in connection therewith occurred as of the first day of such Reference Period and (y) if during such Reference Period any Group Member shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving *pro forma* effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. For purposes of determining Consolidated EBITDA under this Agreement, Consolidated EBITDA shall be deemed to be \$6,200,000, \$25,700,000, \$27,000,000 and \$21,300,000 for the fiscal quarters ended June 30, 2010, September 30, 2010, December 31, 2010 and March 31, 2011, respectively.

As used in this definition only, “**Material Acquisition**” means the Acquisition (if consummated) and any other acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person.

“**Consolidated Funded Debt**”: at any date, the aggregate principal amount of all Indebtedness of the type described in clauses (a), (b) (to the extent of Earn-Out Obligations and other similar obligations), (c), (e), (f) (to the extent of any unreimbursed drawings), (g) and (h) of the definition of such term of the Loan Parties at such date, determined on a consolidated basis in accordance with GAAP.

“**Consolidated Leverage Ratio**”: at any date, the ratio of (a) Consolidated Funded Debt as of such date minus the aggregate amount of cash and Cash Equivalents not to exceed \$50,000,000 (in each case, free and clear of all Liens other than non-consensual liens permitted by Section 7.2 or other Liens permitted by Sections 7.2(h) or 7.2(w) included in the consolidated balance sheet of Holdings, the Borrower and the Restricted Subsidiaries as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters ended on such date.

“**Consolidated Net Income**”: for any period, the consolidated net income (or loss) of Holdings, the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP; (a) the undistributed earnings of any Subsidiary of Holdings that is not a Loan Party or a direct or indirect parent entity of the Borrower to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Loan Document), its Organizational Documents or Requirement of Law applicable to such Subsidiary shall be excluded; (b) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period shall be excluded; (c) effects of adjustments in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transaction, net of taxes, shall be excluded *provided* that this clause (c) shall not include the recognition of deferred revenue for any period subsequent to the Closing Date; (d) any after-tax effect of income (loss) from the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments, in each case, solely to the extent permitted under this Agreement shall be excluded; (e) any fees, expenses or charges incurred during such period, or any amortization thereof for such period, in connection with any Permitted Acquisition, Investment, Disposition, incurrence or repayment of Indebtedness (including such fees, expenses or charges related to the Term Loans), issuance of Qualified Capital Stock, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of the Term Loans and any credit facilities) and including, in each case, any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful, in each case, solely to the extent permitted under this Agreement, shall be excluded; (f) losses or gains on asset sales (other than asset sales made in the ordinary course of business) shall be excluded (but solely to the extent such sales are permitted under this Agreement), and (g) the following items shall be excluded, in each case, solely to the extent permitted under this Agreement: (i) any net unrealized gain or loss (after any offset) resulting in such period from obligations under any Hedge Agreements and the application of Statement of Financial Accounting Standards No. 133; and (ii) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses including those (x) related to currency remeasurements of Indebtedness and (y) resulting from Hedge Agreements for currency exchange risk. In addition, to the extent not already included, Consolidated Net Income shall include the amount of proceeds received from business interruption insurance.

“Consolidated Total Assets”: means, as of the date of any determination thereof, total assets of Holdings, the Borrower and the Restricted Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

“Consolidated Working Capital”: at any date, the excess of Consolidated Current Assets on such date over Consolidated Current Liabilities on such date.

“Contractual Obligation”: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control Agreement”: shall have the meaning assigned to such term in the Guaranty and Collateral Agreement.

“Corporate Family Rating”: an opinion issued by Moody’s of a corporate family’s ability to honor all of its financial obligations that is assigned to a corporate family as if it had a single class of debt and a single consolidated legal entity structure.

“Corporate Rating”: an opinion issued by S&P of an obligor’s overall financial capacity (its creditworthiness) to pay its financial obligations.

“Debentures”: the First Lien Irish law security documents to be entered into by Holdings, Intermediate Holdco and any other Subsidiary Guarantor that is not a CFC incorporated in Ireland or which has an interest in material property, assets or rights which are governed by Irish law or which are situated or deemed to be situated in Ireland, in favor of, or for the benefit of, the Collateral Agent for the benefit of the Secured Parties, which shall be in a form reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Default”: any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Defaulting Lender”: at any time, any Lender (a) that has failed for to comply with its obligations under Section 2.1 of this Agreement (a “funding obligation”), (b) that has notified the Administrative Agent or the Borrower, or has stated publicly, that it will not comply with any such funding obligation hereunder, (c) that has failed to confirm in writing to the Administrative Agent, in response to a written request of the Administrative Agent, that it will comply with its funding obligations hereunder, or (d) with respect to which a Lender Insolvency Event has occurred and is continuing; *provided* that (i) the Administrative Agent and the Borrower may declare (A) by joint notice to the Lenders that a Defaulting Lender is no longer a “Defaulting Lender” or (B) that a Lender is not a Defaulting Lender if in the case of both clauses (a) and (b) the Administrative Agent and the Borrower each determines, in its reasonable discretion, that (x) the circumstances that resulted in such Lender becoming a “Defaulting Lender” no longer apply or (y) it is satisfied that such Lender will continue to perform its funding obligations hereunder and (ii) a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of voting stock or any other equity interest in such Lender or a parent company thereof by a Governmental Authority or an instrumentality thereof unless such ownership or acquisition results in or provides such Lender with immunity from the jurisdiction of the courts within the United States from the enforcement of judgments, writs of attachment on its assets or permits such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Lender. The Administrative Agent will promptly send to all parties hereto a notice when it becomes aware that a Lender is a Defaulting Lender.



“Disposition”: with respect to any Property, any sale, lease, Exclusive License, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms “Dispose” and “Disposed of” shall have correlative meanings.

“Disqualified Capital Stock”: any Capital Stock that is not Qualified Capital Stock.

“Disqualified Institution”: a company that is primarily engaged in the development, manufacture, marketing and commercialization of biotechnology and/or pharmaceuticals or any of its Affiliates (other than any Affiliate of such Disqualified Institution that is a bona fide debt fund of a private equity firm that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course).

“Dollars” and “\$”: dollars in lawful currency of the United States.

“Domestic Subsidiary”: any Subsidiary that is a “United States Person,” as defined in the Code, other than a CFC.

“Earn-Out Obligations”: those certain unsecured obligations of Holdings or any Subsidiary arising in connection with any acquisition of assets or businesses permitted under Section 7.6 to the seller of such assets or businesses and the payment of which is dependent on the future earnings or performance of such assets or businesses and contained in the agreement relating to such acquisition or in an employment agreement delivered in connection therewith.

“ECF Percentage”: 50%; *provided* that, with respect to each fiscal year of the Borrower commencing with the fiscal year ending March 31, 2012, the ECF Percentage shall be reduced to (a) 25% if the Consolidated Leverage Ratio as of the last day of such fiscal year is less than 3.00 to 1.00 but greater than or equal to 2.00 to 1.00 and (b) 0% if the Consolidated Leverage Ratio as of the last day of such fiscal year is less than 2.00 to 1.00.

“Elan”: as defined in the recitals to this Agreement.

“Elan Entities”: has the meaning set forth in the Acquisition Agreement.

“Eligible Assignee”: any Assignee permitted by and consented to in accordance with Section 10.6(b); *provided* that notwithstanding the foregoing, “Eligible Assignee” shall not include a Disqualified Institution.

“Environment”: ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata, and natural resources such as wetlands, flora and fauna.

“Environmental Laws”: any and all applicable foreign, federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) relating to pollution or protection of the Environment, including those relating to use, generation, storage, treatment, transport, Release or threat of Release of Materials of Environmental Concern, or to protection of human or animal health or safety (to the extent relating to exposure to Materials of Environmental Concern), as now or may at any time hereafter be in effect.

“ERISA”: the Employee Retirement Income Security Act of 1974, and the regulations promulgated and rulings issued under it, as all may be amended from time to time.

“Euro” and the designation “€” shall mean the single currency of the participating member states of the European Union.

“Eurocurrency Reserve Requirements”: for any day as applied to a LIBOR Rate Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto) dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

“Event of Default”: any of the events specified in Section 8; *provided* that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Excess Cash Flow”: for any fiscal year of the Borrower, the excess, if any, of:

(a) the sum, without duplication, of:

- (i) Consolidated Net Income for such fiscal year;
- (ii) the amount of all non-cash charges (including depreciation and amortization) deducted in arriving at such Consolidated Net Income;
- (iii) decreases in Consolidated Working Capital for such fiscal year; and
- (iv) the aggregate net amount of non-cash loss on the Disposition of Property by Holdings, the Borrower and the Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business), to the extent deducted in arriving at such Consolidated Net Income minus

(b) the sum, without duplication, of:

(i) the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges included in clauses (a) through (f) of the definition of Consolidated Net Income;

(ii) the aggregate amount actually paid by Holdings, the Borrower and the Restricted Subsidiaries in cash during such fiscal year on account of Capital Expenditures and permitted Investments (including Permitted Acquisitions);

(iii) (x) the aggregate amount of all principal payments of Consolidated Funded Debt (including the Term Loans) and (y) all mandatory prepayments of Loans pursuant to Section 3.2, in each case, of Holdings, the Borrower and the Restricted Subsidiaries made during such fiscal year;

(iv) increases in Consolidated Working Capital for such fiscal year;

(v) the aggregate net amount of non-cash gain on the Disposition of Property by Holdings, the Borrower and the Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business);

(vi) cash payments by Holdings, the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of Holdings, the Borrower and the Restricted Subsidiaries other than Indebtedness;

(vii) Restricted Payments made by Holdings in cash to holders of its common equity from Internally Generated Cash;

(viii) the amount of cash income Taxes actually paid in such period to the extent they exceed the amount of Tax expense deducted in determining Consolidated Net Income for such period;

(ix) fees, expenses or charges paid in cash related to any permitted Investments (including Permitted Acquisitions), the issuance, payment, amendment or refinancing of Indebtedness permitted under Section 7.1 hereof and the issuance of Capital Stock and Dispositions permitted under Section 7.4 hereof; and

(x) any premium paid in cash during such period in connection with the prepayment, redemption, purchase, defeasance or other satisfaction prior to scheduled maturity of Indebtedness permitted to be prepaid, redeemed, purchased, defeased or satisfied hereunder;

(xi) without duplication of amounts deducted in prior periods (A) the aggregate consideration required to be paid in cash by a Group Member pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Permitted Acquisitions or (B) any planned cash expenditures by Holdings, the Borrower or any of the Restricted Subsidiaries relating to Capital Expenditures or acquisitions of intellectual property (the “Planned Expenditures”), in each case to be consummated or made during the period of four consecutive fiscal quarters of Holdings following the end of such period; *provided* that, to the extent the aggregate amount of such Permitted Acquisitions, Capital Expenditures or acquisitions of intellectual property actually made during such period of four consecutive fiscal quarters is less than the Contract Consideration and the Planned Expenditures, as applicable, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters;

*provided* that the amounts referenced in clauses (ii), (iii)(y) and (vi) of this paragraph (b) shall not be included in this paragraph (b) and have the effect of reducing Excess Cash Flow to the extent such amounts were funded out of proceeds of Funded Debt.

“Excess Cash Flow Application Date”: as defined in Section 3.2(c).

“Excess Cash Flow Payment Period”: (a) with respect to the prepayment required on the first Excess Cash Flow Application Date, the period from the Closing Date to March 31, 2012 (taken as one accounting period) and (b) with respect to the prepayment required on each successive Excess Cash Flow Application Date, the immediately preceding fiscal year of the Borrower.

“Exchange Act”: the Securities Exchange Act of 1934, as amended.

“Excluded Indebtedness”: all Indebtedness permitted by Section 7.1.

“Excluded Taxes”: with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) Taxes imposed on or measured by its net income or net profits (however denominated, franchise Taxes imposed on it in lieu of net income Taxes and branch profits (or similar) Taxes imposed on it, in each case, by any jurisdiction (or any political subdivision thereof) (i) as a result of the recipient being organized or having its principal office or, in the case of any Lender, its applicable lending office in such jurisdiction, or (ii) as a result of any other present or former connection between such recipient and such jurisdiction (other than a connection arising primarily as a result of the execution, delivery, or performance by the recipient of its obligations under the Loan Documents, receipt of payments under the Loan Documents or enforcement of rights under the Loan Documents), (b) any U.S. federal withholding Tax that (i) is imposed on amounts payable to a Lender under any laws in effect at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that, in the case where a Lender designated a new lending office, such Lender, or in the case of an assignment, the assignor, was entitled, immediately prior to the time of designation of a new lending office or assignment as the case may be, to receive additional amounts from the Borrower with respect to such Tax pursuant to Section 3.10(a); or (ii) is attributable to such Lender’s failure to comply with Section 3.10(e) and (c) any United States federal withholding Tax that is imposed pursuant to FATCA.

“Exclusive License”: means any license by a Person of its owned Intellectual Property to a third party for a term greater than two (2) years and which provides such licensee exclusive rights to exploit such Intellectual Property.

“Extension”: as defined in Section 3.16.

“Extension Loan”: as defined in Section 3.16.

“Extension Offer”: as defined in Section 3.16.

“FATCA”: current Sections 1471 through 1474 of the Code and any amended or successor version that is substantively comparable and any current or future Treasury regulations or other official administrative guidance (including any Revenue Ruling, Revenue Procedure, Notice or similar guidance issued by the IRS) promulgated thereunder.

“Federal Funds Effective Rate”: for any day, the rate per annum equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent in a commercially reasonable manner.

“Fee Letter”: that certain Fee Letter, dated as of May 9, 2011, among the Borrower, Morgan Stanley Senior Funding, Inc., HSBC Securities (USA) Inc. and HSBC Bank USA, N.A.

“FEMA”: the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

“First Lien Secured Leverage Ratio”: at any date, the ratio of (a) Consolidated Funded Debt secured by a first priority Lien on all or any portion of the Collateral or any other assets of any of the Loan Parties as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters ended on such date.

“Flood Insurance Laws”: collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

“Foreign Lender”: any Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code.

**“Foreign Pledge Agreement”**: a pledge or charge agreement with respect to any Collateral that constitutes Capital Stock of a Foreign Subsidiary, in form and substance reasonably satisfactory to the Administrative Agent; *provided* that no pledge or charge agreement shall be provided with respect to the Capital Stock of a Subsidiary of the Borrower that is a CFC except for a pledge of no more than 65% of the voting Capital Stock of such CFC (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof).

**“Foreign Security Document”**: as defined in Section 4.19.

**“Foreign Subsidiary”**: any Subsidiary of Holdings that is not a Domestic Subsidiary.

**“Funded Debt”**: as to any Person, without duplication, (a) all Indebtedness of the type described in clauses (a), (b) (to the extent of Earn-Out Obligations and other similar obligations), (c), (e), (f) (to the extent of any unreimbursed drawings thereunder) and (h) and (b) Indebtedness of the type described in clause (g) of the definition of such term of such Person that matures more than one (1) year from the date of its creation or matures within one (1) year from such date but is renewable or extendible, at the option of such Person, to a date more than one (1) year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one (1) year from such date, including all current maturities and current sinking fund payments in respect of such Indebtedness whether or not required to be paid within one year from the date of its creation and, in the case of the Borrower, Indebtedness in respect of the Term Loans.

**“Funding Office”**: the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

**“GAAP”**: generally accepted accounting principles in the United States as in effect from time to time subject to Section 1.2(e).

**“Governmental Authority”**: any nation or government, any state or other political subdivision thereof, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government (including any supranational bodies such as the European Union or the European Central Bank) and any securities exchange.

**“Governmental Authorization”**: all laws, rules, regulations, authorizations, consents, decrees, permits, licenses, waivers, privileges, approvals from and filings with all Governmental Authorities necessary in connection with any Group Member’s business.

**“Group Members”**: the collective reference to Holdings, the Borrower and the Restricted Subsidiaries.

**“Guarantee and Collateral Agreement”**: the First Lien Guarantee and Collateral Agreement to be executed and delivered by the Borrower and each other Loan Party that is a party thereto, substantially in the form of Exhibit C.

**“Guarantee Obligation”**: as to any Person (the “guaranteeing person”), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; *provided*, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person’s maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

**“Guarantors”**: collectively, Holdings and the Subsidiary Guarantors.

**“Health Care Laws”**: any and all applicable current and future treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by the Food and Drug Administration, the Center for Medicare and Medicaid Services, the Department of Health and Human Services (“**HHS**”), the Office of Inspector General of HHS, the Drug Enforcement Administration or any other Governmental Authority (including any professional licensing laws, certificate of need laws and state reimbursement laws), relating in any way to the manufacture, distribution, marketing, sale, supply or other disposition of any product or service of Holdings or any of its Restricted Subsidiaries, the conduct of the business of Holdings or any of its Restricted Subsidiaries, the provision of health care services generally, or to any relationship among Holdings and its Restricted Subsidiaries, on the one hand, and their suppliers and customers and patients and other end-users of their products and services, on the other hand.

**“Hedge Agreements”**: any agreement with respect to any cap, swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Hedge Agreement.

“Holdco”: as defined in the preamble to this Agreement.

“Holdings”: as defined in the preamble to this Agreement.

“IFRS” means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

“Immaterial Subsidiary”: any Subsidiary now existing or hereafter acquired or formed and each successor thereto, (a) which accounts for not more than the lesser of 5% of (i) the consolidated gross revenues (after intercompany eliminations) of Holdings, the Borrower and the Restricted Subsidiaries and (ii) the consolidated assets (after intercompany eliminations) of Holdings, the Borrower and the Restricted Subsidiaries, in each case, as of the last day of the most recently completed fiscal quarter as reflected on the financial statements for such quarter after giving *pro forma* effect to the Acquisition, and (b) if the Subsidiaries that constitute Immaterial Subsidiaries pursuant to clause (a) above account for, in the aggregate, more than the lesser of (i) 10% of such consolidated gross revenues (after intercompany eliminations) and (ii) 10% of the consolidated assets (after intercompany eliminations), each as described in clause (b) above, then the term “Immaterial Subsidiary” shall not include each such Subsidiary (starting with the Subsidiary that accounts for the most consolidated gross revenues or consolidated assets and then in descending order) necessary to account for at least 90% of the consolidated gross revenues and 90% of the consolidated assets, each as described in clause (b) above.

“Increase Term Joinder”: as defined in Section 2.4(c).

“Incremental Lender”: any Person that makes a Term Loan pursuant to Section 2.4 or has a commitment to make an Incremental Term Loan pursuant to Section 2.4.

“Incremental Term Facility”: as defined in Section 2.4(a).

“Incremental Term Loan Commitment”: as defined in Section 2.4(a).

“Incremental Term Loans”: as defined in Section 2.4(c).

“Indebtedness”: of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (including Earn-Out Obligations but excluding current trade payables and payroll liabilities incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) the liquidation value of all Disqualified Capital Stock of such Person, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, and (j) for the purposes of Sections 7.1 and 8(e) only, all obligations of such Person in respect of Hedge Agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor. For purposes of clause (j) above (including as such clause applies to Section 8(e)), the principal amount of Indebtedness in respect of Hedge Agreements shall equal the amount that would be payable (giving effect to netting) at such time if such Hedge Agreement were terminated. For the avoidance of doubt Indebtedness does not include compensation and benefits paid, to be paid, provided or to be provided, in the ordinary course of business and not yet overdue.



“Indemnified Liabilities”: as defined in Section 10.5(b).

“Indemnified Taxes”: (a) Taxes other than Excluded Taxes imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and, (b) to the extent not otherwise described in subsection (a), Other Taxes.

“Indemnitee”: as defined in Section 10.5(b).

“Insolvency”: with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

“Insolvent”: pertaining to a condition of Insolvency.

“Intellectual Property”: collectively, all United States and foreign (a) patents, patent applications, certificates of inventions, industrial designs, together with any and all inventions described and claimed therein, and reissues, divisions, continuations, extensions and continuations-in-part thereof and amendments thereto; (b) trademarks, service marks, certification marks, trade names, slogans, logos, trade dress, Internet Domain Names, and other source identifiers, whether statutory or common law, whether registered or unregistered, and whether established or registered in the United States or any other country or any political subdivision thereof, together with any and all registrations and applications for any of the foregoing, goodwill connected with the use thereof and symbolized thereby, and extensions and renewals thereof and amendments thereto; (c) copyrights (whether statutory or common law, and whether published or unpublished), copyrightable subject matter, and all mask works (as such term is defined in 17 U.S.C. Section 901, *et seq.*), together with any and all registrations and applications therefor, and renewals and extensions thereof and amendments thereto; (d) rights in computer programs (whether in source code, object code, or other form), algorithms, databases, compilations and data, technology supporting the foregoing, and all documentation, including user manuals and training materials, related to any of the foregoing (“Software”); (e) trade secrets and proprietary or confidential information, data and databases, know-how and proprietary processes, designs, inventions, and any other similar intangible rights, to the extent not covered by the foregoing, whether statutory or common law, whether registered or unregistered; (f) income, fees, royalties, damages and payments now and hereafter due and/or payable under or with respect to any of the foregoing, including, without limitation, damages, claims and payments for past, present or future infringements, misappropriations or other violations thereof; (g) rights and remedies to sue for past, present and future infringements, misappropriations and other violations of any of the foregoing; and (h) rights, priorities, and privileges corresponding to any of the foregoing or other similar intangible assets throughout the world.

**“Intellectual Property Security Agreements”**: an intellectual property security agreement or such other agreement, as applicable, pursuant to which each Loan Party which owns any Intellectual Property which is the subject of a registration or application with the United States Patent and Trademark Office or the United States Copyright Office (or, with respect to each Loan Party which owns any Intellectual Property which is the subject of a registration or application with the equivalent authority in the Republic of Ireland) grants to the Collateral Agent, for the benefit of the Secured Parties a security interest in such Intellectual Property attached hereto as Exhibit H.

**“Intercompany Note”**: the Intercompany Note to be executed and delivered by each Subsidiary of Holdings that is not a Loan Party, substantially in the form attached hereto as Exhibit I.

**“Intercreditor Agreement”**: the agreement substantially in the form of Exhibit K, dated as of the date hereof among the Collateral Agent and the Second Lien Collateral Agent, as the same may be amended, modified or supplemented from time to time.

**“Interest Payment Date”**: (a) as to any ABR Loan, the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any LIBOR Rate Loan having an Interest Period of three (3) months or less, the last day of such Interest Period, and (c) as to any LIBOR Rate Loan having an Interest Period longer than three (3) months, each day that is three (3) months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period.

**“Interest Period”**: as to any LIBOR Rate Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such LIBOR Rate Loan and ending one, two, three or six months (or if consented to by all Lenders, nine or twelve months) thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such LIBOR Rate Loan and ending one, two, three or six months (or if consented to by all Lenders, nine or twelve months) thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent no later than 12:00 Noon, New York City time, on the date that is three (3) Business Days prior to the last day of the then current Interest Period with respect thereto; *provided* that, the initial Interest Period will commence on the Closing Date and end on December 3, 2011; *provided, further*, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period that would extend beyond the Term Loan Maturity Date; and

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month.

“Intermediate Holdco”: as defined in the preamble to this Agreement.

“Internally Generated Cash”: with respect to any period, any cash of Holdings, the Borrower or any Subsidiary Guarantor generated during such period, excluding Net Cash Proceeds and any cash constituting proceeds from an incurrence of Indebtedness, an issuance of Capital Stock or a capital contribution, in each case, except to the extent such proceeds are included as income in calculating Consolidated Net Income for such period.

“Internet Domain Names”: all Internet domain names and associated URL addresses.

“Investments”: as defined in Section 7.6.

“IP Sale”: any Disposition of any Intellectual Property (excluding in any case any such Disposition permitted by clauses (c), (e), (k) and (n) of Section 7.4) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$2,500,000.

“IRS”: the United States Internal Revenue Service.

“Junior Financing”: any Junior Indebtedness or any other Indebtedness of Holdings or any Subsidiary that is, or that is required to be, contractually subordinated in payment or lien priority to the Obligations.

“Junior Financing Documentation”: any documentation governing any Junior Financing.

**“Junior Indebtedness”**: Indebtedness of any Person so long as (a) such Indebtedness shall not require any amortization prior to the date that is six (6) months following the Term Loan Maturity Date; (b) the weighted average maturity of such Indebtedness shall occur after the date that is six (6) months following the Term Loan Maturity Date; (c) the mandatory prepayment provisions, affirmative and negative covenants and financial covenants shall be no more restrictive, taken as a whole, than the provisions set forth in the Loan Documents, as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower; (d) such Indebtedness is unsecured; (e) if such Indebtedness is Subordinated Indebtedness, the other terms and conditions thereof shall be satisfied; (f) if such Indebtedness is incurred by a Subsidiary that is not a Loan Party, (i) such Subsidiary shall have also provided a guarantee of the Obligations substantially on the terms set forth in the Guarantee and Collateral Agreement and (ii) if the Indebtedness being guaranteed, is subordinated to the Obligations, such guarantee, shall be subordinated to the guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness; and (g) if such Indebtedness is incurred by a Subsidiary that is not a Loan Party, subject to Section 7.6(g), such Indebtedness may be guaranteed by another Group Member.

**“Key IP”**: the Intellectual Property covering the products marketed under the following brand names: “AMPYRA”, “VIVITROL”, “BYDUREON”, “RISPERDAL CONSTA” and “INVEGA SUSTENNA”, and any derivative or modified products or property thereof.

**“Lead Arrangers”**: Morgan Stanley Senior Funding, Inc. and HSBC Securities (USA) Inc., each, in its capacity as joint lead arranger under this Agreement.

**“Lender Insolvency Event”**: (a) a Lender or its Parent Company is adjudicated by a Governmental Authority to be insolvent, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (b) such Lender or its Parent Company is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been appointed for such Lender or its Parent Company, or such Lender or its Parent Company has indicating its consent to or acquiescence in any such proceeding or appointment.

**“Lenders”**: each Term Lender and Incremental Lender.

**“LIBOR”**: with respect to each day during each Interest Period pertaining to a LIBOR Rate Loan, the rate per annum offered for deposits of Dollars for the applicable Interest Period that appears on Reuters Screen LIBOR01 Page as of 11:00 A.M., London, England time, two (2) Business Days prior to the first day of such Interest Period or (b) if no such offered rate exists, such rate will be the rate of interest per annum as determined by the Administrative Agent (rounded upwards, if necessary, to the nearest 1/100 of 1%) at which deposits of Dollars in immediately available funds are offered at 11:00 A.M., London, England time, two (2) Business Days prior to the first day in the applicable Interest Period by major financial institutions reasonably satisfactory to the Administrative Agent in the London interbank market for such interest period and for an amount equal or comparable to the principal amount of the Term Loans to be borrowed, converted or continued as LIBOR Rate Loans on such date of determination.

“LIBOR Rate”: with respect to each day during each Interest Period pertaining to a LIBOR Rate Loan, the rate per annum equal to the greater of (a) 1.50% (the “LIBOR Floor”) and (b) for each Interest Period following the initial Interest Period, the rate per annum determined by the Administrative Agent (rounded upward to the nearest 1/100th of 1%) by dividing (i) LIBOR for such Interest Period by (ii) 1.00 - Eurocurrency Reserve Requirements. The LIBOR Rate shall be adjusted on and as of the effective date of any change in the Eurocurrency Reserve Requirements.

“LIBOR Rate Loans”: loans the rate of interest applicable to which is based upon the LIBOR Rate.

“LIBOR Tranche”: the collective reference to LIBOR Rate Loans under a particular loan facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Lien”: means, with respect to any property or asset, (a) any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, encumbrance, charge or security interest in, on, of or with respect to such property or asset, (b) any right, title or interest of any Person (including any vendor or lessor) under any conditional sale agreement, capital lease or title retention agreement (or any capital or financing lease having substantially the same economic effect as any of the foregoing) relating to such property or asset and (c) in the case of securities (debt or equity), any purchase option, call, put or similar right of any Person with respect to such securities.

“Loan Documents”: this Agreement, the Security Documents, the Notes and the Fee Letter.

“Loan Party”: each of Holdings, the Borrower and the Subsidiary Guarantors.

“Margin Stock”: as defined in Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof.

“Material Adverse Effect”: (a) a material adverse effect upon, the business, assets, liabilities, operations or condition (financial or otherwise) of Holdings and its Subsidiaries, taken as a whole; or (b) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“Material Indebtedness”: of any Person at any date, Indebtedness the outstanding principal amount of which exceeds in the aggregate \$10,000,000.

“Materials of Environmental Concern”: any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, or any substances, materials, wastes, pollutants or contaminants in any form regulated under any Environmental Law, including asbestos and asbestos-containing materials, polychlorinated biphenyls, radon gas, radiation, and electromagnetic or radio frequency emissions.

“Maximum Rate”: as defined in Section 3.5(e).

“Merger Sub”: ANTLER ACQUISITION CORP., a corporation organized under the laws of the Commonwealth of Pennsylvania and a wholly-owned subsidiary of Holdco and to be merged with and into the Borrower.

“Moody’s”: Moody’s Investors Service, Inc.

“Mortgaged Properties”: the real properties as to which the Collateral Agent for the benefit of the Secured Parties shall be granted a Lien pursuant to the Mortgages pursuant to Section 6.10.

“Mortgages”: any mortgages and deeds of trust or any other documents creating and evidencing Liens on Mortgaged Properties made by any Loan Party in favor of, or for the benefit of, the Collateral Agent for the benefit of the Secured Parties, which shall be in a form reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Multiemployer Plan”: a Plan that is a “multiemployer” plan as defined in Section 4001(a)(3) of ERISA.

“Multiple Employer Plan” means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of any Group Member or any Commonly Controlled Entity and at least one person other than a Group Member or a Commonly Controlled Entity or (b) was so maintained and in respect of which any Group Member or a Commonly Controlled Entity could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

“Net Cash Proceeds”:

(a) in connection with any Asset Sale, IP Sale (other than in connection with any Exclusive License) or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or held in escrow or purchase price adjustment receivable or by the Disposition of any non-cash consideration received in connection therewith or otherwise, but only as and when received and net of costs, amounts and taxes set forth below), net of:

(i) attorneys’ fees, accountants’ fees, investment banking fees and other professional and transactional fees actually incurred in connection therewith;

(ii) amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document);

(iii) other fees and expenses actually incurred in connection therewith;

(iv) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements);

(v) amounts provided as a reserve in accordance with GAAP against any liabilities associated with the assets disposed of in an Asset Sale (including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such Asset Sale); *provided* that such amounts shall be considered Net Cash Proceeds upon release of such reserve; and

(b) in connection with any Exclusive License, the proceeds thereof in the form of cash and Cash Equivalents constituting Upfront Payments, net of:

(i) attorneys' fees, accountants' fees, investment banking fees and other professional and transactional fees actually incurred in connection therewith;

(ii) other fees and expenses actually incurred in connection therewith;

(iii) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements);

(iv) amounts provided as a reserve in accordance with GAAP against any liabilities associated with such Exclusive License (including, without limitation, against any indemnification obligations associated with such Exclusive License); *provided* that such amounts shall be considered Net Cash Proceeds upon release of such reserve; and

(c) in connection with any issuance or sale of Capital Stock, any capital contribution or any incurrence of Indebtedness, the cash proceeds received from such issuance, contribution or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

"Non-Consenting Lenders": as defined in Section 10.1.

"Non-Defaulting Lender": at any time, a Lender that is not a Defaulting Lender.

"Non-U.S. Pension Plan": any plan, fund or other similar program established or maintained outside the United States by a Group Member primarily for the benefit of employees of Group Members residing outside the United States, which plan, fund or other similar program provides for retirement income of such employees or a deferral of income from such employees in contemplation of retirement and is not subject to ERISA or the Code.

"Not Otherwise Applied": with reference to any amount of proceeds of any transaction, that (a) was not required to be applied to prepay the Term Loans pursuant to Section 3.2(c) and (b) was not previously applied in determining the permissibility of a transaction under the Loan Documents where such permissibility was (or may have been) contingent on receipt of such amount or utilization of such amount for a specified purpose.

“Notes”: the collective reference to any promissory note evidencing Loans.

“Obligations”: the unpaid principal of and interest on (including interest accruing after the maturity of the Term Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any Insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Term Loans and all other obligations and liabilities of the Loan Parties to any Agent or to any Lender (or, in the case of Specified Hedge Agreements, any Qualified Counterparty), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, any Specified Hedge Agreement or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to any Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

“OFAC”: as defined in Section 4.23(a).

“Offer”: as defined in Section 10.6(b).

“Offer Loans”: as defined in Section 10.6(b).

“Organizational Documents”: as to any Person, the Certificate of Incorporation, Certificate of Formation, By-Laws, Limited Liability Company Agreement, Memorandum and Articles of Association, Partnership Agreement or other similar organizational or governing documents of such Person.

“Other Taxes”: any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Outside Date” shall mean November 9, 2011.

“Parent Company”: with respect to a Lender, the bank holding company (as defined in Board Regulation Y), if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Lender.

“Parent Entity” shall mean any of Holdings, Intermediate Holdco and Holdco and any other person of which Holdings is a Subsidiary.

“Participant”: as defined in Section 10.6(e).



“Patriot Act”: the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor entity performing similar functions).

“Perfection Certificate”: shall mean a perfection certificate in the form of Exhibit L-1 or any other form approved by the Collateral Agent, as the same shall be supplemented from time to time by a Perfection Certificate Supplement or otherwise.

“Perfection Certificate Supplement” shall mean a perfection certificate supplement in the form of Exhibit L-2 or any other form approved by the Collateral Agent.

“Permitted Acquisition”: (i) the Acquisition and (ii) any acquisition, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all or a majority of the Capital Stock of, or a business line or unit or a division of, any Person; *provided*:

- (a) immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;
- (b) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations;
- (c) in the case of the acquisition of Capital Stock, such Capital Stock shall become subject to a security interest in favor of the Collateral Agent for the benefit of the Secured Parties and the issuer of such Capital Stock shall become a Loan Party, in each case, in accordance with Section 6.10 and 6.11;
- (d) the Consolidated Leverage Ratio, in each case, calculated on a *pro forma* basis after giving effect to such acquisition as if such acquisition had occurred on the first day of the most recent period of four (4) consecutive fiscal quarters of the Borrower for which financial statements are available shall be less than 4.00:1.00;
- (e) Holdings shall have delivered to the Administrative Agent at least five (5) Business Days prior to such proposed acquisition, a Compliance Certificate evidencing compliance with clause (d) above and compliance with clause (f) below, together with all relevant financial information with respect to such acquired assets, including, in the event the Consolidated EBITDA (calculated on a pro forma basis) of the assets and property subject to such acquisition is greater than 25% of the Consolidated EBITDA (calculated on a pro forma basis) of Holdings, appropriate revisions to the Projections included in the Confidential Information Memorandum, or, if Projections have been provided pursuant to Section 6.2(b), appropriate revisions to such Projections, in each case after giving effect to such proposed acquisition (such revised projections or Projections to be accompanied by a certificate of a Responsible Officer of the Borrower stating that such revised projections or Projections are based on estimates, information and assumptions set forth therein and otherwise believed by such Responsible Officer of the Borrower to be reasonable at such time (it being recognized that such revised projections or Projections relate to future events and are not to be viewed as fact and that actual results during the period covered thereby may differ from such revised projections or Projections by a material amount)); and

(f) any Person or assets or division as acquired in accordance herewith shall be in substantially the same business or lines of business in which Holdings and/or its Subsidiaries are engaged, or are permitted to be engaged, as provided in Section 7.14, as of the time of such acquisition.

“Permitted Refinancing”: as to any Indebtedness, the incurrence of other Indebtedness to refinance, extend, renew, defease, restructure, replace or refund (collectively, “refinance”) such existing Indebtedness; *provided* that, in the case of such other Indebtedness, the following conditions are satisfied: (a) the weighted average life to maturity of such refinancing Indebtedness shall be greater than or equal to the weighted average life to maturity of the Indebtedness being refinanced; (b) the principal amount of such refinancing Indebtedness shall be less than or equal to the principal amount (including any accreted or capitalized amount) then outstanding of the Indebtedness being refinanced, plus any required premiums and other amounts paid, and fees and expenses incurred, in connection with such modification, refinancing, refunding, renewal or extension and by any amount equal to any existing commitments unutilized thereunder; (c) the respective obligor or obligors shall be the same on the refinancing Indebtedness as on the Indebtedness being refinanced; (d) the security, if any, for the refinancing Indebtedness shall be substantially the same as that for the Indebtedness being refinanced (except to the extent that less security is granted to holders of refinancing Indebtedness); and (e) the refinancing Indebtedness is subordinated to the Obligations on terms that are at least as favorable, taken as a whole, as the Indebtedness being refinanced (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower) and the holders of such refinancing Indebtedness have entered into any subordination or intercreditor agreements reasonably requested by the Administrative Agent evidencing such subordination.

“Person”: an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan that is covered by ERISA and in respect of which the Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform”: as defined in Section 6.1.

“Pledged Company”: any Subsidiary of Holdings the Capital Stock of which is pledged to the Collateral Agent pursuant to any Security Document.

“Pledged Equity Interests”: as defined in the Guarantee and Collateral Agreement.

“Portfolio Interest Exemption”: as defined in Section 3.10.

“Pound Sterling”: the lawful currency of the United Kingdom.

“Pro Forma Financial Statements”: as defined in Section 4.1(a).

“Projections”: as defined in Section 6.2(b).

“Properties”: as defined in Section 4.17(a).

“Property”: any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

“Purchased Interests”: has the meaning set forth in the Acquisition Agreement.

“Qualified Capital Stock”: any Capital Stock (other than warrants, rights or options referenced in the definition thereof) that either (a) does not have a maturity and is not mandatorily redeemable, or (b) by its terms (or by the terms of any employee stock option, incentive stock or other equity-based plan or arrangement under which it is issued or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (x) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (excluding any mandatory redemption resulting from an asset sale or change in control so long as no payments in respect thereof are due or owing, or otherwise required to be made, until all Obligations have been paid in full in cash), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case, at any time on or after the one hundred eighty-first day following the Term Loan Maturity Date, or (y) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock referred to in clause (x) above, in each case, at any time on or after the one hundred eighty-first day following the Term Loan Maturity Date.

“Qualified Counterparty”: with respect to any Hedge Agreement, any counterparty thereto that is, or that at the time such Hedge Agreement was entered into, was, a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent (or, in the case of any such Hedge Agreement entered into prior to the Closing Date, any counterparty that was a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent on the Closing Date); *provided* that, in the event a counterparty to a Hedge Agreement at the time such Hedge Agreement was entered into (or, in the case of any Hedge Agreement entered into prior to the Closing Date, on the Closing Date) was a Qualified Counterparty, such counterparty shall constitute a Qualified Counterparty hereunder and under the other Loan Documents.

“Quarterly Payment Date”: March 31, June 30, September 30 and December 31 of each year.

“Recovery Event”: any settlement of or payment in excess of \$5,000,000 in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Group Member.

“Refinanced Term Loans”: as defined in Section 10.1.

“Register”: as defined in Section 10.6(d).

“Regulation S-X”: Regulation S-X promulgated under the Securities Act.

“Regulation T”: Regulation T of the Board as in effect from time to time.

“Regulation U”: Regulation U of the Board as in effect from time to time.

“Regulation X”: Regulation X of the Board as in effect from time to time.

“Reinvestment Deferred Amount”: with respect to (i) any Reinvestment Event (other than any IP Sale), the aggregate Net Cash Proceeds and (ii) any Reinvestment Event that is an IP Sale, 75% of the aggregate Net Cash Proceeds, in each case, received by any Group Member in connection therewith that are not applied to repay the Term Loans pursuant to Section 3.2(b) as a result of the delivery of a Reinvestment Notice.

“Reinvestment Event”: any Asset Sale, IP Sale or Recovery Event in respect of which the Borrower has delivered a Reinvestment Notice.

“Reinvestment Notice”: a written notice executed by a Responsible Officer stating that no Event of Default has occurred and is continuing and that Intermediate Holdco or the Borrower, as the case may be, (directly or indirectly through a Restricted Subsidiary) intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale, IP Sale or Recovery Event to acquire or repair fixed or capital assets useful in its business (including by making Permitted Acquisitions); *provided* that in the case of an IP Sale of Key IP the proceeds from such IP Sale (a) are maintained in an account that is the subject of a Control Agreement until the earlier of (i) the Reinvestment Prepayment Date or (ii) the date on which they are applied in prepayment of the Term Loans and (b) may not be invested in any Unrestricted Subsidiary.

“Reinvestment Prepayment Amount”: with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount expended prior to the relevant Reinvestment Prepayment Date to acquire or repair fixed or capital assets useful in the Borrower’s or the Restricted Subsidiaries’ businesses (including by making Permitted Acquisitions) in accordance with the applicable Reinvestment Notice; *provided* that, in the case of an IP Sale of Key IP, such assets shall be reasonably comparable (including as to value and as to quality and amount of cash flows that are expected to be generated therefrom) as the Key IP disposed in such IP Sale, as determined by the Borrower in good faith and confirmed in a certificate of a Responsible Officer delivered to the Administrative Agent on or prior to such date.

“Reinvestment Prepayment Date”: with respect to any Reinvestment Event, the earlier of (a) the date occurring twelve (12) months (or if Intermediate Holdco, the Borrower or a Restricted Subsidiary, as the case may be has entered into a legally binding commitment to reinvest such Reinvestment Deferred Amount during such twelve (12) month period, eighteen (18) months) after such Reinvestment Event and (b) the date on which the Borrower shall have determined not to, or shall have otherwise ceased to, acquire or repair fixed or capital assets useful in the Borrower’s or the Restricted Subsidiaries’ businesses with all or any portion of the relevant Reinvestment Deferred Amount.

“Related Indemnified Person”: of an indemnified person means (a) any controlling person or controlled affiliate of such indemnified person, (b) the respective directors, officers, or employees of such indemnified person or any of its controlling persons or controlled affiliates and (c) the respective agents of such indemnified person or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such indemnified person, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this sentence pertains to a controlled affiliate or controlling person involved in the negotiation or syndication of this Agreement and the Term Loans.

“Related Party Register”: as defined in Section 10.6(d).

“Release”: any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the Environment, or into or from any building or facility.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Reorganization Transfer Agreements”: has the meaning set forth in the Acquisition Agreement.

“Replacement Term Loans”: as defined in Section 10.1.

“Reportable Event”: any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty (30) day notice period is waived pursuant to PBGC Reg. § 4043.

“Repricing Transaction”: the prepayment or refinancing of all or a portion of the Term Loans with the incurrence by any Loan Party of any long-term bank debt financing (including, without limitation, any Replacement Term Loans) incurred for the primary purpose of obtaining an effective interest cost or weighted average yield (excluding any arrangement or commitment fees in connection therewith) that is less than the interest rate for or weighted average yield of the Term Loans, including without limitation, as may be effected through any amendment to this Agreement relating to the interest rate for, or weighted average yield of, the Term Loans.

“Required Lenders”: at any time, the holders of more than 50% of the sum of (a) the aggregate unpaid principal amount of the Term Loans then outstanding and (b) the Total Term Commitments then in effect.

“Requirement of Law”: as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including, in each case, any applicable Health Care Laws.

“Responsible Officer”: the chief executive officer, president, chief financial officer, treasurer or assistant treasurer of Holdings or the Borrower (unless otherwise specified), but in any event, with respect to financial matters, the chief financial officer, treasurer or assistant treasurer of the Borrower.

“Restricted Payments”: as defined in Section 7.5.

“Restricted Subsidiary”: shall mean any Subsidiary that is not an Unrestricted Subsidiary.

“S&P”: Standard & Poor’s Ratings Services.

“SEC”: the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

“Second Lien Administrative Agent”: Morgan Stanley Senior Funding, Inc., in its capacity as administrative agent for the lenders under the Second Lien Loan Documents or any successor agent.

“Second Lien Collateral Agent”: Morgan Stanley Senior Funding, Inc., in its capacity as collateral agent for the lenders under the Second Lien Loan Documents or any successor agent.

“Second Lien Credit Agreement”: the Second Lien Credit Agreement dated as of the date hereof among Holdings, the Borrower, the Second Lien Administrative Agent, the Second Lien Collateral Agent, the various lenders from time to time party thereto and the other parties thereto, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“Second Lien Indebtedness”: Indebtedness of any Person that is secured by a junior Lien on the Collateral (including Indebtedness pursuant to the Second Lien Credit Agreement); *provided* that the holder of such Indebtedness executes and delivers a counterpart to the Intercreditor Agreement or such other intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent.

“Second Lien Loan Documents”: the Second Lien Credit Agreement and the related guarantees, security agreements, mortgages, notes and other agreements and instruments entered into from time to time in connection with the Second Lien Credit Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“Second Lien Loans”: the loans under the Second Lien Credit Agreement.

“Secured Parties”: the collective reference to the Lenders, the Agents, and the Qualified Counterparties, and each of their successors and assigns.

“Securities Act”: the Securities Act of 1933, as amended.

“Security Documents”: the collective reference to the Intercreditor Agreement, the Guarantee and Collateral Agreement, the Debentures, the Mortgages (if any), the Control Agreements, the Intellectual Property Security Agreements and all other security documents hereafter delivered to the Administrative Agent or the Collateral Agent granting a Lien on any property of any Person to secure the Obligations of any Loan Party under any Loan Document or any Specified Hedge Agreement.

“Single Employer Plan”: any Plan that is covered by Title IV of ERISA, but that is not a Multiemployer Plan.

“Software”: as defined in the definition of Intellectual Property.

“Solvent”: as to any Person at any time, that (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person; (b) the present fair salable value of the assets of such Person is greater than the amount that will be required to pay the probable liability of such Person on the sum of its debts and other liabilities, including contingent liabilities; (c) such Person has not, does not intend to, and does not believe (nor should it reasonably believe) that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they become due (whether at maturity or otherwise); (d) such Person does not have unreasonably small capital with which to conduct the businesses in which it is engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date; (e) it is not unable to pay its debts as they fall due; and (f) in the case of any such Person organized under the laws of the Republic of Ireland, it is not deemed unable to pay its debts as they fall due for purposes of the laws of the Republic of Ireland.

“Special Flood Hazard Area”: an area that FEMA’s current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

“specified currency”: as defined in Section 10.17.

“Specified Hedge Agreement”: any Hedge Agreement entered into by (a) any Loan Party and (b) any Qualified Counterparty, as counterparty; *provided*, that any release of Collateral or Guarantors effected in the manner permitted by this Agreement shall not require the consent of holders of obligations under Specified Hedge Agreements; *provided*, however, that notwithstanding such release, nothing herein shall limit the contractual rights of any such Qualified Counterparty set forth in such Specified Hedge Agreement.

“Stock Certificates”: Collateral consisting of certificates representing Capital Stock of any Subsidiary of Holdings for which a security interest can be perfected by delivering such certificates.

“Subordinated Indebtedness”: any unsecured Junior Indebtedness of the Borrower or a Subsidiary Guarantor the payment of principal and interest of which and other obligations of the Borrower or such Subsidiary Guarantor in respect thereof are subordinated to the prior payment in full of the Obligations on terms and conditions reasonably satisfactory to the Administrative Agent.

“Subsidiary”: as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person and, in the case of Person which is a company incorporated in Ireland, shall include a subsidiary of such Person within the meaning of Section 155 of the Companies Acts 1963 of Ireland. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of Holdings.

“Subsidiary Guarantor”: each Subsidiary of Holdings (other than the Borrower) that guarantees the Obligations pursuant to a Loan Document or pursuant to Section 6.10.

“Survey”: a survey of any Mortgaged Property (and all improvements thereon) which is (a) (i) prepared by a surveyor or engineer licensed to perform surveys in the jurisdiction where such Mortgaged Property is located, (ii) dated (or redated) not earlier than six months prior to the date of delivery thereof unless there shall have occurred within six months prior to such date of delivery any exterior construction on the site of such Mortgaged Property or any easement, right of way or other interest in the Mortgaged Property has been granted or become effective through operation of law or otherwise with respect to such Mortgaged Property which, in either case, can be depicted on a survey, in which events, as applicable, such survey shall be dated (or redated) after the completion of such construction or if such construction shall not have been completed as of such date of delivery, not earlier than 20 days prior to such date of delivery, or after the grant or effectiveness of any such easement, right of way or other interest in the Mortgaged Property, *provided* that the Borrower shall have a reasonable amount of time to deliver such redated survey, (iii) certified by the surveyor (in a manner reasonably acceptable to the Administrative Agent) to the Administrative Agent, the Collateral Agent and the Title Company, (iv) complying in all respects with the minimum detail requirements of the American Land Title Association as such requirements are in effect on the date of preparation of such survey and (v) sufficient for the Title Company to remove all standard survey exceptions from the title insurance policy (or commitment) relating to such Mortgaged Property and issue customary endorsements or (b) otherwise acceptable to the Collateral Agent.

“Swiss Franc”: the lawful currency of Switzerland.

“Syndication Agent(s)”: as defined in the preamble to this Agreement.

“Syndication Date”: the date on which the Lead Arrangers complete a Successful Syndication (as defined in the Fee Letter) of the Term Loans and the entities selected in such syndication process become parties to this Agreement.



“Taxes”: taxes, levies, imposts, duties, charges, fees, deductions or withholdings imposed by any Governmental Authority, and any interest, penalties or additions to tax imposed with respect thereto.

“Tax Status Certificate”: as defined in Section 3.10.

“Term Commitment”: as to any Lender, the obligation of such Lender, if any, to make a Term Loan to the Borrower hereunder in a principal amount not to exceed the amount set forth on Schedule 1.1 or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original aggregate amount of the Term Commitments is \$310,000,000.

“Term Facility”: the Term Commitments and the Term Loans made thereunder.

“Term Lender”: each Lender that has a Term Commitment or that holds a Term Loan.

“Term Loan”: as defined in Section 2.1, together with any Incremental Term Loans, if applicable.

“Term Loan Increase Effective Date”: as defined in Section 2.4(a).

“Term Loan Maturity Date”: the date that is six (6) years after the Closing Date.

“Term Percentage”: as to any Lender at any time, the percentage which such Lender’s Term Commitment then constitutes of the aggregate Term Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender’s Term Loans then outstanding constitutes the aggregate principal amount of the Term Loans then outstanding).

“Ticking Fee” as defined in Section 2.5(b).

“Title Company”: any title insurance company as shall be retained by Borrower and reasonably acceptable to the Administrative Agent.

“Total Term Commitments”: at any time, the aggregate amount of the Term Commitments then in effect.

“Transaction”: collectively, (a) the consummation of the Acquisition and the Cash Contribution, (b) the borrowing of the Term Loans on the Closing Date, (c) the borrowing of the Second Lien Loans on the Closing Date and (d) the other transactions contemplated by the Loan Documents.

“Transferee”: any Assignee or Participant.

“Type”: as to any Term Loan, its nature as an ABR Loan or a LIBOR Rate Loan.

“UCC Filing Collateral”: Collateral consisting solely of assets for which a security interest can be perfected by filing a Uniform Commercial Code financing statement.

“Unasserted Contingent Obligations”: as defined in the Guarantee and Collateral Agreement.

“United States”: the United States of America.

“Unrestricted Subsidiary”: means any Subsidiary designated by the board of directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.16, in each case, until such Person ceases to be Unrestricted Subsidiary in accordance with Section 6.16 or ceases to be a Subsidiary.

“Upfront Payment”: means, for any Exclusive License, the aggregate cash payment paid to any Group Member on or prior to the consummation of the Exclusive License (and which, for the avoidance of doubt, shall not include any royalty, earnout, milestone payment, contingent payment or any other deferred payment that may be payable thereafter.)

“U.S. GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States.

“Voluntary Prepayment”: a prepayment of the Term Loans.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly Owned Subsidiary”: as to any Person, any other Person, all of the Capital Stock of which (other than directors’ qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

## 1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation,” (iii) the word “incur” shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words “incurred” and “incurrence” shall have correlative meanings), (iv) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time (subject to any applicable restrictions hereunder), (vi) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (vii) any references herein to any Person shall be construed to include such Person’s successors and assigns.

(c) The words “hereof,” “herein” 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, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(e) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP in effect as of the date hereof; *provided* that, if either the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then the Administrative Agent, the Borrower and the Lenders shall negotiate in good faith to amend such provision to preserve the original intent in light of the change in GAAP; *provided* that such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(f) When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be; *provided* that, with respect to any payment of interest on or principal of LIBOR Rate Loans, if such extension would cause any such payment to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

## SECTION 2. AMOUNT AND TERMS OF TERM COMMITMENTS

2.1 Term Commitments. Subject to the terms and conditions hereof, each Lender severally agrees to make a term loan (a “Term Loan”) to the Borrower on the Closing Date in an amount not to exceed the amount of the Term Commitment of such Lender. The Term Loans may from time to time be LIBOR Rate Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 3.3.

2.2 Procedure for Term Loan Borrowing. The Borrower shall give the Administrative Agent irrevocable notice in the form annexed hereto as Exhibit B (which notice must be received by the Administrative Agent prior to 12:00 Noon, New York City time, at least 1 Business Day prior to the anticipated Closing Date) requesting that the applicable Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. Upon receipt of such notice the Administrative Agent shall promptly notify each applicable Lender thereof. Not later than 12:00 Noon, New York City time, on the Closing Date, each Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall make the proceeds of such Term Loan or Term Loans available to the Borrower on such Borrowing Date by wire transfer in immediately available funds to a bank account designated in writing by the Borrower to the Administrative Agent.

2.3 Repayment of Term Loans. On each Quarterly Payment Date, beginning with the Quarterly Payment Date on March 31, 2012, the Borrower shall repay to the Administrative Agent for the ratable account of the Lenders the principal amount of Term Loans then outstanding in an amount equal to 0.25% of the aggregate initial principal amounts of all Term Loans theretofore borrowed by the Borrower pursuant to Section 2.1 in accordance with the order of priority set forth in Section 3.8. The remaining unpaid principal amount of the Term Loans and all other Obligations under or in respect of the Term Loans shall be due and payable in full, if not earlier in accordance with this Agreement, on the Term Loan Maturity Date.

#### 2.4 Incremental Term Loans.

(a) Borrower Request. The Borrower may at any time and from time to time after the Closing Date by written notice to the Administrative Agent elect to request the establishment of one or more new term loan facilities (each, an “Incremental Term Facility”) with term loan commitments (each, an “Incremental Term Loan Commitment”) in an aggregate amount not to exceed the greater of (a) \$50,000,000 and (b) such amount as will not cause the First Lien Secured Leverage Ratio as of the date of the most recent financial statements delivered pursuant to Section 6.1(a) or (b) to be greater than 3.00:1.00, on a *pro forma* basis after giving effect to the incurrence thereof and the application of proceeds therefrom, and in minimum increments of \$10,000,000. Each such notice shall specify (i) the date (each, a “Term Loan Increase Effective Date”) on which the Borrower proposes that the Incremental Term Loan Commitment shall be effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each Person (which, if not a Lender, an Approved Fund or an Affiliate of a Lender, shall be reasonably satisfactory to the Administrative Agent) to whom the Borrower proposes any portion of such Incremental Term Loan Commitment be allocated and the amounts of such allocations (it being understood that no existing Lender will have an obligation to make a portion of any Incremental Term Loan).

(b) Conditions. The Incremental Term Loan Commitment shall become effective, as of such Term Loan Increase Effective Date; *provided that*:

(i) each of the conditions set forth in Section 5.2 shall be satisfied;

(ii) no Default or Event of Default shall have occurred or be continuing or would result from the borrowings to be made on the Term Loan Increase Effective Date; and

(iii) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(c) Terms of Incremental Term Loans and Incremental Term Loan Commitments. The terms and provisions of the Incremental Term Loans made pursuant to the Incremental Term Loan Commitments shall be as follows:

(i) terms and provisions of Loans made pursuant to Incremental Term Loan Commitments (the “Incremental Term Loans”) shall be on terms consistent with the existing Term Loans (except as otherwise set forth herein) and, to the extent not consistent with such existing Term Loans, on terms reasonably acceptable to the Administrative Agent (except as otherwise set forth herein) (it being understood that Incremental Term Loans may be part of the existing tranche of Term Loans or may comprise one or more new tranches of Term Loans);

(ii) the weighted average life to maturity of all new Incremental Term Loans shall be no shorter than the remaining weighted average life to maturity of the existing Term Loans;

(iii) the maturity date of Incremental Term Loans shall not be earlier than the Term Loan Maturity Date; and

(iv) the applicable yield for the Incremental Term Loans shall be determined by the Borrower and the applicable new Lenders; *provided*, however, that the applicable yield (which, for such purposes only, shall be deemed to include all upfront or similar fees, original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) or LIBOR Rate or ABR “floors” (with any increase in such floors being equated to an increase in interest rate) payable to all Lenders providing such Incremental Term Loans, but shall exclude customary arrangement fees payable to any arranger in connection with the Incremental Term Loans) for the Incremental Term Loans shall not be greater than the highest applicable yield that may, under any circumstances, be payable with respect to Term Loans plus 50 basis points, except to the extent that the applicable yield applicable to the Term Loans is increased to the extent necessary to achieve the foregoing.

The Incremental Term Loan Commitments shall be effected by a joinder agreement (the “Increase Term Joinder”) executed by the Borrower, the Administrative Agent and each Incremental Lender making such Incremental Term Loan Commitment, in form and substance reasonably satisfactory to each of them. The Increase Term Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.4. In addition, unless otherwise specifically provided herein, all references in the Loan Documents to Term Loans shall be deemed, unless the context otherwise requires, to include references to Incremental Term Loans that are Term Loans made pursuant to this Agreement.

(d) Making of Incremental Term Loans. On any Term Loan Increase Effective Date on which Incremental Term Loan Commitments are effective, subject to the satisfaction of the foregoing terms and conditions, each Incremental Lender of such Incremental Term Loan Commitment shall make an Incremental Term Loan to the Borrower in an amount equal to its Incremental Term Loan Commitment.

(e) Equal and Ratable Benefit. The Incremental Term Loans and Incremental Term Loan Commitments established pursuant to this Section 2.4 shall constitute Term Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from security interests created by the Security Documents and the guarantees of the Guarantors. The Loan Parties shall take any actions reasonably required by the Administrative Agent to ensure and/or demonstrate that the Lien and security interests granted by the Security Documents continue to be perfected under the Uniform Commercial Code or otherwise after giving effect to the establishment of any such class of Incremental Term Loans or any such Incremental Term Loan Commitments.

## 2.5 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at times specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(b) Ticking Fee. For the period commencing from and after July 1, 2011 to and including the Closing Date, the Borrower shall pay to the Administrative Agent, for the account of each Lender in accordance with its Pro Rata Share, a ticking fee (the "Ticking Fee") equal to the product of (i) a rate per annum equal to the Applicable Margin for a LIBOR Rate Loan times (ii) the Term Commitments. The Ticking Fee shall accrue at all times during the period from and after July 1, 2011 to and including the Closing Date and shall be due and payable on the Closing Date.

## SECTION 3. GENERAL PROVISIONS APPLICABLE TO LOANS

3.1 Optional Prepayments. The Borrower may at any time and from time to time prepay the Term Loans, in whole or in part, without premium or penalty (other than as set forth in Section 3.2(d) below), upon irrevocable notice delivered to the Administrative Agent no later than 12:00 Noon, New York City time, three (3) Business Days prior thereto, in the case of LIBOR Rate Loans, and no later than 12:00 Noon, New York City time, one (1) Business Day prior thereto, in the case of ABR Loans, which notice shall specify the date and amount of prepayment, whether the prepayment is of LIBOR Rate Loans or ABR Loans and the manner in which such prepayment is to be applied to the Term Loans; *provided*, that if a LIBOR Rate Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 3.11. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Partial prepayments of LIBOR Rate Loans shall be in an aggregate principal amount of \$500,000 or integral multiples of \$100,000 in excess thereof. Partial prepayments of ABR Loans shall be in an aggregate principal amount of \$250,000 or integral multiples of \$100,000 in excess thereof. Notwithstanding the foregoing, a notice of prepayment delivered by Borrower in accordance with this Section 3.1 may expressly state that such notice is conditioned upon the effectiveness of new credit facilities or other sources of refinancing and which effectiveness will result in the immediate payment in full in cash of all Obligations, in which case such notice may be revoked by the Borrower (by written notice to the Administrative Agent on or prior to the time on which the Term Loans would have been repaid in accordance with such notice of prepayment) if such condition is not satisfied or not reasonably likely to be satisfied and the Borrower shall pay any amounts due under Section 3.9, if any, in connection with any such revocation.

3.2 Mandatory Prepayments; Prepayment Premium.

(a) If any Indebtedness shall be incurred or issued by any Group Member after the Closing Date (other than Excluded Indebtedness), an amount equal to 100% of the Net Cash Proceeds thereof shall be applied on the date of such incurrence or issuance toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(i) If on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale or Recovery Event then, unless a Reinvestment Notice shall be delivered in respect thereof, such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 3.2(d); *provided*, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(ii) If on any date any Group Member shall receive Net Cash Proceeds from any IP Sale, then unless a Reinvestment Notice shall be delivered in respect thereof, an amount equal to not less than 75% of such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 3.2(d); *provided*, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(b) The Borrower shall, on each Excess Cash Flow Application Date, apply the ECF Percentage of the excess, if any, of (i) Excess Cash Flow for the related Excess Cash Flow Payment Period minus (ii) Voluntary Prepayments made during such Excess Cash Flow Payment Period toward the prepayment of the Term Loans as set forth in Section 3.2(d). Except as provided below, each such prepayment and commitment reduction shall be made on a date (an "Excess Cash Flow Application Date") no later than ten (10) days after the date on which the financial statements referred to in Section 6.1(a) for the fiscal year of the Borrower with respect to which such prepayment is made are required to be delivered to the Lenders (commencing with the fiscal year of the Borrower ending March 31, 2012).

(c) Amounts to be applied in connection with prepayments made pursuant to this Section 3.2 shall be applied to the prepayment of the Term Loans in accordance with Section 3.8. The application of any prepayment pursuant to this Section 3.2 shall be made, first, to ABR Loans and, second, to LIBOR Rate Loans. Each prepayment of the Term Loans under this Section 3.2 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

(d) The Total Term Commitment (and the Term Commitments of each Lender) shall terminate in its entirety on the earlier to occur of (i) the Closing Date and (ii) the Outside Date.

(e) Prepayment Premium. In the event that, on or prior to the first anniversary of the Closing Date, the Borrower (x) makes any prepayment of Term Loans in connection with any Repricing Transaction or (y) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each applicable Lender, (i) in the case of clause (x), a prepayment premium of 1% of the amount of the Term Loans being prepaid and (ii) in the case of clause (y), a payment equal to 1% of the aggregate amount of the applicable Term Loans outstanding immediately prior to such amendment.

### 3.3 Conversion and Continuation Options.

(a) The Borrower may elect from time to time to convert LIBOR Rate Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 12:00 Noon, New York City time, on the Business Day preceding the proposed conversion date; *provided* that any such conversion of LIBOR Rate Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to LIBOR Rate Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 12:00 Noon, New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor); *provided* that no ABR Loan may be converted into a LIBOR Rate Loan when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any LIBOR Rate Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term Interest Period set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans; *provided* that no LIBOR Rate Loan may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuations; and *provided*, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.



3.4 Limitations on LIBOR Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of LIBOR Rate Loans hereunder and all selections of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the LIBOR Rate Loans comprising each LIBOR Tranche shall be equal to \$500,000 or integral multiples of \$100,000 in excess thereof and (b) no more than ten (10) LIBOR Tranches shall be outstanding at any one time.

3.5 Interest Rates and Payment Dates.

(a) Each LIBOR Rate Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the LIBOR Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) If the Borrower shall default in the payment of the principal or interest on any Term Loan or any other amount becoming due hereunder, by acceleration or otherwise, or under any other Loan Document (or including, as a result of an Event of Default under Sections 8(a) or (f)), the Borrower shall pay interest on any such defaulted amount at a rate per annum equal to (i) in the case of Term Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2%, and (ii) in the case of any such other amounts, the non-default rate then applicable to ABR Loans plus 2%.

(d) Interest shall be payable in arrears on each Interest Payment Date; *provided* that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

(e) Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "Maximum Rate"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Term Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (i) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

### 3.6 Computation of Interest and Fees.

(a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of clause (a) or (b) of the definition of ABR, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a LIBOR Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, promptly deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 3.6(a).

### 3.7 Inability to Determine Interest Rate

. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have reasonably determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Required Lenders that the LIBOR Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as reasonably determined and conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give written notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter but at least two (2) Business Days prior to the first day of such Interest Period. If such notice is given (x) any Term Loans that were to have been converted on the first day of such Interest Period to LIBOR Rate Loans shall be continued as ABR Loans and (y) any outstanding LIBOR Rate Loans shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent (which notice the Administrative Agent agrees to withdraw promptly upon a determination that the condition or situation which gave rise to such notice no longer exists), no further LIBOR Rate Loans shall be made or continued as such, nor shall the Borrower have the right to convert Loans to LIBOR Rate Loans.

3.8 Pro Rata Treatment; Application of Payments; Payments.

(a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Term Percentages of the relevant Lenders.

(b) Except for prepayments pursuant to Section 10.6(b)(v)(C), each payment (including each prepayment) on account of principal of and interest on the Term Loans shall be made pro rata according to the respective outstanding principal amounts of the Term Loans of the relevant tranche, if any, then held by the Lenders. The amount of each principal prepayment of the Term Loans shall be applied to reduce the then remaining installments of the Term Loans as specified by the Borrower in the applicable notice of prepayment. Amounts repaid or prepaid on account of the Term Loans may not be reborrowed.

(c) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the LIBOR Rate Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a LIBOR Rate Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may (but shall not be required to), in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three (3) Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(e) Notwithstanding anything to the contrary contained herein, the provisions of this Section 3.8 shall be subject to the express provisions of this Agreement which require or permit differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders.

### 3.9 Requirements of Law.

(a) If the adoption of, taking effect of or any change in any Requirement of Law or in the administration, interpretation or application thereof or compliance by any Lender with any request, guideline or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof (and, for purposes of this Agreement, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith are deemed to have gone into effect and adopted subsequent to the date hereof):

(i) shall subject any Lender to any Tax of any kind whatsoever (other than Excluded Taxes (including any change in the rate of any Excluded Tax), Indemnified Taxes and Other Taxes which shall be governed exclusively by Section 3.10, and any Tax imposed on or measured by the net income of any Lender), with respect to this Agreement or any other Loan Document;

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBOR Rate hereunder; or

(iii) shall impose on such Lender or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans made by such Lender;

and the result of any of the foregoing is to increase the cost to such Lender of making, converting into, continuing or maintaining LIBOR Rate Loans or, with respect to Taxes under clause (i) above, any Term Loan, or to reduce any amount receivable hereunder in respect thereof (whether of principal, interest or any other amount), then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled and setting forth in reasonable detail such increased costs.

(b) If any Lender shall have determined that the adoption of, taking effect of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof (and, for purposes of this Agreement, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith are deemed to have gone into effect and adopted subsequent to the date hereof) shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy), then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor setting forth in reasonable detail the charge and the calculation of such reduced rate of return, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; *provided* that, if the circumstances giving rise to such claim have a retroactive effect, then such one hundred and eighty (180) day period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder. The Borrower shall pay the Lender the amount shown as due on any certificate referred to above within ten (10) days after receipt thereof.

### 3.10 Taxes.

(a) Payments Free of Indemnified Taxes and Other Taxes. Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, *provided* that if any applicable withholding agent shall be required by applicable law to deduct or withhold any Taxes from such payments, then (i) the applicable withholding agent shall make such deductions or withholdings (ii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law, and (iii) if such Tax is an Indemnified Tax, the sum payable by the applicable Loan Party shall be increased as necessary so that after all required deductions or withholdings have been made (including deductions applicable to additional sums payable under this Section 3.10(a)) the applicable Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law, except for any Other Taxes imposed on any assignment of or participation with respect to a Lender's rights or obligations hereunder pursuant to Section 10.6 if such Tax is imposed as a result of the Lender having a present or former connection with the jurisdiction imposing such Tax (other than a connection arising solely from having executed, delivered, enforced, become a party to, performed its obligations, received payments, received or perfected a security interest under, and/or engaged in any other transaction pursuant to, any Loan Document).

(c) Indemnification by the Borrower. Without duplication of Section 3.10(a), the Borrower shall indemnify each Agent and Lender, within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed on or attributable to amounts payable under this Section 3.10(c)) imposed on or payable by such Agent or Lender, as the case may be, with respect to this Agreement or any other Loan Document, and reasonable expenses arising therefrom, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth the amount of such payment or liability (together with a copy of any applicable documents from the IRS or other Governmental Authority that asserts such claim) delivered to the Borrower by a Lender (with a copy to the relevant Agent), or by an Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. If the Borrower reasonably believes that there is an appropriate basis to pursue a refund (whether received in cash or applied as an offset against other Taxes due) of any Indemnified Tax or Other Tax indemnified by the Borrower under this Section 3.10(c), or for which any Loan Party has paid additional amounts under Section 3.10(a), the affected Agent or Lender (as applicable) shall, upon the Borrower's written request and at the Borrower's expense, pursue such refund; *provided* that no Agent or Lender shall be obligated to pursue any such refund if such Agent or Lender determines in good faith that it would be materially disadvantaged or prejudiced, or subject to any unreimbursed cost or expense, by pursuing such refund. Any refund described in the preceding sentence that is received by any Agent or Lender shall be payable to the Borrower to the extent provided in Section 3.10(h).

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Loan Party to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of such payment reasonably satisfactory to the Agent.

(e) Status of Lenders. Each Lender shall deliver to the Borrower and to the Administrative Agent, whenever reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, (A) to determine whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) to determine, if applicable, the required rate of withholding or deduction and (C) to establish such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender pursuant to any Loan Document or otherwise to establish such Lender's status for withholding tax purposes in an applicable jurisdiction. If any form, certification or other documentation provided by a Lender pursuant to this Section 3.10(e) (including any of the specific documentation described below) expires or becomes obsolete or inaccurate in any respect, such Lender shall promptly notify the Borrower and the Administrative Agent in writing and shall promptly update or otherwise correct the affected documentation or promptly notify the Borrower and the Administrative Agent in writing that such Lender is not legally eligible to do so.

(f) Without limiting the generality of the foregoing,

(A) any Lender that is a “United States person” within the meaning of Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent duly completed and executed originals of IRS Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent (in such number of signed originals as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon request of the Borrower or the Administrative Agent) as will enable the Borrower or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to U.S. federal backup withholding or information reporting requirements; and

(B) each Foreign Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Loan Document shall deliver to the Borrower and the Administrative Agent (in such number of signed originals as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), duly completed and executed copies of whichever of the following is applicable:

(i) IRS Form W-8BEN (or any successor thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(ii) IRS Form W-8ECI (or any successor thereto) claiming that specified payments (as applicable) under this Agreement or any other Loan Documents (as applicable) constitute income that is effectively connected with such Foreign Lender’s conduct of a trade or business in the United States;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Sections 881(c) or 871(h) of the Code (the “Portfolio Interest Exemption”), (x) a certificate, substantially in the form of Exhibit D-1, D-2, D-3 or D-4, as applicable (a “Tax Status Certificate”), to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower, within the meaning of Section 881(c)(3)(B) of the Code or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code, and that no interest to be received is effectively connected with a U.S. trade or business and (y) IRS Form W-8BEN (or any successor thereto);

(iv) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), IRS Form W-8IMY (or any successor thereto) and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the Portfolio Interest Exemption, a Tax Status Certificate of such beneficial owner(s) *provided* that, if the Foreign Lender is a partnership and not a participating Lender, the Tax Status Certificate from the beneficial owner(s) may be provided by the Foreign Lender on behalf of the beneficial owner(s)); or

(v) any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable Requirements of Laws to permit the Borrower or the Agent to determine the withholding or deduction required to be made; and

Notwithstanding anything to the contrary in this Section 3.10(f), no Lender shall be required to deliver any documentation pursuant to this Section 3.10(f) that it is not legally eligible to provide.

(g) FATCA. If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA, such Lender shall use commercially reasonable efforts to deliver to the Borrower and the Administrative Agent, at the time or times prescribed by applicable law and otherwise at such times reasonably requested by the Borrower or the Administrative Agent, such documentation prescribed by applicable law and such additional documentation reasonably requested by the Borrower or the Administrative Agent to avoid the imposition of withholding obligations under FATCA with respect to such Lender.

(h) If any Agent or Lender determines, in its good faith discretion, that it has received a refund (whether received in cash or applied as an offset against other Taxes due) of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section, it shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by any Loan Party under this Section 3.10 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such Agent or Lender (including any Taxes), as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that the Borrower, upon the request of such Agent or Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority (other than any penalties arising from the gross negligence or willful misconduct of the Agent or the Lender)) to such Agent or Lender in the event such Agent or Lender is required to repay such refund to such Governmental Authority. Such Lender or Agent, as the case may be, shall, at the Borrower's reasonable request, provide the Borrower with a copy of any notice of assessment or other evidence reasonably satisfactory to the Borrower of the requirement to repay such refund received from the relevant taxing authority. This subsection shall not be construed to require any Agent or Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(i) The agreements in this Section shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder or under any other Loan Document.

3.11 Indemnity. The Borrower agrees to indemnify each Lender and to hold each Lender harmless from any loss, cost or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of LIBOR Rate Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from LIBOR Rate Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement, (c) the making of a prepayment of, or a conversion from, LIBOR Rate Loans on a day that is not the last day of an Interest Period with respect thereto or (d) any other default by the Borrower in the repayment of such LIBOR Rate Loans when and as required pursuant to the terms of this Agreement. A certificate setting forth in reasonable detail the basis for requesting such amount actually incurred as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder.



3.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.9 or 3.10(a), (b) or (c) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Term Loans affected by such event with the object of avoiding the consequences of such event; *provided*, that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage or any unreimbursed costs or expenses; and *provided*, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 3.9 or 3.10(a), (b) or (c). The Borrower hereby agrees to pay all reasonable, documented out-of-pocket costs and expenses incurred by any Lender in connection with any such designation.

3.13 Replacement of Lenders. The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 3.9 or 3.10(a) (such Lender, an "Affected Lender"), (b) is a Non-Consenting Lender or (c) is a Defaulting Lender, with a replacement financial institution or other entity; *provided* that (i) such replacement does not conflict with any Requirement of Law, (ii) in the case of an Affected Lender, prior to any such replacement, such Lender shall have taken no action under Section 3.12 that have actually eliminated the continued need for payment of amounts owing pursuant to Section 3.9 or 3.10(a), (iii) the replacement financial institution or entity shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (iv) the Borrower shall be liable to such replaced Lender under Section 3.11 if any LIBOR Rate Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (v) the replacement financial institution or entity shall be an Eligible Assignee, (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (*provided* that, except in the case of clause (c) hereof, the Borrower shall be obligated to pay the registration and processing fee referred to therein), (vii) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 3.9 or 3.10(a), as the case may be, (viii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender, and (ix) in the case of a Non-Consenting Lender, (A) the replacement financial institution or entity shall consent at the time of such assignment to each matter in respect of which the replaced Lender was a Non-Consenting Lender and (B) to the extent applicable, the Borrower shall pay any amounts due to such Non-Consenting Lender pursuant to Section 3.2(e).

3.14 Evidence of Debt.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing Indebtedness of the Borrower to such Lender resulting from each Term Loan of such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(b) The Administrative Agent, on behalf of the Borrower (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), the assigning Lender, acting solely for this purpose as a non-fiduciary agent of the Borrower), shall maintain the Register (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), a Related Party Register), in each case pursuant to Section 10.6(d), and a subaccount therein for each Lender, in which shall be recorded (i) the amount of each Term Loan made hereunder and any Note evidencing such Term Loan, the Type of such Term Loan and each Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) both the amount of any sum received by the Administrative Agent (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), the assigning Lender) hereunder from the Borrower and each Lender's share thereof.

(c) The entries made in the Register and the accounts of each Lender maintained pursuant to Section 3.14(a) shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded (absent manifest error); *provided*, however, that the failure of any Lender or the Administrative Agent to maintain the Register or any such account, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Term Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.

(d) The Borrower agrees that, upon the request to the Administrative Agent by any Lender, the Borrower will execute and deliver to such Lender a promissory note of the Borrower evidencing any Term Loans, of such Lender, substantially in the form of Exhibit E, with appropriate insertions as to date and principal amount.

3.15 Illegality. Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain LIBOR Rate Loans as contemplated by this Agreement, (a) the commitment of such Lender hereunder to make LIBOR Rate Loans, continue LIBOR Rate Loans as such and convert ABR Loans to LIBOR Rate Loans shall forthwith be canceled and (b) such Lender's Term Loans then outstanding as LIBOR Rate Loans, if any, shall be converted automatically to ABR Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a LIBOR Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.11.

### 3.16 Extension Offers.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an “Extension Offer”) made from time to time by the Borrower to all Lenders, on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans) and on the same terms to each such Lender, the Borrower may from time to time extend the maturity date and availability period of the Term Loans, and otherwise modify the terms of the Term Loans, pursuant to the terms of the relevant Extension Offer (including, without limitation, by increasing the interest rate or fees payable in respect of the Loans (and related outstandings) (each, an “Extension”, and each group of Term Loans as so extended, as well as the original Term Loans (in each case not so extended), being a “tranche”; any Extension Loans shall constitute a separate tranche of Term Loans from the tranche of Term Loans from which such Term Loans were converted, so long as the following terms are satisfied: (i) no Default or Event of Default shall have occurred and be continuing at the time the offering document in respect of an Extension Offer is delivered to the Lenders and no Event of Default shall exist immediately after the effectiveness of any Extension Loan, (ii) except as to interest rates, fees, final maturity date and premium, which shall, subject to immediately succeeding clauses (iii), (iv) and (v), be determined by the Borrower and set forth in the relevant Extension Offer), the Term Loans of any Lender extended pursuant to any Extension (“Extension Loans”) shall have the same terms (save for any terms that apply solely after the latest maturity date of the Term Loans hereunder prior to giving effect to such Extension) as the tranche of Term Loans subject to such Extension Offer, (iii) the final maturity date of any Extension Loans shall be no earlier than the then latest maturity date of Term Loans hereunder, (iv) the Weighted Average to Life Maturity of the Extension Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans extended thereby; (v) the amortization schedule applicable to the Extension Loans pursuant to Section 2.4 for the periods prior to the maturity date of the Term Loans hereunder shall not be increased, (vi) any Extension Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Extension Offer, (vii) if the aggregate principal amount of Term Loans (calculated on the face amount thereof), in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by the Borrower pursuant to such Extension Offer, then the Term Loans of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer, (viii) all documentation in respect of such Extension shall be consistent with the foregoing, and (ix) any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrower. For the avoidance of doubt, no Lender shall be required to participate in any Extension.

(b) With respect to all Extensions consummated by the Borrower pursuant to this Section 3.16, the Extension Offer shall specify a minimum amount of Term Loans to be tendered (which shall not be less than \$10,000,000) as a condition to the consummation of such Extension Offer (a “Minimum Extension Condition”). The Administrative Agent and the Lenders hereby consent to the Extensions and the other transactions contemplated by this Section 3.16 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extension Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 3.16.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). The Lenders hereby irrevocably authorize the Administrative Agent and the Collateral Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of the Term Loan so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrowers in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 3.16.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five (5) Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 3.16.

(e) The conversion of any Term Loans hereunder into Extension Loans in accordance with this Section 3.16 shall not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Agents and the Lenders to enter into this Agreement and to make the Term Loans, each of Holdings and the Borrower hereby represents and warrants on the Closing Date that:

##### 4.1 Financial Condition.

(a) (i) The audited consolidated balance sheets and related statements of income and cash flows of the Borrower and its Subsidiaries as of and for each of the fiscal years ended March 31, 2009, 2010 and 2011, reported on by and accompanied by an unqualified report from PricewaterhouseCoopers LLP, present fairly in all material respects the consolidated financial condition of the Borrower as at such dates, and the consolidated results of its operations and its cash flows for such fiscal years and (ii) the unaudited *pro forma* consolidated balance sheet and related statements of income for Holdings (the "Pro Forma Financial Statements") as of and for the fiscal quarter ended June 30, 2011, copies of which have heretofore been furnished to each Lender, have been prepared, in a manner consistent with *pro forma* financial statements set forth in a registration statement filed with the SEC in all material respects, giving effect (as if such events had occurred on such date) to (A) the consummation of the Acquisition, (B) the Term Loans to be made under this Agreement and the Second Lien Credit Agreement on the Closing Date and the use of proceeds thereof and (C) the Cash Contribution. The Pro Forma Financial Statements have been prepared in good faith based on the assumptions set forth therein, which the Borrower believed to be reasonable assumptions at the time such Pro Forma Financial Statements were prepared, and present fairly in all material respects on a *pro forma* basis the estimated financial position of Holdings and its consolidated Subsidiaries as at and for each of the dates and periods set forth above, assuming that the events specified in the preceding sentence had actually occurred at such date or beginning of such period.

(b) (i) The audited combined balance sheets and related statements of income and cash flows of the Acquired Business as of and for each of the fiscal years ended December 31, 2008, 2009 and 2010, reported on by and accompanied by an unqualified report from KPMG, present fairly in all material respects the combined financial condition of the Acquired Business as at such dates, and the consolidated results of its operations and its cash flows for such fiscal years and (ii) the unaudited combined balance sheets and related statements of operations and cash flows of the Acquired Business for the fiscal quarter ended June 30, 2011, present fairly in all material respects the combined financial condition of the Acquired Business as at such dates, and the consolidated results of its operations and its cash flows for such periods then ended (subject to normal year-end audit adjustments and the absence of footnotes). All such financial statements delivered pursuant to clauses (b)(i) and (b)(ii) above, including the related schedules and notes thereto, have been prepared in substantial accordance with GAAP applied consistently throughout the periods involved.

4.2 No Change. Since December 31, 2010, there has been no development or event that has had or could reasonably be expected to have a Material Adverse Effect.

4.3 Corporate Existence; Compliance with Law. Except as permitted under Section 7.3, each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, to the extent such concept is recognized in its jurisdiction of incorporation, (b) has the organizational power and authority and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign entity and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, (d) is in compliance with the terms of its Organizational Documents and (e) is in compliance with the terms of all Requirements of Law (including Health Care Laws) and all Governmental Authorizations, except in case of clauses (b), (c) and (e), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. Each Loan Party has the organizational power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational and other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Transactions or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except the filings referred to in Section 4.19 which filings have been, or will be, obtained or made and are in full force and effect on or before the Closing Date, and all applicable waiting periods shall have expired, in each case without any action being taken by any Governmental Authority that would restrain, prevent or otherwise impose adverse conditions on the Transactions, other than any such consent, authorizations, filings and notices the absence of which could not reasonably be expected to have a Material Adverse Effect. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not violate (a) the Organizational Documents of any Loan Party, (b) any Requirement of Law (including any Health Care Laws), Governmental Authorization or any Contractual Obligation of any Group Member and (c) will not result in, or require, the creation or imposition of any Lien on any Group Member's respective properties or revenues pursuant to its Organizational Documents, any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents and the Liens permitted under Sections 7.2(f) and (o)), except for any violation set forth in clause (b) or (c) which could not reasonably be expected to have a Material Adverse Effect.

4.6 Litigation and Adverse Proceedings. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Holdings or the Borrower, threatened in writing by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents, which would in any respect impair the enforceability of the Loan Documents, taken as a whole or (b) that could reasonably be expected to have a Material Adverse Effect.

4.7 [Intentionally Omitted].

4.8 Ownership of Property; Liens.

(a) Each Group Member has title in fee simple (or local law equivalent) to all of its owned real property, a valid leasehold interest in all its leased real property (or in the case of owned real property or leasehold real property situated in Ireland (subject to any disclosures in any certificate or report on title delivered to the Collateral Agent), good and marketable title), and good title to, or a valid leasehold interest in, license to, or right to use, all its other tangible Property material to its business, in all material respects, and no such Property is subject to any Lien except as permitted by Section 7.2, except, in each case, where the failure to have such title or other interest could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Schedules 7(a) and 7(b) to the Perfection Certificate dated the Closing Date together contain a true and complete list of each interest in real property having a value (together with improvements thereof) of at least \$2,500,000 owned by any Group Member as of the date thereof and describe the type of interest therein held by any Group Member, whether such owned real property is leased and, if leased, whether the underlying lease contains any option to purchase all or any portion of such real property or any interest therein or contains any right of first refusal relating to any sale of such real property or any portion thereof or interest therein, and whether any lease requires the consent of the landlord or tenant thereunder, or other party thereto, to the transactions.

4.9 Intellectual Property. All Intellectual Property owned by the Group Members is owned free and clear of all Liens other than (i) as permitted by Section 7.2, Section 7.4 or the Security Documents, (ii) licenses granted in the ordinary course of business (including, without limitation, in connection with the sale or provision by Group Members of products or services or the grant of rights to licensees to manufacture, use, sell, offer to sell or import products or to use, sell or offer to sell processes or services) in existence as of the date hereof and any amendment, renewal or extension thereof or thereto, and (iii) as could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, to the knowledge of any Loan Party: (a) the conduct of, and the use of Intellectual Property in, the business of the Group Members as currently conducted (including the products and services of the Group Members) does not infringe, misappropriate, or otherwise violate the Intellectual Property rights of any other Person; (b) there is no such outstanding claim asserted (including in the form of offers or invitations to obtain a license), threatened or pending before any Governmental Authority against any Group Member; (c) no Person is infringing, misappropriating, or otherwise violating any Intellectual Property of any Group Member, and there has been no such claim asserted or threatened against any third party by any Group Member or any Loan Party or any other Person; (d) each Group Member has taken all formal or procedural actions (including payment of fees) required to maintain Intellectual Property owned by it; and (e) each Group Member has complied with all applicable laws, as well as its own rules, policies, and procedures, relating to privacy, data protection, and the collection and use of personal information collected, used, or held for use by such Group Member.

4.10 Taxes. Each Loan Party has filed or caused to be filed all federal, state and other material tax returns that are required to be filed by it and all such tax returns are true, correct, and complete in all material respects; each Loan Party has paid all federal, state and other taxes and any assessments made in writing against it or any of its property by any Governmental Authority (other than (a) any which are not yet due or the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Loan Party or (b) any which the failure to so pay could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect); no tax Lien has been filed (other than for taxes not yet due or the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Loan Party); and no Loan Party is aware of any proposed or pending tax assessments, deficiencies or audits with respect to such Loan Party that could be reasonably expected to, individually or in the aggregate, result in a Material Adverse Effect.

4.11 Federal Reserve Regulations. No Group Member is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock. No part of the proceeds of any extension of credit under this Agreement will be used for any purpose that violates or would be inconsistent with the provisions of Regulation T, U or X of the Board. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U 1, as applicable, referred to in Regulation U.

4.12 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of Holdings or the Borrower, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act, as amended, or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance or other similar employee taxes have been paid or accrued as a liability on the books of the relevant Group Member.

#### 4.13 ERISA.

(a) No Event of Default described in Sections 8(g)(i), (ii), (vi) or (vii) has occurred or is reasonably expected to occur with respect to any Single Employer Plan, and each Plan is in compliance in all respects with the applicable provisions of ERISA and the Code except where such Event of Default, or non-compliance could not reasonably be expected to have a Material Adverse Effect. No termination of a Single Employer Plan has occurred or is reasonably expected to occur, and no Lien against Holdings, the Borrower or any Commonly Controlled Entity in favor of the PBGC or a Single Employer Plan or a Multiemployer Plan has arisen, during the past five years. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits by more than \$25,000,000. Neither Holdings, the Borrower nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in any material liability under ERISA, and neither the Borrower nor any Commonly Controlled Entity would become subject to any material liability under ERISA if the Borrower or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. No such Multiemployer Plan is in Reorganization or Insolvent, or pursuant to Section 432(b) of the Code, in “endangered” or “critical” status.

(b) All Non-U.S. Pension Plans have been established, operated, administered and maintained in compliance with all laws, regulations and orders applicable thereto except for such failures to comply, in the aggregate for all such failures, that could not reasonably be expected to have a Material Adverse Effect. All premiums, contributions, and any other amounts required by applicable Non-U.S. Pension Plan documents or applicable laws have been paid or accrued as required, except for premiums, contributions and amounts that, in the aggregate for all such obligations, could not reasonably be expected to have a Material Adverse Effect.

4.14 Investment Company Act; Other Regulations. No Loan Party is an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board, as amended) that limits its ability to incur Indebtedness.



4.15 Capital Stock and Ownership Interests of Subsidiaries. Schedule 4.15 sets forth the name and jurisdiction of formation or incorporation of each Group Member and, as to each such Group Member other than Holdings, states the authorized and issued capitalization of such Group Member, the beneficial and record owners thereof and the percentage of each class of Capital Stock owned by any Loan Party. Except as listed on Schedule 4.15, as of the Closing Date, no Group Member owns any interests in any joint venture, partnership or similar arrangements with any Person.

4.16 Use of Proceeds. The proceeds of the Term Loans shall be used to finance a portion of the Acquisition and to pay fees and expenses related to the Transaction.

4.17 Environmental Matters. Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties owned, leased or operated by any Group Member (the "Properties") do not contain any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or constituted a violation of, or could reasonably be expected to give rise to liability under, any Environmental Law;

(b) no Group Member has received any written claim, demand, notice of violation, or of actual or potential liability with respect to any Environmental Laws with regard to any of the Properties or relating to any Group Member, nor does the Borrower have knowledge or reason to believe that any such claim, demand or notice will be received or is being threatened;

(c) Materials of Environmental Concern have not been transported or disposed of from the Properties by any Group Member or, to the Borrower's knowledge, by any other person in violation of, or in a manner or to a location that could reasonably be expected to give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of by any Group Member or, to the Borrower's knowledge, by any other person at, on or under any of the Properties in violation of, or in a manner that could reasonably be expected to give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Borrower, threatened, under any Environmental Law to which any Group Member is or, to the Borrower's knowledge, will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or relating to any Group Member;

(e) there has been no Release or threat of Release of Materials of Environmental Concern by any Group Member or, to the Borrower's knowledge, by any other person at, on, under or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise, in violation of or in amounts or in a manner that could reasonably be expected to give rise to liability under Environmental Laws;

(f) each Group Member, the Properties and all operations at the Properties are in compliance, and, to the Borrower's knowledge, have in the last three (3) years been in compliance, with all applicable Environmental Laws; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws, nor is any Group Member paying for or conducting, in whole or in part, any response or other corrective action to address any Materials of Environmental Concern at any location pursuant to any Environmental Law.

4.18 Accuracy of Information, etc. No written statement contained in any document, certificate or statement furnished by any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents (including the Confidential Information Memorandum), when taken as a whole, contained as of the date such statement, information, document or certificate was furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading in the light of the circumstances under which such statements were made after giving effect to any supplements thereto; *provided*, however, that with respect to projections and other *pro forma* financial information, the Borrower represents only that the same were prepared in good faith and are based upon assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact, is by its nature inherently uncertain and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount; it being understood that for purposes of this Section 4.18 such information shall not include information of a general economic or industry-specific nature contained in the materials referenced above.

4.19 Security Documents. The Guarantee and Collateral Agreement and each other Security Document is, or upon execution, will be, effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid security interest in the Collateral described therein (to the extent a security interest can be created therein under the Uniform Commercial Code, where applicable, or in the case of a Foreign Security Document, subject to any customary reservations and qualifications contained in customary legal opinions rendered under the laws of the applicable jurisdiction). In the case of the Pledged Equity Interests described in the Guarantee and Collateral Agreement and each Foreign Pledge Agreement, when stock or interest certificates representing such Pledged Equity Interests (along with properly completed stock or interest powers and, where applicable, stock transfer forms, in each case, endorsing the Pledged Equity Interest and executed by the owner of such shares or interests) are delivered to the Collateral Agent or such other actions specified in each Foreign Pledge Agreement are taken, and in the case of the other Collateral described in the Guarantee and Collateral Agreement or any other Security Document (other than deposit accounts), when financing statements and other filings specified on Schedule 4.19 in appropriate form are filed in the offices specified on Schedule 4.19, the Collateral Agent, for the benefit of the Secured Parties, shall, under New York law, or in the case of the Debenture or other Security Document, which is governed by a law other than New York law (each a "Foreign Security Document"), under such other law, have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral to the extent (x) (in the case of New York law) perfection can be obtained by filing a UCC financing statement or (y) (in the case of a Foreign Security Document) subject to any customary reservations and qualifications contained in customary legal opinions rendered under the laws of the applicable jurisdiction, perfection can be obtained by the appropriate filing under such other applicable law, as security for the Obligations, in each case prior and superior in right to any other Person (except Liens permitted by Section 7.2) subject in the case of the Intellectual Property that is the subject of any application or registration in the United States Patent and Trademark Office or the United States Copyright Office (other than intent to use Trademark applications), to the recordation of appropriate evidence of the Collateral Agent's Lien in the United States Patent and Trademark Office and/or United States Copyright Office, as appropriate, and the taking of actions and making of filings necessary under the applicable Requirements of Law to obtain the equivalent of perfection. In the case of Collateral that consists of deposit accounts securities accounts and/or commodity accounts, when a Control Agreement is executed and delivered by all parties thereto with respect to such accounts, the Collateral Agent, for the benefit of the Secured Parties, shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations, prior and superior to any other Person except as provided under the applicable Control Agreement with respect to the financial institution party thereto.

4.20 Solvency. Holdings and its Subsidiaries (on a consolidated basis), after giving effect to the Transactions and the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith, will be and will continue to be Solvent.

4.21 Senior Indebtedness. The Obligations constitute “senior debt,” “senior indebtedness,” “designated senior debt,” “guarantor senior debt” or “senior secured financing” (or any comparable term) of each Loan Party under and as defined in any documentation relating to Subordinated Indebtedness.

4.22 [Intentionally Omitted].

4.23 Anti-Terrorism Laws.

(a) None of the Loan Parties nor, to the knowledge of the Borrower, any director, officer, agent, employee or Affiliate of Holdings, the Borrower or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”); and the Borrower will not directly or indirectly use the proceeds of the Term Loans or otherwise make available such proceeds to any Person, for the purpose of financing the activities of any Person currently subject to any U.S. sanctions administered by OFAC.

(b) No Loan Party, or, to the knowledge of any Loan Party, any of its Subsidiaries, is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(c) None of the Loan Parties, nor, to the knowledge of the Loan Parties, any Subsidiaries of any Loan Party or their respective agents acting or benefiting in any capacity in connection with the Term Loans or other transactions hereunder, is any of the following (each a “Blocked Person”):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(ii) a Person owned or Controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(iii) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224;

(v) a Person that is named as a “specially designated national” on the most current list published by the United States Treasury Department’s Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or

(vi) a Person who is affiliated or associated with a person listed above.

(d) No Loan Party, or to the knowledge of any Loan Party, any of its agents acting in any capacity in connection with the Term Loans or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(e) To the extent applicable, each of Holdings, the Borrower and each Subsidiary is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) the Patriot Act. No part of the proceeds of the Term Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (“FCPA”).

4.24 Insurance. Schedule 4.24 sets forth a true, complete and correct description of all material property and general liability insurance maintained by or on behalf of each Loan Party as of the Closing Date. As of such date, such insurance is in full force and effect. Holdings and the Borrower believe that the insurance maintained by or on behalf of each Loan Party is in such amount (with no greater risk retention) and against such risks as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations.

4.25 Choice of Law. Subject to any customary reservations or qualifications contained in customary legal opinions delivered by counsel in the applicable jurisdiction, in the case of a Loan Party incorporated or organized outside of the United States, the choice of governing law of each Loan Document will be recognized and enforced in its jurisdiction of incorporation and any judgment obtained in relation to a Loan Document in the jurisdiction of the governing law of that document will be recognized and enforced in its jurisdiction of incorporation.

4.26 Centre of Main Interests. In the case of a Loan Party incorporated in Ireland, for the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Ireland.

4.27 Holding Companies. Each Subsidiary of Holdings, other than Alkermes Ireland Holdings Limited, is a Subsidiary of Holdings solely by virtue of paragraph (b) of sub-section (1) of Section 155 of the Companies Acts 1963 of Ireland. Neither Holdings nor Alkermes Ireland Holdings Limited own any material assets or property other than any assets or property permitted to be owned by them under Section 7.16 or 7.17 as applicable.

## SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction or waiver, prior to or concurrently with the making of such extension of credit on the Closing Date, which shall be a date that is on or before the Outside Date, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by each Agent, the Borrower and each other Loan Party that is a party hereto and each Person that is a Lender as of the Closing Date, (ii) the Guarantee and Collateral Agreement, executed and delivered by the Borrower and each other Loan Party that is a party thereto, (iii) *reserved*, (iv) a perfection certificate in customary form and substance, and (v) a Note executed by the Borrower in favor of each Lender that has requested a Note at least five Business Days in advance of the Closing Date.

(b) Transactions. The following transactions shall have been or shall concurrently be consummated, in each case on terms and conditions reasonably satisfactory to each Agent and each Lender:

(i) The Acquisition shall be consummated prior to the initial funding of the Term Loans in accordance with the Acquisition Documentation, which shall not have been amended, waived or otherwise modified (including by any consent granted thereunder) or supplemented in any manner that is materially adverse to the interests of the Lenders (including any change in the purchase price of the Acquisition) without the prior written consent of the Lead Arrangers (such consent not to be unreasonably withheld or delayed);

(ii) The Administrative Agent shall have received or shall concurrently receive reasonably satisfactory evidence that the Cash Contribution have been consummated; and

(iii) The Administrative Agent shall have received reasonably satisfactory evidence that Merger Sub shall have merged with and into the Borrower.

(c) Pro Forma Financial Statements; Financial Statements. The Lead Arrangers shall have received prior to the Closing Date the financial statements described in Section 4.1(b).

(d) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions (in the United States and the Republic of Ireland) where the Loan Parties are located, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 7.2 or discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Administrative Agent.

(e) Fees. The Borrower and its Subsidiaries shall have paid all fees then payable under, the Fee Letter. The Lenders, the Lead Arranger and the Agents shall have received all reasonable and documented out-of-pocket costs and expenses, invoices for which have been submitted five (5) days prior to the Closing Date, required to be paid (including without limitation reasonable fees and disbursements of counsel) on or prior to such date under the terms of the Loan Documents.

(f) Closing Certificate. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit F-1, with appropriate jurisdiction specific amendments and appropriate insertions and attachments including the certificate of incorporation or certificate of formation, as applicable, of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party.

(g) Legal Opinions. The Administrative Agent shall have received the legal opinions of Cleary Gottlieb Steen & Hamilton LLP, New York counsel to Holdings and its Subsidiaries, Goodwin Procter LLP, Massachusetts counsel to Holdings and its Subsidiaries, Ballard & Spahr LLP, Pennsylvania local counsel to Holdings and its Subsidiaries, Young Conaway Stargatt & Taylor, LLP, Delaware counsel to Holdings and its Subsidiaries, and Arthur Cox, Solicitors, Irish legal counsel to Holdings and its Subsidiaries, each in form and substance reasonably satisfactory to the Administrative Agent, substantially in the forms of Exhibits G-1, G-2, G-3, G-4 and G-5, respectively. Such legal opinions shall be addressed to the Agents and the Lenders that are parties to this Agreement on the Closing Date.

(h) Pledged Equity Interests; Stock Powers; Pledged Notes. The Collateral Agent shall have received (i) the certificates representing the shares of Capital Stock pledged pursuant to the Guarantee and Collateral Agreement, if applicable, together with an undated stock power or, if applicable, blank stock transfer, for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Guarantee and Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(i) Filings, Registrations and Recordings. Subject to the immediately following paragraph, each document (including any Uniform Commercial Code financing statement and any Intellectual Property Security Agreement) required by the Guarantee and Collateral Agreement or under law or reasonably requested by the Collateral Agent to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.2), shall be in proper form for filing, registration or recordation; notwithstanding the foregoing and other than as set forth in the *proviso* below, in no event shall any filing, registration or recordation outside the United States be required to perfect a Lien against a Domestic Subsidiary's Collateral that is located outside the United States; *provided, however*, filings, registration or recordation in Ireland shall be required to perfect a Lien against a Domestic Subsidiary's Intellectual Property that is registered or applied for with an Irish Governmental Authority.

(j) Solvency Certificate. The Administrative Agent shall have received a solvency certificate in the form of Exhibit J, executed as of the Closing Date by the chief financial officer of the Borrower.

(k) [Intentionally Omitted].

(l) Patriot Act, Etc. The Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, as reasonably requested in writing by the Administrative Agent at least five Business Days prior to the Closing Date.

(m) Closing Date Material Adverse Effect. Since December 31, 2010, there shall not have occurred a Closing Date Material Adverse Effect nor shall there exist any facts or circumstances that could reasonably be expected to cause or result in a Closing Date Material Adverse Effect.

(n) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to Sections 4.3(a) and (b), 4.4, 4.5, 4.11, 4.14, 4.19, 4.20, 4.21 and 4.23 shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such date as if made on and as of such date (except to the extent made as of a specific date, in which case such representation and warranty shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such specific date).

(o) Acquisition Agreement Representations and Warranties. Each of the representations and warranties made by Elan in the Acquisition Agreement that are material to the interests of the Lenders shall be true and correct as of such date as if made on and as of such date, but only to the extent the Borrower or one of its Subsidiaries has the right to terminate its obligations under the Acquisition Agreement or no longer has any obligation to close the Acquisition as a result of a breach or inaccuracy of any such representation or warranty in the Acquisition Agreement.

(p) Notices. The Borrower shall have delivered to the Administrative Agent the notice of borrowing for such extension of credit in accordance with this Agreement.

(q) Second Lien Facility. The Second Lien Loan Documents shall have been executed and delivered, and the Borrower shall have received (or shall receive substantially simultaneously with the initial extension of credit hereunder) gross proceeds of up to \$140.0 million from borrowings thereunder.

(r) Intercreditor Agreement. The Intercreditor Agreement shall have been duly executed and delivered by each party thereto, substantially in the form of Exhibit K, and shall be in full force and effect.

Notwithstanding anything to the contrary contained above in this Section 5.1, to the extent any Collateral is not provided (or any related required actions under this Section 5.1 are not taken) on the Closing Date after the Loan Parties' use of commercially reasonable efforts to do so, the delivery of such Collateral (and the taking of the related required actions) shall not constitute a condition precedent to the extensions of credit under this Agreement on the Closing Date but shall instead be required to be delivered (or taken) after the Closing Date in accordance with the requirements of Section 6.10, except that (A) with respect to the perfection of security interests in UCC Filing Collateral, each Loan Party organized in the United States shall be obligated to deliver or cause to be delivered necessary Uniform Commercial Code financing statements to the Collateral Agent in proper form for filing and to irrevocably authorize and to cause the applicable Loan Parties to irrevocably authorize, the Collateral Agent to file necessary Uniform Commercial Code financing statements, (B) with respect to perfection of security interests in Stock Certificates representing Capital Stock in any Subsidiary of Holdings organized in the United States, each such Loan Party shall be obligated to deliver to the Collateral Agent Stock Certificates together with undated stock powers in blank and (C) with respect to the perfection of security interests in Intellectual Property, each Loan Party shall be obligated to deliver a short form security agreement for filing with the United States Patent and Trademark Office and the United States Copyright Office.



5.2 Conditions to Each Incremental Term Loan. The agreement of each Incremental Lender to make any Incremental Term Loan is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such date as if made on and as of such date (except to the extent made as of a specific date, in which case such representation and warranty shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such specific date).

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

(c) Notices. The Borrower shall have delivered to the Administrative Agent, the notice of borrowing or application, as the case may be, for such extension of credit in accordance with this Agreement.

## SECTION 6. AFFIRMATIVE COVENANTS

Holdings and the Borrower hereby agree that, so long as the Commitments remain in effect, or any Term Loan or other amount is owing to any Lender or Agent hereunder (other than unasserted contingent indemnification obligations), Holdings shall and shall cause each of its Restricted Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent or for prompt further distribution to each Lender:

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of Holdings, (i) a copy of the audited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income or operations, members' equity and cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit, by PricewaterhouseCoopers LLP or other independent certified public accountants of nationally recognized standing and (ii) a narrative report and management's discussion and analysis, in customary form, of the financial condition and results of operations of Holdings for such fiscal year, as compared to amounts for the previous fiscal year;

(b) as soon as available, but in any event on the date forty-five (45) days after the end of each of the first three quarterly periods of each fiscal year of Holdings, (i) the unaudited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such quarter, the related unaudited consolidated statements of income or operations, for such quarter and cash flows for the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer of Holdings as fairly presenting in all material respects the financial condition, results of operation, members' equity and cash flows of Holdings in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) and (ii) a narrative report and management's discussion and analysis, in customary form, of the financial condition and results of operations for such fiscal quarter and the then elapsed portion of the fiscal year, as compared to the comparable periods in the previous fiscal year; and

(c) at such time as reasonably determined by the Administrative Agent, after the financial statements of Holdings and its consolidated Subsidiaries are required to be delivered pursuant to Sections 6.1(a) and 6.1(b), Holdings and the Borrower shall participate in a conference call to discuss results of operations of Holdings and its consolidated Subsidiaries with the Lenders.

All such financial statements shall be in accordance with GAAP applied consistently throughout the periods reflected therein and other than as disclosed therein with prior periods.

Documents required to be delivered pursuant to Section 6.1(a) or (b) or Section 6.2(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent) (the "Platform"); *provided that*, (x) to the extent the Administrative Agent or any Lender so requests, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to herein, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and the Collateral Agent (as applicable) (or, in the case of clause (e), to the relevant Lender):

(a) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer of the Borrower stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate, (ii) to the extent not previously disclosed and delivered to the Administrative Agent and the Collateral Agent, a listing of any material Intellectual Property which is the subject of a United States federal registration or federal application or material registration or application in other jurisdictions outside of the United States (including Intellectual Property included in the Collateral which was theretofore unregistered and becomes the subject of a United States federal registration or federal application or material registration or application in such other jurisdictions) acquired by any Loan Party since the date of the most recent list delivered pursuant to this clause (ii) (or, in the case of the first such list so delivered, since the Closing Date), and promptly deliver to the Administrative Agent and the Collateral Agent an Intellectual Property Security Agreement suitable for recordation in the United States Patent and Trademark Office or the United States Copyright Office or registration or application in the Republic of Ireland, as applicable, or such other instrument in form and substance reasonably acceptable to the Administrative Agent, and undertake the filing of any instruments or statements as shall be reasonably necessary to create, record, preserve, protect or perfect the Collateral Agent's security interest in such Intellectual Property, and (iii) a Compliance Certificate containing all information and calculations necessary for determining the Applicable Margins and for determining compliance by each Group Member with any other provision of this Agreement as applicable, as of the last day of the fiscal quarter or fiscal year of the Borrower, as the case may be;

(b) as soon as available, and in any event no later than ninety (90) days after the end of each fiscal year of the Borrower, projections for the following fiscal year shown on a quarterly basis (including consolidated statements of projected cash flow and projected income and a description of the underlying assumptions applicable thereto) (collectively, the “Projections”), which Projections shall in each case be accompanied by a certificate of a Responsible Officer of Holdings stating that such Projections are based on estimates, information and assumption believed by such Responsible Officer to be reasonable at the time prepared, it being understood that actual results may vary from such projections and that such variations may be material;

(c) promptly after the same are sent, copies of all financial statements, reports and material notices that the Borrower sends to the holders of any class of its Indebtedness or public equity securities and, promptly after the same are filed, copies of all annual, regular or periodic and special reports and registration statements which the Loan Parties may file or be required to file with the SEC and not otherwise required to be delivered to the Administrative Agent pursuant hereto, and, promptly, and in any event within ten (10) Business Days, after receipt thereof by Holdings or any Subsidiary thereof, copies of each written notice or other correspondence received from the SEC or comparable agency in any applicable foreign jurisdiction concerning any investigation or potential investigation or other inquiry by such agency regarding the financial or other operational results of Holdings or any Subsidiary thereof;

(d) promptly, after any request by the Administrative Agent, any final “management” letter submitted by such accountants to the board of directors of Holdings or the Borrower in connection with their annual audit; and

(e) promptly, such additional financial and other information regarding the business, financial or corporate affairs of Holdings or any of its Restricted Subsidiaries as the Administrative Agent (for itself or on behalf of any Lender) may from time to time reasonably request, including, without limitation, other information with respect to the Patriot Act; *provided*, that (other than with respect to the Patriot Act or where waiver of such privilege will not be adverse to the Borrower in the good faith opinion of the Borrower’s counsel) if the disclosure of any requested information would compromise any attorney-client privilege, that has not been or will not be waived, the Borrower shall make available redacted versions of requested documents or portions of documents that are the subject of such attorney-client privilege or, if unable to do so consistent with the preservation of such attorney-client privilege, shall endeavor in good faith otherwise to disclose information responsive to the Administrative Agent’s requests in a manner that will protect such attorney-client privilege.

6.3 Payment of Taxes. Pay all federal, state and other material taxes, assessments, fees or other charges imposed on it or any of its property by any Governmental Authority before they become delinquent, except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

6.4 Maintenance of Existence; Compliance.

(a) (i) Preserve, renew and keep in full force and effect its organizational existence except as permitted hereunder and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, including, without limitation, all necessary Governmental Authorizations, except, in each case, as otherwise permitted by Section 7.3 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and

(b) comply with all Contractual Obligations, Organizational Documents and Requirements of Law (including, without limitation, and as applicable, Health Care Laws, ERISA, OFAC, FCPA and the Code) except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Except as permitted by Section 7.4, keep all material Property useful and necessary in its business in good working order and condition, ordinary wear and tear and obsolescence excepted, except if failure to do so could not reasonably be expected to have a Material Adverse Effect, (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar business operating in the same or similar locations. Within a reasonable time after the Closing Date, the umbrella liability insurance and property insurance of the Group Members shall (i) name the Administrative Agent, on behalf of Secured Parties as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to the Administrative Agent, that names Collateral Agent, on behalf of Lenders as the loss payee thereunder and provides for at least thirty day's prior written notice to Collateral Agent of any cancellation of such policy and (c) if any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct in all material respects entries in conformity with GAAP and all Requirements of Law shall be made of all material dealings and transactions in relation to its business and activities and (b) subject to the Borrower's, Holdings' and each Restricted Subsidiary's internal policies for the protection and preservation of Intellectual Property or other non-financial proprietary information, permit representatives of the Administrative Agent who may be accompanied by any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time during normal business hours and upon reasonable advance notice to the Borrower and to discuss the business, operations, properties and financial and other condition of the Group Members with the officers of the Group Members and with their independent certified public accountants (*provided* that Holdings or its Subsidiaries may, at their option, have one or more employees or representatives present at any discussion with such accountants); *provided* that unless an Event of Default has occurred or is continuing, only one (1) such visit in any calendar year shall be at the Borrower's expense and *provided*, further, that if the disclosure of any requested information would compromise any attorney-client privilege (other than where waiver of such privilege will not be adverse to the Borrower in the good faith opinion of the Borrower's counsel), that has not been or will not be waived or waiver thereof will be materially adverse to the Borrower, the Borrower shall make available redacted versions of requested documents or portions of documents that are the subject of such attorney-client privilege or, if unable to do so consistent with the preservation of such attorney-client privilege, shall endeavor in good faith otherwise to disclose information responsive to the Administrative Agent's requests in a manner that will protect such attorney-client privilege.

6.7 Notices. Promptly give notice to the Administrative Agent of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any Contractual Obligation of any Group Member that could reasonably be expected to have a Material Adverse Effect or (ii) litigation, investigation or proceeding that may exist at any time between any Group Member and any Governmental Authority, which could reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding affecting any Group Member (i) which could reasonably be expected to have a Material Adverse Effect or (ii) which relates to any Loan Document;

(d) the following events, as soon as possible and in any event within thirty (30) days after a Responsible Officer of the Borrower obtains actual knowledge thereof: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, a failure to make any required contribution to any Single Employer Plan or Multiemployer Plan, the creation of any Lien against Holdings, the Borrower or any Commonly Controlled Entity in favor of the PBGC or a Single Employer Plan or Multiemployer Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or Holdings, the Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Single Employer Plan or Multiemployer Plan, and in each case, of substantially similar events with respect to pension schemes maintained in Ireland; and

(e) any development or event that has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary proposes to take with respect thereto.

6.8 Environmental Laws.

(a) Comply with, and use commercially reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws, except, in each case, to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws to address Materials of Environmental Concern, and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.9 Interest Rate Protection. Within sixty (60) days after the Closing Date (or such later date as the Administrative Agent may agree), enter into, and thereafter maintain, Hedge Agreements to the extent necessary to provide that at least 50% of the aggregate principal amount of the Term Loans and Second Lien Loans is subject to either a fixed interest rate or interest rate protection for a period of not less than three (3) years, *provided*, however, that such interest rate protection is available to the Loan Parties on commercially reasonable terms and without being required to post collateral, except that the Collateral will secure the obligations and liabilities of any Loan Party to any Qualified Counterparty under any Specified Hedge Agreement.

6.10 Post-Closing; Additional Collateral, etc.

(a) With respect to any property acquired after the Closing Date by any Loan Party as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected Lien (other than (x) any property described in paragraph (b), (c), (d) or (g) below, (y) property that is not required to become subject to Liens in favor of the Collateral Agent pursuant to the Loan Documents and (z) solely with respect to the following clauses (ii) and (iii), any non U.S. property, other than Intellectual Property that is registered or applied for with an Irish Governmental Authority, of a Domestic Subsidiary (for the avoidance of doubt, a Domestic Subsidiary shall be required to grant a security interest in all Collateral wherever located)), (i) execute and deliver to the Collateral Agent such amendments to the applicable Security Document or such other documents as the Collateral Agent deems necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a security interest in such property, (ii) take all actions necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first priority security interest in such property, including, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the applicable Security Document or by law and, in the case of Intellectual Property subject to a United States federal registration or federal application, as promptly as practicable, the delivery for filing of an Intellectual Property Security Agreement suitable for recordation in the United States Patent and Trademark Office, the United States Copyright Office or the appropriate filing office in the Republic of Ireland, as applicable, or such other instrument in form and substance reasonably acceptable to the Administrative Agent, or as may be reasonably requested by the Collateral Agent and (iii) if reasonably requested by the Collateral Agent, deliver to the Collateral Agent legal opinions relating to the matters described above, which opinions shall be customary in form and substance and from counsel reasonably satisfactory to the Collateral Agent.

(b) With respect to any fee interest in any real property having a value (together with improvements thereof) of at least \$2,500,000 owned or acquired on or after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.2(g)), promptly (but in any event within 60 days, or as such later date the Administrative Agent may agree) (i) execute and deliver a first priority Mortgage subject to Liens permitted under clause (i) of Section 7.2 hereof, in favor of the Collateral Agent, for the benefit of the Secured Parties, covering such real property, (ii) provide the Secured Parties with (x) (in the case of real property located outside the U.S. if customary in the relevant non-U.S. jurisdiction) a policy of title insurance (or marked up title insurance commitment having the effect of a policy of title insurance) covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably acceptable to the Collateral Agent, *provided* that in jurisdictions that impose mortgage recording taxes, the Security Documents shall not secure indebtedness in an amount exceeding 105% of the fair market value of the Mortgaged Property, as reasonably determined in good faith by the Loan Parties and reasonably acceptable to Collateral Agent), as well as a Survey thereof (except that a new Survey will not be required except to the extent necessary to delete the so called "survey exceptions" in any such policy of title insurance) and (y) any consents or estoppels deemed necessary or reasonably advisable by the Collateral Agent in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, (iii) deliver to the Collateral Agent legal opinions relating to, among other things, the enforceability, due authorization, execution and delivery of the applicable Mortgage, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent and (iv) for real property located in the United States deliver to the Administrative Agent a "Life-of-Loan" Federal Emergency Standard Flood Hazard Determination (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and each Loan Party relating thereto), and if such Mortgaged Property is located in a special flood hazard area, evidence of flood insurance confirming that such insurance has been obtained, which certificate shall be in a form and substance reasonably satisfactory to the Administrative Agent, and any and all other documents as the Collateral Agent may reasonably request, in each case, in form and substance reasonably satisfactory to the Collateral Agent.

(c) With respect to any new Restricted Subsidiary (other than an Immaterial Subsidiary) created or acquired after the Closing Date by any Loan Party (including any such Subsidiary that ceases to be either an Immaterial Subsidiary or an Unrestricted Subsidiary), within forty-five (45) days after such acquisition or formation, in the case of any Domestic Subsidiary, and within seventy-five (75) days after such acquisition or formation, in the case of any Foreign Subsidiary (or, in each case, such later date as the Administrative Agent may agree) (i) execute and deliver to the Collateral Agent, such Security Documents as the Administrative Agent deems necessary or reasonably advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first priority security interest in the Capital Stock of such new Restricted Subsidiary that is owned by any Loan Party, (ii) deliver to the Collateral Agent the certificates, if any, representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, (iii) cause such new Subsidiary that is a Wholly Owned Subsidiary or is acquired in a Permitted Acquisition (A) to become a party to the applicable Security Documents, (B) to take such actions necessary or advisable to grant to the Collateral Agent for the benefit of the Secured Parties a perfected first priority security interest (subject to Liens permitted by Section 7.2 hereof) in all or substantially all, or any portion of the property of such new Subsidiary that is required to become subject to a Lien in favor of the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Loan Documents as the Administrative Agent shall determine, in its reasonable discretion, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Collateral Agent and (C) to deliver to the Collateral Agent a certificate of such Subsidiary, substantially in the form of Exhibit F-1, with appropriate insertions and attachments, and (iv) if reasonably requested by the Collateral Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent; *provided* however, that in no event shall any such Subsidiary that is a CFC be required to pledge any property.

(d) With respect to any new Foreign Subsidiary that is a Wholly Owned Subsidiary (other than an Immaterial Subsidiary or an Unrestricted Subsidiary) created or acquired after the Closing Date (including any such Subsidiary that ceases to be either an Immaterial Subsidiary or an Unrestricted Subsidiary, but other than any Foreign Subsidiary excluded pursuant to Section 6.10(g)(i)) by any Loan Party (other than by any Loan Party that is a Foreign Subsidiary), within sixty (60) days of such formation or acquisition, in the case of a Foreign Subsidiary that is organized under the laws of Ireland, and within seventy-five (75) days of such formation or acquisition, in the case of any other Foreign Subsidiary (or, in each case, such later date as the Administrative Agent may agree), (A) execute and deliver to the Collateral Agent such Security Documents as the Collateral Agent deems necessary or reasonably advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first priority security interest in the Capital Stock of such new Subsidiary that is owned by any such Loan Party (*provided* that in no event shall more than 65% of the total outstanding voting Capital Stock of any such new Subsidiary that is a CFC be required to be so pledged (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof)), (B) deliver to the Collateral Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party, as the case may be, and take such other action as may be necessary or, in the opinion of the Collateral Agent, desirable to perfect the Collateral Agent's security interest therein, and (C) if reasonably requested by the Collateral Agent, deliver to the Collateral Agent legal opinions relating to the matters described above, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent.



(e) [Intentionally Omitted].

(f) Within thirty (30) days after the Closing Date (or such later date as the Administrative Agent may agree), the Administrative Agent shall have received executed Intellectual Property Security Agreements.

(g) Notwithstanding anything to the contrary in this Section 6.10:

(i) none of the following entities shall be required to become Subsidiary Guarantors: (u) Alkermes Ireland Holdings Limited, a private limited company in Ireland for so long as it would be prohibited by applicable law or regulation from becoming a Subsidiary Guarantor (except that Holdings' equity interest therein shall be pledged); (v) any Unrestricted Subsidiary; (w) Immaterial Subsidiaries; (x) any subsidiary that is prohibited by law or regulation from becoming a Subsidiary Guarantor; (y) any Subsidiary to the extent that the cost of obtaining a guarantee outweighs the benefit afforded thereby as reasonably determined by the Administrative Agent; or (z) any CFC;

(ii) none of the following assets or property shall be required to be included in the Collateral: (t) any property, asset and Subsidiary in which (A) the costs, burden or consequences (including adverse tax consequences) of obtaining such a security interest or perfection therein are excessive in relation to the value to the Lenders of the security to be afforded thereby, (B) any asset of a Loan Party organized outside the United States if it is likely that under the law of such Foreign Subsidiary's jurisdiction of formation, the Collateral Agent would not have the ability to enforce such security interest if granted or (C) such security interest would violate any applicable law of such relevant jurisdiction; (u) any equity interests in partnerships, joint ventures and non-wholly owned Subsidiaries which cannot be pledged without the consent of one or more third parties (except to the extent such prohibition is rendered ineffective by applicable law or is otherwise unenforceable); (v) leasehold real property interests, any lease, license or other agreement or any property subject to a purchase money security interest or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money arrangement or create a right of termination in favor of any other party thereto after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code; (w) any property which is otherwise excluded or excepted under the Guarantee and Collateral Agreement or any corresponding section of any Foreign Security Document; (x) letter of credit rights that are not otherwise supporting obligations with a value of less than \$100,000; (y) commercial tort claims as to which a pleading has been filed with a value of less than \$100,000 or other commercial tort claims; or (z) Capital Stock in CFCs if the inclusion of such Capital Stock would cause more than 65% of the total outstanding voting Capital Stock of any such CFC to be so pledged (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof); and

(iii) any requirement contained herein with respect to any entity organized outside of the United States shall in all respects be subject to the Agreed Security Principles.

6.11 Further Assurances. Subject to the Agreed Security Principles for the entities organized outside of the United States, from time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Administrative Agent or the Collateral Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Administrative Agent, the Collateral Agent and the Secured Parties with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Loan Party which may be deemed to be part of the Collateral) pursuant hereto or thereto. Subject to the Agreed Security Principles for the entities organized outside of the United States, upon the reasonable exercise by the Administrative Agent, the Collateral Agent or any Secured Party of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents which requires any consent, approval, recording qualification or authorization of any Governmental Authority, the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Administrative Agent, the Collateral Agent or such Secured Party reasonably may be required to obtain from any Loan Party for such governmental consent, approval, recording, qualification or authorization.

6.12 Rated Credit Facility; Corporate Ratings. Use commercially reasonable efforts to (a) cause the Term Loans to be continuously rated by S&P and Moody's and (b) cause the Borrower to continuously receive a Corporate Family Rating and Corporate Rating.

6.13 Use of Proceeds. The Borrower shall use the proceeds of the Term Loans, solely as set forth in Section 4.16.

6.14 [Intentionally Omitted].

6.15 Intellectual Property. Each Loan Party shall (and Holdings shall procure that each Group Member will): (a) take commercially reasonable efforts to preserve and maintain the subsistence and validity of the Intellectual Property necessary to the business of the relevant Group Member; (b) take commercially reasonable steps to prevent and defend against any infringement in any material respect of such Intellectual Property, including, without limitation, settling such litigation when in such Group Member's good faith belief it is commercially reasonable to do so; (c) make registrations and pay all registration fees and taxes necessary, as applicable, to maintain such Intellectual Property in full force and effect and record its interest in such Intellectual Property; and (d) not use or permit such Intellectual Property to be used in a way or take any step or omit to take any step in respect of such Intellectual Property which may materially and adversely affect the existence or value of such Intellectual Property or imperil the right of any Group Member to use such property.

6.16 Designation of Subsidiaries. The board of directors of the Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) immediately before and after such designation, no Default shall have occurred and be continuing, (ii), the Consolidated Leverage Ratio shall be less than or equal to 4.0 to 1.0 (and, as a condition precedent to the effectiveness of any such designation, the Borrower shall deliver to the Administrative Agent a certificate setting forth in reasonable detail the *pro forma* calculations demonstrating satisfaction of such test) and (iii) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a “Restricted Subsidiary” for the purpose of the Second Lien Loans, or any other Junior Financing or any other Indebtedness of any Loan Party. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the assets of such Subsidiary (less the amount of the Indebtedness of such Subsidiary on the date of such designation) that is allocated to the ownership interest of the relevant Group Member in such Subsidiary. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence, at the time of designation, of Indebtedness or Liens in such Subsidiary (equal to the amounts then owed by such Subsidiary) and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value of the assets of such Subsidiary (less the amount of the Indebtedness of such Subsidiary on the date of such re-designation) that is allocated to the ownership interest of the relevant Group Member in such Subsidiary.

## SECTION 7. NEGATIVE COVENANTS

Holdings and the Borrower hereby agree that, so long as the Commitments remain in effect or any Term Loan or other amount is owing to any Lender or Agent hereunder (other than unasserted contingent indemnification obligations), Holdings shall not, and shall not permit any of its Restricted Subsidiaries to:

7.1 Indebtedness. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) (i) Indebtedness of any Loan Party owed to any other Loan Party; (ii) unsecured Indebtedness of any Loan Party owed to any Group Member that is not a Loan Party; (iii) Indebtedness of any Group Member that is not a Loan Party owed to any other Group Member that is not a Loan Party; and (iv) subject to Section 7.6(g), Indebtedness of any Group Member that is not a Loan Party owed to a Loan Party; *provided*, that (x) in the case of clause (iv), such Indebtedness is evidenced by, and subject to the provisions of, an Intercompany Note and (y) in the case of any such Indebtedness of a Loan Party owed to a Group Member that is not a Loan Party, such Indebtedness shall be subordinated in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(c) Guarantee Obligations incurred by (i) any Group Member that is a Loan Party of obligations of any other Loan Party and, subject to Section 7.6(g), of any Group Member that is not a Loan Party and (ii) any Group Member that is not a Loan Party of obligations of any Loan Party or any other Group Member;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.1 and any Permitted Refinancing thereof;

(e) Indebtedness (including, without limitation, Capital Lease Obligation) of the Borrower or any Subsidiary secured by Liens permitted by Section 7.2(g) in an aggregate principal amount not to exceed \$25,000,000 at any one time outstanding and any Permitted Refinancing thereof;

(f) Indebtedness in respect of Hedge Agreements designed to hedge against interest rates, foreign exchange rates or commodities pricing risks and not for speculative purposes and Guarantee Obligations thereof;

(g) Indebtedness of the Borrower or any Subsidiary in respect of performance, bid, surety, indemnity, appeal bonds, completion guarantees and other obligations of like nature and guarantees and/or obligations as an account party in respect of the face amount of letters of credit in respect thereof, in each case securing obligations not constituting Indebtedness for borrowed money (including worker's compensation claims, environmental remediation and other environmental matters and obligations in connection with insurance or similar requirements) provided in the ordinary course of business;

(h) Indebtedness arising from the endorsement of instruments in the ordinary course of business;

(i) Indebtedness of a Person existing at the time such Person became a Restricted Subsidiary (such Person, an "Acquired Person"), together with all Indebtedness incurred or assumed by Holdings, the Borrower or any of the Restricted Subsidiaries in connection with any acquisition permitted under Section 7.6, but only to the extent that (i) such Indebtedness was not created or incurred in contemplation of such Person becoming a Subsidiary of such Loan Party or such acquisition (except that Holdings, the Borrower and any of the Restricted Subsidiaries may incur Junior Indebtedness, to the extent incurrence thereof is permitted under clause (j) below, in connection with such Person becoming a Restricted Subsidiary), (ii) any Liens securing such Indebtedness, incurred in connection with such Person becoming a Restricted Subsidiary, attach only to the assets of the Acquired Person (and in case of any Junior Indebtedness shall be subject to a subordination agreement) and (iii) the Consolidated Leverage Ratio, after giving *pro forma* effect to the acquisition, is less than 4.00:1.00; *provided*, that to the extent any such Acquired Person does not become a Loan Party (within 60 days of such person becoming an Acquired Person), the aggregate amount of such Indebtedness for all such Acquired Persons shall not exceed \$15,000,000;

(j) Junior Indebtedness of any Loan Party; *provided* that, (i) after giving *pro forma* effect to the incurrence of such Indebtedness, the Consolidated Leverage Ratio as of the date of the most recent financial statements delivered pursuant to Section 6.1(a) or (b) is less than 4.00:1.00 and (ii) no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, however, that such Indebtedness is extinguished within ten (10) Business Days of incurrence;

(l) Indebtedness of Holdings or any Subsidiary that may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments and similar obligations in connection with acquisitions or sales of assets and/or businesses;

(m) Indebtedness of the Loan Parties under the Second Lien Loan Documents (or any Permitted Refinancing thereof) in an aggregate principal amount not to exceed \$140,000,000 at any one time outstanding;

(n) Indebtedness arising from judgments or decrees not constituting an Event of Default under Section 8(h);

(o) Guarantee Obligations incurred by any Loan Party in respect of Indebtedness otherwise permitted by this Section 7.1;

(p) other Indebtedness of the Group Members in an aggregate principal amount (for all Group Members) not in excess of \$25,000,000 at any time outstanding;

(q) [Intentionally Omitted];

(r) Indebtedness consisting of promissory notes issued to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Capital Stock of any Group Member permitted by Section 7.5;

(s) Indebtedness consisting of obligations of the Borrower, Holdings or any Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Acquisitions or any other Investment permitted hereunder;

(t) Indebtedness consisting of (a) the financing of insurance premiums in respect of unearned premiums payable on insurance policies maintained by the Group Members or (b) take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(u) [Intentionally Omitted.]

(v) unsecured Guarantee Obligations incurred in the ordinary course of business (and consistent with past practice) in respect of obligations to suppliers, customers, franchisees, lessors and licensees; and

(w) unsecured Indebtedness incurred in the ordinary course of business (and consistent with past practice) in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.1.

7.2 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except for:

(a) Liens for taxes, assessments, charges or other governmental levies not yet delinquent for a period of more than thirty (30) days or that are being contested in good faith by appropriate proceedings; *provided* that adequate reserves with respect thereto are maintained on the books of the Group Members, as the case may be, in conformity with GAAP;

(b) Liens imposed by law, including, carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than sixty (60) days (or, if more than sixty (60) days overdue, no action has been taken to enforce such Lien) or are being contested in good faith and by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP;

(c) (i) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation, or letters of credit or guarantees issued in respect thereof, other than any Lien imposed by ERISA with respect to a Single Employer Plan or Multiemployer Plan and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower, Holdings or any Restricted Subsidiary;

(d) pledges or deposits to secure the performance of bids, government contracts and trade contracts (other than for borrowed money), leases, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business or letters of credit or guarantees issued in respect thereof;

(e) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and minor title defects affecting real property that, in the aggregate, do not materially interfere with the ordinary conduct of the business of the Borrower, Holdings and the Restricted Subsidiaries, taken as a whole, and any exception on the title policies issued in connection with the Mortgaged Property;

(f) Liens in existence on the date hereof listed on Schedule 7.2 and any renewals or extensions of any of the foregoing; *provided* that no such Lien is spread to cover any additional property after the Closing Date;

(g) Liens securing permitted Indebtedness of Holdings, the Borrower or any Restricted Subsidiary incurred to finance the acquisition, construction, improvement or repair of fixed or capital assets and any Permitted Refinancings thereof; provided that (i) such Liens shall be created substantially simultaneously (or within 270 days of) with the acquisition, construction, improvement or repair of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and additions, accessions and the proceeds of sale thereof and (iii) the amount of Indebtedness secured thereby is not increased;

(h) Liens created pursuant to (A) the Security Documents or any other Loan Document and (B) the Second Lien Loan Documents and Permitted Refinancings thereof that are at all times subordinated to the Liens created under the Security Documents on the terms set forth in the Intercreditor Agreement;

(i) Liens approved by Collateral Agent appearing on Schedule B to the policies of title insurance being issued in connection with the Mortgages;

(j) any interest or title of a lessor or licensee under any lease or license entered into by Holdings, the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed;

(k) licenses granted with respect to Intellectual Property, leases or subleases granted to third parties in the ordinary course of business which, individually or in the aggregate, do not materially interfere with the ordinary conduct of the business of the Loan Parties or any of their Subsidiaries and for which reasonable consideration (taking into account the value of the license, lease or sublease) was received;

(l) Liens securing judgments not constituting an Event of Default under Section 8(h) or securing appeal or other surety bonds related to such judgments;

(m) the filing of UCC financing statements solely as a precautionary measure in connection with operating leases and consignment arrangements;

(n) Liens existing on property acquired by the Borrower or any Subsidiary at the time such property is so acquired or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary after the date hereof (whether or not the Indebtedness secured thereby shall have been assumed); *provided* that (i) such Lien is not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary; (ii) such Lien does not extend to any other property (other than proceeds or products or after-acquired property) of any Group Member following such acquisition or such Person becoming a Restricted Subsidiary; and (iii) the Indebtedness secured by such Liens is permitted by Section 7.1(i);

(o) Liens (i) of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on the items in the course of collection and (ii) in favor of a banking or other financial institution arising as a matter of law or contract encumbering deposits or other funds or assets maintained with a financial institution (including the right of set off) and that are within the general parameters customary in the banking industry, including, without limitation, customary liens for customary fees and expenses relating to the operation and maintenance of such deposits;

(p) Liens in favor of customs and revenue authorities arising as a matter of law and in the ordinary course of business to secure payment of customs duties in connection with the importation of goods;

(q) statutory and common law landlords' liens under leases to which the Borrower or any of the Restricted Subsidiaries is a party;

(r) Liens on assets of Foreign Subsidiaries securing indebtedness of such Foreign Subsidiaries to the extent the Indebtedness secured thereby is permitted under Section 7.1;

(s) Liens not otherwise permitted by this Section so long as the aggregate outstanding principal amount of the obligations secured thereby do not exceed \$15,000,000 at any one time;

(t) Liens on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.6(i) or Section 7.6(w) to be applied against the purchase price for such Investment and not to exceed 10% of the aggregate purchase price with respect thereto when combined with any cash earnest money deposits permitted under clause (x) below;

(u) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower, Holdings or any Restricted Subsidiary in the ordinary course of business in accordance with past practices of the Borrower;

(v) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.6 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;



(w) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower, Holdings or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower, Holdings or any Restricted Subsidiary or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower, Holdings or any Restricted Subsidiary in the ordinary course of business;

(x) Liens solely on any cash earnest money deposits made by the Borrower, Holdings or any Subsidiary in connection with any letter of intent or purchase agreement permitted hereunder and not to exceed 10% of the aggregate purchase price with respect thereto when combined with any liens and/or cash advances permitted under clause (t) above;

(y) (i) Liens on the Capital Stock of any Subsidiary acquired pursuant to a Permitted Acquisition to secure Indebtedness incurred or assumed pursuant to Section 7.1(i) in connection with such Permitted Acquisition and (ii) Liens on the assets of such Subsidiary to secure Indebtedness (or to secure a Guarantee Obligation of such Indebtedness) incurred or assumed pursuant to Section 7.1(i) in connection with such Permitted Acquisition;

(z) ground leases in respect of real property on which facilities owned or leased by the Borrower, Holdings or any Restricted Subsidiary are located;

(aa) Liens in respect of unearned premiums on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(bb) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods; and

(cc) Liens constituting Dispositions permitted by Section 7.4.

7.3 Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of, all or substantially all of its property or business, except that:

(a) any Restricted Subsidiary may be merged, consolidated or be amalgamated (i) with or into the Borrower (*provided* that the Borrower shall be the continuing or surviving corporation), (ii) with or into Holdings or any other Restricted Subsidiary (*provided* that if only one party to such transaction is a Subsidiary Guarantor, the Subsidiary Guarantor shall be the continuing or surviving corporation) or (iii) subject to Section 7.6(g), with or into any other Group Member;

(b) any Group Member may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any Loan Party or, subject to Section 7.6(g) (to the extent applicable), any other Group Member;

(c) any Restricted Subsidiary that is not a Loan Party may (i) merge or consolidate with or into any Restricted Subsidiary that is not a Loan Party or (ii) dispose of all or substantially all of its assets (including any Disposition that is in the nature of a voluntary liquidation) to (x) another Restricted Subsidiary that is not a Loan Party or (y) to a Loan Party;

(d) any Subsidiary may enter into any merger, consolidation or similar transaction with another Person to effect a transaction permitted under Section 7.6; and

(e) transactions permitted under Section 7.4 shall be permitted.

#### 7.4 Disposition of Property

. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of the Borrower or any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Capital Stock to any Person, except:

(a) Dispositions of obsolete, damaged, uneconomic or worn out machinery, parts, property or equipment, or property or equipment no longer used or useful, in the conduct of its business, whether now owned or hereafter acquired;

(b) the sale of inventory and owned or leased vehicles, each in the ordinary course of business;

(c) Dispositions permitted by Sections 7.3(a), (b) and (c);

(d) so long as no change of control shall occur therefrom, the sale or issuance of any Group Member's Capital Stock to any other Group Member (except that a Loan Party may issue Capital Stock only to another Loan Party, provided that Intermediate Holdco may issue Capital Stock to Alkermes Ireland Holdings Limited irrespective of whether it is a Loan Party);

(e) any Group Member may Dispose of any of its assets to a Loan Party or, subject to Section 7.6(g) (to the extent applicable), any other Group Member, and any Group Member (other than Alkermes Ireland Holdings Limited) that is not a Loan Party may Dispose of any assets, or issue or sell Capital Stock, to any other Group Member that is not a Loan Party;

(f) Dispositions of cash or Cash Equivalents in transactions not otherwise prohibited by this Agreement;

(g) licenses granted by Group Members with respect to Intellectual Property, or leases or subleases, granted to third parties in the ordinary course of business which, individually or in the aggregate, do not materially interfere with the ordinary conduct of the business of the Group Members and for which reasonable consideration (taking into account the value of the license, lease or sublease) was received;

(h) the issuance or sale of shares of any Subsidiary's Capital Stock to qualified directors if required by applicable law;

(i) Dispositions or exchanges of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(j) Dispositions of leases entered into in the ordinary course of business, to the extent that they do not materially interfere with the business of the Borrower, Holdings and any Restricted Subsidiary, taken as a whole;

(k) the abandonment or other Disposition of Intellectual Property that is, in the reasonable judgment of the Borrower, no longer economically practicable to maintain and not material to the conduct of the business of the Borrower, Holdings and the Restricted Subsidiaries, taken as a whole;

(l) the Disposition of Property which constitutes a Recovery Event;

(m) Dispositions consisting of the sale, transfer, assignment or other Disposition of accounts receivable in connection with the collection, compromise or settlement thereof in the ordinary course of business and not as part of a financing transaction;

(n) Dispositions constituting Restricted Payments permitted by Sections 7.5, Investments permitted by Section 7.6 and Liens permitted by Section 7.2;

(o) leases, subleases, licenses or sublicenses with respect to real or personal property (other than Intellectual Property), in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower, Holdings and any Subsidiary, taken as a whole, including leases of unimproved real property encumbered by a Mortgage, on which real property the lessee may make improvements;

(p) so long as the proceeds thereof are applied pursuant to Section 3.2, Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in the joint venture arrangements and similar binding arrangements;

(q) any issuance or sale of Capital Stock in, or Indebtedness or other securities of an Immaterial Subsidiary or Unrestricted Subsidiary;

(r) as long as no Default is continuing or would result therefrom, any Disposition of property of, or issuance or sale of Capital Stock by, any Group Member; *provided* that the aggregate amount of all such Dispositions or issuances shall not exceed in any fiscal year 5% of Consolidated Total Assets at the end of the immediately preceding fiscal year of the Borrower;

(s) Dispositions of Property related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;

7.5 Restricted Payments. Declare or pay any dividend (other than dividends payable solely in common stock of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of any Group Member, in each case, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of Holdings or any Subsidiary (collectively, "Restricted Payments"), except that:

(a) any Subsidiary may make Restricted Payments to the Borrower, Holdings or any Subsidiary Guarantor or any other Person that owns a direct equity interest in such Subsidiary in proportion to such Person's ownership interest in such Subsidiary;

(b) each Subsidiary may make Restricted Payments to the Borrower and to Wholly Owned Subsidiaries (and, in the case of a Restricted Payment by a non-Wholly Owned Subsidiary, to the Borrower and any Subsidiary and to each other owner of Capital Stock or other equity interests of such Subsidiary on a pro rata basis based on their relative ownership interests);

(c) Holdings, the Borrower and each Restricted Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common equity interests of such Person;

(d) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, Holdings may purchase, redeem or otherwise acquire shares of its common stock or other common equity interests or warrants or options to acquire any such shares, in each case, to the extent consideration therefor consists of the proceeds received from the substantially concurrent issue of new shares of its common stock or other common equity interests;

(e) Holdings, the Borrower and each Restricted Subsidiary may make payments related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;

(f) [Intentionally Omitted].

(g) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met, Holdings and the Borrower may make Restricted Payments in an aggregate amount not to exceed the then Available Amount;

(h) [Intentionally Omitted].

(i) Holdings, the Borrower and the Restricted Subsidiaries may make Restricted Payments in an aggregate amount such that all such Restricted Payments since the Closing Date made pursuant to this clause (i) shall not exceed \$15,000,000;

(j) Holdings may pay any dividend or distribution or the consummation of any redemption within sixty (60) days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if, at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Agreement; and

(k) Holdings, the Borrower and the Restricted Subsidiaries may make any payments in connection with the consummation of the Transactions.

7.6 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business line or unit of, or a division of any Person (all of the foregoing, "Investments"), except:

(a) extensions of trade credit in the ordinary course of business;

(b) Investments in Cash Equivalents;

(c) any Guarantee Obligation permitted by Section 7.1;

(d) loans and advances to officers, directors and employees of any Group Member in the ordinary course of business (including for travel, entertainment, relocation and similar expenses) in an aggregate amount for all Group Members not to exceed \$5,000,000 at any time outstanding;

(e) the Acquisition;

(f) intercompany Investments by (i) any Group Member in any Loan Party; *provided* that all such intercompany Investments to the extent such Investment is a loan or advance owed to a Loan Party by a Group Member that is not a Loan Party are evidenced by the Intercompany Note and (ii) any Group Member that is not a Loan Party to any other Group Member that is not a Loan Party;

(g) intercompany Investments (i) by any Loan Party in another Group Member (including a Person that becomes a Restricted Subsidiary as a result of such Investments), that, after giving effect to such Investment, is not a Loan Party (including, without limitation, Guarantee Obligations with respect to obligations of any such Subsidiary, loans made to any such Subsidiary and Investments resulting from mergers with or sales of assets to any such Subsidiary) in an aggregate amount (valued at fair market value) not to exceed \$50,000,000 at any time outstanding and (ii) intercompany Investments incurred in the ordinary course of business in connection with the cash management operations (including with respect to intercompany self-insurance arrangements) of the Borrower, Holdings or any Restricted Subsidiary;

(h) Investments in the ordinary course of business consisting of endorsements for collection or deposit or lease, utility and other similar deposits and deposits with suppliers in the ordinary course of business;

(i) Investments in connection with Permitted Acquisitions;

(j) Investments consisting of Hedge Agreements permitted by Section 7.1;

(k) Investments (i) existing on the date hereof or made pursuant to legally binding written contracts in existence on the date hereof or (ii) contemplated on the date hereof and set forth on Schedule 7.6, and in each case any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment is not increased at the time of such extension or renewal;

(l) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors or other Persons to the extent reasonably necessary in order to prevent or limit loss or in connection with the bankruptcy or reorganization of suppliers or customers and in settlement of delinquent obligations of, and other disputes with, suppliers or customers arising in the ordinary course of business;

(m) Investments received as consideration in connection with Dispositions permitted under Section 7.4;

(n) advances of payroll payments to employees in the ordinary course of business;

(o) Investments to the extent that payment for such Investments is made solely with Capital Stock of Holdings (or by any direct or indirect parent thereof);

(p) Investments held by a Person that becomes a Restricted Subsidiary after the Closing Date or of a Person merged into the Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 7.3 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(q) Guarantees Obligations of the Group Members of leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(r) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business and consistent with past practices;

(s) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors in the ordinary course not to exceed \$10,000,000 at any time outstanding;

(t) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment made pursuant to this Section 7.6;

(u) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met, in addition to Investments otherwise expressly permitted by this Section, Investments in an aggregate amount not to exceed the then Available Amount; and

(v) [Intentionally Deleted].

(w) other Investments by Group Members in an aggregate amount at any time outstanding of all such Investments since the Closing Date not to exceed \$20,000,000.

The amount of any Investment, other than a Guarantee Obligation, shall be (i) the amount actually invested, as determined at the time of each such Investment, without adjustment for subsequent increases or decreases in the value of such Investment, minus (ii) the amount of dividends or distributions actually received in connection with such Investment and any return of capital and any payment of principal received in respect of such Investment that in each case is received in cash or cash equivalents (not in excess of the amount of Investments originally made).

#### 7.7 Optional Payments and Modifications of Certain Debt Instruments.

(a) (i) Make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease any Junior Financing except for (x) payments in the aggregate pursuant to this clause (i) not to exceed the Available Amount during the term of this Agreement, (y) the refinancing thereof with the Net Cash Proceeds of any Permitted Refinancing of any of the foregoing or any Indebtedness (other than Indebtedness that is owed to the Borrower or any Restricted Subsidiary), and (z) the conversion of any Junior Financing to Capital Stock; *provided* that, in the case of (x), no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met; and (ii) amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Junior Financing (other than any amendment that is not materially adverse to the Lenders and in any event any such amendment, modification, waiver or other change that (x) in the case of any Junior Indebtedness, would extend the maturity or reduce the amount of any payment of principal thereof or reduce the rate or extend any date for payment of interest thereon and (y) in the case of any Second Lien Indebtedness, is permitted pursuant to the applicable intercreditor agreement).

(b) Amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Organizational Document of any Loan Party or any Pledged Company if such amendment, modification, waiver or change could reasonably be expected to have a Material Adverse Effect.

7.8 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to Holdings, the Borrower or such Restricted Subsidiary as would be obtainable by Holdings, the Borrower or such Restricted Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, except:

(a) transactions between or among (i) Loan Parties or (ii) Group Members (*provided* that transactions between any Loan Party, on one hand, and a Group Member that is not a Loan Party, on one other hand, shall be on commercially reasonable terms and shall be limited to transactions not otherwise prohibited by this Agreement);

(b) transactions related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;

(c) any Restricted Payment permitted by Section 7.5; and

(d) the Transaction.

7.9 [Intentionally Omitted].

7.10 Hedge Agreements. Enter into any Hedge Agreement, except (a) Hedge Agreements entered into to hedge or mitigate risks to which Holdings or any Subsidiary has actual exposure, (b) Hedge Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of Holdings or any Subsidiary and (c) any Hedge Agreements required to be entered into pursuant to the terms and conditions of this Agreement.

7.11 Changes in Fiscal Periods; Accounting Changes.

(a) Permit any change in the fiscal year of the Borrower.

(b) Change independent accountants other than to any nationally recognized firm or such other firm reasonably acceptable to the Administrative Agent.

7.12 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits, limits or imposes any condition upon the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired for the benefit of the Lenders with respect to the Obligations other than (a) this Agreement and the other Loan Documents, (b) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby), (c) any agreement governing any Second Lien Indebtedness so long as the restrictions set forth therein are no more restrictive, taken as a whole, than the corresponding provisions in the Loan Documents, as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower, (d) any restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary, (e) customary provisions in leases, licenses and other contracts restricting the assignment thereof, (f) any other agreement that does not restrict in any manner (directly or indirectly) Liens created pursuant to the Loan Documents or any Collateral securing the Obligations and does not require the direct or indirect granting of any Lien securing any Indebtedness or other obligation by virtue of the granting of Liens on or pledge of Property of any Loan Party to secure the Obligations and (g) any prohibition or limitation that (i) exists pursuant to applicable Requirements of Law, (ii) consists of customary restrictions and conditions contained in any agreement relating to any Liens permitted under Section 7.2, transaction permitted under Section 7.3 or the sale of any property permitted under Section 7.4, (iii) restricts subletting or assignment of leasehold interests contained in any lease governing a leasehold interest of a Group Member, (iv) exists in any agreement in effect at the time such Subsidiary becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, (v) exists in any instrument governing Indebtedness assumed in connection with any Permitted Acquisition, which encumbrance or restriction is not applicable to any Person, or the Properties or assets of any Person, other than the Person or the Properties or assets of the Person so acquired, (vi) exists on the Closing Date and are listed on Schedule 7.12, (vii) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures to the extent permitted under this Agreement, or (viii) is imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents or the contracts, instruments or obligations referred to in this Section 7.12; *provided* that such amendments and refinancings are no more materially restrictive with respect to such prohibitions and limitations than those in effect prior to such amendment or refinancing (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower).



7.13 Clauses Restricting Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary of the Borrower that is not a Loan Party to (a) make Restricted Payments in respect of any Capital Stock of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any other Restricted Subsidiary of the Borrower, (b) make loans or advances to, or other Investments in, the Borrower or any other Restricted Subsidiary of the Borrower or (c) transfer any of its assets to the Borrower or any other Restricted Subsidiary of the Borrower, except for such encumbrances or restrictions existing under or by reason of:

(i) any restrictions existing under the Loan Documents;

(ii) any restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary;

(iii) any restrictions set forth in the Second Lien Loan Documents (subject to the Intercreditor Agreement) and in the agreement governing any Junior Indebtedness so long as the restrictions set forth therein are not materially more restrictive than the corresponding provisions in the Loan Documents;

(iv) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby);

(v) restrictions and conditions existing on the date hereof identified on Schedule 7.13 (but not to any amendment or modification expanding the scope or duration of any such restriction or condition);

(vi) restrictions or conditions imposed by any agreement relating to Liens permitted by this Agreement but solely to the extent that such restrictions or conditions apply only to the property or assets subject to such permitted Lien;

(vii) customary provisions in leases, licenses and other contracts entered into in the ordinary course of business restricting the assignment thereof;

(viii) customary restrictions in joint venture agreements and other similar agreements applicable to joint ventures permitted hereunder and applicable solely to such joint venture;

(ix) any agreement of a Foreign Subsidiary governing Indebtedness permitted to be incurred or permitted to exist under Section 7.1;

(x) any agreement or arrangement already binding on a Person when it becomes a Restricted Subsidiary so long as such agreement or arrangement was not created in anticipation of such acquisition;

(xi) Requirements of Law;

(xii) customary restrictions and conditions contained in any agreement relating to any transaction permitted under Section 7.3 or the sale of any property permitted under Section 7.4 pending the consummation of such transaction or sale;

(xiii) any instrument governing Indebtedness assumed in connection with any Permitted Acquisition, which encumbrance or restriction is not applicable to any Person, or the Properties or assets of any Person, other than the Person or the Properties or assets of the Person so acquired; or

(xiv) any encumbrances or restrictions imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents or the contracts, instruments or obligations referred to in this Section 7.13; *provided* that such amendments or refinancings are no more materially restrictive with respect to such encumbrances and restrictions than those in effect prior to such amendment or refinancing (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower).

7.14 Lines of Business. Enter into any business, either directly or through any Restricted Subsidiary, except for those businesses in which Holdings and its Subsidiaries are engaged on the date of this Agreement (after giving effect to the Transaction) or that are reasonably related, incidental, ancillary or complementary thereto.

7.15 [Intentionally Omitted].

7.16 Holding Company. In the case of Holdings, engage in any business or activity other than (a) the ownership of all outstanding Capital Stock in and Indebtedness of Alkermes Ireland Holdings Limited, its other Subsidiaries from time to time and Subsidiaries which are Subsidiaries solely by virtue of paragraph (b) of subsection (1) of Section 155 of the Companies Acts 1963 of Ireland, (b) maintaining its corporate existence, (c) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Loan Parties, (d) the execution and delivery of the Loan Documents to which it is a party and the performance of its obligations thereunder, (e) the incurrence of Indebtedness permitted to be incurred by Holdings pursuant to Section 7.1, (f) the consummation of any Permitted Acquisition so long as any assets (other than Indebtedness or Capital Stock) acquired in connection with such Permitted Acquisition are owned by Intermediate Holdco, the Borrower or a Subsidiary of the Borrower immediately following such Permitted Acquisition, (g) Restricted Payments permitted to be made by Holdings under Section 7.5 and (h) activities incidental to the businesses or activities described in clauses (a) through (g) of this Section.

7.17 Alkermes Ireland Holdings Limited. In the case of Alkermes Ireland Holdings Limited, Holdings shall cause that, for as long as Alkermes Ireland Holdings Limited is not a Subsidiary Guarantor, it shall not: (a) engage in any business or activity or own or acquire any material assets other than (i) the ownership of all outstanding Capital Stock in and Junior Financings of Intermediate Holdco, (ii) maintaining its corporate existence, (iii) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Loan Parties, (iv) the incurrence of Indebtedness permitted to be incurred by Alkermes Ireland Holdings Limited pursuant to Section 7.1, (v) the consummation of any Permitted Acquisition so long as any assets acquired in connection with such Permitted Acquisition are owned by the Borrower or a Subsidiary of the Borrower immediately following such Permitted Acquisition, (vi) Restricted Payments permitted to be made by Alkermes Ireland Holdings Limited under Section 7.5 and (vii) activities incidental to the businesses or activities described in clauses (i) through (vi); (b) incur any Indebtedness other than Indebtedness permitted pursuant to Sections 7.1 (b), (k), (n) or (t); and (c) create, incur, assume or suffer to exist any Lien other than Liens permitted pursuant to Sections 7.2(a), (c), (j), (l), (o), (q) or (aa) upon any of its property or assets, whether now owned or hereafter acquired.

#### SECTION 8. EVENTS OF DEFAULT

Events of Default. If any of the following events shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Term Loan when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Term Loan, or any other amount payable hereunder or under any other Loan Document, within five (5) days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been untrue in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in Section 6.4(a) (with respect to the Borrower only) or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section 8), and such default shall continue unremedied for a period of thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(e) any Group Member (i) defaults in making any payment of any principal of any Material Indebtedness (including any Guarantee Obligation or Hedge Agreement that constitutes Material Indebtedness, but excluding the Term Loans) on the scheduled or original due date with respect thereto; or (ii) defaults in making any payment of any interest on any such Material Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) defaults in the observance or performance of any other agreement or condition relating to any such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Material Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder; *provided* that such failure is unremedied and is not waived by the holders of such Indebtedness; *provided further* that this clause (e)(iii) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or

(f) (i) any Group Member (other than an Immaterial Subsidiary) shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, examinership or relief of debtors (a "Bankruptcy Law"), seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, examinership, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator, liquidator, examiner or other similar official for it or for all or any substantial part of its assets under a Bankruptcy Law, or any Group Member (other than an Immaterial Subsidiary) shall make a general assignment, composition, compromise, or arrangement with or for the benefit of its creditors; or (ii) there shall be commenced against any Group Member (other than an Immaterial Subsidiary) any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or other relief with respect to it or its debts or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distress, distraint or similar process against all or any substantial part of the assets of the Group Members, taken as a whole, that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) any Group Member (other than an Immaterial Subsidiary) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member (other than an Immaterial Subsidiary) shall generally not, or shall be unable to, or shall under applicable law be deemed to be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) any failure to satisfy the minimum funding standard under Sections 412 and 430 of the Code or Sections 302 and 303 of ERISA, whether or not waived, shall occur with respect to any Single Employer Plan or any Lien in favor of the PBGC or a Single Employer Plan or Multiemployer Plan shall arise on the assets of the Borrower or any Commonly Controlled Entity, (ii) a Reportable Event shall occur with respect to, or proceedings shall commence under Section 4042 of ERISA to have a trustee appointed, or a trustee shall be appointed to, any Single Employer Plan, (iii) any Single Employer Plan shall be terminated under Section 4041(c) of ERISA or the institution by the PBGC of proceedings to terminate a Single Employer Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of such Single Employer Plan, (iv) any Group Member or any Commonly Controlled Entity intends to withdraw from a Multiemployer Plan and shall, or is reasonably likely to, incur any liability in connection with such withdrawal, or the Insolvency or Reorganization of, a Multiemployer Plan, (v) any Group Member shall engage in any non-exempt "prohibited transaction" (within the meaning of Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (vi) the cessation of operations at a facility of any Group Member or Commonly Controlled Entity in the circumstances described in Section 4062(e) of ERISA or (vii) the withdrawal by any Group Member or Commonly Controlled Entity from a Multiple Employer Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; and in each case in clauses (i) through (vii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to have a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member and the same shall not have been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof and any such judgments or decrees is for the payment of money, individually or in the aggregate (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage), of \$5,000,000 or more or is for injunctive relief which could reasonably be expected to have a Material Adverse Effect; or

(i) any Security Documents relating to material assets of the Group Members, taken as a whole, shall cease, for any reason, to be in full force and effect, or any Loan Party or any Subsidiary of any Loan Party shall so assert, or any Lien created by any of the Security Documents relating to material assets of the Group Members, taken as a whole, shall cease to be enforceable and of the same effect and priority purported to be created thereby (other than because of any action by the Collateral Agent); or any Loan Party or any Subsidiary of any Loan Party shall so assert; or

(j) the guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party or any Subsidiary of any Loan Party shall so assert; or

(k) a Change of Control occurs; or

(l) (i) any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be “senior debt,” “senior indebtedness,” “designated senior debt,” “guarantor senior debt” or “senior secured financing” (or any comparable term) under, and as defined in, any Junior Financing Documentation evidencing Material Indebtedness, (ii) the subordination provisions set forth in any Junior Financing Documentation evidencing Material Indebtedness shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of such Junior Financing, if applicable, (iii) the intercreditor agreement related to any Second Lien Indebtedness (including the Intercreditor Agreement) shall, in whole or in part, cease to be effective or otherwise cease to be legally valid, binding and enforceable against the holder of any Second Lien Indebtedness or (iv) any Loan Party, any Subsidiary of any Loan Party shall assert any of the foregoing;

then, and in any such event, (A) if such event is an Event of Default specified in paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable. Except as expressly provided above in this Section 8, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

## SECTION 9. THE AGENTS

### 9.1 Appointment.

(a) Each Lender (and, if applicable, each other Secured Party) hereby irrevocably designates and appoints each Agent as the agent of such Lender (and, if applicable, each other Secured Party) under this Agreement and the other Loan Documents, and each such Lender (and, if applicable, each other Secured Party) irrevocably authorizes such Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to such Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or other Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against any Agent.

(b) Each of the Secured Parties hereby irrevocably designates and appoints Morgan Stanley Senior Funding, Inc. as collateral agent of such Secured Party under this Agreement and the other Loan Documents, and each such Secured Party irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf as are necessary or advisable with respect to the Collateral under this Agreement or any of the other Loan Documents, together with such powers as are reasonably incidental thereto. The Collateral Agent hereby accepts such appointment.

9.2 Delegation of Duties. Each Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither any Agent nor any of their respective officers, directors, members, partners, employees, agents, attorneys-in-fact or Affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders or any other Secured Party for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or any Specified Hedge Agreement or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or any Specified Hedge Agreement or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any Specified Hedge Agreement or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document or any Specified Hedge Agreement, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by such Agent. The Administrative Agent shall deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Term Loans and all other Secured Parties.

9.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders or any other instructing group of Lenders specified by this Agreement); *provided* that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Secured Parties.

9.6 Non-Reliance on Agents and Other Lenders. Each Lender (and, if applicable, each other Secured Party) expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender or any other Secured Party. Each Lender (and, if applicable, each other Secured Party) represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement or any Specified Hedge Agreement. Each Lender (and, if applicable, each other Secured Party) also represents that it will, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents or any Specified Hedge Agreement, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender or any other Secured Party with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any Affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.



9.7 Indemnification. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Section 10.5 to be paid by it to any Agent Related Party (or any sub-agent thereof), each Lender severally agrees to pay to such Agent Related Party (or any such sub-agent thereof) such Lender's Term Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; *provided* that (a) the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against any Agent Related Party (or any such sub-agent thereof) and (b) no Lender shall be liable for the payment of any portion of such unreimbursed expense or indemnified loss, claim, damage, liability or related expense that is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Term Loans and all other amounts payable hereunder.

9.8 Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender," "Lenders," "Secured Party" and "Secured Parties" shall include each Agent in its individual capacity.

9.9 Successor Administrative Agent.

(a) The Administrative Agent and the Collateral Agent may resign as Administrative Agent and Collateral Agent, respectively, upon ten (10) days' notice to the Lenders and the Borrower. If the Administrative Agent or Collateral Agent, as applicable, shall resign as Administrative Agent or Collateral Agent, as applicable, under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8(a) or Section 8(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent or Collateral Agent, as applicable, and the term "Administrative Agent" or "Collateral Agent," as applicable, shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's or Collateral Agent's, as applicable, rights, powers and duties as Administrative Agent or Collateral Agent, as applicable, shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or Collateral Agent, as applicable, or any of the parties to this Agreement or any holders of the Term Loans. If no successor agent has accepted appointment as Administrative Agent or Collateral Agent, as applicable, by the date that is ten (10) days following a retiring Administrative Agent's or Collateral Agent's, as applicable, notice of resignation, the retiring Administrative Agent's or Collateral Agent's, as applicable, resignation shall nevertheless thereupon become effective and the Lenders shall assume and perform all of the duties of the Administrative Agent or Collateral Agent, as applicable, hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's or Collateral Agent's, as applicable, resignation as Administrative Agent or retiring Collateral Agent's resignation as Collateral Agent, as applicable, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent or Collateral Agent, as applicable, under this Agreement and the other Loan Documents.

(b) Anything herein to the contrary notwithstanding, if at any time the Required Lenders determine that the Person serving as Administrative Agent is a Defaulting Lender, the Required Lenders (determined after giving effect to the final paragraph of Section 10.1) may by notice to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a replacement Administrative Agent hereunder. Such removal will, to the fullest extent permitted by applicable law, be effective on the earlier of (i) the date a replacement Administrative Agent is appointed and (ii) the date ten (10) Business Days after the giving of such notice by the Required Lenders (regardless of whether a replacement Administrative Agent has been appointed).

9.10 Agents Generally. Except as expressly set forth herein, the Agents and the Lead Arranger and the Joint Bookrunners shall not have any duties or responsibilities hereunder in its capacity as such.

9.11 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents, the Specified Hedge Agreements, or institute any actions or proceeds, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent; *provided* that the foregoing shall not prohibit any Lender from filing proofs of claim during the pendency of a proceeding relative to any Loan Party under any bankruptcy or other debtor relief law.

9.12 Withholding Tax. To the extent required by any applicable law, an Agent shall withhold from any payment to any Lender an amount equal to any applicable withholding Tax. If the IRS or any Governmental Authority asserts a claim that the Agent did not properly withhold Tax from any amount paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Agent (to the extent that the Agent has not already been reimbursed by the Borrower and without limiting or expanding the obligation of the Borrower to do so) for all amounts paid, directly or indirectly, by the Agent as tax or otherwise, including any penalties, additions to Tax or interest thereon, together with all expenses incurred, including legal expenses and any out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Agent under this Section 9.12. The agreements in this Section 9.12 shall survive the resignation and/or replacement of the Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Term Loans and the repayment, satisfaction or discharge of all obligations under this Agreement. Unless required by applicable laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender any refund of Taxes withheld or deducted from funds paid for the account of such Lender.

9.13 Administrative Agent May File Proof of Claims. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties and the Administrative Agent (including any claim for the compensation, expenses, disbursements and advances of the Secured Parties and their respective agents and counsel and all other amounts due the Secured Parties under the Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Secured Parties, to pay to the Administrative Agent any amount due for the compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents.

9.14 Intercreditor Agreement(a) . Notwithstanding anything herein to the contrary, each Lender also acknowledges that the Lien and security interest granted to the Collateral Agent pursuant to the Security Documents and the existence of any right or remedy by the Collateral Agent thereunder are subject to the provisions of the Intercreditor Agreement. In the event of a conflict between the terms of the Intercreditor Agreement and any Security Document, the terms of the Intercreditor Agreement shall govern and control. Each Lender hereby authorizes the Collateral Agent to enter into the Intercreditor Agreement on behalf of such Lender.

## SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; *provided*, however, that no such waiver and no such amendment, supplement or modification shall:

(i) forgive the principal amount or extend the final scheduled date of maturity of any Term Loan, extend the scheduled date of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest or forgive or reduce any interest or fee payable hereunder (except (x) in connection with the waiver of applicability of any post-default increase in interest rates, which waiver shall be effective with the consent of the Required Lenders and (y) that any amendment or modification of financial covenants or defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the written consent of each Lender directly affected thereby; *provided* that neither any amendment, modification or waiver of a mandatory prepayment required hereunder, nor any amendment of Section 3.2 or any related definitions including Asset Sale, IP Sale, Excess Cash Flow, or Recovery Event, shall constitute a reduction of the amount of, or an extension of the scheduled date of, any principal installment of any Term Loan or Note or other amendment, modification or supplement to which this clause (i) is applicable;

(ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender;

(iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release Holdings or all or substantially all of the Subsidiary Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders;

(iv) amend, modify or waive any provision of Section 3.8(a) or 10.7(a) of this Agreement or Section 6.5 of the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders;

(v) amend, modify or waive any provision of Section 9 without the written consent of each Agent adversely affected thereby;

(vi) amend, modify or waive any provision of Section 9.6 to further restrict any Lender's ability to assign or otherwise transfer its obligations hereunder without the written consent of all Lenders adversely affected thereby; and

(vii) amend, modify or waive (A) any provision of any Loan Document so as to alter the ratable sharing of payments required thereby or (B) the definition of "Qualified Counterparty," "Specified Hedge Agreement," or "Obligations," in each case in a manner adverse to any Qualified Counterparty with Obligations then outstanding without the written consent of any such Qualified Counterparty.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Agents and all future holders of the Term Loans.

In the case of any waiver, the Loan Parties, the Lenders and the Agents shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term Loans ("Refinanced Term Loans") with a replacement term loan tranche hereunder ("Replacement Term Loans"); *provided* that (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans plus accrued interest, fees and expenses related thereto, (b) the Applicable Margin for such Replacement Term Loans shall not be higher than the Applicable Margin for such Refinanced Term Loans, (c) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the applicable Term Loans) and (d) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than, those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Term Loans in effect immediately prior to such refinancing.

If, in connection with any proposed amendment, modification, waiver or termination requiring the consent of all Lenders, the consent of the Required Lenders is obtained, but the consent of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained being referred to as a "Non-Consenting Lender"), then, so long as the Administrative Agent is not a Non-Consenting Lender, the Administrative Agent or a Person reasonably acceptable to the Administrative Agent shall have the right but not the obligation to purchase at par from such Non-Consenting Lenders, and such Non-Consenting Lenders agree that they shall, upon the Administrative Agent's request, sell and assign to the Administrative Agent or such Person, all of the Term Loans of such Non-Consenting Lenders for an amount equal to the principal balance of all such Term Loans held by such Non-Consenting Lenders and all accrued interest and fees with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment and Assumption. In addition to the foregoing, the Borrower may replace any Non-Consenting Lender pursuant to Section 3.13.

Notwithstanding the foregoing, this Agreement and the other Loan Documents may be amended (or amended and restated), modified or supplemented with the written consent of the Administrative Agent and the Borrower (a) to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender, (b) to add one or more additional credit facilities with respect to Incremental Term Loans to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans, as applicable, and the accrued interest and fees in respect thereof and (c) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders; *provided*, that the conditions set forth in Section 2.4 are satisfied.

Anything herein to the contrary notwithstanding, during such period as a Lender is a Defaulting Lender, to the fullest extent permitted by applicable law, such Lender will not be entitled to vote in respect of amendments and waivers hereunder and the Commitment and the outstanding Loans or other extensions of credit of such Lender hereunder will not be taken into account in determining whether the Required Lenders or all of the Lenders, as required, have approved any such amendment or waiver (and the definition of "Required Lenders" will automatically be deemed modified accordingly for the duration of such period); *provided* that, subject to the limitations set forth in the first paragraph of this Section 10.1, any such amendment or waiver that would increase or extend the term of the Commitment of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to such Defaulting Lender hereunder, reduce the principal amount of any obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of such Defaulting Lender.

## 10.2 Notices.

(a) All notices and other communications provided for hereunder shall be either (x) in writing (including telecopy or e-mail communication) and mailed, telecopied or delivered or (y) as and to the extent set forth in Section 10.2(b) as follows:

(i) if to the Borrower, at its address at Alkermes, Inc., 852 Winter Street, Waltham, Massachusetts 02451, Attention Jim Frates, and a copy to Richard Lincer, Esq., Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York 10006;

(ii) if to the Collateral Agent or the Administrative Agent, at its address at 1585 Broadway, New York, New York 10036, Attention: MS Agency, E-mail Address: [msagency@morganstanley.com](mailto:msagency@morganstanley.com); or, as to any party, at such other address as shall be designated by such party in a written notice to the other parties;

*provided*, however, that materials and information described in Section 10.2(b) shall be delivered to the Administrative Agent in accordance with the provisions thereof or as otherwise specified to the Borrower by the Administrative Agent. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given or made upon the earlier of (i) actual receipt by the relevant party hereto, (ii) if delivered by hand or courier, when signed for by or on behalf of the relevant party hereto, and (iii) four days after having been mailed; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that notices and communications to any Agent pursuant to Sections 2 and 9 shall not be effective until received by such Agent). Delivery by telecopier of an executed counterpart of a signature page to any amendment or waiver of any provision of this Agreement or the Notes or of any Exhibit hereto to be executed and delivered hereunder shall be effective as delivery of an original executed counterpart thereof.

(b) The Borrower hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Loan Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any default or event of default under this Agreement or (iv) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as “Communications”), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to an electronic address specified by the Administrative Agent to the Borrower. In addition, the Borrower agrees to continue to provide the Communications to the Agents in the manner specified in the Loan Documents but only to the extent requested by the Administrative Agent.

(c) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE”. THE ADMINISTRATIVE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS, EXCEPT TO THE EXTENT THE LIABILITY OF SUCH PERSON IS FOUND IN A FINAL, NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH PERSON’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, “ADMINISTRATIVE AGENT PARTIES”) HAVE ANY LIABILITY TO THE BORROWER, ANY LENDER PARTY OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER’S OR THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET.

The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Loan Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such e-mail address. Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Term Loans and other extensions of credit hereunder and shall continue in full force and effect as long as any Term Loan or any other Obligation hereunder shall remain unpaid or unsatisfied and so long as the Commitments of any Lender have not been terminated.

10.5 Payment of Expenses and Taxes; Indemnity.

(a) The Borrower agrees (i) to pay or reimburse each Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, execution and delivery, and any amendment, supplement or modification to, this Agreement and the other Loan Documents, any security arrangements in connection therewith and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable invoiced fees and disbursements of counsel to such parties and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter as such parties shall deem appropriate and (ii) to pay or reimburse each Lender and Agent for all its documented costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the reasonable and invoiced fees and disbursements of counsel to such parties and any documented costs and expenses incurred during any workout or restructuring.



(b) The Borrower agrees (i) to pay, indemnify, and hold each Lender and each Agent harmless from, any and all recording and filing fees, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (ii) to pay, indemnify, and hold each Lender and Agent and the Joint Bookrunners and their respective affiliates (including, without limitation, controlling persons) and each member, partner, director, officer, employee, advisor, agent, affiliate, successor, partner, member, representative and assign of each of the foregoing (each, an “Indemnitee”) harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents (regardless of whether any Loan Party is or is not a party to any such actions or suits) and any such other documents, including any of the foregoing relating to the use of proceeds of the Term Loans, or violation of, noncompliance with or liability under, any Environmental Law relating to any Group Member or any of the Properties, including the presence, Release or threat of Releases of any Materials of Environmental Concern, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (ii), collectively, the “Indemnified Liabilities”); provided, that the Borrower shall not have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or its Related Indemnified Persons. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee except to the extent found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or its Related Indemnified Persons. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Chief Financial Officer, at the address of the Borrower set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive repayment of the Term Loans and all other amounts payable hereunder.

(c) To the fullest extent permitted by applicable law, neither the Borrower nor any Indemnitee shall assert, and each of the Borrower and each Indemnitee does hereby waive, any claim against any party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Term Loan or the use of the proceeds thereof; *provided* that the foregoing shall not limit the indemnification obligations of the Borrower under clause (b) above to the extent they arise from claims of third parties against an Indemnitee for such special, indirect, consequential or punitive damages. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(d) The Borrower shall not, without the prior written consent of the Indemnitee, settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any proceeding in respect of which indemnification may be sought hereunder (whether or not any Indemnitee is a party thereto) unless such settlement, compromise, consent or termination (i) includes an unconditional release of each Indemnitee from all liability arising out of such proceeding and (ii) does not include a statement as to, or an admission of, fault, culpability, or a failure to act by or on behalf of such Indemnitee.

(e) The Borrower will not be liable under this Agreement for any amount paid by an Indemnitee to settle any claims or actions if the settlement is entered into without the Borrower's consent, which consent may not be withheld or delayed unless such settlement is unreasonable in light of such claims or actions against, and defenses available to, such Indemnitee; provided that this Section 10.5(e) shall not apply to those settlements where the Borrower was offered the ability to assume the defense of the action that directly and specifically related to the subject matter of such settlement and elected not to assume such defense.

(f) All amounts due under this Section shall be payable not later than ten (10) days after demand therefor.

#### 10.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except (x) to an assignee in accordance with the provisions of paragraph (b) of this Section, (y) by way of participation in accordance with the provisions of paragraph (e) of this Section or (z) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, express or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors as assigns permitted hereby, Participants to the extent provided in paragraph (e) of this Section 10.6 and, to the extent expressly contemplated hereby, the Affiliates of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Term Loans at the time owing to it); *provided* that any such assignment shall be subject to the following conditions:

(i) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, an assignment effected by the Administrative Agent in connection with the initial syndication of the Commitments held by Morgan Stanley Senior Funding, Inc. and HSBC Bank USA, N.A. an assignment of the entire remaining amount of the assigning Lender's Commitments or Term Loans, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$1,000,000 unless each of the Borrower and the Administrative Agent otherwise consent (such consent not to be unreasonably withheld or delayed); *provided* that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Term Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate tranches of Loans (if any) on a non-pro rata basis;

(iii) no consent shall be required for any assignment except to the extent required by paragraph (b)(i) of this Section and, in addition, the consent of:

(A) the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default under Section 8(a) or (f) has occurred and is continuing at the time of such assignment, (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received a draft of the relevant Assignment and Assumption or (z) such assignment is made prior to the earlier of (1) the Syndication Date and (2) the date that is 90 days after the Closing Date; and

(B) the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of the Term Facility if such assignment is to an Assignee that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(iv) except in the case of assignments pursuant to paragraph (c) below, the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 (it being understood that payment of only one processing fee shall be required in connection with simultaneous assignments to two or more Approved Funds); *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment; and the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire.

(v) no assignment shall be permitted to be made to Holdings or any of its Subsidiaries or Affiliates other than on the following basis:

(A) no Default or Event of Default has occurred or is continuing at the time of such assignment or would result from such assignment;

(B) Holdings, the Borrower or any of their respective Subsidiaries may make one or more offers (each, an "Offer") to repurchase all or any portion of the Term Loans (such Term Loans, the "Offer Loans"); *provided* that, (1) Holdings, the Borrower or such Subsidiary delivers a notice of such Offer to the Administrative Agent and all Lenders no later than noon (New York City time) at least five (5) Business Days in advance of a proposed consummation date of such Offer indicating (w) the last date on which such Offer may be accepted, (x) the maximum dollar amount of such Offer, (y) the repurchase price per dollar of principal amount of such Offer Loans at which Holdings, the Borrower or such Subsidiary is willing to repurchase such Offer Loans and (z) the instructions, consistent with this Section 10.6(b)(v) with respect to the Offer, that a Lender must follow in order to have its Offer Loans repurchased; (2) Holdings, the Borrower or such Subsidiary shall hold such Offer open for a minimum period of two (2) Business Days; (3) a Lender who elects to participate in the Offer may choose to sell all or part of such Lender's Offer Loans; (4) such Offer shall be made to the Lenders holding the Offer Loans on a pro rata basis in accordance with the respective principal amount then due and owing to the Lenders; *provided* that, if any Lender elects not to participate in the Offer, either in whole or in part, the amount of such Lender's Offer Loans not being tendered shall be excluded in calculating the pro rata amount applicable to the balance of such Offer Loans; and (5) such Offer shall be conducted pursuant to such procedures the Administrative Agent may establish in consultation with the Borrower (which shall be consistent with this clause (B)) and that a Lender must follow in order to have its Offer Loans repurchased;

(C) with respect to all repurchases made by Holdings, the Borrower or their respective Subsidiaries, such repurchases shall be deemed to be voluntary prepayments pursuant to Section 3.1 in an amount equal to the aggregate principal amount of such Term Loans;

(D) following repurchase by Holdings, the Borrower or any of their respective Subsidiaries, (1) all principal and accrued and unpaid interest on the Term Loans so repurchased shall be deemed to have been paid for all purposes and no longer outstanding (and may not be resold by Holdings, the Borrower or such Subsidiary), for all purposes of this Agreement and all other Loan Documents and (2) Holdings, the Borrower or any of their respective Subsidiaries, as the case may be, will promptly advise the Administrative Agent of the total amount of Offer Loans that were repurchased from each Lender who elected to participate in the Offer; and

(E) any Term Loans purchased by or assigned to Holdings, the Borrower or any of their respective Subsidiaries shall be automatically, immediately and permanently cancelled upon the effectiveness of such assignment and will thereafter no longer be outstanding for any purpose hereunder; and

(vi) no assignment shall be permitted to be made to a natural person.

Except as otherwise provided in clause (v) above and in paragraph (c) below, subject to acceptance and recording thereof pursuant to paragraph (d) below, from and after the effective date specified in each Assignment and Assumption the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.9, 3.10, 3.11 and 10.5; *provided*, with respect to such Section 3.10, that such Lender continues to comply with the requirements of Sections 3.10 and 3.10(e)). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section.

(c) Notwithstanding anything in this Section 10.6 to the contrary, a Lender may assign any or all of its rights hereunder to an Affiliate of such Lender or an Approved Fund of such Lender without (a) providing any notice (including, without limitation, any administrative questionnaire) to the Administrative Agent or any other Person or (b) delivering an executed Assignment and Assumption to the Administrative Agent; *provided* that (A) such assigning Lender shall remain solely responsible to the other parties hereto for the performance of its obligations under this Agreement, (B) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such assigning Lender in connection with such assigning Lender's rights and obligations under this Agreement until an Assignment and Assumption and an administrative questionnaire have been delivered to the Administrative Agent, (C) the failure of such assigning Lender to deliver an Assignment and Assumption or administrative questionnaire to the Administrative Agent or any other Person shall not affect the legality, validity or binding effect of such assignment and (D) an Assignment and Assumption between an assigning Lender and its Affiliate or Approved Fund shall be effective as of the date specified in such Assignment and Assumption.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of and interest owing with respect to the Term Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). Subject to the penultimate sentence of this paragraph (d), the entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In the case of an assignment to an Affiliate of a Lender or an Approved Fund pursuant to paragraph (c), as to which an Assignment and Assumption and an administrative questionnaire are not delivered to the Administrative Agent, the assigning Lender shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register (a “Related Party Register”) comparable to the Register on behalf of the Borrower. The Register or Related Party Register shall be available for inspection by the Borrower and any Lender at the Administrative Agent’s office at any reasonable time and from time to time upon reasonable prior notice. Except as otherwise provided in paragraph (c) above, upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee’s completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b)(iv) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. Except as otherwise provided in paragraph (c) above, no assignment shall be effective for purposes of this Agreement unless and until it has been recorded in the Register (or, in the case of an assignment pursuant to paragraph (c) above, the applicable Related Party Register) as provided in this paragraph (d). The date of such recordation of a transfer shall be referred to herein as the “Assignment Effective Date.”

(e) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Term Loans owing to it); *provided* that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement and (D) no participation shall be permitted to be made to Holdings or any of its Subsidiaries or Affiliates, nor any officer or director of any such Person. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1. Subject to paragraph (f) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.9, 3.10 and 3.11 to the same extent as if it were a Lender (subject to the requirements and obligations of those sections including the documentary requirements in Section 3.10(e)) and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender; *provided* such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower and solely for tax purposes, maintain a register complying with the requirements of Section 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations issued thereunder relating to the exemption from withholding for portfolio interest on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Term Loans or other obligations under this Agreement (the “Participant Register”); *provided*, that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Loans or its other obligations under this Agreement) except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. Unless otherwise required by the IRS, any disclosure required by the foregoing sentence shall be made by the relevant Lender directly and solely to the IRS. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The entries in the Participant Register shall be conclusive and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) A Participant shall not be entitled to receive any greater payment under Section 3.9, 3.10 or 3.11 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant had no such participation been transferred to such Participant, unless the entitlement to a greater payment results from a change in any Requirement of Law after the date such Participant became a Participant.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest or to any such sale or securitization; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(h) Notwithstanding the foregoing, a Lender may not assign or sell participations in, its rights and obligations under this Agreement to a Disqualified Institution; provided however, (i) the Administrative Agent shall have no duty or obligation for any breach or other violation of this provision by any Lender, any assignee, any participant or any other Person, (ii) no Agent shall have any duty to take any action or to exercise any powers (discretionary or non-discretionary) in connection with any participation having been made to any Disqualified Institution and (iii) no Agent shall have any duty to disclose the fact that a participation has been made to a Disqualified Institution.

#### 10.7 Sharing of Payments; Set-off.

(a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender, if any Lender (a "Benefited Lender") shall, at any time after the Term Loans and other amounts payable hereunder shall become due and payable pursuant to Section 8, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; *provided*, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a director creditor of each Loan Party in the amount of such participation to the extent provided in clause (b) of this Section 10.7.

(b) In addition to any rights and remedies of the Lenders provided by law, subject to Section 9.11, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower, and to the extent permitted by applicable law, upon the occurrence of any Event of Default which is continuing, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower, as the case may be. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

(c) Notwithstanding anything to the contrary contained herein, the provisions of this Section 10.7 shall be subject to the express provisions of this Agreement which require or permit differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic mail (in “.pdf” or similar format) shall be effective as delivery of a manually executed counterpart hereof.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.



10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Agents and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Agent or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

**10.11 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.**

10.12 Submission To Jurisdiction; Waivers. Each of the parties hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the address set forth in Section 10.2 or on the signature pages hereof, as the case may be, or at such other address of which the Administrative Agent shall have been notified pursuant thereto; and

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction.

10.13 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) each Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the “Lenders”), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. The Loan Parties acknowledge and agree that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Loan Party, its management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Loan Party, in connection with such transaction or the process leading thereto; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower and the Lenders.

#### 10.14 Releases of Guarantees and Liens.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, each of the Administrative Agent and the Collateral Agent is hereby irrevocably authorized by each Secured Party (without requirement of notice to or consent of any Secured Party except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any Collateral or guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document (including, without limitation, (x) the release of any Subsidiary Guarantor from its obligations under the Loan Documents if such Person ceases to be a Restricted Subsidiary as a result of a transaction permitted hereunder, (y) the release from the Collateral of any assets disposed to a Person other than a Loan Party in accordance with this Agreement and (z) the release from the Collateral of any assets of any Person that ceases to be a Subsidiary Guarantor in accordance with this Agreement ) or that has been consented to in accordance with Section 10.1; *provided* that no such release shall occur if (x) such Subsidiary Guarantor continues to be a guarantor in respect of any Junior Financing or (y) such Collateral continues to secure any Junior Financing or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as (i) the Term Loans and the other Obligations (other than Unasserted Contingent Obligations shall have been paid in full or Cash Collateralized and (ii) the Commitments have been terminated, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent, the Collateral Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person. At such time, the Collateral Agent shall take such actions as are reasonably necessary, at the cost of the Borrower, to effect each release described in this Section 10.14 in accordance with the relevant provisions of the Security Documents.

10.15 Confidentiality. Each Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party pursuant to this Agreement that is designated by such Loan Party as confidential in accordance with its customary procedures; *provided* that nothing herein shall prevent any Agent or any Lender from disclosing any such information (a) to any Agent, any other Lender, any Affiliate of a Lender or any Approved Fund (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) subject to an agreement to comply with confidentiality provisions at least as restrictive as the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Hedge Agreement (or any professional advisor to such counterparty), (c) to its employees, directors, members, partners, agents, attorneys, accountants and other professional advisors or those of any of its affiliates (it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed (other than as a result of a disclosure in violation of this Section 10.15), (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document; *provided* that, unless specifically prohibited by applicable law or court order, each Lender shall notify the Borrower of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information.

**10.16 WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

10.17 Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Borrower hereunder in the currency expressed to be payable herein (the “specified currency”) into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures any Lender could purchase the specified currency with such other currency at such Lender’s New York office on the Business Day preceding that on which final judgment is given. The obligations of the Borrower in respect of any sum due to any Lender hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender of any sum adjudged to be so due in such other currency such Lender may in accordance with normal banking procedures purchase the specified currency with such other currency; if the amount of the specified currency so purchased is less than the sum originally due to such Lender in the specified currency, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Lender against such loss, and if the amount of the specified currency so purchased exceeds the sum originally due to such Lender in the specified currency, such Lender agrees to remit such excess to the Borrower.

10.18 Patriot Act Notice. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it may be required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

ALKERMES, INC., as Borrower

By: /s/ James M. Frates

Name: James M. Frates

Title: Senior Vice President, Chief Financial Officer and Treasurer

ALKERMES US HOLDINGS, INC.  
as Holdco

By: /s/ Michael Landine

Name: Michael Landine

Title: President

[Signature Page to First Lien Credit Agreement]

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**SIGNED AND DELIVERED** for and on behalf  
of and as the deed of **ALKERMES PLC**  
by its lawfully appointed attorney  
Shane Cooke, acting pursuant  
to a Power of Attorney dated September 12, 2011:

/s/ Shane Cooke

Signature of Witness: /s/ Patricia Ponsonby  
Name of Witness: Patricia Ponsonby  
Address of Witness: Treasury Bldg., Lower Grand Canal St.  
Dublin 2  
Occupation of Witness: Solicitor

**SIGNED AND DELIVERED** for and on behalf  
of and as the deed of **ALKERMES PHARMA  
IRELAND LIMITED** by its lawfully appointed  
attorney Shane Cooke,  
acting pursuant to a Power of Attorney dated September 12, 2011:

/s/ Shane Cooke

Signature of Witness: /s/ Patricia Ponsonby  
Name of Witness: Patricia Ponsonby  
Address of Witness: Treasury Bldg., Lower Grand Canal St.  
Dublin 2  
Occupation of Witness: Solicitor

[Signature Page to First Lien Credit Agreement]

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MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as co-Syndication Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

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HSBC SECURITIES (USA) INC., as co-Syndication Agent

By: /s/ Keith Malas

Name: Keith Malas

Title: M.D. Co-Head of LAF

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LENDER:

MORGAN STANLEY SENIOR FUNDING, INC.,  
as a Term Lender

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

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**SCHEDULE 1.1**

**[On file with Administrative Agent]**

SECOND LIEN TERM LOAN CREDIT AGREEMENT

among

ALKERMES, INC.,  
as Borrower,

ALKERMES PLC  
as Holdings,

ALKERMES PHARMA IRELAND LIMITED,  
as Intermediate Holdco,

ALKERMES US HOLDINGS, INC.,  
as Holdco,

The Several Lenders  
from Time to Time Parties Hereto,

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent,

MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC.,  
as co-Syndication Agents,

and

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

Dated as of September 16, 2011  
MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC.,  
as Joint Lead Arrangers and Joint Bookrunners

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EXHIBITS:

A	Form of Assignment and Assumption
B	Form of Borrowing Notice
C	Form of Guarantee and Collateral Agreement
D-1	Form of Tax Status Certificate (For Non U.S. Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)
D-2	Form of Tax Status Certificate (For Non U.S. Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)
D-3	Form of Tax Status Certificate (For Non U.S. Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)
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E	Form of Term Note
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G-3	Form of Legal Opinion of Ballard & Spahr LLP, Pennsylvania local counsel
G-4	Form of Legal Opinion of Young Conaway Stargatt & Taylor, LLP, Delaware local counsel
G-5	Form of Legal Opinion of Arthur Cox, Solicitors
H	Form of Intellectual Property Security Agreement
I	Form of Intercompany Note
J	Form of Solvency Certificate
K	Form of Intercreditor Agreement
L-1	Form of Perfection Certificate
L-2	Form of Perfection Certificate Supplement



THIS SECOND LIEN TERM LOAN CREDIT AGREEMENT, dated as of September 16, 2011, among ALKERMES, INC., a corporation organized under the laws of the Commonwealth of Pennsylvania (the "Borrower"), ALKERMES PLC, a company incorporated under the laws of the Republic of Ireland (registered number 498284) ("Holdings"), ALKERMES PHARMA IRELAND LIMITED, a private limited company organized under the laws of the Republic of Ireland (registered number 448848) and a wholly owned indirect subsidiary of Holdings (the "Intermediate Holdco") and ALKERMES US HOLDINGS, INC., a Delaware corporation and a wholly owned subsidiary of Intermediate Holdco ("Holdco"), the several banks and other financial institutions or entities from time to time parties to this Agreement as "Lenders", MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent (in such capacity, and together with its successors and assigns in such capacity, the "Administrative Agent"), MORGAN STANLEY SENIOR FUNDING, INC. and HSBC SECURITIES (USA) INC., as co-syndication agents (in such capacity, the "Syndication Agents"), and MORGAN STANLEY SENIOR FUNDING, INC., as collateral agent (in such capacity, and together with its successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, pursuant to the Acquisition Agreement, Elan Corporation, plc, a public limited company incorporated under the laws of the Republic of Ireland (registered number 30356) ("Elan") and certain of Elan's Subsidiaries and Affiliates have agreed to transfer the Business Assets and the Additional Assets (collectively, the "Acquired Business") to Holdings and its Subsidiaries (other than the Borrower) as more fully set forth in the Acquisition Agreement;

WHEREAS, following the consummation of the Acquisition, Merger Sub will merge with and into the Borrower, with the Borrower surviving as a wholly-owned indirect Subsidiary of Holdings;

WHEREAS, in connection with the transactions contemplated by the Acquisition Agreement, the Borrower has requested that the Lenders make available the Term Commitments and the Term Loans on the Closing Date to finance the Acquisition, to pay and redeem certain existing indebtedness and to pay related fees and expenses; and

WHEREAS, the Lenders are willing to make available the Term Commitments for such purposes on the terms and subject to the conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the premises and the agreements, provisions and covenants contained herein, the parties hereto agree as follows:

#### SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of (a) the rate of interest published by the Wall Street Journal, from time to time, as the "U.S. Prime Rate," (b) ½ of 1% per annum above the Federal Funds Effective Rate; (c) the LIBOR Rate for an Interest Period of one month plus 1.00%, as adjusted to conform to changes as of the opening of business on the date of any such change of the LIBOR Rate and (d) 2.50%.

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“ABR Loans”: Term Loans the rate of interest applicable to which is based upon the ABR.

“Acquired Business”: as defined in the recitals to this Agreement.

“Acquired Person”: as defined in Section 7.1(i).

“Acquisition”: the purchase of the Acquired Business pursuant to the Acquisition Agreement.

“Acquisition Agreement”: the Business Combination Agreement and Plan of Merger, dated as of May 9, 2011, by and among Elan, Holdings, Elan Science Four Limited (n/k/a Alkermes Ireland Holdings Limited), a private limited company incorporated under the laws of the Republic of Ireland (registered number 476691), Intermediate Holdco, Holdco, Merger Sub and the Borrower.

“Acquisition Documentation”: collectively, the Acquisition Agreement, the Ancillary Agreements and all schedules, exhibits and annexes thereto and all side letters and agreements affecting the terms thereof or entered into in connection therewith.

“Additional Assets”: has the meaning set forth in the Acquisition Agreement.

“Administrative Agent”: as defined in the preamble to this Agreement.

“Administrative Agent Parties”: as defined in Section 10.2(c).

“Affected Lender”: as defined in Section 3.13.

“Affiliate”: as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the possession, direct or indirect, of the power to direct or cause the direction of management or policies of a Person, whether through ownership of securities, by contract or otherwise ; *provided*, however, that, for purposes of Section 7.8, the term “Affiliate” shall also include (i) any person that directly or indirectly owns more than 10% of any class of Capital Stock of the person specified or (ii) any person that is an officer or director of the person specified.

“Agent Related Parties”: the Administrative Agent, the Collateral Agent, and any of their respective Affiliates, officers, directors, employees, agents, advisors or representatives.

“Agents”: the collective reference to the Administrative Agent, the Collateral Agent, the Syndication Agents and the Lead Arrangers.

“Agreed Security Principles”: the principles set forth in Annex A.

“Agreement”: this Credit Agreement.

“Ancillary Agreements”: has the meaning set forth in the Acquisition Agreement.

“Anti-Terrorism Laws”: Executive Order No. 13224, the Patriot Act, the laws comprising or implementing the Bank Secrecy Act and the laws administered by the United States Treasury Department’s Office of Foreign Asset Control (each as from time to time in effect).

“Applicable Margin”: the rate per annum for each portion of a Term Loan, (a) that is a LIBOR Rate Loan, 8.00% and (b) that is an ABR Loan, 7.00%.

“Approved Fund”: with respect to any Lender, any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans, or similar extensions of credit in the ordinary course and is administered or managed by (a) such Lender, (b) an Affiliate of such Lender, or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

“Asset Sale”: any Disposition of Property or series of related Dispositions of Property (in each case, other than Intellectual Property), including, without limitation, any issuance of Capital Stock of any Subsidiary of Holdings to a Person other than to any Group Member (excluding in any case any such Disposition permitted by Section 7.4) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$2,500,000.

“Assignee”: as defined in Section 10.6(b).

“Assignment and Assumption”: an assignment and assumption entered into by a Lender and an Eligible Assignee and accepted by the Administrative Agent, and, if applicable, the Borrower, substantially in the form of Exhibit A.

“Assignment Effective Date”: as defined in Section 10.6(d).

“Available Amount” at any time, an amount, to the extent Not Otherwise Applied, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) the aggregate amount of Net Cash Proceeds of any capital contributions (that is converted or exchanged for Qualified Capital Stock) or issuances of Qualified Capital Stock (or for Qualified Capital Stock issued upon conversion of debt securities) received or made by Holdings (other than Section 7.5(d)) since the Closing Date; plus

(b) 50% of the cumulative Consolidated Net Income (excluding from Consolidated Net Income, for this purpose only, any amount that otherwise increased the Available Amount pursuant to clause (a) above), or if cumulative Consolidated Net Income shall be a loss, minus 100% of such loss earned from the Closing Date through the last day of the last fiscal quarter or fiscal year for which financial statements have been delivered pursuant to Section 6.1(a) (treating such period as a single accounting period); less

(c) any usage of such Available Amount pursuant to Sections 7.5(g), 7.5(j), 7.6(u) and 7.7(a)(i).

“Available Amount Condition”: after giving effect to any usage of the Available Amount, the Consolidated Leverage Ratio, on a *pro forma* basis, as of the last day of the period of four (4) fiscal quarters most recently completed for which financial statements were required to have been delivered pursuant to Section 6.1 is less than or equal to 4.50:1.00.

“Benefited Lender”: as defined in Section 10.7(a).

“Blocked Person”: as defined in Section 4.23(c).

“Board”: the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower”: as defined in the preamble to this Agreement.

“Borrowing Date”: any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

“Business”: has the meaning set forth in the Acquisition Agreement.

“Business Assets”: has the meaning set forth in the Acquisition Agreement.

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close; *provided*, that with respect to notices and determinations in connection with, and payments of principal and interest on, LIBOR Rate Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

“Cap Amount” shall mean the sum of (a) \$310.0 million plus (b) the amount of any Incremental Term Loans (as defined in the First Lien Credit Agreement). For the sake of clarity and for purposes of calculating the Cap Amount, the foregoing shall be exclusive of First Lien Obligations under Specified Hedge Agreements (as defined in the First Lien Credit Agreement).

“Capital Expenditures”: for any period, with respect to any Person, the aggregate of all expenditures by such Person and its Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets (including Capitalized Software Expenditures) or additions to equipment (including replacements, capitalized repairs and improvements during such period) that should be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries, excluding expenditures financed with any Reinvestment Deferred Amount to the extent otherwise not taken into account in determining Consolidated Net Income.

“Capitalized Software Expenditures” shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by Holdings, the Borrower and the Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of Holdings, the Borrower and the Restricted Subsidiaries.

“Capital Lease Obligations”: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing; *provided* that Capital Stock shall not include any debt securities that are convertible into or exchangeable for any of the foregoing Capital Stock.

“Cash Collateralize”: in respect of an obligation, provide and pledge cash collateral in Dollars, or provide a letter of credit issued by a person reasonably satisfactory to the Administrative Agent, pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent (and “Cash Collateralization” has a corresponding meaning).

“Cash Contribution”: the payment in accordance with the Acquisition Agreement of cash of the Borrower and its Subsidiaries existing prior to the consummation of the Acquisition, in an amount of not less than the amount of the Cash Payment (as defined in the Acquisition Agreement) less the aggregate amount of the Term Loans and the Second Lien Loans borrowed by the Borrower on the Closing Date.

“Cash Equivalents”:

- (a) Dollars, Euros, Pounds Sterling and Swiss Francs (and such other currency that is approved by the Administrative Agent) held in the ordinary course of business of the relevant Person;
- (b) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year from the date of acquisition;
- (c) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one (1) year or less from the date of acquisition issued by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than \$500,000,000;

(d) commercial paper of an issuer rated at least A-1 by S&P or P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one (1) year from the date of acquisition;

(e) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than thirty (30) days, with respect to securities issued or fully guaranteed or insured by the United States government;

(f) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's;

(g) securities with maturities of one (1) year or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition; or

(h) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition or money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, as amended and (ii) are rated AAA by S&P and Aaa by Moody's.

"CFC": any Subsidiary of the Borrower that is a "controlled foreign corporation" within the meaning of Section 957 of the Code and any Subsidiary of a CFC.

"Change of Control": an event or series of events by which:

(a) at any time, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person or its Subsidiaries and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, directly or indirectly, of thirty-five percent (35%) or more of the equity securities of Holdings entitled to vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis;

(b) at any time after the Closing Date, during any period of twenty-four (24) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election, nomination or appointment to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or

(c) (i) Holdings shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interest in the Capital Stock of Alkermes Ireland Holdings Limited or (ii) Holdco shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interest in the Capital Stock of the Borrower.

“Closing Date”: the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied and the initial funding occurs, which date shall be no later than the Outside Date.

“Closing Date Material Adverse Effect”: means any event, change, occurrence or development that, individually or when taken together with all other events, changes, occurrences or developments, has a material adverse effect on (a) the business, assets, liabilities, operations or condition (financial or otherwise) of the Business, taken as a whole, or (b) the ability of the Elan Entities to perform their material obligations under the Acquisition Agreement, the Reorganization Transfer Agreements and any Ancillary Agreement or to consummate the transactions contemplated hereby and thereby; *provided* that any such effect shall, to the extent resulting from the following, be disregarded, in the case of clause (a) only, in determining whether a “Closing Date Material Adverse Effect” has occurred or would reasonably be expected to occur: (i) any changes in Law (as defined in the Acquisition Agreement) (or official interpretations thereof) applicable to the Business; (ii) changes in general economic, monetary, market or financial conditions, whether in the United States, Ireland or any other country or international market; (iii) acts of God, calamities, national or international political or social conditions, including the engagement in or escalation by any country or any non-state actor in hostilities, whether commenced before or after the date hereof, and whether or not pursuant to a formal declaration of emergency or war, or the occurrence of any military or terrorist attack; or (iv) changes in U.S. GAAP, IFRS or other accounting principles applicable to the Business; except, in the case of each of the foregoing clauses (i) through (iv) to the extent the same has had or could reasonably be expected to have a disproportionate effect on the Business relative to the effect generally on other companies in industries or markets similar to the Business.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Collateral”: all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

“Collateral Agent”: as defined in the preamble to this Agreement.

“Commitment”: the Term Commitment of any Lender.

“Commonly Controlled Entity”: an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414 of the Code.

“Communications”: as defined in Section 10.2(b).

“Compliance Certificate”: a certificate duly executed by a Responsible Officer substantially in the form of Exhibit F-2.

“Confidential Information Memorandum”: the Confidential Information Memorandum dated June 9, 2011 and furnished to the Lenders in connection with the syndication of the Term Facility.

“Consolidated Current Assets”: at any date, all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption “total current assets” (or any like caption) on a consolidated balance sheet of the Loan Parties at such date.

“Consolidated Current Liabilities”: at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total current liabilities” (or any like caption) on a consolidated balance sheet of the Loan Parties at such date, but excluding the current portion of any Funded Debt, the current portion of interest expense (other than interest expense that is due and unpaid) and the current portion of current and deferred Taxes based upon income or profits of the Loan Parties.

“Consolidated EBITDA”: for any period, for Holdings, the Borrower and the Restricted Subsidiaries on a consolidated basis, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following, in each case, to the extent deducted (and not added back) in calculating such Consolidated Net Income:

- (i) provisions for Taxes based on income or profits or capital, plus franchise or similar taxes and foreign withholding taxes;
- (ii) interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Term Loans) for such period;
- (iii) depreciation and amortization expense;
- (iv) non-cash stock-based compensation expense for such period;
- (v) all extraordinary, unusual or nonrecurring cash expenses and charges for such period;
- (vi) non-cash purchase accounting adjustments;
- (vii) costs and expenses incurred in connection with the Transactions;
- (viii) any net loss from disposed or discontinued operations;



- (ix) all customary costs and expenses incurred or paid in connection with Investments (including Permitted Acquisitions) whether or not such Investment is consummated;
- (x) the amount of any minority interest expense (or income (loss) allocable to noncontrolling interests) consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly-owned Restricted Subsidiary of Holdings;
- (xi) all customary costs and expenses incurred in connection with the issuance, prepayment or amendment or refinancing of Indebtedness permitted hereunder or issuance of Capital Stock;
- (xii) other expenses reducing such Consolidated Net Income which do not represent a cash item in such period (but excluding any such charge which requires an accrual of, or a cash reserve for, anticipated cash charges in any future period);
- (xiii) the aggregate net loss on the Disposition of property (other than accounts (as defined in the Uniform Commercial Code) and inventory) outside the ordinary course of business;
- (xiv) the amount of net cost savings and synergies projected by the Borrower in good faith as a result of actions taken or committed to be taken (including pursuant to internal procedures) no later than twelve (12) months following the end of such period (calculated on a *pro forma* basis as though such cost savings and synergies had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; *provided* that (A) such cost savings and synergies are reasonably identifiable and factually supportable, (B) no cost savings shall be added pursuant to this clause (xiv) to the extent duplicative of any such expenses or changes that are included in clauses (v), (viii), (xii) and (xiii) above and clause (xvi) below with respect to such period, and (C) the benefits resulting therefrom are anticipated by the Borrower to be realized commencing not later than twelve (12) months of such actions having been taken, or having been committed to be taken; and *provided, further*, that the aggregate amount of net cost savings and synergies resulting from the Transactions that are added back pursuant to this clause (xiv) shall not exceed \$20,000,000 in the aggregate in any period;
- (xv) any expenses or charge for such period to the extent covered by, and actually reimbursed by, the insurer within 180 days with respect to any business interruption insurance or similar insurance of Holdings, the Borrower or any Restricted Subsidiary in respect thereof; and
- (xvi) the actual amount of any restructuring charges, integration and facilities opening costs or other business optimization expenses (including cost and expenses relating to business optimization programs and new systems design and implementation costs) and project start-up costs; *provided* that no such restructuring charges, integration or optimization expenses shall be added pursuant to this clause (xvi), to the extent they are duplicative of any such expenses or changes that are included in clauses (v), (viii), (xii), (xiii) and (xiv) above;

less (b) the following to the extent added in calculating such Consolidated Net Income of the Loan Parties:

- (A) all interest income for such period,
- (B) all Tax benefits for such period to the extent not netted in determining the amount for clause (a)(i) above,
- (C) non-cash purchase accounting adjustments,

(D) (i) the aggregate net gain from the Disposition of property (other than accounts (as defined in the Uniform Commercial Code) and inventory) outside the ordinary course of business, (ii) any net gain from disposed or discontinued operations, (iii) all extraordinary, unusual or nonrecurring gains for such period, and (iv) all non-cash items increasing Consolidated Net Income which do not represent a cash item in such period or any future period (but excluding any such items (x) in respect of which cash was received in a prior period or will be received in a future period or (y) which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period), and

(E) the amount of minority interest income (or income (loss) allocable to noncontrolling interests) consisting of Subsidiary loss attributable to minority equity interests of third parties in any non-wholly owned Restricted Subsidiary of Holdings.

For the purposes of calculating Consolidated EBITDA for any period of four consecutive fiscal quarters (each, a “Reference Period”) pursuant to any determination hereunder, (x) if at any time during such Reference Period any Group Member shall have made any Asset Sale, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Asset Sale for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period, in each case assuming the repayment of Indebtedness in connection therewith occurred as of the first day of such Reference Period and (y) if during such Reference Period any Group Member shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving *pro forma* effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. For purposes of determining Consolidated EBITDA under this Agreement, Consolidated EBITDA shall be deemed to be \$6,200,000, \$25,700,000, \$27,000,000 and \$21,300,000 for the fiscal quarters ended June 30, 2010, September 30, 2010, December 31, 2010 and March 31, 2011, respectively.

As used in this definition only, “Material Acquisition” means the Acquisition (if consummated) and any other acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person.

“Consolidated Funded Debt”: at any date, the aggregate principal amount of all Indebtedness of the type described in clauses (a), (b) (to the extent of Earn-Out Obligations and other similar obligations), (c), (e), (f) (to the extent of any unreimbursed drawings), (g) and (h) of the definition of such term of the Loan Parties at such date, determined on a consolidated basis in accordance with GAAP.

“Consolidated Leverage Ratio”: at any date, the ratio of (a) Consolidated Funded Debt as of such date minus the aggregate amount of cash and Cash Equivalents not to exceed \$50,000,000 (in each case, free and clear of all Liens other than non-consensual liens permitted by Section 7.2 or other Liens permitted by Sections 7.2(h) or 7.2(w) included in the consolidated balance sheet of Holdings, the Borrower and the Restricted Subsidiaries as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters ended on such date.

“Consolidated Net Income”: for any period, the consolidated net income (or loss) of Holdings, the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP; (a) the undistributed earnings of any Subsidiary of Holdings that is not a Loan Party or a direct or indirect parent entity of the Borrower to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Loan Document), its Organizational Documents or Requirement of Law applicable to such Subsidiary shall be excluded; (b) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period shall be excluded; (c) effects of adjustments in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transaction, net of taxes, shall be excluded *provided* that this clause (c) shall not include the recognition of deferred revenue for any period subsequent to the Closing Date; (d) any after-tax effect of income (loss) from the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments, in each case, solely to the extent permitted under this Agreement shall be excluded; (e) any fees, expenses or charges incurred during such period, or any amortization thereof for such period, in connection with any Permitted Acquisition, Investment, Disposition, incurrence or repayment of Indebtedness (including such fees, expenses or charges related to the Term Loans), issuance of Qualified Capital Stock, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of the Term Loans and any credit facilities) and including, in each case, any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful, in each case, solely to the extent permitted under this Agreement, shall be excluded; (f) losses or gains on asset sales (other than asset sales made in the ordinary course of business) shall be excluded (but solely to the extent such sales are permitted under this Agreement), and (g) the following items shall be excluded, in each case, solely to the extent permitted under this Agreement: (i) any net unrealized gain or loss (after any offset) resulting in such period from obligations under any Hedge Agreements and the application of Statement of Financial Accounting Standards No. 133; and (ii) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses including those (x) related to currency remeasurements of Indebtedness and (y) resulting from Hedge Agreements for currency exchange risk. In addition, to the extent not already included, Consolidated Net Income shall include the amount of proceeds received from business interruption insurance.

“Consolidated Total Assets”: means, as of the date of any determination thereof, total assets of Holdings, the Borrower and the Restricted Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

“Consolidated Working Capital”: at any date, the excess of Consolidated Current Assets on such date over Consolidated Current Liabilities on such date.

“Contractual Obligation”: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control Agreement”: shall have the meaning assigned to such term in the Guaranty and Collateral Agreement.

“Corporate Family Rating”: an opinion issued by Moody’s of a corporate family’s ability to honor all of its financial obligations that is assigned to a corporate family as if it had a single class of debt and a single consolidated legal entity structure.

“Corporate Rating”: an opinion issued by S&P of an obligor’s overall financial capacity (its creditworthiness) to pay its financial obligations.

“Debentures”: the Second Lien Irish law security documents to be entered into by Holdings, Intermediate Holdco and any other Subsidiary Guarantor that is not a CFC incorporated in Ireland or which has an interest in material property, assets or rights which are governed by Irish law or which are situated or deemed to be situated in Ireland, in favor of, or for the benefit of, the Collateral Agent for the benefit of the Secured Parties, which shall be in a form reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Default”: any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Defaulting Lender”: at any time, any Lender (a) that has failed for to comply with its obligations under Section 2.1 of this Agreement (a “funding obligation”), (b) that has notified the Administrative Agent or the Borrower, or has stated publicly, that it will not comply with any such funding obligation hereunder, (c) that has failed to confirm in writing to the Administrative Agent, in response to a written request of the Administrative Agent, that it will comply with its funding obligations hereunder, or (d) with respect to which a Lender Insolvency Event has occurred and is continuing; *provided* that (i) the Administrative Agent and the Borrower may declare (A) by joint notice to the Lenders that a Defaulting Lender is no longer a “Defaulting Lender” or (B) that a Lender is not a Defaulting Lender if in the case of both clauses (a) and (b) the Administrative Agent and the Borrower each determines, in its reasonable discretion, that (x) the circumstances that resulted in such Lender becoming a “Defaulting Lender” no longer apply or (y) it is satisfied that such Lender will continue to perform its funding obligations hereunder and (ii) a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of voting stock or any other equity interest in such Lender or a parent company thereof by a Governmental Authority or an instrumentality thereof unless such ownership or acquisition results in or provides such Lender with immunity from the jurisdiction of the courts within the United States from the enforcement of judgments, writs of attachment on its assets or permits such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Lender. The Administrative Agent will promptly send to all parties hereto a notice when it becomes aware that a Lender is a Defaulting Lender.

“Discharge of First Lien Obligations”: as defined in the Intercreditor Agreement.

“Disposition”: with respect to any Property, any sale, lease, Exclusive License, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms “Dispose” and “Disposed of” shall have correlative meanings.

“Disqualified Capital Stock”: any Capital Stock that is not Qualified Capital Stock.

“Disqualified Institution”: a company that is primarily engaged in the development, manufacture, marketing and commercialization of biotechnology and/or pharmaceuticals or any of its Affiliates (other than any Affiliate of such Disqualified Institution that is a bona fide debt fund of a private equity firm that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course).

“Dollars” and “\$”: dollars in lawful currency of the United States.

“Domestic Subsidiary”: any Subsidiary that is a “United States Person,” as defined in the Code, other than a CFC.

“Earn-Out Obligations”: those certain unsecured obligations of Holdings or any Subsidiary arising in connection with any acquisition of assets or businesses permitted under Section 7.6 to the seller of such assets or businesses and the payment of which is dependent on the future earnings or performance of such assets or businesses and contained in the agreement relating to such acquisition or in an employment agreement delivered in connection therewith.

“ECF Percentage”: 50%; *provided* that, with respect to each fiscal year of the Borrower commencing with the fiscal year ending March 31, 2012, the ECF Percentage shall be reduced to (a) 25% if the Consolidated Leverage Ratio as of the last day of such fiscal year is less than 3.00 to 1.00 but greater than or equal to 2.00 to 1.00 and (b) 0% if the Consolidated Leverage Ratio as of the last day of such fiscal year is less than 2.00 to 1.00.

“Elan”: as defined in the recitals to this Agreement.

“Elan Entities”: has the meaning set forth in the Acquisition Agreement.

“Eligible Assignee”: any Assignee permitted by and consented to in accordance with Section 10.6(b); *provided* that notwithstanding the foregoing, “Eligible Assignee” shall not include a Disqualified Institution.

“Environment”: ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata, and natural resources such as wetlands, flora and fauna.

“Environmental Laws”: any and all applicable foreign, federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) relating to pollution or protection of the Environment, including those relating to use, generation, storage, treatment, transport, Release or threat of Release of Materials of Environmental Concern, or to protection of human or animal health or safety (to the extent relating to exposure to Materials of Environmental Concern), as now or may at any time hereafter be in effect.

“ERISA”: the Employee Retirement Income Security Act of 1974, and the regulations promulgated and rulings issued under it, as all may be amended from time to time.

“Euro” and the designation “€” shall mean the single currency of the participating member states of the European Union.

“Eurocurrency Reserve Requirements”: for any day as applied to a LIBOR Rate Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto) dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

“Event of Default”: any of the events specified in Section 8; *provided* that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Excess Cash Flow”: for any fiscal year of the Borrower, the excess, if any, of:

(a) the sum, without duplication, of:

- (i) Consolidated Net Income for such fiscal year;
- (ii) the amount of all non-cash charges (including depreciation and amortization) deducted in arriving at such Consolidated Net Income;
- (iii) decreases in Consolidated Working Capital for such fiscal year; and
- (iv) the aggregate net amount of non-cash loss on the Disposition of Property by Holdings, the Borrower and the Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business), to the extent deducted in arriving at such Consolidated Net Income minus

(b) the sum, without duplication, of:

- (i) the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges included in clauses (a) through (f) of the definition of Consolidated Net Income;
- (ii) the aggregate amount actually paid by Holdings, the Borrower and the Restricted Subsidiaries in cash during such fiscal year on account of Capital Expenditures and permitted Investments (including Permitted Acquisitions);
- (iii) (x) the aggregate amount of all principal payments of Consolidated Funded Debt (including the Term Loans) and (y) all mandatory prepayments of Loans pursuant to Section 3.2, in each case, of Holdings, the Borrower and the Restricted Subsidiaries made during such fiscal year;
- (iv) increases in Consolidated Working Capital for such fiscal year;
- (v) the aggregate net amount of non-cash gain on the Disposition of Property by Holdings, the Borrower and the Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business);
- (vi) cash payments by Holdings, the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of Holdings, the Borrower and the Restricted Subsidiaries other than Indebtedness;
- (vii) Restricted Payments made by Holdings in cash to holders of its common equity from Internally Generated Cash;
- (viii) the amount of cash income Taxes actually paid in such period to the extent they exceed the amount of Tax expense deducted in determining Consolidated Net Income for such period;
- (ix) fees, expenses or charges paid in cash related to any permitted Investments (including Permitted Acquisitions), the issuance, payment, amendment or refinancing of Indebtedness permitted under Section 7.1 hereof and the issuance of Capital Stock and Dispositions permitted under Section 7.4 hereof; and
- (x) any premium paid in cash during such period in connection with the prepayment, redemption, purchase, defeasance or other satisfaction prior to scheduled maturity of Indebtedness permitted to be prepaid, redeemed, purchased, defeased or satisfied hereunder;
- (xi) without duplication of amounts deducted in prior periods (A) the aggregate consideration required to be paid in cash by a Group Member pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period relating to Permitted Acquisitions or (B) any planned cash expenditures by Holdings, the Borrower or any of the Restricted Subsidiaries relating to Capital Expenditures or acquisitions of intellectual property (the "Planned Expenditures"), in each case to be consummated or made during the period of four consecutive fiscal quarters of Holdings following the end of such period; *provided* that, to the extent the aggregate amount of such Permitted Acquisitions, Capital Expenditures or acquisitions of intellectual property actually made during such period of four consecutive fiscal quarters is less than the Contract Consideration and the Planned Expenditures, as applicable, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters;

provided that the amounts referenced in clauses (ii), (iii)(y) and (vi) of this paragraph (b) shall not be included in this paragraph (b) and have the effect of reducing Excess Cash Flow to the extent such amounts were funded out of proceeds of Funded Debt.

“Excess Cash Flow Application Date”: as defined in Section 3.2(c).

“Excess Cash Flow Payment Period”: (a) with respect to the prepayment required on the first Excess Cash Flow Application Date, the period from the Closing Date to March 31, 2012 (taken as one accounting period) and (b) with respect to the prepayment required on each successive Excess Cash Flow Application Date, the immediately preceding fiscal year of the Borrower.

“Exchange Act”: the Securities Exchange Act of 1934, as amended.

“Excluded Indebtedness”: all Indebtedness permitted by Section 7.1.

“Excluded Taxes”: with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) Taxes imposed on or measured by its net income or net profits (however denominated, franchise Taxes imposed on it in lieu of net income Taxes and branch profits (or similar) Taxes imposed on it, in each case, by any jurisdiction (or any political subdivision thereof) (i) as a result of the recipient being organized or having its principal office or, in the case of any Lender, its applicable lending office in such jurisdiction, or (ii) as a result of any other present or former connection between such recipient and such jurisdiction (other than a connection arising primarily as a result of the execution, delivery, or performance by the recipient of its obligations under the Loan Documents, receipt of payments under the Loan Documents or enforcement of rights under the Loan Documents), (b) any U.S. federal withholding Tax that (i) is imposed on amounts payable to a Lender under any laws in effect at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that, in the case where a Lender designated a new lending office, such Lender, or in the case of an assignment, the assignor, was entitled, immediately prior to the time of designation of a new lending office or assignment as the case may be, to receive additional amounts from the Borrower with respect to such Tax pursuant to Section 3.10(a); or (ii) is attributable to such Lender’s failure to comply with Section 3.10(e) and (c) any United States federal withholding Tax that is imposed pursuant to FATCA.

“Exclusive License”: means any license by a Person of its owned Intellectual Property to a third party for a term greater than two (2) years and which provides such licensee exclusive rights to exploit such Intellectual Property.



“Extension”: as defined in Section 3.16.

“Extension Loan”: as defined in Section 3.16.

“Extension Offer”: as defined in Section 3.16.

“FATCA”: current Sections 1471 through 1474 of the Code and any amended or successor version that is substantively comparable and any current or future Treasury regulations or other official administrative guidance (including any Revenue Ruling, Revenue Procedure, Notice or similar guidance issued by the IRS) promulgated thereunder.

“Federal Funds Effective Rate”: for any day, the rate per annum equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent in a commercially reasonable manner.

“Fee Letter”: that certain Fee Letter, dated as of May 9, 2011, among the Borrower, Morgan Stanley Senior Funding, Inc., HSBC Securities (USA) Inc. and HSBC Bank USA, N.A.

“FEMA”: the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

“First Lien Administrative Agent”: Morgan Stanley Senior Funding, Inc., in its capacity as administrative agent for the lenders under the First Lien Loan Documents or any successor agent.

“First Lien Collateral Agent”: Morgan Stanley Senior Funding, Inc., in its capacity as collateral agent for the lenders under the First Lien Loan Documents or any successor agent.

“First Lien Credit Agreement”: the First Lien Credit Agreement dated as of the date hereof among Holdings, the Borrower, the First Lien Administrative Agent, the First Lien Collateral Agent, the various lenders from time to time party thereto and the other parties thereto, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“First Lien Loan Documents”: the First Lien Credit Agreement and the related guarantees, security agreements, mortgages, notes and other agreements and instruments entered into from time to time in connection with the First Lien Credit Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“First Lien Loans”: the loans under the First Lien Credit Agreement.

“First Lien Obligations”: all “Obligations” as defined in the First Lien Credit Agreement.

“First Lien Secured Parties”: as defined in the Intercreditor Agreement.

“Flood Insurance Laws”: collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

“Foreign Lender”: any Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“Foreign Pledge Agreement”: a pledge or charge agreement with respect to any Collateral that constitutes Capital Stock of a Foreign Subsidiary, in form and substance reasonably satisfactory to the Administrative Agent; *provided* that no pledge or charge agreement shall be provided with respect to the Capital Stock of a Subsidiary of the Borrower that is a CFC except for a pledge of no more than 65% of the voting Capital Stock of such CFC (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof).

“Foreign Security Document”: as defined in Section 4.19.

“Foreign Subsidiary”: any Subsidiary of Holdings that is not a Domestic Subsidiary.

“Funded Debt”: as to any Person, without duplication, (a) all Indebtedness of the type described in clauses (a), (b) (to the extent of Earn-Out Obligations and other similar obligations), (c), (e), (f) (to the extent of any unreimbursed drawings thereunder) and (h) and (b) Indebtedness of the type described in clause (g) of the definition of such term of such Person that matures more than one (1) year from the date of its creation or matures within one (1) year from such date but is renewable or extendible, at the option of such Person, to a date more than one (1) year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one (1) year from such date, including all current maturities and current sinking fund payments in respect of such Indebtedness whether or not required to be paid within one year from the date of its creation and, in the case of the Borrower, Indebtedness in respect of the Term Loans.

“Funding Office”: the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

“GAAP”: generally accepted accounting principles in the United States as in effect from time to time subject to Section 1.2(e).

**“Governmental Authority”**: any nation or government, any state or other political subdivision thereof, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government (including any supranational bodies such as the European Union or the European Central Bank) and any securities exchange.

**“Governmental Authorization”**: all laws, rules, regulations, authorizations, consents, decrees, permits, licenses, waivers, privileges, approvals from and filings with all Governmental Authorities necessary in connection with any Group Member’s business.

**“Group Members”**: the collective reference to Holdings, the Borrower and the Restricted Subsidiaries.

**“Guarantee and Collateral Agreement”**: the Second Lien Guarantee and Collateral Agreement to be executed and delivered by the Borrower and each other Loan Party that is a party thereto, substantially in the form of Exhibit C.

**“Guarantee Obligation”**: as to any Person (the “guaranteeing person”), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; *provided*, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person’s maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

**“Guarantors”**: collectively, Holdings and the Subsidiary Guarantors.

**“Health Care Laws”**: any and all applicable current and future treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by the Food and Drug Administration, the Center for Medicare and Medicaid Services, the Department of Health and Human Services (“HHS”), the Office of Inspector General of HHS, the Drug Enforcement Administration or any other Governmental Authority (including any professional licensing laws, certificate of need laws and state reimbursement laws), relating in any way to the manufacture, distribution, marketing, sale, supply or other disposition of any product or service of Holdings or any of its Restricted Subsidiaries, the conduct of the business of Holdings or any of its Restricted Subsidiaries, the provision of health care services generally, or to any relationship among Holdings and its Restricted Subsidiaries, on the one hand, and their suppliers and customers and patients and other end-users of their products and services, on the other hand.

“Hedge Agreements”: any agreement with respect to any cap, swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Hedge Agreement.

“Holdco”: as defined in the preamble to this Agreement.

“Holdings”: as defined in the preamble to this Agreement.

“IFRS” means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

“Immaterial Subsidiary”: any Subsidiary now existing or hereafter acquired or formed and each successor thereto, (a) which accounts for not more than the lesser of 5% of (i) the consolidated gross revenues (after intercompany eliminations) of Holdings, the Borrower and the Restricted Subsidiaries and (ii) the consolidated assets (after intercompany eliminations) of Holdings, the Borrower and the Restricted Subsidiaries, in each case, as of the last day of the most recently completed fiscal quarter as reflected on the financial statements for such quarter after giving *pro forma* effect to the Acquisition, and (b) if the Subsidiaries that constitute Immaterial Subsidiaries pursuant to clause (a) above account for, in the aggregate, more than the lesser of (i) 10% of such consolidated gross revenues (after intercompany eliminations) and (ii) 10% of the consolidated assets (after intercompany eliminations), each as described in clause (b) above, then the term “Immaterial Subsidiary” shall not include each such Subsidiary (starting with the Subsidiary that accounts for the most consolidated gross revenues or consolidated assets and then in descending order) necessary to account for at least 90% of the consolidated gross revenues and 90% of the consolidated assets, each as described in clause (b) above.

“Increase Term Joinder”: as defined in Section 2.4(c).

“Incremental Lender”: any Person that makes a Term Loan pursuant to Section 2.4 or has a commitment to make an Incremental Term Loan pursuant to Section 2.4.

“Incremental Term Facility”: as defined in Section 2.4(a).

“Incremental Term Loan Commitment”: as defined in Section 2.4(a).

“Incremental Term Loans”: as defined in Section 2.4(c).

“Indebtedness”: of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (including Earn-Out Obligations but excluding current trade payables and payroll liabilities incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) the liquidation value of all Disqualified Capital Stock of such Person, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, and (j) for the purposes of Sections 7.1 and 8(e) only, all obligations of such Person in respect of Hedge Agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor. For purposes of clause (j) above (including as such clause applies to Section 8(e)), the principal amount of Indebtedness in respect of Hedge Agreements shall equal the amount that would be payable (giving effect to netting) at such time if such Hedge Agreement were terminated. For the avoidance of doubt Indebtedness does not include compensation and benefits paid, to be paid, provided or to be provided, in the ordinary course of business and not yet overdue.

“Indemnified Liabilities”: as defined in Section 10.5(b).

“Indemnified Taxes”: (a) Taxes other than Excluded Taxes imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and, (b) to the extent not otherwise described in subsection (a), Other Taxes.

“Indemnitee”: as defined in Section 10.5(b).

“Insolvency”: with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

“Insolvent”: pertaining to a condition of Insolvency.

**“Intellectual Property”**: collectively, all United States and foreign (a) patents, patent applications, certificates of inventions, industrial designs, together with any and all inventions described and claimed therein, and reissues, divisions, continuations, extensions and continuations-in-part thereof and amendments thereto; (b) trademarks, service marks, certification marks, trade names, slogans, logos, trade dress, Internet Domain Names, and other source identifiers, whether statutory or common law, whether registered or unregistered, and whether established or registered in the United States or any other country or any political subdivision thereof, together with any and all registrations and applications for any of the foregoing, goodwill connected with the use thereof and symbolized thereby, and extensions and renewals thereof and amendments thereto; (c) copyrights (whether statutory or common law, and whether published or unpublished), copyrightable subject matter, and all mask works (as such term is defined in 17 U.S.C. Section 901, *et seq.*), together with any and all registrations and applications therefor, and renewals and extensions thereof and amendments thereto; (d) rights in computer programs (whether in source code, object code, or other form), algorithms, databases, compilations and data, technology supporting the foregoing, and all documentation, including user manuals and training materials, related to any of the foregoing (“**Software**”); (e) trade secrets and proprietary or confidential information, data and databases, know-how and proprietary processes, designs, inventions, and any other similar intangible rights, to the extent not covered by the foregoing, whether statutory or common law, whether registered or unregistered; (f) income, fees, royalties, damages and payments now and hereafter due and/or payable under or with respect to any of the foregoing, including, without limitation, damages, claims and payments for past, present or future infringements, misappropriations or other violations thereof; (g) rights and remedies to sue for past, present and future infringements, misappropriations and other violations of any of the foregoing; and (h) rights, priorities, and privileges corresponding to any of the foregoing or other similar intangible assets throughout the world.

**“Intellectual Property Security Agreements”**: an intellectual property security agreement or such other agreement, as applicable, pursuant to which each Loan Party which owns any Intellectual Property which is the subject of a registration or application with the United States Patent and Trademark Office or the United States Copyright Office (or, with respect to each Loan Party which owns any Intellectual Property which is the subject of a registration or application with the equivalent authority in the Republic of Ireland) grants to the Collateral Agent, for the benefit of the Secured Parties a security interest in such Intellectual Property attached hereto as Exhibit H.

**“Intercompany Note”**: the Intercompany Note to be executed and delivered by each Subsidiary of Holdings that is not a Loan Party, substantially in the form attached hereto as Exhibit I.

**“Intercreditor Agreement”**: the agreement substantially in the form of Exhibit K, dated as of the date hereof among the Collateral Agent and the First Lien Collateral Agent, as the same may be amended, modified or supplemented from time to time.

**“Interest Payment Date”**: (a) as to any ABR Loan, the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any LIBOR Rate Loan having an Interest Period of three (3) months or less, the last day of such Interest Period, and (c) as to any LIBOR Rate Loan having an Interest Period longer than three (3) months, each day that is three (3) months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period.

“Interest Period”: as to any LIBOR Rate Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such LIBOR Rate Loan and ending one, two, three or six months (or if consented to by all Lenders, nine or twelve months) thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such LIBOR Rate Loan and ending one, two, three or six months (or if consented to by all Lenders, nine or twelve months) thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent no later than 12:00 Noon, New York City time, on the date that is three (3) Business Days prior to the last day of the then current Interest Period with respect thereto; *provided* that, the initial Interest Period will commence on the Closing Date and end on December 3, 2011; *provided, further*, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period that would extend beyond the Term Loan Maturity Date; and

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month.

“Intermediate Holdco”: as defined in the preamble to this Agreement.

“Internally Generated Cash”: with respect to any period, any cash of Holdings, the Borrower or any Subsidiary Guarantor generated during such period, excluding Net Cash Proceeds and any cash constituting proceeds from an incurrence of Indebtedness, an issuance of Capital Stock or a capital contribution, in each case, except to the extent such proceeds are included as income in calculating Consolidated Net Income for such period.

“Internet Domain Names”: all Internet domain names and associated URL addresses.

“Investments”: as defined in Section 7.6.

“IP Sale”: any Disposition of any Intellectual Property (excluding in any case any such Disposition permitted by clauses (c), (e), (k) and (n) of Section 7.4) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$2,500,000.

“IRS”: the United States Internal Revenue Service.

“Junior Financing”: any Junior Indebtedness or any other Indebtedness of Holdings or any Subsidiary that is, or that is required to be, contractually subordinated in payment or lien priority to the Obligations.

“Junior Financing Documentation”: any documentation governing any Junior Financing.

“Junior Indebtedness”: Indebtedness of any Person so long as (a) such Indebtedness shall not require any amortization prior to the date that is six (6) months following the Term Loan Maturity Date; (b) the weighted average maturity of such Indebtedness shall occur after the date that is six (6) months following the Term Loan Maturity Date; (c) the mandatory prepayment provisions, affirmative and negative covenants and financial covenants shall be no more restrictive, taken as a whole, than the provisions set forth in the Loan Documents, as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower; (d) such Indebtedness is unsecured; (e) if such Indebtedness is Subordinated Indebtedness, the other terms and conditions thereof shall be satisfied; (f) if such Indebtedness is incurred by a Subsidiary that is not a Loan Party, (i) such Subsidiary shall have also provided a guarantee of the Obligations substantially on the terms set forth in the Guarantee and Collateral Agreement and (ii) if the Indebtedness being guaranteed, is subordinated to the Obligations, such guarantee, shall be subordinated to the guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness; and (g) if such Indebtedness is incurred by a Subsidiary that is not a Loan Party, subject to Section 7.6(g), such Indebtedness may be guaranteed by another Group Member.

“Key IP”: the Intellectual Property covering the products marketed under the following brand names: “AMPYRA”, “VIVITROL”, “BYDUREON”, “RISPERDAL CONSTA” and “INVEGA SUSTENNA”, and any derivative or modified products or property thereof.

“Lead Arrangers”: Morgan Stanley Senior Funding, Inc. and HSBC Securities (USA) Inc., each, in its capacity as joint lead arranger under this Agreement.

“Lender Insolvency Event”: (a) a Lender or its Parent Company is adjudicated by a Governmental Authority to be insolvent, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (b) such Lender or its Parent Company is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been appointed for such Lender or its Parent Company, or such Lender or its Parent Company has indicating its consent to or acquiescence in any such proceeding or appointment.

“Lenders”: each Term Lender and Incremental Lender.



“LIBOR”: with respect to each day during each Interest Period pertaining to a LIBOR Rate Loan, the rate per annum offered for deposits of Dollars for the applicable Interest Period that appears on Reuters Screen LIBOR01 Page as of 11:00 A.M., London, England time, two (2) Business Days prior to the first day of such Interest Period or (b) if no such offered rate exists, such rate will be the rate of interest per annum as determined by the Administrative Agent (rounded upwards, if necessary, to the nearest 1/100 of 1%) at which deposits of Dollars in immediately available funds are offered at 11:00 A.M., London, England time, two (2) Business Days prior to the first day in the applicable Interest Period by major financial institutions reasonably satisfactory to the Administrative Agent in the London interbank market for such interest period and for an amount equal or comparable to the principal amount of the Term Loans to be borrowed, converted or continued as LIBOR Rate Loans on such date of determination.

“LIBOR Rate”: with respect to each day during each Interest Period pertaining to a LIBOR Rate Loan, the rate per annum equal to the greater of (a) 1.50% (the “LIBOR Floor”) and (b) for each Interest Period following the initial Interest Period, the rate per annum determined by the Administrative Agent (rounded upward to the nearest 1/100th of 1%) by dividing (i) LIBOR for such Interest Period by (ii) 1.00 - Eurocurrency Reserve Requirements. The LIBOR Rate shall be adjusted on and as of the effective date of any change in the Eurocurrency Reserve Requirements.

“LIBOR Rate Loans”: loans the rate of interest applicable to which is based upon the LIBOR Rate.

“LIBOR Tranche”: the collective reference to LIBOR Rate Loans under a particular loan facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Lien”: means, with respect to any property or asset, (a) any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, encumbrance, charge or security interest in, on, of or with respect to such property or asset, (b) any right, title or interest of any Person (including any vendor or lessor) under any conditional sale agreement, capital lease or title retention agreement (or any capital or financing lease having substantially the same economic effect as any of the foregoing) relating to such property or asset and (c) in the case of securities (debt or equity), any purchase option, call, put or similar right of any Person with respect to such securities.

“Loan Documents”: this Agreement, the Security Documents, the Notes and the Fee Letter.

“Loan Party”: each of Holdings, the Borrower and the Subsidiary Guarantors.

“Margin Stock”: as defined in Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof.

“Material Adverse Effect”: (a) a material adverse effect upon, the business, assets, liabilities, operations or condition (financial or otherwise) of Holdings and its Subsidiaries, taken as a whole; or (b) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“Material Indebtedness”: of any Person at any date, Indebtedness the outstanding principal amount of which exceeds in the aggregate \$15,000,000.

“Materials of Environmental Concern”: any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, or any substances, materials, wastes, pollutants or contaminants in any form regulated under any Environmental Law, including asbestos and asbestos-containing materials, polychlorinated biphenyls, radon gas, radiation, and electromagnetic or radio frequency emissions.

“Maximum Rate”: as defined in Section 3.5(e).

“Merger Sub”: ANTLER ACQUISITION CORP., a corporation organized under the laws of the Commonwealth of Pennsylvania and a wholly-owned subsidiary of Holdco and to be merged with and into the Borrower.

“Moody’s”: Moody’s Investors Service, Inc.

“Mortgaged Properties”: the real properties as to which the Collateral Agent for the benefit of the Secured Parties shall be granted a Lien pursuant to the Mortgages pursuant to Section 6.10.

“Mortgages”: any mortgages and deeds of trust or any other documents creating and evidencing Liens on Mortgaged Properties made by any Loan Party in favor of, or for the benefit of, the Collateral Agent for the benefit of the Secured Parties, which shall be in a form reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Multiemployer Plan”: a Plan that is a “multiemployer” plan as defined in Section 4001(a)(3) of ERISA.

“Multiple Employer Plan” means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of any Group Member or any Commonly Controlled Entity and at least one person other than a Group Member or a Commonly Controlled Entity or (b) was so maintained and in respect of which any Group Member or a Commonly Controlled Entity could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

“Net Cash Proceeds”:

(a) in connection with any Asset Sale, IP Sale (other than in connection with any Exclusive License) or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or held in escrow or purchase price adjustment receivable or by the Disposition of any non-cash consideration received in connection therewith or otherwise, but only as and when received and net of costs, amounts and taxes set forth below), net of:

(i) attorneys' fees, accountants' fees, investment banking fees and other professional and transactional fees actually incurred in connection therewith;

(ii) amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document);

(iii) other fees and expenses actually incurred in connection therewith;

(iv) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements);

(v) amounts provided as a reserve in accordance with GAAP against any liabilities associated with the assets disposed of in an Asset Sale (including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such Asset Sale); *provided* that such amounts shall be considered Net Cash Proceeds upon release of such reserve; and

(b) in connection with any Exclusive License, the proceeds thereof in the form of cash and Cash Equivalents constituting Upfront Payments, net of:

(i) attorneys' fees, accountants' fees, investment banking fees and other professional and transactional fees actually incurred in connection therewith;

(ii) other fees and expenses actually incurred in connection therewith;

(iii) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements);

(iv) amounts provided as a reserve in accordance with GAAP against any liabilities associated with such Exclusive License (including, without limitation, against any indemnification obligations associated with such Exclusive License); *provided* that such amounts shall be considered Net Cash Proceeds upon release of such reserve; and

(c) in connection with any issuance or sale of Capital Stock, any capital contribution or any incurrence of Indebtedness, the cash proceeds received from such issuance, contribution or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

"Non-Consenting Lenders": as defined in Section 10.1.

“Non-Defaulting Lender”: at any time, a Lender that is not a Defaulting Lender.

“Non-U.S. Pension Plan”: any plan, fund or other similar program established or maintained outside the United States by a Group Member primarily for the benefit of employees of Group Members residing outside the United States, which plan, fund or other similar program provides for retirement income of such employees or a deferral of income from such employees in contemplation of retirement and is not subject to ERISA or the Code.

“Not Otherwise Applied”: with reference to any amount of proceeds of any transaction, that (a) was not required to be applied to prepay the Term Loans pursuant to Section 3.2(c) and (b) was not previously applied in determining the permissibility of a transaction under the Loan Documents where such permissibility was (or may have been) contingent on receipt of such amount or utilization of such amount for a specified purpose.

“Notes”: the collective reference to any promissory note evidencing Loans.

“Obligations”: the unpaid principal of and interest on (including interest accruing after the maturity of the Term Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any Insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Term Loans and all other obligations and liabilities of the Loan Parties to any Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to any Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

“OFAC”: as defined in Section 4.23(a).

“Offer”: as defined in Section 10.6(b).

“Offer Loans”: as defined in Section 10.6(b).

“Organizational Documents”: as to any Person, the Certificate of Incorporation, Certificate of Formation, By-Laws, Limited Liability Company Agreement, Memorandum and Articles of Association, Partnership Agreement or other similar organizational or governing documents of such Person.

“Other Taxes”: any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Outside Date”: shall mean November 9, 2011.

“Parent Company”: with respect to a Lender, the bank holding company (as defined in Board Regulation Y), if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Lender.

“Parent Entity” shall mean any of Holdings, Intermediate Holdco and Holdco and any other person of which Holdings is a Subsidiary.

“Participant”: as defined in Section 10.6(e).

“Patriot Act”: the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor entity performing similar functions).

“Perfection Certificate”: shall mean a perfection certificate in the form of Exhibit L-1 or any other form approved by the Collateral Agent, as the same shall be supplemented from time to time by a Perfection Certificate Supplement or otherwise.

“Perfection Certificate Supplement” shall mean a perfection certificate supplement in the form of Exhibit L-2 or any other form approved by the Collateral Agent.

“Permitted Acquisition”: (i) the Acquisition and (ii) any acquisition, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all or a majority of the Capital Stock of, or a business line or unit or a division of, any Person; *provided*:

- (a) immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;
- (b) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations;
- (c) in the case of the acquisition of Capital Stock, such Capital Stock shall become subject to a security interest in favor of the Collateral Agent for the benefit of the Secured Parties and the issuer of such Capital Stock shall become a Loan Party, in each case, in accordance with Section 6.10 and 6.11;
- (d) the Consolidated Leverage Ratio, in each case, calculated on a *pro forma* basis after giving effect to such acquisition as if such acquisition had occurred on the first day of the most recent period of four (4) consecutive fiscal quarters of the Borrower for which financial statements are available shall be less than 4.50:1.00;
- (e) Holdings shall have delivered to the Administrative Agent at least five (5) Business Days prior to such proposed acquisition, a Compliance Certificate evidencing compliance with clause (d) above and compliance with clause (f) below, together with all relevant financial information with respect to such acquired assets, including, in the event the Consolidated EBITDA (calculated on a pro forma basis) of the assets and property subject to such acquisition is greater than 25% of the Consolidated EBITDA (calculated on a pro forma basis) of Holdings, appropriate revisions to the Projections included in the Confidential Information Memorandum, or, if Projections have been provided pursuant to Section 6.2(b), appropriate revisions to such Projections, in each case after giving effect to such proposed acquisition (such revised projections or Projections to be accompanied by a certificate of a Responsible Officer of the Borrower stating that such revised projections or Projections are based on estimates, information and assumptions set forth therein and otherwise believed by such Responsible Officer of the Borrower to be reasonable at such time (it being recognized that such revised projections or Projections relate to future events and are not to be viewed as fact and that actual results during the period covered thereby may differ from such revised projections or Projections by a material amount)); and

(f) any Person or assets or division as acquired in accordance herewith shall be in substantially the same business or lines of business in which Holdings and/or its Subsidiaries are engaged, or are permitted to be engaged, as provided in Section 7.14, as of the time of such acquisition.

“Permitted Refinancing”: as to any Indebtedness, the incurrence of other Indebtedness to refinance, extend, renew, defease, restructure, replace or refund (collectively, “refinance”) such existing Indebtedness; *provided* that, in the case of such other Indebtedness, the following conditions are satisfied: (a) the weighted average life to maturity of such refinancing Indebtedness shall be greater than or equal to the weighted average life to maturity of the Indebtedness being refinanced; (b) the principal amount of such refinancing Indebtedness shall be less than or equal to the principal amount (including any accreted or capitalized amount) then outstanding of the Indebtedness being refinanced, plus any required premiums and other amounts paid, and fees and expenses incurred, in connection with such modification, refinancing, refunding, renewal or extension and by any amount equal to any existing commitments unutilized thereunder; (c) the respective obligor or obligors shall be the same on the refinancing Indebtedness as on the Indebtedness being refinanced; (d) the security, if any, for the refinancing Indebtedness shall be substantially the same as that for the Indebtedness being refinanced (except to the extent that less security is granted to holders of refinancing Indebtedness); and (e) the refinancing Indebtedness is subordinated to the Obligations on terms that are at least as favorable, taken as a whole, as the Indebtedness being refinanced (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower) and the holders of such refinancing Indebtedness have entered into any subordination or intercreditor agreements reasonably requested by the Administrative Agent evidencing such subordination.

“Person”: an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan that is covered by ERISA and in respect of which the Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform”: as defined in Section 6.1.

Document.  
“Pledged Company”: any Subsidiary of Holdings the Capital Stock of which is pledged to the Collateral Agent pursuant to any Security

“Pledged Equity Interests”: as defined in the Guarantee and Collateral Agreement.

“Portfolio Interest Exemption”: as defined in Section 3.10.

“Pound Sterling”: the lawful currency of the United Kingdom.

“Pro Forma Financial Statements”: as defined in Section 4.1(a).

“Projections”: as defined in Section 6.2(b).

“Properties”: as defined in Section 4.17(a).

“Property”: any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

“Purchased Interests”: has the meaning set forth in the Acquisition Agreement.

“Qualified Capital Stock”: any Capital Stock (other than warrants, rights or options referenced in the definition thereof) that either (a) does not have a maturity and is not mandatorily redeemable, or (b) by its terms (or by the terms of any employee stock option, incentive stock or other equity-based plan or arrangement under which it is issued or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (x) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (excluding any mandatory redemption resulting from an asset sale or change in control so long as no payments in respect thereof are due or owing, or otherwise required to be made, until all Obligations have been paid in full in cash), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case, at any time on or after the one hundred eighty-first day following the Term Loan Maturity Date, or (y) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock referred to in clause (x) above, in each case, at any time on or after the one hundred eighty-first day following the Term Loan Maturity Date.

“Quarterly Payment Date”: March 31, June 30, September 30 and December 31 of each year.

“Recovery Event”: any settlement of or payment in excess of \$5,000,000 in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Group Member.

“Refinanced Term Loans”: as defined in Section 10.1.

“Register”: as defined in Section 10.6(d).

“Regulation S-X”: Regulation S-X promulgated under the Securities Act.

“Regulation T”: Regulation T of the Board as in effect from time to time.

“Regulation U”: Regulation U of the Board as in effect from time to time.

“Regulation X”: Regulation X of the Board as in effect from time to time.

“Reinvestment Deferred Amount”: with respect to (i) any Reinvestment Event (other than any IP Sale), the aggregate Net Cash Proceeds and (ii) any Reinvestment Event that is an IP Sale, 75% of the aggregate Net Cash Proceeds, in each case, received by any Group Member in connection therewith that are not applied to repay the Term Loans pursuant to Section 3.2(b) as a result of the delivery of a Reinvestment Notice.

“Reinvestment Event”: any Asset Sale, IP Sale or Recovery Event in respect of which the Borrower has delivered a Reinvestment Notice.

“Reinvestment Notice”: a written notice executed by a Responsible Officer stating that no Event of Default has occurred and is continuing and that Intermediate Holdco or the Borrower, as the case may be, (directly or indirectly through a Restricted Subsidiary) intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale, IP Sale or Recovery Event to acquire or repair fixed or capital assets useful in its business (including by making Permitted Acquisitions); *provided* that in the case of an IP Sale of Key IP the proceeds from such IP Sale (a) are maintained in an account that is the subject of a Control Agreement until the earlier of (i) the Reinvestment Prepayment Date or (ii) the date on which they are applied in prepayment of the Term Loans and (b) may not be invested in any Unrestricted Subsidiary.

“Reinvestment Prepayment Amount”: with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount expended prior to the relevant Reinvestment Prepayment Date to acquire or repair fixed or capital assets useful in the Borrower’s or the Restricted Subsidiaries’ businesses (including by making Permitted Acquisitions) in accordance with the applicable Reinvestment Notice; *provided* that, in the case of an IP Sale of Key IP, such assets shall be reasonably comparable (including as to value and as to quality and amount of cash flows that are expected to be generated therefrom) as the Key IP disposed in such IP Sale, as determined by the Borrower in good faith and confirmed in a certificate of a Responsible Officer delivered to the Administrative Agent on or prior to such date.

“Reinvestment Prepayment Date”: with respect to any Reinvestment Event, the earlier of (a) the date occurring twelve (12) months (or if Intermediate Holdco, the Borrower or a Restricted Subsidiary, as the case may be has entered into a legally binding commitment to reinvest such Reinvestment Deferred Amount during such twelve (12) month period, eighteen (18) months) after such Reinvestment Event and (b) the date on which the Borrower shall have determined not to, or shall have otherwise ceased to, acquire or repair fixed or capital assets useful in the Borrower’s or the Restricted Subsidiaries’ businesses with all or any portion of the relevant Reinvestment Deferred Amount.



“Related Indemnified Person”: of an indemnified person means (a) any controlling person or controlled affiliate of such indemnified person, (b) the respective directors, officers, or employees of such indemnified person or any of its controlling persons or controlled affiliates and (c) the respective agents of such indemnified person or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such indemnified person, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this sentence pertains to a controlled affiliate or controlling person involved in the negotiation or syndication of this Agreement and the Term Loans.

“Related Party Register”: as defined in Section 10.6(d).

“Release”: any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the Environment, or into or from any building or facility.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Reorganization Transfer Agreements”: has the meaning set forth in the Acquisition Agreement.

“Replacement Term Loans”: as defined in Section 10.1.

“Reportable Event”: any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty (30) day notice period is waived pursuant to PBGC Reg. § 4043.

“Repricing Transaction”: the prepayment or refinancing of all or a portion of the Term Loans with the incurrence by any Loan Party of any long-term bank debt financing (including, without limitation, any Replacement Term Loans) incurred for the primary purpose of obtaining an effective interest cost or weighted average yield (excluding any arrangement or commitment fees in connection therewith) that is less than the interest rate for or weighted average yield of the Term Loans, including without limitation, as may be effected through any amendment to this Agreement relating to the interest rate for, or weighted average yield of, the Term Loans.

“Required Lenders”: at any time, the holders of more than 50% of the sum of (a) the aggregate unpaid principal amount of the Term Loans then outstanding and (b) the Total Term Commitments then in effect.

“Requirement of Law”: as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including, in each case, any applicable Health Care Laws.

“Responsible Officer”: the chief executive officer, president, chief financial officer, treasurer or assistant treasurer of Holdings or the Borrower (unless otherwise specified), but in any event, with respect to financial matters, the chief financial officer, treasurer or assistant treasurer of the Borrower.

“Restricted Payments”: as defined in Section 7.5.

“Restricted Subsidiary”: shall mean any Subsidiary that is not an Unrestricted Subsidiary.

“S&P”: Standard & Poor’s Ratings Services.

“SEC”: the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

“Secured Parties”: the collective reference to the Lenders and the Agents, and each of their successors and assigns.

“Securities Act”: the Securities Act of 1933, as amended.

“Security Documents”: the collective reference to the Intercreditor Agreement, the Guarantee and Collateral Agreement, the Debentures, the Mortgages (if any), the Control Agreements, the Intellectual Property Security Agreements and all other security documents hereafter delivered to the Administrative Agent or the Collateral Agent granting a Lien on any property of any Person to secure the Obligations of any Loan Party under any Loan Document.

“Senior Secured Leverage Ratio”: at any date, the ratio of (a) Consolidated Funded Debt secured by a Lien on all or any portion of the Collateral (including Indebtedness pursuant to this Agreement) to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters ended on such date.

“Single Employer Plan”: any Plan that is covered by Title IV of ERISA, but that is not a Multiemployer Plan.

“Software”: as defined in the definition of Intellectual Property.

“Solvent”: as to any Person at any time, that (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person; (b) the present fair salable value of the assets of such Person is greater than the amount that will be required to pay the probable liability of such Person on the sum of its debts and other liabilities, including contingent liabilities; (c) such Person has not, does not intend to, and does not believe (nor should it reasonably believe) that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they become due (whether at maturity or otherwise); (d) such Person does not have unreasonably small capital with which to conduct the businesses in which it is engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date; (e) it is not unable to pay its debts as they fall due; and (f) in the case of any such Person organized under the laws of the Republic of Ireland, it is not deemed unable to pay its debts as they fall due for purposes of the laws of the Republic of Ireland.

“Special Flood Hazard Area”: an area that FEMA’s current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

“specified currency”: as defined in Section 10.17.

“Stock Certificates”: Collateral consisting of certificates representing Capital Stock of any Subsidiary of Holdings for which a security interest can be perfected by delivering such certificates.

“Subordinated Indebtedness”: any unsecured Junior Indebtedness of the Borrower or a Subsidiary Guarantor the payment of principal and interest of which and other obligations of the Borrower or such Subsidiary Guarantor in respect thereof are subordinated to the prior payment in full of the Obligations on terms and conditions reasonably satisfactory to the Administrative Agent.

“Subsidiary”: as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person and, in the case of Person which is a company incorporated in Ireland, shall include a subsidiary of such Person within the meaning of Section 155 of the Companies Acts 1963 of Ireland. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of Holdings.

“Subsidiary Guarantor”: each Subsidiary of Holdings (other than the Borrower) that guarantees the Obligations pursuant to a Loan Document or pursuant to Section 6.10.

“Survey”: a survey of any Mortgaged Property (and all improvements thereon) which is (a) (i) prepared by a surveyor or engineer licensed to perform surveys in the jurisdiction where such Mortgaged Property is located, (ii) dated (or redated) not earlier than six months prior to the date of delivery thereof unless there shall have occurred within six months prior to such date of delivery any exterior construction on the site of such Mortgaged Property or any easement, right of way or other interest in the Mortgaged Property has been granted or become effective through operation of law or otherwise with respect to such Mortgaged Property which, in either case, can be depicted on a survey, in which events, as applicable, such survey shall be dated (or redated) after the completion of such construction or if such construction shall not have been completed as of such date of delivery, not earlier than 20 days prior to such date of delivery, or after the grant or effectiveness of any such easement, right of way or other interest in the Mortgaged Property, *provided* that the Borrower shall have a reasonable amount of time to deliver such redated survey, (iii) certified by the surveyor (in a manner reasonably acceptable to the Administrative Agent) to the Administrative Agent, the Collateral Agent and the Title Company, (iv) complying in all respects with the minimum detail requirements of the American Land Title Association as such requirements are in effect on the date of preparation of such survey and (v) sufficient for the Title Company to remove all standard survey exceptions from the title insurance policy (or commitment) relating to such Mortgaged Property and issue customary endorsements or (b) otherwise acceptable to the Collateral Agent.

“Swiss Franc”: the lawful currency of Switzerland.

“Syndication Agent(s)”: as defined in the preamble to this Agreement.

“Syndication Date”: the date on which the Lead Arrangers complete a Successful Syndication (as defined in the Fee Letter) of the Term Loans and the entities selected in such syndication process become parties to this Agreement.

“Taxes”: taxes, levies, imposts, duties, charges, fees, deductions or withholdings imposed by any Governmental Authority, and any interest, penalties or additions to tax imposed with respect thereto.

“Tax Status Certificate”: as defined in Section 3.10.

“Term Commitment”: as to any Lender, the obligation of such Lender, if any, to make a Term Loan to the Borrower hereunder in a principal amount not to exceed the amount set forth on Schedule 1.1 or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original aggregate amount of the Term Commitments is \$140,000,000.

“Term Facility”: the Term Commitments and the Term Loans made thereunder.

“Term Lender”: each Lender that has a Term Commitment or that holds a Term Loan.

“Term Loan”: as defined in Section 2.1, together with any Incremental Term Loans, if applicable.

“Term Loan Increase Effective Date”: as defined in Section 2.4(a).

“Term Loan Maturity Date”: the date that is seven (7) years after the Closing Date.

“Term Percentage”: as to any Lender at any time, the percentage which such Lender’s Term Commitment then constitutes of the aggregate Term Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender’s Term Loans then outstanding constitutes the aggregate principal amount of the Term Loans then outstanding).

“Ticking Fee”: as defined in Section 2.5(b).

“Title Company”: any title insurance company as shall be retained by Borrower and reasonably acceptable to the Administrative Agent.

“Total Term Commitments”: at any time, the aggregate amount of the Term Commitments then in effect.

“Transaction”: collectively, (a) the consummation of the Acquisition and the Cash Contribution, (b) the borrowing of the Term Loans on the Closing Date, (c) the borrowing of the First Lien Loans on the Closing Date and (d) the other transactions contemplated by the Loan Documents.

“Transferee”: any Assignee or Participant.

“Type”: as to any Term Loan, its nature as an ABR Loan or a LIBOR Rate Loan.

“UCC Filing Collateral”: Collateral consisting solely of assets for which a security interest can be perfected by filing a Uniform Commercial Code financing statement.

“Unasserted Contingent Obligations”: as defined in the Guarantee and Collateral Agreement.

“United States”: the United States of America.

“Unrestricted Subsidiary”: means any Subsidiary designated by the board of directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.16, in each case, until such Person ceases to be Unrestricted Subsidiary in accordance with Section 6.16 or ceases to be a Subsidiary.

“Upfront Payment”: means, for any Exclusive License, the aggregate cash payment paid to any Group Member on or prior to the consummation of the Exclusive License (and which, for the avoidance of doubt, shall not include any royalty, earnout, milestone payment, contingent payment or any other deferred payment that may be payable thereafter.)

“U.S. GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States.

“Voluntary Prepayment”: a prepayment of the Term Loans and the First Lien Loans.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly Owned Subsidiary”: as to any Person, any other Person, all of the Capital Stock of which (other than directors’ qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

## 1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation,” (iii) the word “incur” shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words “incurred” and “incurrence” shall have correlative meanings), (iv) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time (subject to any applicable restrictions hereunder), (vi) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (vii) any references herein to any Person shall be construed to include such Person’s successors and assigns.

(c) The words “hereof,” “herein” 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, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(e) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP in effect as of the date hereof; *provided* that, if either the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then the Administrative Agent, the Borrower and the Lenders shall negotiate in good faith to amend such provision to preserve the original intent in light of the change in GAAP; *provided* that such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(f) When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be; *provided* that, with respect to any payment of interest on or principal of LIBOR Rate Loans, if such extension would cause any such payment to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

## SECTION 2. AMOUNT AND TERMS OF TERM COMMITMENTS

2.1 **Term Commitments.** Subject to the terms and conditions hereof, each Lender severally agrees to make a term loan (a "Term Loan") to the Borrower on the Closing Date in an amount not to exceed the amount of the Term Commitment of such Lender. The Term Loans may from time to time be LIBOR Rate Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 3.3.

2.2 **Procedure for Term Loan Borrowing.** The Borrower shall give the Administrative Agent irrevocable notice in the form annexed hereto as Exhibit B (which notice must be received by the Administrative Agent prior to 12:00 Noon, New York City time, at least 1 Business Day prior to the anticipated Closing Date) requesting that the applicable Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. Upon receipt of such notice the Administrative Agent shall promptly notify each applicable Lender thereof. Not later than 12:00 Noon, New York City time, on the Closing Date, each Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall make the proceeds of such Term Loan or Term Loans available to the Borrower on such Borrowing Date by wire transfer in immediately available funds to a bank account designated in writing by the Borrower to the Administrative Agent.

2.3 **Repayment of Term Loans.** The principal amount of the Term Loans and all other Obligations under or in respect of the Term Loans shall be due and payable in full, if not earlier in accordance with this Agreement, on the Term Loan Maturity Date.

### 2.4 Incremental Term Loans.

(a) **Borrower Request.** The Borrower may at any time and from time to time after the Closing Date by written notice to the Administrative Agent elect to request the establishment of one or more new term loan facilities (each, an "Incremental Term Facility") with term loan commitments (each, an "Incremental Term Loan Commitment") in an aggregate amount not to exceed the greater of (a) \$50,000,000 and (b) such amount as will not cause the Senior Secured Leverage Ratio as of the date of the most recent financial statements delivered pursuant to Section 6.1(a) or (b) to be greater than 4.25:1.00, on a *pro forma* basis after giving effect to the incurrence thereof and the application of proceeds therefrom, and in minimum increments of \$10,000,000. Each such notice shall specify (i) the date (each, a "Term Loan Increase Effective Date") on which the Borrower proposes that the Incremental Term Loan Commitment shall be effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each Person (which, if not a Lender, an Approved Fund or an Affiliate of a Lender, shall be reasonably satisfactory to the Administrative Agent) to whom the Borrower proposes any portion of such Incremental Term Loan Commitment be allocated and the amounts of such allocations (it being understood that no existing Lender will have an obligation to make a portion of any Incremental Term Loan).

(b) Conditions. The Incremental Term Loan Commitment shall become effective, as of such Term Loan Increase Effective Date; *provided that*:

(i) each of the conditions set forth in Section 5.2 shall be satisfied;

(ii) no Default or Event of Default shall have occurred or be continuing or would result from the borrowings to be made on the Term Loan Increase Effective Date; and

(iii) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(c) Terms of Incremental Term Loans and Incremental Term Loan Commitments. The terms and provisions of the Incremental Term Loans made pursuant to the Incremental Term Loan Commitments shall be as follows:

(i) terms and provisions of Loans made pursuant to Incremental Term Loan Commitments (the "Incremental Term Loans") shall be on terms consistent with the existing Term Loans (except as otherwise set forth herein) and, to the extent not consistent with such existing Term Loans, on terms reasonably acceptable to the Administrative Agent (except as otherwise set forth herein) (it being understood that Incremental Term Loans may be part of the existing tranche of Term Loans or may comprise one or more new tranches of Term Loans);

(ii) the weighted average life to maturity of all new Incremental Term Loans shall be no shorter than the remaining weighted average life to maturity of the existing Term Loans;

(iii) the maturity date of Incremental Term Loans shall not be earlier than the Term Loan Maturity Date; and

(iv) the applicable yield for the Incremental Term Loans shall be determined by the Borrower and the applicable new Lenders; *provided*, however, that the applicable yield (which, for such purposes only, shall be deemed to include all upfront or similar fees, original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) or LIBOR Rate or ABR "floors" (with any increase in such floors being equated to an increase in interest rate) payable to all Lenders providing such Incremental Term Loans, but shall exclude customary arrangement fees payable to any arranger in connection with the Incremental Term Loans) for the Incremental Term Loans shall not be greater than the highest applicable yield that may, under any circumstances, be payable with respect to Term Loans plus 50 basis points, except to the extent that the applicable yield applicable to the Term Loans is increased to the extent necessary to achieve the foregoing.



The Incremental Term Loan Commitments shall be effected by a joinder agreement (the "Increase Term Joinder") executed by the Borrower, the Administrative Agent and each Incremental Lender making such Incremental Term Loan Commitment, in form and substance reasonably satisfactory to each of them. The Increase Term Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.4. In addition, unless otherwise specifically provided herein, all references in the Loan Documents to Term Loans shall be deemed, unless the context otherwise requires, to include references to Incremental Term Loans that are Term Loans made pursuant to this Agreement.

(d) **Making of Incremental Term Loans.** On any Term Loan Increase Effective Date on which Incremental Term Loan Commitments are effective, subject to the satisfaction of the foregoing terms and conditions, each Incremental Lender of such Incremental Term Loan Commitment shall make an Incremental Term Loan to the Borrower in an amount equal to its Incremental Term Loan Commitment.

(e) **Equal and Ratable Benefit.** The Incremental Term Loans and Incremental Term Loan Commitments established pursuant to this Section 2.4 shall constitute Term Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from security interests created by the Security Documents and the guarantees of the Guarantors. The Loan Parties shall take any actions reasonably required by the Administrative Agent to ensure and/or demonstrate that the Lien and security interests granted by the Security Documents continue to be perfected under the Uniform Commercial Code or otherwise after giving effect to the establishment of any such class of Incremental Term Loans or any such Incremental Term Loan Commitments.

## 2.5 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at times specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(b) Ticking Fee. For the period commencing from and after July 1, 2011 to and including the Closing Date, the Borrower shall pay to the Administrative Agent, for the account of each Lender in accordance with its Pro Rata Share, a ticking fee (the "Ticking Fee") equal to the product of (i) a rate per annum equal to the Applicable Margin for a LIBOR Rate Loan times (ii) the Term Commitments. The Ticking Fee shall accrue at all times during the period from and after July 1, 2011 to and including the Closing Date and shall be due and payable on the Closing Date.

### SECTION 3. GENERAL PROVISIONS APPLICABLE TO LOANS

3.1 Optional Prepayments; Optional Prepayment Premium. (a) Subject to the terms of the First Lien Loan Documents and the Intercreditor Agreement, the Borrower may at any time and from time to time prepay the Term Loans, in whole or in part, without premium or penalty (other than as set forth in Section 3.2(d) below), upon irrevocable notice delivered to the Administrative Agent no later than 12:00 Noon, New York City time, three (3) Business Days prior thereto, in the case of LIBOR Rate Loans, and no later than 12:00 Noon, New York City time, one (1) Business Day prior thereto, in the case of ABR Loans, which notice shall specify the date and amount of prepayment, whether the prepayment is of LIBOR Rate Loans or ABR Loans and the manner in which such prepayment is to be applied to the Term Loans; *provided*, that if a LIBOR Rate Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 3.11. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Partial prepayments of LIBOR Rate Loans shall be in an aggregate principal amount of \$500,000 or integral multiples of \$100,000 in excess thereof. Partial prepayments of ABR Loans shall be in an aggregate principal amount of \$250,000 or integral multiples of \$100,000 in excess thereof. Notwithstanding the foregoing, a notice of prepayment delivered by Borrower in accordance with this Section 3.1(a) may expressly state that such notice is conditioned upon the effectiveness of new credit facilities or other sources of refinancing and which effectiveness will result in the immediate payment in full in cash of all Obligations, in which case such notice may be revoked by the Borrower (by written notice to the Administrative Agent on or prior to the time on which the Term Loans would have been repaid in accordance with such notice of prepayment) if such condition is not satisfied or not reasonably likely to be satisfied and the Borrower shall pay any amounts due under Section 3.9, if any, in connection with any such revocation.

(b) In the event that, the Borrower makes any prepayment of Term Loans pursuant to Section 3.1(a), the Borrower shall pay the Administrative Agent, for the ratable account of each applicable Term Lender, a prepayment premium as follows: (i) if such prepayment is made on or prior to the first anniversary of the Closing Date, 3% of the aggregate amount of the Term Loans so prepaid, (ii) if such prepayment is made after the first anniversary of the Closing Date but on or prior to the second anniversary of the Closing Date, 2% of the aggregate amount of the Term Loans so prepaid, (iii) if such prepayment is made after the second anniversary of the Closing Date but on or prior to the third anniversary of the Closing Date, 1% of the aggregate amount of the Term Loans so prepaid and (iv) if such prepayment is after the third anniversary of the Closing Date, zero.

3.2 Mandatory Prepayments.

(a) After the Discharge of First Lien Obligations, if any Indebtedness shall be incurred or issued by any Group Member after the Closing Date (other than Excluded Indebtedness), an amount equal to 100% of the Net Cash Proceeds thereof shall be applied on the date of such incurrence or issuance toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(b) (i) After the Discharge of First Lien Obligations, if on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale or Recovery Event then, unless a Reinvestment Notice shall be delivered in respect thereof, such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 3.2(d); *provided*, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(ii) After the Discharge of First Lien Obligations, if on any date any Group Member shall receive Net Cash Proceeds from any IP Sale, then unless a Reinvestment Notice shall be delivered in respect thereof, an amount equal to not less than 75% of such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 3.2(d); *provided*, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans as set forth in Section 3.2(d).

(c) After the Discharge of First Lien Obligations, the Borrower shall, on each Excess Cash Flow Application Date, apply the ECF Percentage of the excess, if any, of (i) Excess Cash Flow for the related Excess Cash Flow Payment Period minus (ii) Voluntary Prepayments made during such Excess Cash Flow Payment Period toward the prepayment of the Term Loans as set forth in Section 3.2(d). Except as provided below, each such prepayment and commitment reduction shall be made on a date (an “Excess Cash Flow Application Date”) no later than ten (10) days after the date on which the financial statements referred to in Section 6.1(a) for the fiscal year of the Borrower with respect to which such prepayment is made are required to be delivered to the Lenders (commencing with the fiscal year of the Borrower ending March 31, 2012).

(d) Amounts to be applied in connection with prepayments made pursuant to this Section 3.2 shall be applied to the prepayment of the Term Loans in accordance with Section 3.8. The application of any prepayment pursuant to this Section 3.2 shall be made, first, to ABR Loans and, second, to LIBOR Rate Loans. Each prepayment of the Term Loans under this Section 3.2 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

(e) The Total Term Commitment (and the Term Commitments of each Lender) shall terminate in its entirety on the earlier to occur of (i) the Closing Date and (ii) the Outside Date.

(f) Notwithstanding anything to the contrary, (i) no prepayments of Terms Loans shall be required or permitted pursuant to this Section 3.2 if such prepayment is prohibited by the terms of the First Lien Loan Documents or the Intercreditor Agreement and not waived in accordance with such documents and (ii) no prepayments of Term Loans shall be required pursuant to this Section 3.2 except to the extent of the amount of Excess Cash Flow or Net Cash Proceeds, as the case may be, required to be applied toward such prepayment remaining after the Discharge of First Lien Obligations or the waiver of prepayment obligations under the First Lien Credit Agreement (it being understood that amounts actually applied toward prepayment of First Lien Loans shall reduce the amount required to be applied toward prepayments hereunder).

### 3.3 Conversion and Continuation Options.

(a) The Borrower may elect from time to time to convert LIBOR Rate Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 12:00 Noon, New York City time, on the Business Day preceding the proposed conversion date; *provided* that any such conversion of LIBOR Rate Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to LIBOR Rate Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 12:00 Noon, New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor); *provided* that no ABR Loan may be converted into a LIBOR Rate Loan when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any LIBOR Rate Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term Interest Period set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans; *provided* that no LIBOR Rate Loan may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuations; and *provided*, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

3.4 Limitations on LIBOR Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of LIBOR Rate Loans hereunder and all selections of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the LIBOR Rate Loans comprising each LIBOR Tranche shall be equal to \$500,000 or integral multiples of \$100,000 in excess thereof and (b) no more than ten (10) LIBOR Tranches shall be outstanding at any one time.

### 3.5 Interest Rates and Payment Dates.

(a) Each LIBOR Rate Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the LIBOR Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) If the Borrower shall default in the payment of the principal or interest on any Term Loan or any other amount becoming due hereunder, by acceleration or otherwise, or under any other Loan Document (or including, as a result of an Event of Default under Sections 8(a) or (f)), the Borrower shall pay interest on any such defaulted amount at a rate per annum equal to (i) in the case of Term Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2%, and (ii) in the case of any such other amounts, the non-default rate then applicable to ABR Loans plus 2%.

(d) Interest shall be payable in arrears on each Interest Payment Date; *provided* that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

(e) Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "Maximum Rate"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Term Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (i) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

### 3.6 Computation of Interest and Fees.

(a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of clause (a) or (b) of the definition of ABR, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a LIBOR Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, promptly deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 3.6(a).

3.7 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have reasonably determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Required Lenders that the LIBOR Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as reasonably determined and conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give written notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter but at least two (2) Business Days prior to the first day of such Interest Period. If such notice is given (x) any Term Loans that were to have been converted on the first day of such Interest Period to LIBOR Rate Loans shall be continued as ABR Loans and (y) any outstanding LIBOR Rate Loans shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent (which notice the Administrative Agent agrees to withdraw promptly upon a determination that the condition or situation which gave rise to such notice no longer exists), no further LIBOR Rate Loans shall be made or continued as such, nor shall the Borrower have the right to convert Loans to LIBOR Rate Loans.

3.8 Pro Rata Treatment; Application of Payments; Payments.

(a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Term Percentages of the relevant Lenders.

(b) Except for prepayments pursuant to Section 10.6(b)(v)(C), each payment (including each prepayment) on account of principal of and interest on the Term Loans shall be made pro rata according to the respective outstanding principal amounts of the Term Loans of the relevant tranche, if any, then held by the Lenders. Amounts repaid or prepaid on account of the Term Loans may not be reborrowed.

(c) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the LIBOR Rate Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a LIBOR Rate Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may (but shall not be required to), in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three (3) Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(e) Notwithstanding anything to the contrary contained herein, the provisions of this Section 3.8 shall be subject to the express provisions of this Agreement which require or permit differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders.

### 3.9 Requirements of Law.

(a) If the adoption of, taking effect of or any change in any Requirement of Law or in the administration, interpretation or application thereof or compliance by any Lender with any request, guideline or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof (and, for purposes of this Agreement, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith are deemed to have gone into effect and adopted subsequent to the date hereof):

(i) shall subject any Lender to any Tax of any kind whatsoever (other than Excluded Taxes (including any change in the rate of any Excluded Tax), Indemnified Taxes and Other Taxes which shall be governed exclusively by Section 3.10, and any Tax imposed on or measured by the net income of any Lender), with respect to this Agreement or any other Loan Document;

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBOR Rate hereunder; or

(iii) shall impose on such Lender or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans made by such Lender;

and the result of any of the foregoing is to increase the cost to such Lender of making, converting into, continuing or maintaining LIBOR Rate Loans or, with respect to Taxes under clause (i) above, any Term Loan, or to reduce any amount receivable hereunder in respect thereof (whether of principal, interest or any other amount), then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled and setting forth in reasonable detail such increased costs.

(b) If any Lender shall have determined that the adoption of, taking effect of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof (and, for purposes of this Agreement, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith are deemed to have gone into effect and adopted subsequent to the date hereof) shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy), then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor setting forth in reasonable detail the charge and the calculation of such reduced rate of return, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; *provided* that, if the circumstances giving rise to such claim have a retroactive effect, then such one hundred and eighty (180) day period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder. The Borrower shall pay the Lender the amount shown as due on any certificate referred to above within ten (10) days after receipt thereof.



(a) Payments Free of Indemnified Taxes and Other Taxes. Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, *provided* that if any applicable withholding agent shall be required by applicable law to deduct or withhold any Taxes from such payments, then (i) the applicable withholding agent shall make such deductions or withholdings (ii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law, and (iii) if such Tax is an Indemnified Tax, the sum payable by the applicable Loan Party shall be increased as necessary so that after all required deductions or withholdings have been made (including deductions applicable to additional sums payable under this Section 3.10(a)) the applicable Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law, except for any Other Taxes imposed on any assignment of or participation with respect to a Lender's rights or obligations hereunder pursuant to Section 10.6 if such Tax is imposed as a result of the Lender having a present or former connection with the jurisdiction imposing such Tax (other than a connection arising solely from having executed, delivered, enforced, become a party to, performed its obligations, received payments, received or perfected a security interest under, and/or engaged in any other transaction pursuant to, any Loan Document).

(c) Indemnification by the Borrower. Without duplication of Section 3.10(a), the Borrower shall indemnify each Agent and Lender, within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed on or attributable to amounts payable under this Section 3.10(c)) imposed on or payable by such Agent or Lender, as the case may be, with respect to this Agreement or any other Loan Document, and reasonable expenses arising therefrom, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth the amount of such payment or liability (together with a copy of any applicable documents from the IRS or other Governmental Authority that asserts such claim) delivered to the Borrower by a Lender (with a copy to the relevant Agent), or by an Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. If the Borrower reasonably believes that there is an appropriate basis to pursue a refund (whether received in cash or applied as an offset against other Taxes due) of any Indemnified Tax or Other Tax indemnified by the Borrower under this Section 3.10(c), or for which any Loan Party has paid additional amounts under Section 3.10(a), the affected Agent or Lender (as applicable) shall, upon the Borrower's written request and at the Borrower's expense, pursue such refund; *provided* that no Agent or Lender shall be obligated to pursue any such refund if such Agent or Lender determines in good faith that it would be materially disadvantaged or prejudiced, or subject to any unreimbursed cost or expense, by pursuing such refund. Any refund described in the preceding sentence that is received by any Agent or Lender shall be payable to the Borrower to the extent provided in Section 3.10(h).

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Loan Party to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of such payment reasonably satisfactory to the Agent.

(e) Status of Lenders. Each Lender shall deliver to the Borrower and to the Administrative Agent, whenever reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, (A) to determine whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) to determine, if applicable, the required rate of withholding or deduction and (C) to establish such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender pursuant to any Loan Document or otherwise to establish such Lender's status for withholding tax purposes in an applicable jurisdiction. If any form, certification or other documentation provided by a Lender pursuant to this Section 3.10(e) (including any of the specific documentation described below) expires or becomes obsolete or inaccurate in any respect, such Lender shall promptly notify the Borrower and the Administrative Agent in writing and shall promptly update or otherwise correct the affected documentation or promptly notify the Borrower and the Administrative Agent in writing that such Lender is not legally eligible to do so.

(f) Without limiting the generality of the foregoing,

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent duly completed and executed originals of IRS Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent (in such number of signed originals as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon request of the Borrower or the Administrative Agent) as will enable the Borrower or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to U.S. federal backup withholding or information reporting requirements; and

(B) each Foreign Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Loan Document shall deliver to the Borrower and the Administrative Agent (in such number of signed originals as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), duly completed and executed copies of whichever of the following is applicable:

(i) IRS Form W-8BEN (or any successor thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(ii) IRS Form W-8ECI (or any successor thereto) claiming that specified payments (as applicable) under this Agreement or any other Loan Documents (as applicable) constitute income that is effectively connected with such Foreign Lender's conduct of a trade or business in the United States;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Sections 881(c) or 871(h) of the Code (the "Portfolio Interest Exemption"), (x) a certificate, substantially in the form of Exhibit D-1, D-2, D-3 or D-4, as applicable (a "Tax Status Certificate"), to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower, within the meaning of Section 881(c)(3)(B) of the Code or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code, and that no interest to be received is effectively connected with a U.S. trade or business and (y) IRS Form W-8BEN (or any successor thereto);

(iv) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), IRS Form W-8IMY (or any successor thereto) and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the Portfolio Interest Exemption, a Tax Status Certificate of such beneficial owner(s) *provided* that, if the Foreign Lender is a partnership and not a participating Lender, the Tax Status Certificate from the beneficial owner(s) may be provided by the Foreign Lender on behalf of the beneficial owner(s)); or

(v) any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable Requirements of Laws to permit the Borrower or the Agent to determine the withholding or deduction required to be made; and

Notwithstanding anything to the contrary in this Section 3.10(f), no Lender shall be required to deliver any documentation pursuant to this Section 3.10(f) that it is not legally eligible to provide.

(g) FATCA. If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA, such Lender shall use commercially reasonable efforts to deliver to the Borrower and the Administrative Agent, at the time or times prescribed by applicable law and otherwise at such times reasonably requested by the Borrower or the Administrative Agent, such documentation prescribed by applicable law and such additional documentation reasonably requested by the Borrower or the Administrative Agent to avoid the imposition of withholding obligations under FATCA with respect to such Lender.

(h) If any Agent or Lender determines, in its good faith discretion, that it has received a refund (whether received in cash or applied as an offset against other Taxes due) of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section, it shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by any Loan Party under this Section 3.10 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such Agent or Lender (including any Taxes), as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that the Borrower, upon the request of such Agent or Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority (other than any penalties arising from the gross negligence or willful misconduct of the Agent or the Lender)) to such Agent or Lender in the event such Agent or Lender is required to repay such refund to such Governmental Authority. Such Lender or Agent, as the case may be, shall, at the Borrower's reasonable request, provide the Borrower with a copy of any notice of assessment or other evidence reasonably satisfactory to the Borrower of the requirement to repay such refund received from the relevant taxing authority. This subsection shall not be construed to require any Agent or Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(i) The agreements in this Section shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder or under any other Loan Document.

3.11 Indemnity. The Borrower agrees to indemnify each Lender and to hold each Lender harmless from any loss, cost or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of LIBOR Rate Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from LIBOR Rate Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement, (c) the making of a prepayment of, or a conversion from, LIBOR Rate Loans on a day that is not the last day of an Interest Period with respect thereto or (d) any other default by the Borrower in the repayment of such LIBOR Rate Loans when and as required pursuant to the terms of this Agreement. A certificate setting forth in reasonable detail the basis for requesting such amount actually incurred as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder.

3.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.9 or 3.10(a), (b) or (c) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Term Loans affected by such event with the object of avoiding the consequences of such event; *provided*, that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage or any unreimbursed costs or expenses; and *provided*, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 3.9 or 3.10(a), (b) or (c). The Borrower hereby agrees to pay all reasonable, documented out-of-pocket costs and expenses incurred by any Lender in connection with any such designation.

3.13 Replacement of Lenders. The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 3.9 or 3.10(a) (such Lender, an “Affected Lender”), (b) is a Non-Consenting Lender or (c) is a Defaulting Lender, with a replacement financial institution or other entity; *provided* that (i) such replacement does not conflict with any Requirement of Law, (ii) in the case of an Affected Lender, prior to any such replacement, such Lender shall have taken no action under Section 3.12 that have actually eliminated the continued need for payment of amounts owing pursuant to Section 3.9 or 3.10(a), (iii) the replacement financial institution or entity shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (iv) the Borrower shall be liable to such replaced Lender under Section 3.11 if any LIBOR Rate Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (v) the replacement financial institution or entity shall be an Eligible Assignee, (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (*provided* that, except in the case of clause (c) hereof, the Borrower shall be obligated to pay the registration and processing fee referred to therein), (vii) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 3.9 or 3.10(a), as the case may be, (viii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender, and (ix) in the case of a Non-Consenting Lender, the replacement financial institution or entity shall consent at the time of such assignment to each matter in respect of which the replaced Lender was a Non-Consenting Lender.

#### 3.14 Evidence of Debt.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing Indebtedness of the Borrower to such Lender resulting from each Term Loan of such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(b) The Administrative Agent, on behalf of the Borrower (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), the assigning Lender, acting solely for this purpose as a non-fiduciary agent of the Borrower), shall maintain the Register (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), a Related Party Register), in each case pursuant to Section 10.6(d), and a subaccount therein for each Lender, in which shall be recorded (i) the amount of each Term Loan made hereunder and any Note evidencing such Term Loan, the Type of such Term Loan and each Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) both the amount of any sum received by the Administrative Agent (or, in the case of an assignment not required to be recorded in the Register in accordance with the provisions of Section 10.6(d), the assigning Lender) hereunder from the Borrower and each Lender’s share thereof.

(c) The entries made in the Register and the accounts of each Lender maintained pursuant to Section 3.14(a) shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded (absent manifest error); *provided*, however, that the failure of any Lender or the Administrative Agent to maintain the Register or any such account, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Term Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.

(d) The Borrower agrees that, upon the request to the Administrative Agent by any Lender, the Borrower will execute and deliver to such Lender a promissory note of the Borrower evidencing any Term Loans, of such Lender, substantially in the form of Exhibit E, with appropriate insertions as to date and principal amount.

3.15 **Illegality.** Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain LIBOR Rate Loans as contemplated by this Agreement, (a) the commitment of such Lender hereunder to make LIBOR Rate Loans, continue LIBOR Rate Loans as such and convert ABR Loans to LIBOR Rate Loans shall forthwith be canceled and (b) such Lender's Term Loans then outstanding as LIBOR Rate Loans, if any, shall be converted automatically to ABR Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a LIBOR Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.11.

### 3.16 Extension Offers.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders, on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans) and on the same terms to each such Lender, the Borrower may from time to time extend the maturity date and availability period of the Term Loans, and otherwise modify the terms of the Term Loans, pursuant to the terms of the relevant Extension Offer (including, without limitation, by increasing the interest rate or fees payable in respect of the Loans (and related outstandings) (each, an "Extension", and each group of Term Loans as so extended, as well as the original Term Loans (in each case not so extended), being a "tranche"; any Extension Loans shall constitute a separate tranche of Term Loans from the tranche of Term Loans from which such Term Loans were converted, so long as the following terms are satisfied: (i) no Default or Event of Default shall have occurred and be continuing at the time the offering document in respect of an Extension Offer is delivered to the Lenders and no Event of Default shall exist immediately after the effectiveness of any Extension Loan, (ii) except as to interest rates, fees, final maturity date and premium, which shall, subject to immediately succeeding clauses (iii), (iv) and (v), be determined by the Borrower and set forth in the relevant Extension Offer), the Term Loans of any Lender extended pursuant to any Extension ("Extension Loans") shall have the same terms (save for any terms that apply solely after the latest maturity date of the Term Loans hereunder prior to giving effect to such Extension) as the tranche of Term Loans subject to such Extension Offer, (iii) the final maturity date of any Extension Loans shall be no earlier than the then latest maturity date of Term Loans hereunder, (iv) the Weighted Average to Life Maturity of the Extension Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans extended thereby; (v) the amortization schedule applicable to the Extension Loans pursuant to Section 2.4 for the periods prior to the maturity date of the Term Loans hereunder shall not be increased, (vi) any Extension Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Extension Offer, (vii) if the aggregate principal amount of Term Loans (calculated on the face amount thereof), in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by the Borrower pursuant to such Extension Offer, then the Term Loans of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer, (viii) all documentation in respect of such Extension shall be consistent with the foregoing, and (ix) any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrower. For the avoidance of doubt, no Lender shall be required to participate in any Extension.

(b) With respect to all Extensions consummated by the Borrower pursuant to this Section 3.16, the Extension Offer shall specify a minimum amount of Term Loans to be tendered (which shall not be less than \$10,000,000) as a condition to the consummation of such Extension Offer (a "Minimum Extension Condition"). The Administrative Agent and the Lenders hereby consent to the Extensions and the other transactions contemplated by this Section 3.16 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extension Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 3.16.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). The Lenders hereby irrevocably authorize the Administrative Agent and the Collateral Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of the Term Loan so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrowers in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 3.16.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five (5) Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 3.16.

(e) The conversion of any Term Loans hereunder into Extension Loans in accordance with this Section 3.16 shall not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Agents and the Lenders to enter into this Agreement and to make the Term Loans, each of Holdings and the Borrower hereby represents and warrants on the Closing Date that:

##### 4.1 Financial Condition.

(a) (i) The audited consolidated balance sheets and related statements of income and cash flows of the Borrower and its Subsidiaries as of and for each of the fiscal years ended March 31, 2009, 2010 and 2011, reported on by and accompanied by an unqualified report from PricewaterhouseCoopers LLP, present fairly in all material respects the consolidated financial condition of the Borrower as at such dates, and the consolidated results of its operations and its cash flows for such fiscal years and (ii) the unaudited *pro forma* consolidated balance sheet and related statements of income for Holdings (the "Pro Forma Financial Statements") as of and for the fiscal quarter ended June 30, 2011, copies of which have heretofore been furnished to each Lender, have been prepared, in a manner consistent with *pro forma* financial statements set forth in a registration statement filed with the SEC in all material respects, giving effect (as if such events had occurred on such date) to (A) the consummation of the Acquisition, (B) the Term Loans to be made under this Agreement and the First Lien Credit Agreement on the Closing Date and the use of proceeds thereof and (C) the Cash Contribution. The Pro Forma Financial Statements have been prepared in good faith based on the assumptions set forth therein, which the Borrower believed to be reasonable assumptions at the time such Pro Forma Financial Statements were prepared, and present fairly in all material respects on a *pro forma* basis the estimated financial position of Holdings and its consolidated Subsidiaries as at and for each of the dates and periods set forth above, assuming that the events specified in the preceding sentence had actually occurred at such date or beginning of such period.

(b) (i) The audited combined balance sheets and related statements of income and cash flows of the Acquired Business as of and for each of the fiscal years ended December 31, 2008, 2009 and 2010, reported on by and accompanied by an unqualified report from KPMG, present fairly in all material respects the combined financial condition of the Acquired Business as at such dates, and the consolidated results of its operations and its cash flows for such fiscal years and (ii) the unaudited combined balance sheets and related statements of operations and cash flows of the Acquired Business for the fiscal quarter ended June 30, 2011, present fairly in all material respects the combined financial condition of the Acquired Business as at such dates, and the consolidated results of its operations and its cash flows for such periods then ended (subject to normal year-end audit adjustments and the absence of footnotes). All such financial statements delivered pursuant to clauses (b)(i) and (b)(ii) above, including the related schedules and notes thereto, have been prepared in substantial accordance with GAAP applied consistently throughout the periods involved.



4.2 No Change. Since December 31, 2010, there has been no development or event that has had or could reasonably be expected to have a Material Adverse Effect.

4.3 Corporate Existence; Compliance with Law. Except as permitted under Section 7.3, each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, to the extent such concept is recognized in its jurisdiction of incorporation, (b) has the organizational power and authority and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign entity and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, (d) is in compliance with the terms of its Organizational Documents and (e) is in compliance with the terms of all Requirements of Law (including Health Care Laws) and all Governmental Authorizations, except in case of clauses (b), (c) and (e), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. Each Loan Party has the organizational power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational and other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Transactions or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except the filings referred to in Section 4.19 which filings have been, or will be, obtained or made and are in full force and effect on or before the Closing Date, and all applicable waiting periods shall have expired, in each case without any action being taken by any Governmental Authority that would restrain, prevent or otherwise impose adverse conditions on the Transactions, other than any such consent, authorizations, filings and notices the absence of which could not reasonably be expected to have a Material Adverse Effect. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not violate (a) the Organizational Documents of any Loan Party, (b) any Requirement of Law (including any Health Care Laws), Governmental Authorization or any Contractual Obligation of any Group Member and (c) will not result in, or require, the creation or imposition of any Lien on any Group Member's respective properties or revenues pursuant to its Organizational Documents, any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents and the Liens permitted under Sections 7.2(f), (h) and (o)), except for any violation set forth in clause (b) or (c) which could not reasonably be expected to have a Material Adverse Effect.

4.6 Litigation and Adverse Proceedings. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Holdings or the Borrower, threatened in writing by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents, which would in any respect impair the enforceability of the Loan Documents, taken as a whole or (b) that could reasonably be expected to have a Material Adverse Effect.

4.7 [Intentionally Omitted].

4.8 Ownership of Property; Liens.

(a) Each Group Member has title in fee simple (or local law equivalent) to all of its owned real property, a valid leasehold interest in all its leased real property (or in the case of owned real property or leasehold real property situated in Ireland (subject to any disclosures in any certificate or report on title delivered to the Collateral Agent), good and marketable title), and good title to, or a valid leasehold interest in, license to, or right to use, all its other tangible Property material to its business, in all material respects, and no such Property is subject to any Lien except as permitted by Section 7.2, except, in each case, where the failure to have such title or other interest could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Schedules 7(a) and 7(b) to the Perfection Certificate dated the Closing Date together contain a true and complete list of each interest in real property having a value (together with improvements thereof) of at least \$2,500,000 owned by any Group Member as of the date thereof and describe the type of interest therein held by any Group Member, whether such owned real property is leased and, if leased, whether the underlying lease contains any option to purchase all or any portion of such real property or any interest therein or contains any right of first refusal relating to any sale of such real property or any portion thereof or interest therein, and whether any lease requires the consent of the landlord or tenant thereunder, or other party thereto, to the transactions.

4.9 Intellectual Property. All Intellectual Property owned by the Group Members is owned free and clear of all Liens other than (i) as permitted by Section 7.2, Section 7.4 or the Security Documents, (ii) licenses granted in the ordinary course of business (including, without limitation, in connection with the sale or provision by Group Members of products or services or the grant of rights to licensees to manufacture, use, sell, offer to sell or import products or to use, sell or offer to sell processes or services) in existence as of the date hereof and any amendment, renewal or extension thereof or thereto, and (iii) as could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, to the knowledge of any Loan Party: (a) the conduct of, and the use of Intellectual Property in, the business of the Group Members as currently conducted (including the products and services of the Group Members) does not infringe, misappropriate, or otherwise violate the Intellectual Property rights of any other Person; (b) there is no such outstanding claim asserted (including in the form of offers or invitations to obtain a license), threatened or pending before any Governmental Authority against any Group Member; (c) no Person is infringing, misappropriating, or otherwise violating any Intellectual Property of any Group Member, and there has been no such claim asserted or threatened against any third party by any Group Member or any Loan Party or any other Person; (d) each Group Member has taken all formal or procedural actions (including payment of fees) required to maintain Intellectual Property owned by it; and (e) each Group Member has complied with all applicable laws, as well as its own rules, policies, and procedures, relating to privacy, data protection, and the collection and use of personal information collected, used, or held for use by such Group Member.

4.10 Taxes. Each Loan Party has filed or caused to be filed all federal, state and other material tax returns that are required to be filed by it and all such tax returns are true, correct, and complete in all material respects; each Loan Party has paid all federal, state and other taxes and any assessments made in writing against it or any of its property by any Governmental Authority (other than (a) any which are not yet due or the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Loan Party or (b) any which the failure to so pay could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect); no tax Lien has been filed (other than for taxes not yet due or the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Loan Party); and no Loan Party is aware of any proposed or pending tax assessments, deficiencies or audits with respect to such Loan Party that could be reasonably expected to, individually or in the aggregate, result in a Material Adverse Effect.

4.11 Federal Reserve Regulations. No Group Member is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock. No part of the proceeds of any extension of credit under this Agreement will be used for any purpose that violates or would be inconsistent with the provisions of Regulation T, U or X of the Board. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U 1, as applicable, referred to in Regulation U.

4.12 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of Holdings or the Borrower, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act, as amended, or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance or other similar employee taxes have been paid or accrued as a liability on the books of the relevant Group Member.

4.13 ERISA.

(a) No Event of Default described in Sections 8(g)(i), (ii), (vi) or (vii) has occurred or is reasonably expected to occur with respect to any Single Employer Plan, and each Plan is in compliance in all respects with the applicable provisions of ERISA and the Code except where such Event of Default, or non-compliance could not reasonably be expected to have a Material Adverse Effect. No termination of a Single Employer Plan has occurred or is reasonably expected to occur, and no Lien against Holdings, the Borrower or any Commonly Controlled Entity in favor of the PBGC or a Single Employer Plan or a Multiemployer Plan has arisen, during the past five years. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits by more than \$25,000,000. Neither Holdings, the Borrower nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in any material liability under ERISA, and neither the Borrower nor any Commonly Controlled Entity would become subject to any material liability under ERISA if the Borrower or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. No such Multiemployer Plan is in Reorganization or Insolvent, or pursuant to Section 432(b) of the Code, in “endangered” or “critical” status.

(b) All Non-U.S. Pension Plans have been established, operated, administered and maintained in compliance with all laws, regulations and orders applicable thereto except for such failures to comply, in the aggregate for all such failures, that could not reasonably be expected to have a Material Adverse Effect. All premiums, contributions, and any other amounts required by applicable Non-U.S. Pension Plan documents or applicable laws have been paid or accrued as required, except for premiums, contributions and amounts that, in the aggregate for all such obligations, could not reasonably be expected to have a Material Adverse Effect.

4.14 Investment Company Act; Other Regulations. No Loan Party is an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board, as amended) that limits its ability to incur Indebtedness.

4.15 Capital Stock and Ownership Interests of Subsidiaries. Schedule 4.15 sets forth the name and jurisdiction of formation or incorporation of each Group Member and, as to each such Group Member other than Holdings, states the authorized and issued capitalization of such Group Member, the beneficial and record owners thereof and the percentage of each class of Capital Stock owned by any Loan Party. Except as listed on Schedule 4.15, as of the Closing Date, no Group Member owns any interests in any joint venture, partnership or similar arrangements with any Person.

4.16 Use of Proceeds. The proceeds of the Term Loans shall be used to finance a portion of the Acquisition and to pay fees and expenses related to the Transaction.

4.17 Environmental Matters. Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties owned, leased or operated by any Group Member (the “Properties”) do not contain any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or constituted a violation of, or could reasonably be expected to give rise to liability under, any Environmental Law;

(b) no Group Member has received any written claim, demand, notice of violation, or of actual or potential liability with respect to any Environmental Laws with regard to any of the Properties or relating to any Group Member, nor does the Borrower have knowledge or reason to believe that any such claim, demand or notice will be received or is being threatened;

(c) Materials of Environmental Concern have not been transported or disposed of from the Properties by any Group Member or, to the Borrower's knowledge, by any other person in violation of, or in a manner or to a location that could reasonably be expected to give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of by any Group Member or, to the Borrower's knowledge, by any other person at, on or under any of the Properties in violation of, or in a manner that could reasonably be expected to give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Borrower, threatened, under any Environmental Law to which any Group Member is or, to the Borrower's knowledge, will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or relating to any Group Member;

(e) there has been no Release or threat of Release of Materials of Environmental Concern by any Group Member or, to the Borrower's knowledge, by any other person at, on, under or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise, in violation of or in amounts or in a manner that could reasonably be expected to give rise to liability under Environmental Laws;

(f) each Group Member, the Properties and all operations at the Properties are in compliance, and, to the Borrower's knowledge, have in the last three (3) years been in compliance, with all applicable Environmental Laws; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws, nor is any Group Member paying for or conducting, in whole or in part, any response or other corrective action to address any Materials of Environmental Concern at any location pursuant to any Environmental Law.

4.18 Accuracy of Information, etc. No written statement contained in any document, certificate or statement furnished by any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents (including the Confidential Information Memorandum), when taken as a whole, contained as of the date such statement, information, document or certificate was furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading in the light of the circumstances under which such statements were made after giving effect to any supplements thereto; *provided*, however, that with respect to projections and other *pro forma* financial information, the Borrower represents only that the same were prepared in good faith and are based upon assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact, is by its nature inherently uncertain and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount; it being understood that for purposes of this Section 4.18 such information shall not include information of a general economic or industry-specific nature contained in the materials referenced above.

4.19 Security Documents. The Guarantee and Collateral Agreement and each other Security Document is, or upon execution, will be, effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid security interest in the Collateral described therein (to the extent a security interest can be created therein under the Uniform Commercial Code, where applicable, or in the case of a Foreign Security Document, subject to any customary reservations and qualifications contained in customary legal opinions rendered under the laws of the applicable jurisdiction). In the case of the Pledged Equity Interests described in the Guarantee and Collateral Agreement and each Foreign Pledge Agreement, when stock or interest certificates representing such Pledged Equity Interests (along with properly completed stock or interest powers and, where applicable, stock transfer forms, in each case, endorsing the Pledged Equity Interest and executed by the owner of such shares or interests) are delivered to the Collateral Agent or such other actions specified in each Foreign Pledge Agreement are taken, and in the case of the other Collateral described in the Guarantee and Collateral Agreement or any other Security Document (other than deposit accounts), when financing statements and other filings specified on Schedule 4.19 in appropriate form are filed in the offices specified on Schedule 4.19, the Collateral Agent, for the benefit of the Secured Parties, shall, under New York law, or in the case of the Debenture or other Security Document, which is governed by a law other than New York law (each a "Foreign Security Document"), under such other law, have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral to the extent (x) (in the case of New York law) perfection can be obtained by filing a UCC financing statement or (y) (in the case of a Foreign Security Document) subject to any customary reservations and qualifications contained in customary legal opinions rendered under the laws of the applicable jurisdiction, perfection can be obtained by the appropriate filing under such other applicable law, as security for the Obligations, in each case prior and superior in right to any other Person (except Liens permitted by Section 7.2) subject in the case of the Intellectual Property that is the subject of any application or registration in the United States Patent and Trademark Office or the United States Copyright Office (other than intent to use Trademark applications), to the recordation of appropriate evidence of the Collateral Agent's Lien in the United States Patent and Trademark Office and/or United States Copyright Office, as appropriate, and the taking of actions and making of filings necessary under the applicable Requirements of Law to obtain the equivalent of perfection. In the case of Collateral that consists of deposit accounts securities accounts and/or commodity accounts, when a Control Agreement is executed and delivered by all parties thereto with respect to such accounts, the Collateral Agent, for the benefit of the Secured Parties, shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations, prior and superior to any other Person except as provided under the applicable Control Agreement with respect to the financial institution party thereto. Prior to the Discharge of First Lien Obligations, the representations made in this Section 4.19 with respect to delivery to the Collateral Agent of any Collateral, the security interest in which may be perfected only by possession or control by a single entity, shall be deemed satisfied by the delivery and possession or control of such Collateral to the First Lien Collateral Agent (as provided in the Intercreditor Agreement).

4.20 Solvency. Holdings and its Subsidiaries (on a consolidated basis), after giving effect to the Transactions and the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith, will be and will continue to be Solvent.

4.21 Senior Indebtedness. The Obligations constitute “senior debt,” “senior indebtedness,” “designated senior debt,” “guarantor senior debt” or “senior secured financing” (or any comparable term) of each Loan Party under and as defined in any documentation relating to Subordinated Indebtedness.

4.22 [Intentionally Omitted].

4.23 Anti-Terrorism Laws.

(a) None of the Loan Parties nor, to the knowledge of the Borrower, any director, officer, agent, employee or Affiliate of Holdings, the Borrower or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”); and the Borrower will not directly or indirectly use the proceeds of the Term Loans or otherwise make available such proceeds to any Person, for the purpose of financing the activities of any Person currently subject to any U.S. sanctions administered by OFAC.

(b) No Loan Party, or, to the knowledge of any Loan Party, any of its Subsidiaries, is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(c) None of the Loan Parties, nor, to the knowledge of the Loan Parties, any Subsidiaries of any Loan Party or their respective agents acting or benefiting in any capacity in connection with the Term Loans or other transactions hereunder, is any of the following (each a “Blocked Person”):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(ii) a Person owned or Controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

- Terrorism Law;
- (iii) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;
- 13224;
- (iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224;
- (v) a Person that is named as a “specially designated national” on the most current list published by the United States Treasury Department’s Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or
- (vi) a Person who is affiliated or associated with a person listed above.

(d) No Loan Party, or to the knowledge of any Loan Party, any of its agents acting in any capacity in connection with the Term Loans or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(e) To the extent applicable, each of Holdings, the Borrower and each Subsidiary is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) the Patriot Act. No part of the proceeds of the Term Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (“FCPA”).

4.24 Insurance. Schedule 4.24 sets forth a true, complete and correct description of all material property and general liability insurance maintained by or on behalf of each Loan Party as of the Closing Date. As of such date, such insurance is in full force and effect. Holdings and the Borrower believe that the insurance maintained by or on behalf of each Loan Party is in such amount (with no greater risk retention) and against such risks as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations.

4.25 Choice of Law. Subject to any customary reservations or qualifications contained in customary legal opinions delivered by counsel in the applicable jurisdiction, in the case of a Loan Party incorporated or organized outside of the United States, the choice of governing law of each Loan Document will be recognized and enforced in its jurisdiction of incorporation and any judgment obtained in relation to a Loan Document in the jurisdiction of the governing law of that document will be recognized and enforced in its jurisdiction of incorporation.



4.26 Centre of Main Interests. In the case of a Loan Party incorporated in Ireland, for the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Ireland.

4.27 Holding Companies. Each Subsidiary of Holdings, other than Alkermes Ireland Holdings Limited, is a Subsidiary of Holdings solely by virtue of paragraph (b) of sub-section (1) of Section 155 of the Companies Acts 1963 of Ireland. Neither Holdings nor Alkermes Ireland Holdings Limited own any material assets or property other than any assets or property permitted to be owned by them under Section 7.16 or 7.17 as applicable.

#### SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction or waiver, prior to or concurrently with the making of such extension of credit on the Closing Date, which shall be a date that is on or before the Outside Date, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by each Agent, the Borrower and each other Loan Party that is a party hereto and each Person that is a Lender as of the Closing Date, (ii) the Guarantee and Collateral Agreement, executed and delivered by the Borrower and each other Loan Party that is a party thereto, (iii) [reserved], (iv) a perfection certificate in customary form and substance and (v) a Note executed by the Borrower in favor of each Lender that has requested a Note at least five Business Days in advance of the Closing Date.

(b) Transactions. The following transactions shall have been or shall concurrently be consummated, in each case on terms and conditions reasonably satisfactory to each Agent and each Lender:

(i) The Acquisition shall be consummated prior to the initial funding of the Term Loans in accordance with the Acquisition Documentation, which shall not have been amended, waived or otherwise modified (including by any consent granted thereunder) or supplemented in any manner that is materially adverse to the interests of the Lenders (including any change in the purchase price of the Acquisition) without the prior written consent of the Lead Arrangers (such consent not to be unreasonably withheld or delayed); and

(ii) The Administrative Agent shall have received or shall concurrently receive reasonably satisfactory evidence that the Cash Contribution have been consummated; and

(iii) The Administrative Agent shall have received reasonably satisfactory evidence that Merger Sub shall have merged with and into Borrower.

(c) Pro Forma Financial Statements; Financial Statements. The Lead Arrangers shall have received prior to the Closing Date the financial statements described in Section 4.1(b).

(d) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions (in the United States and the Republic of Ireland) where the Loan Parties are located, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 7.2 or discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Administrative Agent.

(e) Fees. The Borrower and its Subsidiaries shall have paid all fees then payable under, the Fee Letter. The Lenders, the Lead Arranger and the Agents shall have received all reasonable and documented out-of-pocket costs and expenses, invoices for which have been submitted five (5) days prior to the Closing Date, required to be paid (including without limitation reasonable fees and disbursements of counsel) on or prior to such date under the terms of the Loan Documents.

(f) Closing Certificate. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit F-1, with appropriate jurisdiction specific amendments and appropriate insertions and attachments including the certificate of incorporation or certificate of formation, as applicable, of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party.

(g) Legal Opinions. The Administrative Agent shall have received the legal opinions of Cleary Gottlieb Steen & Hamilton LLP, New York counsel to Holdings and its Subsidiaries, Goodwin Procter LLP, Massachusetts counsel to Holdings and its Subsidiaries, Ballard & Spahr LLP, Pennsylvania local counsel to Holdings and its Subsidiaries, Young Conaway Stargatt & Taylor, LLP, Delaware counsel to Holdings and its Subsidiaries, and Arthur Cox, Solicitors, Irish legal counsel to Holdings and its Subsidiaries, each in form and substance reasonably satisfactory to the Administrative Agent, substantially in the forms of Exhibits G-1, G-2, G-3, G-4 and G-5, respectively. Such legal opinions shall be addressed to the Agents and the Lenders that are parties to this Agreement on the Closing Date.

(h) Pledged Equity Interests; Stock Powers; Pledged Notes. The First Lien Collateral Agent shall have received (i) the certificates representing the shares of Capital Stock pledged pursuant to the Guarantee and Collateral Agreement, if applicable, together with an undated stock power or, if applicable, blank stock transfer, for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Guarantee and Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(i) Filings, Registrations and Recordings. Subject to the immediately following paragraph, each document (including any Uniform Commercial Code financing statement and any Intellectual Property Security Agreement) required by the Guarantee and Collateral Agreement or under law or reasonably requested by the Collateral Agent to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.2), shall be in proper form for filing, registration or recordation; notwithstanding the foregoing and other than as set forth in the *proviso* below, in no event shall any filing, registration or recordation outside the United States be required to perfect a Lien against a Domestic Subsidiary's Collateral that is located outside the United States; *provided, however*, filings, registration or recordation in Ireland shall be required to perfect a Lien against a Domestic Subsidiary's Intellectual Property that is registered or applied for with an Irish Governmental Authority.

(j) Solvency Certificate. The Administrative Agent shall have received a solvency certificate in the form of Exhibit J, executed as of the Closing Date by the chief financial officer of the Borrower.

(k) [Intentionally Omitted].

(l) Patriot Act, Etc. The Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, as reasonably requested in writing by the Administrative Agent at least five Business Days prior to the Closing Date.

(m) Closing Date Material Adverse Effect. Since December 31, 2010, there shall not have occurred a Closing Date Material Adverse Effect nor shall there exist any facts or circumstances that could reasonably be expected to cause or result in a Closing Date Material Adverse Effect.

(n) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to Sections 4.3(a) and (b), 4.4, 4.5, 4.11, 4.14, 4.19, 4.20, 4.21 and 4.23 shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such date as if made on and as of such date (except to the extent made as of a specific date, in which case such representation and warranty shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such specific date).

(o) Acquisition Agreement Representations and Warranties. Each of the representations and warranties made by Elan in the Acquisition Agreement that are material to the interests of the Lenders shall be true and correct as of such date as if made on and as of such date, but only to the extent the Borrower or one of its Subsidiaries has the right to terminate its obligations under the Acquisition Agreement or no longer has any obligation to close the Acquisition as a result of a breach or inaccuracy of any such representation or warranty in the Acquisition Agreement.

(p) Notices. The Borrower shall have delivered to the Administrative Agent the notice of borrowing for such extension of credit in accordance with this Agreement.

(q) First Lien Facility. The First Lien Loan Documents shall have been executed and delivered, and the Borrower shall have received (or shall receive substantially simultaneously with the initial extension of credit hereunder) gross proceeds of up to \$310.0 million from borrowings thereunder.

(r) Intercreditor Agreement. The Intercreditor Agreement shall have been duly executed and delivered by each party thereto, substantially in the form of Exhibit K, and shall be in full force and effect.

Notwithstanding anything to the contrary contained above in this Section 5.1, to the extent any Collateral is not provided (or any related required actions under this Section 5.1 are not taken) on the Closing Date after the Loan Parties' use of commercially reasonable efforts to do so, the delivery of such Collateral (and the taking of the related required actions) shall not constitute a condition precedent to the extensions of credit under this Agreement on the Closing Date but shall instead be required to be delivered (or taken) after the Closing Date in accordance with the requirements of Section 6.10, except that (A) with respect to the perfection of security interests in UCC Filing Collateral, each Loan Party organized in the United States shall be obligated to deliver or cause to be delivered necessary Uniform Commercial Code financing statements to the Collateral Agent in proper form for filing and to irrevocably authorize and to cause the applicable Loan Parties to irrevocably authorize, the Collateral Agent to file necessary Uniform Commercial Code financing statements, (B) with respect to perfection of security interests in Stock Certificates representing Capital Stock in any Subsidiary of Holdings organized in the United States, each such Loan Party shall be obligated to deliver to the Collateral Agent Stock Certificates together with undated stock powers in blank and (C) with respect to the perfection of security interests in Intellectual Property, each Loan Party shall be obligated to deliver a short form security agreement for filing with the United States Patent and Trademark Office and the United States Copyright Office.

5.2 Conditions to Each Incremental Term Loan. The agreement of each Incremental Lender to make any Incremental Term Loan is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such date as if made on and as of such date (except to the extent made as of a specific date, in which case such representation and warranty shall be true and correct in all material respects (or in all respects where qualified by materiality or Material Adverse Effect) on and as of such specific date).

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

(c) Notices. The Borrower shall have delivered to the Administrative Agent, the notice of borrowing or application, as the case may be, for such extension of credit in accordance with this Agreement.

## SECTION 6. AFFIRMATIVE COVENANTS

Holdings and the Borrower hereby agree that, so long as the Commitments remain in effect, or any Term Loan or other amount is owing to any Lender or Agent hereunder (other than unasserted contingent indemnification obligations), Holdings shall and shall cause each of its Restricted Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent or for prompt further distribution to each Lender:

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of Holdings, (i) a copy of the audited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income or operations, members' equity and cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit, by PricewaterhouseCoopers LLP or other independent certified public accountants of nationally recognized standing and (ii) a narrative report and management's discussion and analysis, in customary form, of the financial condition and results of operations of Holdings for such fiscal year, as compared to amounts for the previous fiscal year;

(b) as soon as available, but in any event on the date forty-five (45) days after the end of each of the first three quarterly periods of each fiscal year of Holdings, (i) the unaudited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such quarter, the related unaudited consolidated statements of income or operations, for such quarter and cash flows for the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer of Holdings as fairly presenting in all material respects the financial condition, results of operation, members' equity and cash flows of Holdings in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) and (ii) a narrative report and management's discussion and analysis, in customary form, of the financial condition and results of operations for such fiscal quarter and the then elapsed portion of the fiscal year, as compared to the comparable periods in the previous fiscal year; and

(c) at such time as reasonably determined by the Administrative Agent, after the financial statements of Holdings and its consolidated Subsidiaries are required to be delivered pursuant to Sections 6.1(a) and 6.1(b), Holdings and the Borrower shall participate in a conference call to discuss results of operations of Holdings and its consolidated Subsidiaries with the Lenders.

All such financial statements shall be in accordance with GAAP applied consistently throughout the periods reflected therein and other than as disclosed therein with prior periods.

Documents required to be delivered pursuant to Section 6.1(a) or (b) or Section 6.2(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent) (the "Platform"); *provided* that, (x) to the extent the Administrative Agent or any Lender so requests, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to herein, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and the Collateral Agent (as applicable) (or, in the case of clause (e), to the relevant Lender):

(a) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer of the Borrower stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate, (ii) to the extent not previously disclosed and delivered to the Administrative Agent and the Collateral Agent, a listing of any material Intellectual Property which is the subject of a United States federal registration or federal application or material registration or application in other jurisdictions outside of the United States (including Intellectual Property included in the Collateral which was theretofore unregistered and becomes the subject of a United States federal registration or federal application or material registration or application in such other jurisdictions) acquired by any Loan Party since the date of the most recent list delivered pursuant to this clause (ii) (or, in the case of the first such list so delivered, since the Closing Date), and promptly deliver to the Administrative Agent and the Collateral Agent an Intellectual Property Security Agreement suitable for recordation in the United States Patent and Trademark Office or the United States Copyright Office or registration or application in the Republic of Ireland, as applicable, or such other instrument in form and substance reasonably acceptable to the Administrative Agent, and undertake the filing of any instruments or statements as shall be reasonably necessary to create, record, preserve, protect or perfect the Collateral Agent's security interest in such Intellectual Property, and (iii) a Compliance Certificate containing all information and calculations necessary for determining the Applicable Margins and for determining compliance by each Group Member with any other provision of this Agreement as applicable, as of the last day of the fiscal quarter or fiscal year of the Borrower, as the case may be;

(b) as soon as available, and in any event no later than ninety (90) days after the end of each fiscal year of the Borrower, projections for the following fiscal year shown on a quarterly basis (including consolidated statements of projected cash flow and projected income and a description of the underlying assumptions applicable thereto) (collectively, the “Projections”), which Projections shall in each case be accompanied by a certificate of a Responsible Officer of Holdings stating that such Projections are based on estimates, information and assumption believed by such Responsible Officer to be reasonable at the time prepared, it being understood that actual results may vary from such projections and that such variations may be material;

(c) promptly after the same are sent, copies of all financial statements, reports and material notices that the Borrower sends to the holders of any class of its Indebtedness or public equity securities and, promptly after the same are filed, copies of all annual, regular or periodic and special reports and registration statements which the Loan Parties may file or be required to file with the SEC and not otherwise required to be delivered to the Administrative Agent pursuant hereto, and, promptly, and in any event within ten (10) Business Days, after receipt thereof by Holdings or any Subsidiary thereof, copies of each written notice or other correspondence received from the SEC or comparable agency in any applicable foreign jurisdiction concerning any investigation or potential investigation or other inquiry by such agency regarding the financial or other operational results of Holdings or any Subsidiary thereof;

(d) promptly, after any request by the Administrative Agent, any final “management” letter submitted by such accountants to the board of directors of Holdings or the Borrower in connection with their annual audit; and

(e) promptly, such additional financial and other information regarding the business, financial or corporate affairs of Holdings or any of its Restricted Subsidiaries as the Administrative Agent (for itself or on behalf of any Lender) may from time to time reasonably request, including, without limitation, other information with respect to the Patriot Act; *provided*, that (other than with respect to the Patriot Act or where waiver of such privilege will not be adverse to the Borrower in the good faith opinion of the Borrower’s counsel) if the disclosure of any requested information would compromise any attorney-client privilege, that has not been or will not be waived, the Borrower shall make available redacted versions of requested documents or portions of documents that are the subject of such attorney-client privilege or, if unable to do so consistent with the preservation of such attorney-client privilege, shall endeavor in good faith otherwise to disclose information responsive to the Administrative Agent’s requests in a manner that will protect such attorney-client privilege.

6.3 Payment of Taxes. Pay all federal, state and other material taxes, assessments, fees or other charges imposed on it or any of its property by any Governmental Authority before they become delinquent, except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

#### 6.4 Maintenance of Existence; Compliance.

(a) (i) Preserve, renew and keep in full force and effect its organizational existence except as permitted hereunder and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, including, without limitation, all necessary Governmental Authorizations, except, in each case, as otherwise permitted by Section 7.3 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and

(b) comply with all Contractual Obligations, Organizational Documents and Requirements of Law (including, without limitation, and as applicable, Health Care Laws, ERISA, OFAC, FCPA and the Code) except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Except as permitted by Section 7.4, keep all material Property useful and necessary in its business in good working order and condition, ordinary wear and tear and obsolescence excepted, except if failure to do so could not reasonably be expected to have a Material Adverse Effect, (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar business operating in the same or similar locations. Within a reasonable time after the Closing Date, the umbrella liability insurance and property insurance of the Group Members shall (i) name the Administrative Agent, on behalf of Secured Parties as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to the Administrative Agent, that names Collateral Agent, on behalf of Lenders as the loss payee thereunder and provides for at least thirty day's prior written notice to Collateral Agent of any cancellation of such policy and (c) if any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct in all material respects entries in conformity with GAAP and all Requirements of Law shall be made of all material dealings and transactions in relation to its business and activities and (b) subject to the Borrower's, Holdings' and each Restricted Subsidiary's internal policies for the protection and preservation of Intellectual Property or other non-financial proprietary information, permit representatives of the Administrative Agent who may be accompanied by any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time during normal business hours and upon reasonable advance notice to the Borrower and to discuss the business, operations, properties and financial and other condition of the Group Members with the officers of the Group Members and with their independent certified public accountants (*provided* that Holdings or its Subsidiaries may, at their option, have one or more employees or representatives present at any discussion with such accountants); *provided* that unless an Event of Default has occurred or is continuing, only one (1) such visit in any calendar year shall be at the Borrower's expense and *provided*, further, that if the disclosure of any requested information would compromise any attorney-client privilege (other than where waiver of such privilege will not be adverse to the Borrower in the good faith opinion of the Borrower's counsel), that has not been or will not be waived or waiver thereof will be materially adverse to the Borrower, the Borrower shall make available redacted versions of requested documents or portions of documents that are the subject of such attorney-client privilege or, if unable to do so consistent with the preservation of such attorney-client privilege, shall endeavor in good faith otherwise to disclose information responsive to the Administrative Agent's requests in a manner that will protect such attorney-client privilege.



6.7 Notices. Promptly give notice to the Administrative Agent of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any Contractual Obligation of any Group Member that could reasonably be expected to have a Material Adverse Effect or (ii) litigation, investigation or proceeding that may exist at any time between any Group Member and any Governmental Authority, which could reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding affecting any Group Member (i) which could reasonably be expected to have a Material Adverse Effect or (ii) which relates to any Loan Document;

(d) the following events, as soon as possible and in any event within thirty (30) days after a Responsible Officer of the Borrower obtains actual knowledge thereof: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, a failure to make any required contribution to any Single Employer Plan or Multiemployer Plan, the creation of any Lien against Holdings, the Borrower or any Commonly Controlled Entity in favor of the PBGC or a Single Employer Plan or Multiemployer Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or Holdings, the Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Single Employer Plan or Multiemployer Plan, and in each case, of substantially similar events with respect to pension schemes maintained in Ireland; and

(e) any development or event that has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary proposes to take with respect thereto.

## 6.8 Environmental Laws.

(a) Comply with, and use commercially reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws, except, in each case, to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws to address Materials of Environmental Concern, and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.9 Interest Rate Protection. Within sixty (60) days after the Closing Date (or such later date as the Administrative Agent may agree), enter into, and thereafter maintain, Hedge Agreements to the extent necessary to provide that at least 50% of the aggregate principal amount of the Term Loans and First Lien Loans is subject to either a fixed interest rate or interest rate protection for a period of not less than three (3) years, *provided*, however, that such interest rate protection is available to the Loan Parties on commercially reasonable terms and without being required to post collateral.

## 6.10 Post-Closing; Additional Collateral, etc.

(a) With respect to any property acquired after the Closing Date by any Loan Party as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected Lien (other than (x) any property described in paragraph (b), (c), (d) or (g) below, (y) property that is not required to become subject to Liens in favor of the Collateral Agent pursuant to the Loan Documents and (z) solely with respect to the following clauses (ii) and (iii), any non U.S. property, other than Intellectual Property that is registered or applied for with an Irish Governmental Authority, of a Domestic Subsidiary (for the avoidance of doubt, a Domestic Subsidiary shall be required to grant a security interest in all Collateral wherever located)), (i) execute and deliver to the Collateral Agent such amendments to the applicable Security Document or such other documents as the Collateral Agent deems necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a security interest in such property, (ii) take all actions necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected second priority (subject only to Liens in favor of the First Lien Secured Parties pursuant to the First Lien Loan Documents and to Liens permitted by Section 7.2 hereof) security interest in such property, including, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the applicable Security Document or by law and, in the case of Intellectual Property subject to a United States federal registration or federal application, as promptly as practicable, the delivery for filing of an Intellectual Property Security Agreement suitable for recordation in the United States Patent and Trademark Office, the United States Copyright Office or the appropriate filing office in the Republic of Ireland, as applicable, or such other instrument in form and substance reasonably acceptable to the Administrative Agent, or as may be reasonably requested by the Collateral Agent and (iii) if reasonably requested by the Collateral Agent, deliver to the Collateral Agent legal opinions relating to the matters described above, which opinions shall be customary in form and substance and from counsel reasonably satisfactory to the Collateral Agent.

(b) With respect to any fee interest in any real property having a value (together with improvements thereof) of at least \$2,500,000 owned or acquired on or after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.2(g) or (h)), promptly (but in any event within 60 days, or as such later date the Administrative Agent may agree) (i) execute and deliver a second priority Mortgage subject to Liens in favor of the First Lien Collateral Agent pursuant to the First Lien Mortgage and Liens permitted under clause (i) of Section 7.2 hereof, in favor of the Collateral Agent, for the benefit of the Secured Parties, covering such real property, (ii) provide the Secured Parties with (x) (in the case of real property located outside the U.S. if customary in the relevant non-U.S. jurisdiction) a policy of title insurance (or marked up title insurance commitment having the effect of a policy of title insurance) covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably acceptable to the Collateral Agent, *provided* that in jurisdictions that impose mortgage recording taxes, the Security Documents shall not secure indebtedness in an amount exceeding 105% of the fair market value of the Mortgaged Property, as reasonably determined in good faith by the Loan Parties and reasonably acceptable to Collateral Agent), as well as a Survey thereof (except that a new Survey will not be required except to the extent necessary to delete the so called “survey exceptions” in any such policy of title insurance) and (y) any consents or estoppels deemed necessary or reasonably advisable by the Collateral Agent in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, (iii) deliver to the Collateral Agent legal opinions relating to, among other things, the enforceability, due authorization, execution and delivery of the applicable Mortgage, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent and (iv) for real property located in the United States deliver to the Administrative Agent a “Life-of-Loan” Federal Emergency Standard Flood Hazard Determination (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and each Loan Party relating thereto), and if such Mortgaged Property is located in a special flood hazard area, evidence of flood insurance confirming that such insurance has been obtained, which certificate shall be in a form and substance reasonably satisfactory to the Administrative Agent, and any and all other documents as the Collateral Agent may reasonably request, in each case, in form and substance reasonably satisfactory to the Collateral Agent.

(c) With respect to any new Restricted Subsidiary (other than an Immaterial Subsidiary) created or acquired after the Closing Date by any Loan Party (including any such Subsidiary that ceases to be either an Immaterial Subsidiary or an Unrestricted Subsidiary), within forty-five (45) days after such acquisition or formation, in the case of any Domestic Subsidiary, and within seventy-five (75) days after such acquisition or formation, in the case of any Foreign Subsidiary (or, in each case, such later date as the Administrative Agent may agree) (i) execute and deliver to the Collateral Agent, such Security Documents as the Administrative Agent deems necessary or reasonably advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected second priority (subject only to Liens in favor of First Lien Secured Parties pursuant to the First Lien Loan Documents and to Liens permitted by Section 7.2 hereof) security interest in the Capital Stock of such new Restricted Subsidiary that is owned by any Loan Party, (ii) deliver to the Collateral Agent the certificates, if any, representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, (iii) cause such new Subsidiary that is a Wholly Owned Subsidiary or is acquired in a Permitted Acquisition (A) to become a party to the applicable Security Documents, (B) to take such actions necessary or advisable to grant to the Collateral Agent for the benefit of the Secured Parties a perfected second priority security interest (subject to Liens permitted by Section 7.2 hereof) in all or substantially all, or any portion of the property of such new Subsidiary that is required to become subject to a Lien in favor of the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Loan Documents as the Administrative Agent shall determine, in its reasonable discretion, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Collateral Agent and (C) to deliver to the Collateral Agent a certificate of such Subsidiary, substantially in the form of Exhibit F-1, with appropriate insertions and attachments, and (iv) if reasonably requested by the Collateral Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent; *provided* however, that in no event shall any such Subsidiary that is a CFC be required to pledge any property.

(d) With respect to any new Foreign Subsidiary that is a Wholly Owned Subsidiary (other than an Immaterial Subsidiary or an Unrestricted Subsidiary) created or acquired after the Closing Date (including any such Subsidiary that ceases to be either an Immaterial Subsidiary or an Unrestricted Subsidiary, but other than any Foreign Subsidiary excluded pursuant to Section 6.10(g)(i)) by any Loan Party (other than by any Loan Party that is a Foreign Subsidiary), within sixty (60) days of such formation or acquisition, in the case of a Foreign Subsidiary that is organized under the laws of Ireland, and within seventy-five (75) days of such formation or acquisition, in the case of any other Foreign Subsidiary (or, in each case, such later date as the Administrative Agent may agree), (A) execute and deliver to the Collateral Agent such Security Documents as the Collateral Agent deems necessary or reasonably advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected second priority (subject only to Liens in favor of the First Lien Secured Parties pursuant to the First Lien Loan Documents and to Liens permitted by Section 7.2 hereof) security interest in the Capital Stock of such new Subsidiary that is owned by any such Loan Party (*provided* that in no event shall more than 65% of the total outstanding voting Capital Stock of any such new Subsidiary that is a CFC be required to be so pledged (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof)), (B) deliver to the Collateral Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party, as the case may be, and take such other action as may be necessary or, in the opinion of the Collateral Agent, desirable to perfect the Collateral Agent's security interest therein, and (C) if reasonably requested by the Collateral Agent, deliver to the Collateral Agent legal opinions relating to the matters described above, which opinions shall be in customary form and substance and from counsel reasonably satisfactory to the Collateral Agent.

(e) [Intentionally Omitted].

(f) Within thirty (30) days after the Closing Date (or such later date as the Administrative Agent may agree), the Administrative Agent shall have received executed Intellectual Property Security Agreements.

(g) Notwithstanding anything to the contrary in this Section 6.10:

(i) none of the following entities shall be required to become Subsidiary Guarantors: (u) Alkermes Ireland Holdings Limited, a private limited company in Ireland for so long as it would be prohibited by applicable law or regulation from becoming a Subsidiary Guarantor (except that Holdings' equity interest therein shall be pledged); (v) any Unrestricted Subsidiary; (w) Immaterial Subsidiaries; (x) any subsidiary that is prohibited by law or regulation from becoming a Subsidiary Guarantor; (y) any Subsidiary to the extent that the cost of obtaining a guarantee outweighs the benefit afforded thereby as reasonably determined by the Administrative Agent; or (z) any CFC;

(ii) none of the following assets or property shall be required to be included in the Collateral: (t) any property, asset and Subsidiary in which (A) the costs, burden or consequences (including adverse tax consequences) of obtaining such a security interest or perfection therein are excessive in relation to the value to the Lenders of the security to be afforded thereby, (B) any asset of a Loan Party organized outside the United States if it is likely that under the law of such Foreign Subsidiary's jurisdiction of formation, the Collateral Agent would not have the ability to enforce such security interest if granted or (C) such security interest would violate any applicable law of such relevant jurisdiction; (u) any equity interests in partnerships, joint ventures and non-wholly owned Subsidiaries which cannot be pledged without the consent of one or more third parties (except to the extent such prohibition is rendered ineffective by applicable law or is otherwise unenforceable); (v) leasehold real property interests, any lease, license or other agreement or any property subject to a purchase money security interest or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money arrangement or create a right of termination in favor of any other party thereto after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code; (w) any property which is otherwise excluded or excepted under the Guarantee and Collateral Agreement or any corresponding section of any Foreign Security Document; (x) letter of credit rights that are not otherwise supporting obligations with a value of less than \$100,000; (y) commercial tort claims as to which a pleading has been filed with a value of less than \$100,000 or other commercial tort claims; or (z) Capital Stock in CFCs if the inclusion of such Capital Stock would cause more than 65% of the total outstanding voting Capital Stock of any such CFC to be so pledged (whether directly, indirectly through a pledge of the voting Capital Stock of an entity that is treated as a disregarded entity for federal income tax purposes and substantially all of the assets of which consist of the voting Capital Stock of one or more of such CFCs, or a combination thereof); and

(iii) any requirement contained herein with respect to any entity organized outside of the United States shall in all respects be subject to the Agreed Security Principles.

(h) Prior to the Discharge of First Lien Obligations, (i) the requirements of this Section 6.10 to deliver to the Collateral Agent any Collateral, the security interest in which may be perfected only by possession or control by a single person shall be deemed satisfied by the delivery of possession or control of such Collateral to the First Lien Collateral Agent (as provided in the Intercreditor Agreement), and (ii) the Borrower shall, and shall cause each Subsidiary to, comply with the requirements of this Section 6.10 with respect to the obligations hereunder only to the same extent that the Borrower and such Subsidiaries are required to comply with provisions analogous to this Section 6.10 with respect to the obligations under the First Lien Loans in the First Lien Credit Agreement.

6.11 Further Assurances. Subject to the Agreed Security Principles for the entities organized outside of the United States, from time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Administrative Agent or the Collateral Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Administrative Agent, the Collateral Agent and the Secured Parties with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Loan Party which may be deemed to be part of the Collateral) pursuant hereto or thereto. Subject to the Agreed Security Principles for the entities organized outside of the United States, upon the reasonable exercise by the Administrative Agent, the Collateral Agent or any Secured Party of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents which requires any consent, approval, recording qualification or authorization of any Governmental Authority, the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Administrative Agent, the Collateral Agent or such Secured Party reasonably may be required to obtain from any Loan Party for such governmental consent, approval, recording, qualification or authorization. Prior to the Discharge of First Lien Obligations, (i) the requirements of this Section 6.11 to deliver to the Collateral Agent any Collateral the security interest in which may be perfected only by possession or control by a single person, shall be deemed satisfied by the delivery of possession or control of such Collateral to the First Lien Collateral Agent (as provided in the Intercreditor Agreement), and (ii) the Borrower shall, and shall cause each Subsidiary to, comply with the requirements of this Section 6.11 with respect to the obligations hereunder only to the same extent that the Borrower and such Subsidiaries are required to comply with provisions analogous to this Section 6.11 with respect to the obligations under the First Lien Loans in the First Lien Credit Agreement.

6.12 Rated Credit Facility; Corporate Ratings. Use commercially reasonable efforts to (a) cause the Term Loans to be continuously rated by S&P and Moody's and (b) cause the Borrower to continuously receive a Corporate Family Rating and Corporate Rating.

6.13 Use of Proceeds. The Borrower shall use the proceeds of the Term Loans, solely as set forth in Section 4.16.

6.14 [Intentionally Omitted].

6.15 Intellectual Property. Each Loan Party shall (and Holdings shall procure that each Group Member will): (a) take commercially reasonable efforts to preserve and maintain the subsistence and validity of the Intellectual Property necessary to the business of the relevant Group Member; (b) take commercially reasonable steps to prevent and defend against any infringement in any material respect of such Intellectual Property, including, without limitation, settling such litigation when in such Group Member's good faith belief it is commercially reasonable to do so; (c) make registrations and pay all registration fees and taxes necessary, as applicable, to maintain such Intellectual Property in full force and effect and record its interest in such Intellectual Property; and (d) not use or permit such Intellectual Property to be used in a way or take any step or omit to take any step in respect of such Intellectual Property which may materially and adversely affect the existence or value of such Intellectual Property or imperil the right of any Group Member to use such property.

6.16 Designation of Subsidiaries. The board of directors of the Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) immediately before and after such designation, no Default shall have occurred and be continuing, (ii) the Consolidated Leverage Ratio shall be less than or equal to 4.0 to 1.0 (and, as a condition precedent to the effectiveness of any such designation, the Borrower shall deliver to the Administrative Agent a certificate setting forth in reasonable detail the *pro forma* calculations demonstrating satisfaction of such test) and (iii) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a "Restricted Subsidiary" for the purpose of the First Lien Loans, or any other Junior Financing or any other Indebtedness of any Loan Party. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the assets of such Subsidiary (less the amount of the Indebtedness of such Subsidiary on the date of such designation) that is allocated to the ownership interest of the relevant Group Member in such Subsidiary. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence, at the time of designation, of Indebtedness or Liens in such Subsidiary (equal to the amounts then owed by such Subsidiary) and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value of the assets of such Subsidiary (less the amount of the Indebtedness of such Subsidiary on the date of such re-designation) that is allocated to the ownership interest of the relevant Group Member in such Subsidiary.

#### SECTION 7. NEGATIVE COVENANTS

Holdings and the Borrower hereby agree that, so long as the Commitments remain in effect or any Term Loan or other amount is owing to any Lender or Agent hereunder (other than unasserted contingent indemnification obligations), Holdings shall not, and shall not permit any of its Restricted Subsidiaries to:

7.1 Indebtedness. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) (i) Indebtedness of any Loan Party owed to any other Loan Party; (ii) unsecured Indebtedness of any Loan Party owed to any Group Member that is not a Loan Party; (iii) Indebtedness of any Group Member that is not a Loan Party owed to any other Group Member that is not a Loan Party; and (iv) subject to Section 7.6(g), Indebtedness of any Group Member that is not a Loan Party owed to a Loan Party; *provided*, that (x) in the case of clause (iv), such Indebtedness is evidenced by, and subject to the provisions of, an Intercompany Note and (y) in the case of any such Indebtedness of a Loan Party owed to a Group Member that is not a Loan Party, such Indebtedness shall be subordinated in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(c) Guarantee Obligations incurred by (i) any Group Member that is a Loan Party of obligations of any other Loan Party and, subject to Section 7.6(g), of any Group Member that is not a Loan Party and (ii) any Group Member that is not a Loan Party of obligations of any Loan Party or any other Group Member;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.1 and any Permitted Refinancing thereof;

(e) Indebtedness (including, without limitation, Capital Lease Obligation) of the Borrower or any Subsidiary secured by Liens permitted by Section 7.2(g) in an aggregate principal amount not to exceed \$35,000,000 at any one time outstanding and any Permitted Refinancing thereof;

(f) Indebtedness in respect of Hedge Agreements designed to hedge against interest rates, foreign exchange rates or commodities pricing risks and not for speculative purposes and Guarantee Obligations thereof;

(g) Indebtedness of the Borrower or any Subsidiary in respect of performance, bid, surety, indemnity, appeal bonds, completion guarantees and other obligations of like nature and guarantees and/or obligations as an account party in respect of the face amount of letters of credit in respect thereof, in each case securing obligations not constituting Indebtedness for borrowed money (including worker's compensation claims, environmental remediation and other environmental matters and obligations in connection with insurance or similar requirements) provided in the ordinary course of business;

(h) Indebtedness arising from the endorsement of instruments in the ordinary course of business;



(i) Indebtedness of a Person existing at the time such Person became a Restricted Subsidiary (such Person, an “Acquired Person”), together with all Indebtedness incurred or assumed by Holdings, the Borrower or any of the Restricted Subsidiaries in connection with any acquisition permitted under Section 7.6, but only to the extent that (i) such Indebtedness was not created or incurred in contemplation of such Person becoming a Subsidiary of such Loan Party or such acquisition (except that Holdings, the Borrower and any of the Restricted Subsidiaries may incur Junior Indebtedness, to the extent incurrence thereof is permitted under clause (j) below, in connection with such Person becoming a Restricted Subsidiary), (ii) any Liens securing such Indebtedness, incurred in connection with such Person becoming a Restricted Subsidiary, attach only to the assets of the Acquired Person (and in case of any Junior Indebtedness shall be subject to a subordination agreement) and (iii) the Consolidated Leverage Ratio, after giving *pro forma* effect to the acquisition, is less than 4.50:1.00; *provided*, that to the extent any such Acquired Person does not become a Loan Party (within 60 days of such person becoming an Acquired Person), the aggregate amount of such Indebtedness for all such Acquired Persons shall not exceed \$25,000,000;

(j) Junior Indebtedness of any Loan Party; *provided* that, (i) after giving *pro forma* effect to the incurrence of such Indebtedness, the Consolidated Leverage Ratio as of the date of the most recent financial statements delivered pursuant to Section 6.1(a) or (b) is less than 4.50:1.00 and (ii) no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, however, that such Indebtedness is extinguished within ten (10) Business Days of incurrence;

(l) Indebtedness of Holdings or any Subsidiary that may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments and similar obligations in connection with acquisitions or sales of assets and/or businesses;

(m) Indebtedness of the Loan Parties under the First Lien Loan Documents (or any Permitted Refinancing thereof) in an aggregate principal amount not to exceed the Cap Amount at any one time outstanding;

(n) Indebtedness arising from judgments or decrees not constituting an Event of Default under Section 8(h);

(o) Guarantee Obligations incurred by any Loan Party in respect of Indebtedness otherwise permitted by this Section 7.1;

(p) other Indebtedness of the Group Members in an aggregate principal amount (for all Group Members) not in excess of \$35,000,000 at any time outstanding;

(q) [Intentionally Omitted];

(r) Indebtedness consisting of promissory notes issued to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Capital Stock of any Group Member permitted by Section 7.5;

(s) Indebtedness consisting of obligations of the Borrower, Holdings or any Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Acquisitions or any other Investment permitted hereunder;

(t) Indebtedness consisting of (a) the financing of insurance premiums in respect of unearned premiums payable on insurance policies maintained by the Group Members or (b) take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(u) [Intentionally Omitted.]

(v) unsecured Guarantee Obligations incurred in the ordinary course of business (and consistent with past practice) in respect of obligations to suppliers, customers, franchisees, lessors and licensees; and

(w) unsecured Indebtedness incurred in the ordinary course of business (and consistent with past practice) in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.1.

7.2 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except for:

(a) Liens for taxes, assessments, charges or other governmental levies not yet delinquent for a period of more than thirty (30) days or that are being contested in good faith by appropriate proceedings; *provided* that adequate reserves with respect thereto are maintained on the books of the Group Members, as the case may be, in conformity with GAAP;

(b) Liens imposed by law, including, carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than sixty (60) days (or, if more than sixty (60) days overdue, no action has been taken to enforce such Lien) or are being contested in good faith and by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP;

(c) (i) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation, or letters of credit or guarantees issued in respect thereof, other than any Lien imposed by ERISA with respect to a Single Employer Plan or Multiemployer Plan and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower, Holdings or any Restricted Subsidiary;

(d) pledges or deposits to secure the performance of bids, government contracts and trade contracts (other than for borrowed money), leases, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business or letters of credit or guarantees issued in respect thereof;

(e) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and minor title defects affecting real property that, in the aggregate, do not materially interfere with the ordinary conduct of the business of the Borrower, Holdings and the Restricted Subsidiaries, taken as a whole, and any exception on the title policies issued in connection with the Mortgaged Property;

(f) Liens in existence on the date hereof listed on Schedule 7.2 and any renewals or extensions of any of the foregoing; *provided* that no such Lien is spread to cover any additional property after the Closing Date;

(g) Liens securing permitted Indebtedness of Holdings, the Borrower or any Restricted Subsidiary incurred to finance the acquisition, construction, improvement or repair of fixed or capital assets and any Permitted Refinancings thereof; provided that (i) such Liens shall be created substantially simultaneously (or within 270 days of) with the acquisition, construction, improvement or repair of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and additions, accessions and the proceeds of sale thereof and (iii) the amount of Indebtedness secured thereby is not increased;

(h) Liens created pursuant to (A) the First Lien Loan Documents and (B) the Loan Documents and Permitted Refinancings thereof that are at all times subordinated to the Liens created under the First Lien Loan Documents on the terms set forth in the Intercreditor Agreement;

(i) Liens approved by Collateral Agent appearing on Schedule B to the policies of title insurance being issued in connection with the Mortgages;

(j) any interest or title of a lessor or licensee under any lease or license entered into by Holdings, the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed;

(k) licenses granted with respect to Intellectual Property, leases or subleases granted to third parties in the ordinary course of business which, individually or in the aggregate, do not materially interfere with the ordinary conduct of the business of the Loan Parties or any of their Subsidiaries and for which reasonable consideration (taking into account the value of the license, lease or sublease) was received;

(l) Liens securing judgments not constituting an Event of Default under Section 8(h) or securing appeal or other surety bonds related to such judgments;

(m) the filing of UCC financing statements solely as a precautionary measure in connection with operating leases and consignment arrangements;

(n) Liens existing on property acquired by the Borrower or any Subsidiary at the time such property is so acquired or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary after the date hereof (whether or not the Indebtedness secured thereby shall have been assumed); *provided* that (i) such Lien is not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary; (ii) such Lien does not extend to any other property (other than proceeds or products or after-acquired property) of any Group Member following such acquisition or such Person becoming a Restricted Subsidiary; and (iii) the Indebtedness secured by such Liens is permitted by Section 7.1(i);

(o) Liens (i) of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on the items in the course of collection and (ii) in favor of a banking or other financial institution arising as a matter of law or contract encumbering deposits or other funds or assets maintained with a financial institution (including the right of set off) and that are within the general parameters customary in the banking industry, including, without limitation, customary liens for customary fees and expenses relating to the operation and maintenance of such deposits;

(p) Liens in favor of customs and revenue authorities arising as a matter of law and in the ordinary course of business to secure payment of customs duties in connection with the importation of goods;

(q) statutory and common law landlords' liens under leases to which the Borrower or any of the Restricted Subsidiaries is a party;

(r) Liens on assets of Foreign Subsidiaries securing indebtedness of such Foreign Subsidiaries to the extent the Indebtedness secured thereby is permitted under Section 7.1;

(s) Liens not otherwise permitted by this Section so long as the aggregate outstanding principal amount of the obligations secured thereby do not exceed \$25,000,000 at any one time;

(t) Liens on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.6(i) or Section 7.6(w) to be applied against the purchase price for such Investment and not to exceed 10% of the aggregate purchase price with respect thereto when combined with any cash earnest money deposits permitted under clause (x) below;

(u) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower, Holdings or any Restricted Subsidiary in the ordinary course of business in accordance with past practices of the Borrower;

(v) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.6 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

(w) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower, Holdings or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower, Holdings or any Restricted Subsidiary or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower, Holdings or any Restricted Subsidiary in the ordinary course of business;

(x) Liens solely on any cash earnest money deposits made by the Borrower, Holdings or any Subsidiary in connection with any letter of intent or purchase agreement permitted hereunder and not to exceed 10% of the aggregate purchase price with respect thereto when combined with any liens and/or cash advances permitted under clause (t) above;

(y) (i) Liens on the Capital Stock of any Subsidiary acquired pursuant to a Permitted Acquisition to secure Indebtedness incurred or assumed pursuant to Section 7.1(i) in connection with such Permitted Acquisition and (ii) Liens on the assets of such Subsidiary to secure Indebtedness (or to secure a Guarantee Obligation of such Indebtedness) incurred or assumed pursuant to Section 7.1(i) in connection with such Permitted Acquisition;

(z) ground leases in respect of real property on which facilities owned or leased by the Borrower, Holdings or any Restricted Subsidiary are located;

(aa) Liens in respect of unearned premiums on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(bb) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods; and

(cc) Liens constituting Dispositions permitted by Section 7.4.

7.3 Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of, all or substantially all of its property or business, except that:

(a) any Restricted Subsidiary may be merged, consolidated or be amalgamated (i) with or into the Borrower (*provided* that the Borrower shall be the continuing or surviving corporation), (ii) with or into Holdings or any other Restricted Subsidiary (*provided* that if only one party to such transaction is a Subsidiary Guarantor, the Subsidiary Guarantor shall be the continuing or surviving corporation) or (iii) subject to Section 7.6(g), with or into any other Group Member;

(b) any Group Member may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any Loan Party or, subject to Section 7.6(g) (to the extent applicable), any other Group Member;

(c) any Restricted Subsidiary that is not a Loan Party may (i) merge or consolidate with or into any Restricted Subsidiary that is not a Loan Party or (ii) dispose of all or substantially all of its assets (including any Disposition that is in the nature of a voluntary liquidation) to (x) another Restricted Subsidiary that is not a Loan Party or (y) to a Loan Party;

(d) any Subsidiary may enter into any merger, consolidation or similar transaction with another Person to effect a transaction permitted under Section 7.6; and

(e) transactions permitted under Section 7.4 shall be permitted.

7.4 Disposition of Property. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of the Borrower or any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Capital Stock to any Person, except:

(a) Dispositions of obsolete, damaged, uneconomic or worn out machinery, parts, property or equipment, or property or equipment no longer used or useful, in the conduct of its business, whether now owned or hereafter acquired;

(b) the sale of inventory and owned or leased vehicles, each in the ordinary course of business;

(c) Dispositions permitted by Sections 7.3(a), (b) and (c);

(d) so long as no change of control shall occur therefrom, the sale or issuance of any Group Member's Capital Stock to any other Group Member (except that a Loan Party may issue Capital Stock only to another Loan Party, provided that Intermediate Holdco may issue Capital Stock to Alkermes Ireland Holdings Limited irrespective of whether it is a Loan Party);

(e) any Group Member may Dispose of any of its assets to a Loan Party or, subject to Section 7.6(g) (to the extent applicable), any other Group Member, and any Group Member (other than Alkermes Ireland Holdings Limited) that is not a Loan Party may Dispose of any assets, or issue or sell Capital Stock, to any other Group Member that is not a Loan Party;

(f) Dispositions of cash or Cash Equivalents in transactions not otherwise prohibited by this Agreement;

(g) licenses granted by Group Members with respect to Intellectual Property, or leases or subleases, granted to third parties in the ordinary course of business which, individually or in the aggregate, do not materially interfere with the ordinary conduct of the business of the Group Members and for which reasonable consideration (taking into account the value of the license, lease or sublease) was received;

(h) the issuance or sale of shares of any Subsidiary's Capital Stock to qualified directors if required by applicable law;

(i) Dispositions or exchanges of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(j) Dispositions of leases entered into in the ordinary course of business, to the extent that they do not materially interfere with the business of the Borrower, Holdings and any Restricted Subsidiary, taken as a whole;

(k) the abandonment or other Disposition of Intellectual Property that is, in the reasonable judgment of the Borrower, no longer economically practicable to maintain and not material to the conduct of the business of the Borrower, Holdings and the Restricted Subsidiaries, taken as a whole;

(l) the Disposition of Property which constitutes a Recovery Event;

(m) Dispositions consisting of the sale, transfer, assignment or other Disposition of accounts receivable in connection with the collection, compromise or settlement thereof in the ordinary course of business and not as part of a financing transaction;

(n) Dispositions constituting Restricted Payments permitted by Sections 7.5, Investments permitted by Section 7.6 and Liens permitted by Section 7.2;

(o) leases, subleases, licenses or sublicenses with respect to real or personal property (other than Intellectual Property), in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower, Holdings and any Subsidiary, taken as a whole, including leases of unimproved real property encumbered by a Mortgage, on which real property the lessee may make improvements;

(p) so long as the proceeds thereof are applied pursuant to Section 3.2, Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in the joint venture arrangements and similar binding arrangements;

(q) any issuance or sale of Capital Stock in, or Indebtedness or other securities of an Immaterial Subsidiary or Unrestricted Subsidiary;

(r) as long as no Default is continuing or would result therefrom, any Disposition of property of, or issuance or sale of Capital Stock by, any Group Member; *provided* that the aggregate amount of all such Dispositions or issuances shall not exceed in any fiscal year 7.5% of Consolidated Total Assets at the end of the immediately preceding fiscal year of the Borrower;

(s) Dispositions of Property related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;

7.5 Restricted Payments. Declare or pay any dividend (other than dividends payable solely in common stock of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of any Group Member, in each case, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of Holdings or any Subsidiary (collectively, "Restricted Payments"), except that:

(a) any Subsidiary may make Restricted Payments to the Borrower, Holdings or any Subsidiary Guarantor or any other Person that owns a direct equity interest in such Subsidiary in proportion to such Person's ownership interest in such Subsidiary;

(b) each Subsidiary may make Restricted Payments to the Borrower and to Wholly Owned Subsidiaries (and, in the case of a Restricted Payment by a non-Wholly Owned Subsidiary, to the Borrower and any Subsidiary and to each other owner of Capital Stock or other equity interests of such Subsidiary on a pro rata basis based on their relative ownership interests);

(c) Holdings, the Borrower and each Restricted Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common equity interests of such Person;

(d) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, Holdings may purchase, redeem or otherwise acquire shares of its common stock or other common equity interests or warrants or options to acquire any such shares, in each case, to the extent consideration therefor consists of the proceeds received from the substantially concurrent issue of new shares of its common stock or other common equity interests;

(e) Holdings, the Borrower and each Restricted Subsidiary may make payments related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;

(f) [Intentionally Omitted].



(g) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met, Holdings and the Borrower may make Restricted Payments in an aggregate amount not to exceed the then Available Amount;

(h) [Intentionally Omitted].

(i) Holdings, the Borrower and the Restricted Subsidiaries may make Restricted Payments in an aggregate amount such that all such Restricted Payments since the Closing Date made pursuant to this clause (i) shall not exceed \$25,000,000;

(j) Holdings may pay any dividend or distribution or the consummation of any redemption within sixty (60) days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if, at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Agreement; and

(k) Holdings, the Borrower and the Restricted Subsidiaries may make any payments in connection with the consummation of the Transactions.

7.6 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business line or unit of, or a division of any Person (all of the foregoing, "Investments"), except:

(a) extensions of trade credit in the ordinary course of business;

(b) Investments in Cash Equivalents;

(c) any Guarantee Obligation permitted by Section 7.1;

(d) loans and advances to officers, directors and employees of any Group Member in the ordinary course of business (including for travel, entertainment, relocation and similar expenses) in an aggregate amount for all Group Members not to exceed \$5,000,000 at any time outstanding;

(e) the Acquisition;

(f) intercompany Investments by (i) any Group Member in any Loan Party; *provided* that all such intercompany Investments to the extent such Investment is a loan or advance owed to a Loan Party by a Group Member that is not a Loan Party are evidenced by the Intercompany Note and (ii) any Group Member that is not a Loan Party to any other Group Member that is not a Loan Party;

(g) intercompany Investments (i) by any Loan Party in another Group Member (including a Person that becomes a Restricted Subsidiary as a result of such Investments), that, after giving effect to such Investment, is not a Loan Party (including, without limitation, Guarantee Obligations with respect to obligations of any such Subsidiary, loans made to any such Subsidiary and Investments resulting from mergers with or sales of assets to any such Subsidiary) in an aggregate amount (valued at fair market value) not to exceed \$75,000,000 at any time outstanding and (ii) intercompany Investments incurred in the ordinary course of business in connection with the cash management operations (including with respect to intercompany self-insurance arrangements) of the Borrower, Holdings or any Restricted Subsidiary;

- (h) Investments in the ordinary course of business consisting of endorsements for collection or deposit or lease, utility and other similar deposits and deposits with suppliers in the ordinary course of business;
- (i) Investments in connection with Permitted Acquisitions;
- (j) Investments consisting of Hedge Agreements permitted by Section 7.1;
- (k) Investments (i) existing on the date hereof or made pursuant to legally binding written contracts in existence on the date hereof or (ii) contemplated on the date hereof and set forth on Schedule 7.6, and in each case any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment is not increased at the time of such extension or renewal;
- (l) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors or other Persons to the extent reasonably necessary in order to prevent or limit loss or in connection with the bankruptcy or reorganization of suppliers or customers and in settlement of delinquent obligations of, and other disputes with, suppliers or customers arising in the ordinary course of business;
- (m) Investments received as consideration in connection with Dispositions permitted under Section 7.4;
- (n) advances of payroll payments to employees in the ordinary course of business;
- (o) Investments to the extent that payment for such Investments is made solely with Capital Stock of Holdings (or by any direct or indirect parent thereof);
- (p) Investments held by a Person that becomes a Restricted Subsidiary after the Closing Date or of a Person merged into the Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 7.3 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;
- (q) Guarantees Obligations of the Group Members of leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(r) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business and consistent with past practices;

(s) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors in the ordinary course not to exceed \$15,000,000 at any time outstanding;

(t) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment made pursuant to this Section 7.6;

(u) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met, in addition to Investments otherwise expressly permitted by this Section, Investments in an aggregate amount not to exceed the then Available Amount; and

(v) [Intentionally Deleted].

(w) other Investments by Group Members in an aggregate amount at any time outstanding of all such Investments since the Closing Date not to exceed \$30,000,000.

The amount of any Investment, other than a Guarantee Obligation, shall be (i) the amount actually invested, as determined at the time of each such Investment, without adjustment for subsequent increases or decreases in the value of such Investment, minus (ii) the amount of dividends or distributions actually received in connection with such Investment and any return of capital and any payment of principal received in respect of such Investment that in each case is received in cash or cash equivalents (not in excess of the amount of Investments originally made).

#### 7.7 Optional Payments and Modifications of Certain Debt Instruments.

(a) (i) Make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease any Junior Financing except for (x) payments in the aggregate pursuant to this clause (i) not to exceed the Available Amount during the term of this Agreement, (y) the refinancing thereof with the Net Cash Proceeds of any Permitted Refinancing of any of the foregoing or any Indebtedness (other than Indebtedness that is owed to the Borrower or any Restricted Subsidiary), and (z) the conversion of any Junior Financing to Capital Stock; *provided* that, in the case of (x), no Default or Event of Default shall have occurred and be continuing or would result therefrom and the Available Amount Condition has been met; and (ii) amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Junior Financing (other than any amendment that is not materially adverse to the Lenders and in any event any such amendment, modification, waiver or other change that in the case of any Junior Indebtedness, would extend the maturity or reduce the amount of any payment of principal thereof or reduce the rate or extend any date for payment of interest thereon.

(b) Amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Organizational Document of any Loan Party or any Pledged Company if such amendment, modification, waiver or change could reasonably be expected to have a Material Adverse Effect.

7.8 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to Holdings, the Borrower or such Restricted Subsidiary as would be obtainable by Holdings, the Borrower or such Restricted Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, except:

- (a) transactions between or among (i) Loan Parties or (ii) Group Members (*provided* that transactions between any Loan Party, on one hand, and a Group Member that is not a Loan Party, on one other hand, shall be on commercially reasonable terms and shall be limited to transactions not otherwise prohibited by this Agreement);
- (b) transactions related to compensation paid or to be paid, or benefits provided or to be provided, in the ordinary course of business;
- (c) any Restricted Payment permitted by Section 7.5; and
- (d) the Transaction.

7.9 [Intentionally Omitted].

7.10 Hedge Agreements. Enter into any Hedge Agreement, except (a) Hedge Agreements entered into to hedge or mitigate risks to which Holdings or any Subsidiary has actual exposure, (b) Hedge Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of Holdings or any Subsidiary and (c) any Hedge Agreements required to be entered into pursuant to the terms and conditions of this Agreement.

7.11 Changes in Fiscal Periods; Accounting Changes.

(a) Permit any change in the fiscal year of the Borrower.

(b) Change independent accountants other than to any nationally recognized firm or such other firm reasonably acceptable to the Administrative Agent.

7.12 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits, limits or imposes any condition upon the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired for the benefit of the Lenders with respect to the Obligations other than (a) this Agreement and the other Loan Documents, (b) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby), (c) the First Lien Loan Documents, (d) any restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary, (e) customary provisions in leases, licenses and other contracts restricting the assignment thereof, (f) any other agreement that does not restrict in any manner (directly or indirectly) Liens created pursuant to the Loan Documents or any Collateral securing the Obligations and does not require the direct or indirect granting of any Lien securing any Indebtedness or other obligation by virtue of the granting of Liens on or pledge of Property of any Loan Party to secure the Obligations and (g) any prohibition or limitation that (i) exists pursuant to applicable Requirements of Law, (ii) consists of customary restrictions and conditions contained in any agreement relating to any Liens permitted under Section 7.2, transaction permitted under Section 7.3 or the sale of any property permitted under Section 7.4, (iii) restricts subletting or assignment of leasehold interests contained in any lease governing a leasehold interest of a Group Member, (iv) exists in any agreement in effect at the time such Subsidiary becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, (v) exists in any instrument governing Indebtedness assumed in connection with any Permitted Acquisition, which encumbrance or restriction is not applicable to any Person, or the Properties or assets of any Person, other than the Person or the Properties or assets of the Person so acquired, (vi) exists on the Closing Date and are listed on Schedule 7.12, (vii) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures to the extent permitted under this Agreement, or (viii) is imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents or the contracts, instruments or obligations referred to in this Section 7.12; *provided* that such amendments and refinancings are no more materially restrictive with respect to such prohibitions and limitations than those in effect prior to such amendment or refinancing (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower).

7.13 Clauses Restricting Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary of the Borrower that is not a Loan Party to (a) make Restricted Payments in respect of any Capital Stock of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any other Restricted Subsidiary of the Borrower, (b) make loans or advances to, or other Investments in, the Borrower or any other Restricted Subsidiary of the Borrower or (c) transfer any of its assets to the Borrower or any other Restricted Subsidiary of the Borrower, except for such encumbrances or restrictions existing under or by reason of:

(i) any restrictions existing under the Loan Documents;

(ii) any restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary;

(iii) any restrictions set forth in the First Lien Loan Documents (subject to the Intercreditor Agreement) and in the agreement governing any Junior Indebtedness so long as the restrictions set forth therein are not materially more restrictive than the corresponding provisions in the Loan Documents;

(iv) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby);

(v) restrictions and conditions existing on the date hereof identified on Schedule 7.13 (but not to any amendment or modification expanding the scope or duration of any such restriction or condition);

(vi) restrictions or conditions imposed by any agreement relating to Liens permitted by this Agreement but solely to the extent that such restrictions or conditions apply only to the property or assets subject to such permitted Lien;

(vii) customary provisions in leases, licenses and other contracts entered into in the ordinary course of business restricting the assignment thereof;

(viii) customary restrictions in joint venture agreements and other similar agreements applicable to joint ventures permitted hereunder and applicable solely to such joint venture;

(ix) any agreement of a Foreign Subsidiary governing Indebtedness permitted to be incurred or permitted to exist under Section 7.1;

(x) any agreement or arrangement already binding on a Person when it becomes a Restricted Subsidiary so long as such agreement or arrangement was not created in anticipation of such acquisition;

(xi) Requirements of Law;

(xii) customary restrictions and conditions contained in any agreement relating to any transaction permitted under Section 7.3 or the sale of any property permitted under Section 7.4 pending the consummation of such transaction or sale;

(xiii) any instrument governing Indebtedness assumed in connection with any Permitted Acquisition, which encumbrance or restriction is not applicable to any Person, or the Properties or assets of any Person, other than the Person or the Properties or assets of the Person so acquired; or

(xiv) any encumbrances or restrictions imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents or the contracts, instruments or obligations referred to in this Section 7.13; *provided* that such amendments or refinancings are no more materially restrictive with respect to such encumbrances and restrictions than those in effect prior to such amendment or refinancing (as determined in good faith and certified in writing to the Administrative Agent by a Responsible Officer of the Borrower).

7.14 Lines of Business. Enter into any business, either directly or through any Restricted Subsidiary, except for those businesses in which Holdings and its Subsidiaries are engaged on the date of this Agreement (after giving effect to the Transaction) or that are reasonably related, incidental, ancillary or complementary thereto.

7.15 [Intentionally Omitted].

7.16 Holding Company. In the case of Holdings, engage in any business or activity other than (a) the ownership of all outstanding Capital Stock in and Indebtedness of Alkermes Ireland Holdings Limited, its other Subsidiaries from time to time and Subsidiaries which are Subsidiaries solely by virtue of paragraph (b) of subsection (1) of Section 155 of the Companies Acts 1963 of Ireland, (b) maintaining its corporate existence, (c) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Loan Parties, (d) the execution and delivery of the Loan Documents to which it is a party and the performance of its obligations thereunder, (e) the incurrence of Indebtedness permitted to be incurred by Holdings pursuant to Section 7.1, (f) the consummation of any Permitted Acquisition so long as any assets (other than Indebtedness or Capital Stock) acquired in connection with such Permitted Acquisition are owned by Intermediate Holdco, the Borrower or a Subsidiary of the Borrower immediately following such Permitted Acquisition, (g) Restricted Payments permitted to be made by Holdings under Section 7.5 and (h) activities incidental to the businesses or activities described in clauses (a) through (g) of this Section.

7.17 Alkermes Ireland Holdings Limited. In the case of Alkermes Ireland Holdings Limited, Holdings shall cause that, for as long as Alkermes Ireland Holdings Limited is not a Subsidiary Guarantor, it shall not: (a) engage in any business or activity or own or acquire any material assets other than (i) the ownership of all outstanding Capital Stock in and Junior Financings of Intermediate Holdco, (ii) maintaining its corporate existence, (iii) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Loan Parties, (iv) the incurrence of Indebtedness permitted to be incurred by Alkermes Ireland Holdings Limited pursuant to Section 7.1, (v) the consummation of any Permitted Acquisition so long as any assets acquired in connection with such Permitted Acquisition are owned by the Borrower or a Subsidiary of the Borrower immediately following such Permitted Acquisition, (vi) Restricted Payments permitted to be made by Alkermes Ireland Holdings Limited under Section 7.5 and (vii) activities incidental to the businesses or activities described in clauses (i) through (vi); (b) incur any Indebtedness other than Indebtedness permitted pursuant to Sections 7.1 (b), (k), (n) or (t); and (c) create, incur, assume or suffer to exist any Lien other than Liens permitted pursuant to Sections 7.2(a), (c), (j), (l), (o), (q) or (aa) upon any of its property or assets, whether now owned or hereafter acquired.

## SECTION 8. EVENTS OF DEFAULT

Events of Default. If any of the following events shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Term Loan when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Term Loan, or any other amount payable hereunder or under any other Loan Document, within five (5) days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been untrue in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in Section 6.4(a) (with respect to the Borrower only) or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section 8), and such default shall continue unremedied for a period of thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(e) any Group Member (i) defaults in making any payment of any principal of any Material Indebtedness (including any Guarantee Obligation or Hedge Agreement that constitutes Material Indebtedness, but excluding the Term Loans) on the scheduled or original due date with respect thereto; or (ii) defaults in making any payment of any interest on any such Material Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) defaults in the observance or performance of any other agreement or condition relating to any such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Material Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder; *provided* that (x) such failure is unremedied and is not waived by the holders of such Indebtedness and (y) in the case of any such failure in respect of the Indebtedness pursuant to the First Lien Credit Agreement, such failure shall have continued for sixty (60) consecutive days or (ii) any Indebtedness under the First Lien Credit Agreement shall be declared due and payable prior to the stated maturity of such Indebtedness as a result of such event; *provided* further that this clause (e)(iii) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or

(f) (i) any Group Member (other than an Immaterial Subsidiary) shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, examinership or relief of debtors (a "Bankruptcy Law"), seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, examinership, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator, liquidator, examiner or other similar official for it or for all or any substantial part of its assets under a Bankruptcy Law, or any Group Member (other than an Immaterial Subsidiary) shall make a general assignment, composition, compromise, or arrangement with or for the benefit of its creditors; or (ii) there shall be commenced against any Group Member (other than an Immaterial Subsidiary) any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or other relief with respect to it or its debts or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distress, distraint or similar process against all or any substantial part of the assets of the Group Members, taken as a whole, that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) any Group Member (other than an Immaterial Subsidiary) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member (other than an Immaterial Subsidiary) shall generally not, or shall be unable to, or shall under applicable law be deemed to be unable to, or shall admit in writing its inability to, pay its debts as they become due; or



(g) (i) any failure to satisfy the minimum funding standard under Sections 412 and 430 of the Code or Sections 302 and 303 of ERISA, whether or not waived, shall occur with respect to any Single Employer Plan or any Lien in favor of the PBGC or a Single Employer Plan or Multiemployer Plan shall arise on the assets of the Borrower or any Commonly Controlled Entity, (ii) a Reportable Event shall occur with respect to, or proceedings shall commence under Section 4042 of ERISA to have a trustee appointed, or a trustee shall be appointed to, any Single Employer Plan, (iii) any Single Employer Plan shall be terminated under Section 4041(c) of ERISA or the institution by the PBGC of proceedings to terminate a Single Employer Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of such Single Employer Plan, (iv) any Group Member or any Commonly Controlled Entity intends to withdraw from a Multiemployer Plan and shall, or is reasonably likely to, incur any liability in connection with such withdrawal, or the Insolvency or Reorganization of, a Multiemployer Plan, (v) any Group Member shall engage in any non-exempt "prohibited transaction" (within the meaning of Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (vi) the cessation of operations at a facility of any Group Member or Commonly Controlled Entity in the circumstances described in Section 4062(e) of ERISA or (vii) the withdrawal by any Group Member or Commonly Controlled Entity from a Multiple Employer Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; and in each case in clauses (i) through (vii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to have a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member and the same shall not have been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof and any such judgments or decrees is for the payment of money, individually or in the aggregate (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage), of \$10,000,000 or more or is for injunctive relief which could reasonably be expected to have a Material Adverse Effect; or

(i) any Security Documents relating to material assets of the Group Members, taken as a whole, shall cease, for any reason, to be in full force and effect, or any Loan Party or any Subsidiary of any Loan Party shall so assert, or any Lien created by any of the Security Documents relating to material assets of the Group Members, taken as a whole, shall cease to be enforceable and of the same effect and priority purported to be created thereby (other than because of any action by the First Lien Collateral Agent or the Collateral Agent); or any Loan Party or any Subsidiary of any Loan Party shall so assert; or

(j) the guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party or any Subsidiary of any Loan Party shall so assert; or

(k) a Change of Control occurs; or

(l) (i) any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be “senior debt,” “senior indebtedness,” “designated senior debt,” “guarantor senior debt” or “senior secured financing” (or any comparable term) under, and as defined in, any Junior Financing Documentation evidencing Material Indebtedness, (ii) the subordination provisions set forth in any Junior Financing Documentation evidencing Material Indebtedness shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of such Junior Financing, if applicable or (iii) any Loan Party, any Subsidiary of any Loan Party shall assert any of the foregoing;

then, and in any such event, (A) if such event is an Event of Default specified in paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable. Except as expressly provided above in this Section 8, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

## SECTION 9. THE AGENTS

### 9.1 Appointment.

(a) Each Lender (and, if applicable, each other Secured Party) hereby irrevocably designates and appoints each Agent as the agent of such Lender (and, if applicable, each other Secured Party) under this Agreement and the other Loan Documents, and each such Lender (and, if applicable, each other Secured Party) irrevocably authorizes such Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to such Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or other Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against any Agent.

(b) Each of the Secured Parties hereby irrevocably designates and appoints Morgan Stanley Senior Funding, Inc. as collateral agent of such Secured Party under this Agreement and the other Loan Documents, and each such Secured Party irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf as are necessary or advisable with respect to the Collateral under this Agreement or any of the other Loan Documents, together with such powers as are reasonably incidental thereto. The Collateral Agent hereby accepts such appointment.

9.2 Delegation of Duties. Each Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither any Agent nor any of their respective officers, directors, members, partners, employees, agents, attorneys-in-fact or Affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders or any other Secured Party for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by such Agent. The Administrative Agent shall deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Term Loans and all other Secured Parties.

9.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders or any other instructing group of Lenders specified by this Agreement); *provided* that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Secured Parties.

9.6 Non-Reliance on Agents and Other Lenders. Each Lender (and, if applicable, each other Secured Party) expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender or any other Secured Party. Each Lender (and, if applicable, each other Secured Party) represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender (and, if applicable, each other Secured Party) also represents that it will, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender or any other Secured Party with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any Affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

9.7 Indemnification. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Section 10.5 to be paid by it to any Agent Related Party (or any sub-agent thereof), each Lender severally agrees to pay to such Agent Related Party (or any such sub-agent thereof) such Lender's Term Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; *provided* that (a) the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against any Agent Related Party (or any such sub-agent thereof) and (b) no Lender shall be liable for the payment of any portion of such unreimbursed expense or indemnified loss, claim, damage, liability or related expense that is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Term Loans and all other amounts payable hereunder.

9.8 Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender," "Lenders," "Secured Party" and "Secured Parties" shall include each Agent in its individual capacity.

9.9 Successor Administrative Agent.

(a) The Administrative Agent and the Collateral Agent may resign as Administrative Agent and Collateral Agent, respectively, upon ten (10) days' notice to the Lenders and the Borrower. If the Administrative Agent or Collateral Agent, as applicable, shall resign as Administrative Agent or Collateral Agent, as applicable, under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8(a) or Section 8(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent or Collateral Agent, as applicable, and the term "Administrative Agent" or "Collateral Agent," as applicable, shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's or Collateral Agent's, as applicable, rights, powers and duties as Administrative Agent or Collateral Agent, as applicable, shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or Collateral Agent, as applicable, or any of the parties to this Agreement or any holders of the Term Loans. If no successor agent has accepted appointment as Administrative Agent or Collateral Agent, as applicable, by the date that is ten (10) days following a retiring Administrative Agent's or Collateral Agent's, as applicable, notice of resignation, the retiring Administrative Agent's or Collateral Agent's, as applicable, resignation shall nevertheless thereupon become effective and the Lenders shall assume and perform all of the duties of the Administrative Agent or Collateral Agent, as applicable, hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's or Collateral Agent's, as applicable, resignation as Administrative Agent or retiring Collateral Agent's resignation as Collateral Agent, as applicable, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent or Collateral Agent, as applicable, under this Agreement and the other Loan Documents.

(b) Anything herein to the contrary notwithstanding, if at any time the Required Lenders determine that the Person serving as Administrative Agent is a Defaulting Lender, the Required Lenders (determined after giving effect to the final paragraph of Section 10.1) may by notice to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a replacement Administrative Agent hereunder. Such removal will, to the fullest extent permitted by applicable law, be effective on the earlier of (i) the date a replacement Administrative Agent is appointed and (ii) the date ten (10) Business Days after the giving of such notice by the Required Lenders (regardless of whether a replacement Administrative Agent has been appointed).

9.10 Agents Generally. Except as expressly set forth herein, the Agents and the Lead Arranger and the Joint Bookrunners shall not have any duties or responsibilities hereunder in its capacity as such.

9.11 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents, or institute any actions or proceeds, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent; *provided* that the foregoing shall not prohibit any Lender from filing proofs of claim during the pendency of a proceeding relative to any Loan Party under any bankruptcy or other debtor relief law.

9.12 Withholding Tax. To the extent required by any applicable law, an Agent shall withhold from any payment to any Lender an amount equal to any applicable withholding Tax. If the IRS or any Governmental Authority asserts a claim that the Agent did not properly withhold Tax from any amount paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Agent (to the extent that the Agent has not already been reimbursed by the Borrower and without limiting or expanding the obligation of the Borrower to do so) for all amounts paid, directly or indirectly, by the Agent as tax or otherwise, including any penalties, additions to Tax or interest thereon, together with all expenses incurred, including legal expenses and any out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Agent under this Section 9.12. The agreements in this Section 9.12 shall survive the resignation and/or replacement of the Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Term Loans and the repayment, satisfaction or discharge of all obligations under this Agreement. Unless required by applicable laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender any refund of Taxes withheld or deducted from funds paid for the account of such Lender.

9.13 Administrative Agent May File Proof of Claims. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties and the Administrative Agent (including any claim for the compensation, expenses, disbursements and advances of the Secured Parties and their respective agents and counsel and all other amounts due the Secured Parties under the Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Secured Parties, to pay to the Administrative Agent any amount due for the compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents.

9.14 Intercreditor Agreement. Notwithstanding anything herein to the contrary, each Lender also acknowledges that the Lien and security interest granted to the Collateral Agent pursuant to the Security Documents and the existence of any right or remedy by the Collateral Agent thereunder are subject to the provisions of the Intercreditor Agreement. In the event of a conflict between the terms of the Intercreditor Agreement and any Security Document, the terms of the Intercreditor Agreement shall govern and control. Each Lender hereby authorizes the Collateral Agent to enter into the Intercreditor Agreement on behalf of such Lender. The foregoing provisions are intended as an inducement to the First Lien Secured Parties (as such term is defined in the Intercreditor Agreement) to extend credit to the Borrower and such First Lien Secured Parties are intended third party beneficiaries of such provisions and the provisions of the Intercreditor Agreement.

## SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; *provided*, however, that no such waiver and no such amendment, supplement or modification shall:

(i) forgive the principal amount or extend the final scheduled date of maturity of any Term Loan, reduce the stated rate of any interest or forgive or reduce any interest or fee payable hereunder (except (x) in connection with the waiver of applicability of any post-default increase in interest rates, which waiver shall be effective with the consent of the Required Lenders and (y) that any amendment or modification of financial covenants or defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the written consent of each Lender directly affected thereby; *provided* that neither any amendment, modification or waiver of a mandatory prepayment required hereunder, nor any amendment of Section 3.2 or any related definitions including Asset Sale, IP Sale, Excess Cash Flow, or Recovery Event, shall constitute a reduction of the amount of, or an extension of the scheduled date of, any principal installment of any Term Loan or Note or other amendment, modification or supplement to which this clause (i) is applicable;

(ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender;

(iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release Holdings or all or substantially all of the Subsidiary Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders;

(iv) amend, modify or waive any provision of Section 3.8(a) or 10.7(a) of this Agreement or Section 6.5 of the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders;

(v) amend, modify or waive any provision of Section 9 without the written consent of each Agent adversely affected thereby; and

(vi) amend, modify or waive any provision of Section 9.6 to further restrict any Lender's ability to assign or otherwise transfer its obligations hereunder without the written consent of all Lenders adversely affected thereby.



Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Agents and all future holders of the Term Loans.

In the case of any waiver, the Loan Parties, the Lenders and the Agents shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term Loans ("Refinanced Term Loans") with a replacement term loan tranche hereunder ("Replacement Term Loans"); *provided* that (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans plus accrued interest, fees and expenses related thereto, (b) the Applicable Margin for such Replacement Term Loans shall not be higher than the Applicable Margin for such Refinanced Term Loans, (c) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the applicable Term Loans) and (d) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than, those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Term Loans in effect immediately prior to such refinancing.

If, in connection with any proposed amendment, modification, waiver or termination requiring the consent of all Lenders, the consent of the Required Lenders is obtained, but the consent of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained being referred to as a "Non-Consenting Lender"), then, so long as the Administrative Agent is not a Non-Consenting Lender, the Administrative Agent or a Person reasonably acceptable to the Administrative Agent shall have the right but not the obligation to purchase at par from such Non-Consenting Lenders, and such Non-Consenting Lenders agree that they shall, upon the Administrative Agent's request, sell and assign to the Administrative Agent or such Person, all of the Term Loans of such Non-Consenting Lenders for an amount equal to the principal balance of all such Term Loans held by such Non-Consenting Lenders and all accrued interest and fees with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment and Assumption. In addition to the foregoing, the Borrower may replace any Non-Consenting Lender pursuant to Section 3.13.

Notwithstanding the foregoing, this Agreement and the other Loan Documents may be amended (or amended and restated), modified or supplemented with the written consent of the Administrative Agent and the Borrower (a) to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender, (b) to add one or more additional credit facilities with respect to Incremental Term Loans to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans, as applicable, and the accrued interest and fees in respect thereof and (c) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders; *provided*, that the conditions set forth in Section 2.4 are satisfied.

Anything herein to the contrary notwithstanding, during such period as a Lender is a Defaulting Lender, to the fullest extent permitted by applicable law, such Lender will not be entitled to vote in respect of amendments and waivers hereunder and the Commitment and the outstanding Loans or other extensions of credit of such Lender hereunder will not be taken into account in determining whether the Required Lenders or all of the Lenders, as required, have approved any such amendment or waiver (and the definition of "Required Lenders" will automatically be deemed modified accordingly for the duration of such period); *provided* that, subject to the limitations set forth in the first paragraph of this Section 10.1, any such amendment or waiver that would increase or extend the term of the Commitment of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to such Defaulting Lender hereunder, reduce the principal amount of any obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of such Defaulting Lender.

## 10.2 Notices.

(a) All notices and other communications provided for hereunder shall be either (x) in writing (including telecopy or e-mail communication) and mailed, telecopied or delivered or (y) as and to the extent set forth in Section 10.2(b) as follows:

(i) if to the Borrower, at its address at Alkermes, Inc., 852 Winter Street, Waltham, Massachusetts 02451, Attention Jim Frates, and a copy to Richard Lincer, Esq., Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York 10006;

(ii) if to the Collateral Agent or the Administrative Agent, at its address at 1585 Broadway, New York, New York 10036, Attention: MS Agency, E-mail Address: msagency@morganstanley.com; or, as to any party, at such other address as shall be designated by such party in a written notice to the other parties;

*provided*, however, that materials and information described in Section 10.2(b) shall be delivered to the Administrative Agent in accordance with the provisions thereof or as otherwise specified to the Borrower by the Administrative Agent. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given or made upon the earlier of (i) actual receipt by the relevant party hereto, (ii) if delivered by hand or courier, when signed for by or on behalf of the relevant party hereto, and (iii) four days after having been mailed; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that notices and communications to any Agent pursuant to Sections 2 and 9 shall not be effective until received by such Agent). Delivery by telecopier of an executed counterpart of a signature page to any amendment or waiver of any provision of this Agreement or the Notes or of any Exhibit hereto to be executed and delivered hereunder shall be effective as delivery of an original executed counterpart thereof.

(b) The Borrower hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Loan Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any default or event of default under this Agreement or (iv) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to an electronic address specified by the Administrative Agent to the Borrower. In addition, the Borrower agrees to continue to provide the Communications to the Agents in the manner specified in the Loan Documents but only to the extent requested by the Administrative Agent.

(c) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE ADMINISTRATIVE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS, EXCEPT TO THE EXTENT THE LIABILITY OF SUCH PERSON IS FOUND IN A FINAL, NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, "ADMINISTRATIVE AGENT PARTIES") HAVE ANY LIABILITY TO THE BORROWER, ANY LENDER PARTY OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET.

The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Loan Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such e-mail address. Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Term Loans and other extensions of credit hereunder and shall continue in full force and effect as long as any Term Loan or any other Obligation hereunder shall remain unpaid or unsatisfied and so long as the Commitments of any Lender have not been terminated.

10.5 Payment of Expenses and Taxes; Indemnity.

(a) The Borrower agrees (i) to pay or reimburse each Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, execution and delivery, and any amendment, supplement or modification to, this Agreement and the other Loan Documents, any security arrangements in connection therewith and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable invoiced fees and disbursements of counsel to such parties and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter as such parties shall deem appropriate and (ii) to pay or reimburse each Lender and Agent for all its documented costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the reasonable and invoiced fees and disbursements of counsel to such parties and any documented costs and expenses incurred during any workout or restructuring.

(b) The Borrower agrees (i) to pay, indemnify, and hold each Lender and each Agent harmless from, any and all recording and filing fees, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (ii) to pay, indemnify, and hold each Lender and Agent and the Joint Bookrunners and their respective affiliates (including, without limitation, controlling persons) and each member, partner, director, officer, employee, advisor, agent, affiliate, successor, partner, member, representative and assign of each of the foregoing (each, an “Indemnitee”) harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents (regardless of whether any Loan Party is or is not a party to any such actions or suits) and any such other documents, including any of the foregoing relating to the use of proceeds of the Term Loans, or violation of, noncompliance with or liability under, any Environmental Law relating to any Group Member or any of the Properties, including the presence, Release or threat of Releases of any Materials of Environmental Concern, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (ii), collectively, the “Indemnified Liabilities”); provided, that the Borrower shall not have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or its Related Indemnified Persons. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee except to the extent found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or its Related Indemnified Persons. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Chief Financial Officer, at the address of the Borrower set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive repayment of the Term Loans and all other amounts payable hereunder.

(c) To the fullest extent permitted by applicable law, neither the Borrower nor any Indemnitee shall assert, and each of the Borrower and each Indemnitee does hereby waive, any claim against any party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Term Loan or the use of the proceeds thereof; *provided* that the foregoing shall not limit the indemnification obligations of the Borrower under clause (b) above to the extent they arise from claims of third parties against an Indemnitee for such special, indirect, consequential or punitive damages. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(d) The Borrower shall not, without the prior written consent of the Indemnitee, settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any proceeding in respect of which indemnification may be sought hereunder (whether or not any Indemnitee is a party thereto) unless such settlement, compromise, consent or termination (i) includes an unconditional release of each Indemnitee from all liability arising out of such proceeding and (ii) does not include a statement as to, or an admission of, fault, culpability, or a failure to act by or on behalf of such Indemnitee.

(e) The Borrower will not be liable under this Agreement for any amount paid by an Indemnitee to settle any claims or actions if the settlement is entered into without the Borrower's consent, which consent may not be withheld or delayed unless such settlement is unreasonable in light of such claims or actions against, and defenses available to, such Indemnitee; provided that this Section 10.5(e) shall not apply to those settlements where the Borrower was offered the ability to assume the defense of the action that directly and specifically related to the subject matter of such settlement and elected not to assume such defense.

(f) All amounts due under this Section shall be payable not later than ten (10) days after demand therefor.

#### 10.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except (x) to an assignee in accordance with the provisions of paragraph (b) of this Section, (y) by way of participation in accordance with the provisions of paragraph (e) of this Section or (z) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, express or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors as assigns permitted hereby, Participants to the extent provided in paragraph (e) of this Section 10.6 and, to the extent expressly contemplated hereby, the Affiliates of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Term Loans at the time owing to it); *provided* that any such assignment shall be subject to the following conditions:

(i) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, an assignment effected by the Administrative Agent in connection with the initial syndication of the Commitments held by Morgan Stanley Senior Funding, Inc. and HSBC Bank USA, N.A. an assignment of the entire remaining amount of the assigning Lender's Commitments or Term Loans, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$1,000,000 unless each of the Borrower and the Administrative Agent otherwise consent (such consent not to be unreasonably withheld or delayed); *provided* that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Term Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate tranches of Loans (if any) on a non-pro rata basis;

(iii) no consent shall be required for any assignment except to the extent required by paragraph (b)(i) of this Section and, in addition, the consent of:

(A) the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default under Section 8(a) or (f) has occurred and is continuing at the time of such assignment, (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received a draft of the relevant Assignment and Assumption or (z) such assignment is made prior to the earlier of (1) the Syndication Date and (2) the date that is 90 days after the Closing Date; and

(B) the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of the Term Facility if such assignment is to an Assignee that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(iv) except in the case of assignments pursuant to paragraph (c) below, the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 (it being understood that payment of only one processing fee shall be required in connection with simultaneous assignments to two or more Approved Funds); *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment; and the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire.

(v) no assignment shall be permitted to be made to Holdings or any of its Subsidiaries or Affiliates other than on the following basis:

(A) no Default or Event of Default has occurred or is continuing at the time of such assignment or would result from such assignment;

(B) Holdings, the Borrower or any of their respective Subsidiaries may make one or more offers (each, an "Offer") to repurchase all or any portion of the Term Loans (such Term Loans, the "Offer Loans"); *provided* that, (1) Holdings, the Borrower or such Subsidiary delivers a notice of such Offer to the Administrative Agent and all Lenders no later than noon (New York City time) at least five (5) Business Days in advance of a proposed consummation date of such Offer indicating (w) the last date on which such Offer may be accepted, (x) the maximum dollar amount of such Offer, (y) the repurchase price per dollar of principal amount of such Offer Loans at which Holdings, the Borrower or such Subsidiary is willing to repurchase such Offer Loans and (z) the instructions, consistent with this Section 10.6(b)(v) with respect to the Offer, that a Lender must follow in order to have its Offer Loans repurchased; (2) Holdings, the Borrower or such Subsidiary shall hold such Offer open for a minimum period of two (2) Business Days; (3) a Lender who elects to participate in the Offer may choose to sell all or part of such Lender's Offer Loans; (4) such Offer shall be made to the Lenders holding the Offer Loans on a pro rata basis in accordance with the respective principal amount then due and owing to the Lenders; *provided* that, if any Lender elects not to participate in the Offer, either in whole or in part, the amount of such Lender's Offer Loans not being tendered shall be excluded in calculating the pro rata amount applicable to the balance of such Offer Loans; and (5) such Offer shall be conducted pursuant to such procedures the Administrative Agent may establish in consultation with the Borrower (which shall be consistent with this clause (B)) and that a Lender must follow in order to have its Offer Loans repurchased;

(C) with respect to all repurchases made by Holdings, the Borrower or their respective Subsidiaries, such repurchases shall be deemed to be voluntary prepayments pursuant to Section 3.1(a) in an amount equal to the aggregate principal amount of such Term Loans;

(D) following repurchase by Holdings, the Borrower or any of their respective Subsidiaries, (1) all principal and accrued and unpaid interest on the Term Loans so repurchased shall be deemed to have been paid for all purposes and no longer outstanding (and may not be resold by Holdings, the Borrower or such Subsidiary), for all purposes of this Agreement and all other Loan Documents and (2) Holdings, the Borrower or any of their respective Subsidiaries, as the case may be, will promptly advise the Administrative Agent of the total amount of Offer Loans that were repurchased from each Lender who elected to participate in the Offer; and

(E) any Term Loans purchased by or assigned to Holdings, the Borrower or any of their respective Subsidiaries shall be automatically, immediately and permanently cancelled upon the effectiveness of such assignment and will thereafter no longer be outstanding for any purpose hereunder; and



(vi) no assignment shall be permitted to be made to a natural person.

Except as otherwise provided in clause (v) above and in paragraph (c) below, subject to acceptance and recording thereof pursuant to paragraph (d) below, from and after the effective date specified in each Assignment and Assumption the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.9, 3.10, 3.11 and 10.5; *provided*, with respect to such Section 3.10, that such Lender continues to comply with the requirements of Sections 3.10 and 3.10(e). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section.

(c) Notwithstanding anything in this Section 10.6 to the contrary, a Lender may assign any or all of its rights hereunder to an Affiliate of such Lender or an Approved Fund of such Lender without (a) providing any notice (including, without limitation, any administrative questionnaire) to the Administrative Agent or any other Person or (b) delivering an executed Assignment and Assumption to the Administrative Agent; *provided* that (A) such assigning Lender shall remain solely responsible to the other parties hereto for the performance of its obligations under this Agreement, (B) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such assigning Lender in connection with such assigning Lender's rights and obligations under this Agreement until an Assignment and Assumption and an administrative questionnaire have been delivered to the Administrative Agent, (C) the failure of such assigning Lender to deliver an Assignment and Assumption or administrative questionnaire to the Administrative Agent or any other Person shall not affect the legality, validity or binding effect of such assignment and (D) an Assignment and Assumption between an assigning Lender and its Affiliate or Approved Fund shall be effective as of the date specified in such Assignment and Assumption.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of and interest owing with respect to the Term Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Subject to the penultimate sentence of this paragraph (d), the entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In the case of an assignment to an Affiliate of a Lender or an Approved Fund pursuant to paragraph (c), as to which an Assignment and Assumption and an administrative questionnaire are not delivered to the Administrative Agent, the assigning Lender shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register (a "Related Party Register") comparable to the Register on behalf of the Borrower. The Register or Related Party Register shall be available for inspection by the Borrower and any Lender at the Administrative Agent's office at any reasonable time and from time to time upon reasonable prior notice. Except as otherwise provided in paragraph (c) above, upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b)(iv) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. Except as otherwise provided in paragraph (c) above, no assignment shall be effective for purposes of this Agreement unless and until it has been recorded in the Register (or, in the case of an assignment pursuant to paragraph (c) above, the applicable Related Party Register) as provided in this paragraph (d). The date of such recordation of a transfer shall be referred to herein as the "Assignment Effective Date."

(e) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Term Loans owing to it); *provided* that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement and (D) no participation shall be permitted to be made to Holdings or any of its Subsidiaries or Affiliates, nor any officer or director of any such Person. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1. Subject to paragraph (f) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.9, 3.10 and 3.11 to the same extent as if it were a Lender (subject to the requirements and obligations of those sections including the documentary requirements in Section 3.10(e)) and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender; *provided* such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower and solely for tax purposes, maintain a register complying with the requirements of Section 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations issued thereunder relating to the exemption from withholding for portfolio interest on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Term Loans or other obligations under this Agreement (the “Participant Register”); *provided*, that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Loans or its other obligations under this Agreement) except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. Unless otherwise required by the IRS, any disclosure required by the foregoing sentence shall be made by the relevant Lender directly and solely to the IRS. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The entries in the Participant Register shall be conclusive and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) A Participant shall not be entitled to receive any greater payment under Section 3.9, 3.10 or 3.11 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant had no such participation been transferred to such Participant, unless the entitlement to a greater payment results from a change in any Requirement of Law after the date such Participant became a Participant.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest or to any such sale or securitization; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(h) Notwithstanding the foregoing, a Lender may not assign or sell participations in, its rights and obligations under this Agreement to a Disqualified Institution; provided however, (i) the Administrative Agent shall have no duty or obligation for any breach or other violation of this provision by any Lender, any assignee, any participant or any other Person, (ii) no Agent shall have any duty to take any action or to exercise any powers (discretionary or non-discretionary) in connection with any participation having been made to any Disqualified Institution and (iii) no Agent shall have any duty to disclose the fact that a participation has been made to a Disqualified Institution.

#### 10.7 Sharing of Payments; Set-off.

(a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender, if any Lender (a "Benefited Lender") shall, at any time after the Term Loans and other amounts payable hereunder shall become due and payable pursuant to Section 8, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; *provided*, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a director creditor of each Loan Party in the amount of such participation to the extent provided in clause (b) of this Section 10.7.

(b) In addition to any rights and remedies of the Lenders provided by law, subject to Section 9.11, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower, and to the extent permitted by applicable law, upon the occurrence of any Event of Default which is continuing, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower, as the case may be. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

(c) Notwithstanding anything to the contrary contained herein, the provisions of this Section 10.7 shall be subject to the express provisions of this Agreement which require or permit differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic mail (in “.pdf” or similar format) shall be effective as delivery of a manually executed counterpart hereof.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Agents and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Agent or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

**10.11 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.**

10.12 Submission To Jurisdiction; Waivers. Each of the parties hereto hereby irrevocably and unconditionally:

- (a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;
- (b) consents that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;
- (c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the address set forth in Section 10.2 or on the signature pages hereof, as the case may be, or at such other address of which the Administrative Agent shall have been notified pursuant thereto; and
- (d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction.

10.13 Acknowledgments. The Borrower hereby acknowledges that:

- (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;
- (b) each Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. The Loan Parties acknowledge and agree that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Loan Party, its management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Loan Party, in connection with such transaction or the process leading thereto; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower and the Lenders.

#### 10.14 Releases of Guarantees and Liens.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, each of the Administrative Agent and the Collateral Agent is hereby irrevocably authorized by each Secured Party (without requirement of notice to or consent of any Secured Party except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any Collateral or guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document (including, without limitation, (w) the release of any Subsidiary Guarantor from its obligations under the Loan Documents if such Person ceases to be a Restricted Subsidiary as a result of a transaction permitted hereunder, (x) the release of any Subsidiary Guarantor from its obligations under the Loan Documents if, prior to the Discharge of First Lien Obligations, such Person ceases to guarantee the obligations under the First Lien Loan Documents, (y) the release from the Collateral of any assets disposed to a Person other than a Loan Party in accordance with this Agreement and (z) the release from the Collateral of any assets of any Person that ceases to be a Subsidiary Guarantor in accordance with this Agreement ) or that has been consented to in accordance with Section 10.1; *provided* that no such release shall occur if (x) such Subsidiary Guarantor continues to be a guarantor in respect of any Junior Financing or (y) such Collateral continues to secure any Junior Financing or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as (i) the Term Loans and the other Obligations (other than Unasserted Contingent Obligations shall have been paid in full or Cash Collateralized and (ii) the Commitments have been terminated, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent, the Collateral Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person. At such time, the Collateral Agent shall take such actions as are reasonably necessary, at the cost of the Borrower, to effect each release described in this Section 10.14 in accordance with the relevant provisions of the Security Documents.

10.15 Confidentiality. Each Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party pursuant to this Agreement that is designated by such Loan Party as confidential in accordance with its customary procedures; *provided* that nothing herein shall prevent any Agent or any Lender from disclosing any such information (a) to any Agent, any other Lender, any Affiliate of a Lender or any Approved Fund (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) subject to an agreement to comply with confidentiality provisions at least as restrictive as the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Hedge Agreement (or any professional advisor to such counterparty), (c) to its employees, directors, members, partners, agents, attorneys, accountants and other professional advisors or those of any of its affiliates (it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed (other than as a result of a disclosure in violation of this Section 10.15), (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document; *provided* that, unless specifically prohibited by applicable law or court order, each Lender shall notify the Borrower of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information.

**10.16 WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

10.17 Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Borrower hereunder in the currency expressed to be payable herein (the “specified currency”) into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures any Lender could purchase the specified currency with such other currency at such Lender’s New York office on the Business Day preceding that on which final judgment is given. The obligations of the Borrower in respect of any sum due to any Lender hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender of any sum adjudged to be so due in such other currency such Lender may in accordance with normal banking procedures purchase the specified currency with such other currency; if the amount of the specified currency so purchased is less than the sum originally due to such Lender in the specified currency, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Lender against such loss, and if the amount of the specified currency so purchased exceeds the sum originally due to such Lender in the specified currency, such Lender agrees to remit such excess to the Borrower.

10.18 Patriot Act Notice. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it may be required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

ALKERMES, INC., as Borrower

By: /s/ James M. Frates

Name: James M. Frates

Title: Senior Vice President, Chief Financial Officer and Treasurer

ALKERMES US HOLDINGS, INC.

as Holdco

By: /s/ Michael Landine

Name: Michael Landine

Title: President

[Signature Page to Second Lien Credit Agreement]

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**SIGNED AND DELIVERED** for and on behalf  
of and as the deed of **ALKERMES PLC**  
by its lawfully appointed attorney  
Shane Cooke, acting pursuant  
to a Power of Attorney dated September 12, 2011:

/s/ Shane Cooke

Signature of Witness: /s/ Patricia Ponsonby  
Name of Witness: Patricia Ponsonby  
Address of Witness: Treasury Bldg., Lower Grand Canal St.  
Dublin 2  
Occupation of Witness: Solicitor

**SIGNED AND DELIVERED** for and on behalf  
of and as the deed of **ALKERMES PHARMA  
IRELAND LIMITED** by its lawfully appointed  
attorney Shane Cooke,  
acting pursuant to a Power of Attorney dated September 12, 2011:

/s/ Shane Cooke

Signature of Witness: /s/ Patricia Ponsonby  
Name of Witness: Patricia Ponsonby  
Address of Witness: Treasury Bldg., Lower Grand Canal St.  
Dublin 2  
Occupation of Witness: Solicitor

[Signature Page to Second Lien Credit Agreement]

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MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as co-Syndication Agent

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

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HSBC SECURITIES (USA) INC., as co-Syndication Agent

By: /s/ Keith Malas

Name: Keith Malas

Title: M.D. Co-Head of LAF

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LENDER:

MORGAN STANLEY SENIOR FUNDING, INC.,  
as a Term Lender

By: /s/ Olalekan J. Lawal  
Name: Olalekan J. Lawal  
Title: Authorized Signatory

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**SCHEDULE 1.1**

**[On file with Administrative Agent]**

## INTELLECTUAL PROPERTY TRANSFER AGREEMENT

This INTELLECTUAL PROPERTY TRANSFER AGREEMENT (the “Agreement”) is dated as of September 15, 2011 (the “Effective Date”) between Alkermes, Inc., a Pennsylvania corporation (“Assignor”), Alkermes Controlled Therapeutics, Inc., a Pennsylvania corporation (“Assignor Sub”), and Alkermes Pharma Ireland Limited, a private limited company incorporated in Ireland (registered number 448848) whose registered address is Monksland, Athlone, County Westmeath, Ireland (“Assignee”).

## RECITALS:

WHEREAS, Assignor and Assignee and certain other parties entered into a Business Combination Agreement and Plan of Merger, dated as of May 9, 2011 (the “Merger Agreement”), pursuant to which, among other things, the business conducted by Assignee and certain of its affiliates will be combined with the business of Assignor, all upon the terms and conditions set forth in the Merger Agreement;

WHEREAS, Assignor and Assignor Sub desire to sell and assign to Assignee, and Assignee desires to purchase and acquire from Assignor and Assignor Sub, certain intellectual property and contracts, subject to the terms and the conditions set forth in this Agreement; and

WHEREAS, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement is a condition to the obligations of Assignor and Assignee to consummate the transactions contemplated by the Merger Agreement, and the transactions contemplated by this Agreement are conditional upon the subsequent sequential consummation of the merger and the other transactions contemplated by the Merger Agreement.

NOW, THEREFORE, in consideration of the respective premises, mutual covenants and agreements of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. Definitions.

**Joint IP** shall mean (i) the Joint Know-How, (ii) the Joint Trademark and (iii) the Joint Patents.

**Joint Know-How** shall mean all Know-How owned by Assignor or Assignor Sub that relates to the System to the extent necessary or useful to develop, make, have made, use, sell, offer for sale or import pharmaceutical products that are System formulations that incorporate formulation of exendins, exendin agonists, glucagon-like peptides (GLP)-1 and GLP-1 agonists prepared using the System.

**Joint Patents** shall mean all patents and patent applications listed on Exhibit B hereto, together with any patents resulting therefrom, including divisionals, continuations, continuations-in-part, continued prosecution applications, reissues, re-examinations, extensions of term, substitutions, revalidations, renewals, supplemental protection certificates, registrations and confirmations thereof, and any other patent or patent application that are owned, in whole or in part, by Assignor or Assignor Sub and that relate to the System to the extent necessary or useful to develop, make, have made, use, sell, offer for sale or import pharmaceutical products that incorporate formulation of exendins, exendin agonists, glucagon-like peptides (GLP)-1 and GLP-1 agonists prepared using the System.

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**Joint Trademark** shall mean the registered trademark Medisorb® owned by Assignor and the goodwill associated therewith.

**Know-How** shall mean all proprietary data, information, knowledge, know-how, inventions, discoveries, trade secrets, processes, techniques, strategies, methods, practices, skills, experience, documents, apparatus, devices, assays, screens, databases, database structures and data analysis methods, compositions, materials, methods, formulas or improvements, whether patentable or not.

**System** shall mean methods for preparing microspheres/microparticles.

**Transferred Assets** shall mean the (i) Transferred IP, (ii) the Transferred License Agreement, (iii) the Transferred Trademark License Agreement and (iv) the one-half interest in the Joint IP that is transferred hereunder.

**Transferred IP** shall mean (i) the Transferred Know-How and (ii) the Transferred Patents, in each case, together with the right to sue and recover damages or other compensation or equitable relief for past, present or future infringement, misappropriation or violation thereof, and the right to fully and entirely stand in the place of Assignor in all matters related thereto.

**Transferred Know-How** shall mean all Know-How owned by Assignor that exclusively relates to the subject matter of the Transferred Patents.

**Transferred License Agreement** shall mean the Development and License Agreement dated May 15, 2000 between Assignor and Amylin Pharmaceuticals, Inc., as amended by the Amendment to Development and License Agreement dated October 24, 2005, and as assigned by Alkermes Controlled Therapeutics Inc. II to its affiliate, Alkermes, Inc.

**Transferred Patents** shall mean all patents and patent applications listed on Exhibit A hereto, together with any patents resulting therefrom, including divisionals, continuations, continuations-in-part, continued prosecution applications, reissues, re-examinations, extensions of term, substitutions, revalidations, renewals, supplemental protection certificates, registrations and confirmations thereof.

**Transferred Trademark License Agreement** shall mean the Trademark License Agreement dated March 19, 2010 between Assignor and Amylin Pharmaceuticals, Inc.

## 2. Transfer of Transferred Assets.

a. **Transferred IP.** Subject to the terms and conditions of this agreement, effective the Effective Date, Assignor hereby sells, assigns, transfers, conveys and delivers to Assignee, and Assignee hereby purchases, acquires and accepts from Assignor, all of Assignor's right, title and interest on the Effective Date throughout the world in and to the Transferred IP.

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b. Transfer of Transferred Patents. After the Effective Date, Assignor shall execute, or procure the execution of, such formal documents of sale and/or assignment as are required consistent with the terms and conditions of this Agreement to formally record the change of title to the Transferred Patents to Assignee in a timely manner.

c. Delivery of Transferred Know-How. Promptly following the Effective Date, Assignor shall transfer to Assignee, or otherwise make available, the Transferred Know-How in an orderly fashion and in a manner such that the value of such Transferred Know-How is preserved in all material respects.

d. Transfer of Transferred Agreements. Subject to the terms and conditions of this Agreement, on the Effective Date, Assignor hereby assigns to Assignee Assignor's rights, and Assignee shall assume Assignor's obligations, under the Transferred License Agreement and the Transferred Trademark License Agreement (the "Transferred Agreements"), except to the extent such rights and obligations relate to performance or non-performance under such Transferred Agreements prior to the Effective Date. Assignee agrees to be bound on and after the Effective Date by all the terms and conditions set forth in the Transferred Agreements; provided, however, that Assignor shall remain liable and responsible on and after the Effective Date for the performance and observance of all of the Assignee's duties and obligations under the Transferred Agreements.

e. Transfer of Rights in Joint IP. Subject to the terms and conditions of this Agreement, on the Effective Date, Assignor and Assignor Sub hereby each sells, assigns, transfers, conveys and delivers to Assignee an undivided one-half interest in the right, title and interest it respectively owns on the Effective Date throughout the world in and to the Joint IP. After the Effective Date, Assignor and Assignor Sub shall in a timely manner execute, or procure the execution of, such formal documents as are required consistent with the terms and conditions of this Agreement to formally record the change of title to the Joint Patents and the Joint Trademark to record Assignee as a joint owner thereof. Assignor or Assignor Sub, as applicable, shall have the right and responsibility for filing, prosecuting and maintaining the Joint Patents they respectively own, but shall consult with Assignee regarding such prosecution. Assignor shall have the right and responsibility for maintaining the Joint Trademark. In the event of (i) any infringement or potential infringement of a Joint Patent or Joint Trademark by a third party and/or (ii) any claim by a third party that a Joint Patent is invalid or unenforceable or that a Joint Trademark infringes such third party's intellectual property rights, the representatives of Assignor or Assignor Sub and Assignee, as applicable, shall confer to determine in good faith an appropriate course of action to enforce or defend such Joint Patent or Joint Trademark or otherwise to abate the infringement.

f. Delivery of Joint Know-How. Promptly following the Effective Date, Assignor and Assignor Sub shall transfer to Assignee, or otherwise make available, a copy of the Joint Know-How in an orderly fashion and in a manner such that the value of such Joint Know-How is preserved in all material respects.

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3. Consideration. In consideration of Assignor' and Assignor Sub's transfer of the Transferred Assets to Assignee in accordance with Section 2 hereof, Assignee is delivering contemporaneously herewith a promissory note, in the form attached hereto as Exhibit C, in the principal amount of \$202.1 million.

4. Disclaimer. NO PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED, REGARDING THE SUBJECT MATTER OF THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, ASSIGNOR AND ASSIGNOR SUB MAKE NO REPRESENTATION, GUARANTY OR WARRANTY IN THIS AGREEMENT REGARDING THE TRANSFERRED ASSETS, INCLUDING, WITHOUT LIMITATION, AS TO THE CONDITION OF TITLE, ENFORCEABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, VALIDITY, REGISTRABILITY, NON-INFRINGEMENT OR ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED OR BY OPERATION OF LAW.

5. Change in Law. The obligations of the parties to consummate the transfer shall terminate if there has been a change in law that would materially increase the risk of having an adverse impact on Assignor or the benefits intended to be achieved by this transfer.

6. Further Assurances. Assignor and Assignor Sub shall use reasonable efforts to take actions and execute and deliver documents that Assignee may reasonably request to effect the terms of this Agreement and to perfect Assignee's title in and to the Transferred Assets.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, USA, applicable to contracts to be performed entirely within that State.

8. Interpretation. Capitalized terms used in this Agreement and not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

9. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement.

10. Condition. The obligations of Assignor, Assignor Sub and Assignee under this Agreement are conditioned upon the subsequent sequential consummation of the Merger and the other transactions contemplated by the Merger Agreement, and unless the Merger and such transactions are consummated, this Agreement shall be void and of no force and effect.

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IN WITNESS WHEREOF, each of the parties hereto has caused its duly authorized representative to execute this Agreement as of the date first set forth above.

**ALKERMES, INC.**

By /s/ Michael Landine

Name: Michael Landine

Title: Senior Vice President of Corporate Development

**ALKERMES CONTROLLED THERAPEUTICS, INC.**

By /s/ James M. Frates

Name: James M. Frates

Title: Vice President and Treasurer

**SIGNED** for and on behalf  
of **ALKERMES PHARMA IRELAND LIMITED**  
by its lawfully appointed attorney

in the presence of:

/s/ \_\_\_\_\_  
(Signature)

Signature of Witness: /s/ Samira Saya  
Name of Witness: Samira Saya  
Address of Witness: 27 Rosemont Avenue #5, Pembroke HM08  
Occupation of Witness: Lawyer

[Signature Page – IP Transfer Agreement]

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## EXHIBIT A

Transferred Patents**Case Number:** 166.0112**Title:** RESIDUAL SOLVENT EXTRACTION METHOD AND MICROPARTICLES PRODUCED THEREBY**Owner:** Assignor

Country	Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number	Issue Date	Exp. Date
Australia	0	PCT	Granted	2.002E+09	26-Aug-02	2.002E+09	16-Aug-07	26-Aug-22
Austria	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Belgium	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Bulgaria	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Canada	0	PCT	Granted	2,454,027	26-Aug-02	2,454,027	15-Apr-08	26-Aug-22
Cyprus, Republic of	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Czech Republic	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Denmark	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Estonia	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
European Patent Convention	0	PCT	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
European Patent Convention	1	DIV	Published	10175737	8-Sep-10			
Finland	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
France	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Germany	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Greece	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Hong Kong	0	REP	Published	4109322.6	26-Aug-02	26-Aug-22		

**Case Number:** 000166.0112 (cont'd)

**Title:** RESIDUAL SOLVENT EXTRACTION METHOD AND MICROPARTICLES PRODUCED THEREBY

**Owner:** Assignor

<b>Country</b>	<b>Sub Case</b>	<b>Case Type</b>	<b>Status</b>	<b>Application Number</b>	<b>Filing Date</b>	<b>Patent Number</b>	<b>Issue Date</b>	<b>Exp. Date</b>
India	0	PCT	Granted	129/KOLNP/04	26-Aug-02	225175	5-Nov-08	26-Aug-22
Ireland	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Israel	0	PCT	Granted	160378	26-Aug-02	160378	31-Mar-11	26-Aug-22
Italy	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Japan	0	PCT	Published	2003-524554	26-Aug-02	26-Aug-22		
Japan	1	DIV	Pending	2010-229366	12-Oct-10			
Liechtenstein	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Luxembourg	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Mexico	0	PCT	Granted	2004/001765	26-Aug-02	242175	22-Nov-06	26-Aug-22
Monaco	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Netherlands	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
New Zealand	0	PCT	Granted	531,165	26-Aug-02	531,165	8-Dec-05	26-Aug-22
Portugal	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Slovakia	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Spain	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Sweden	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
Switzerland	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22

**Case Number:** 000166.0112 (cont'd)

**Title:** RESIDUAL SOLVENT EXTRACTION METHOD AND MICROPARTICLES PRODUCED THEREBY

**Owner:** Assignor

<b>Country</b>	<b>Sub Case</b>	<b>Case Type</b>	<b>Status</b>	<b>Application Number</b>	<b>Filing Date</b>	<b>Patent Number</b>	<b>Issue Date</b>	<b>Exp. Date</b>
Turkey	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
United Kingdom	0	EPP	Granted	2759445.6	26-Aug-02	1 420 762 B1	16-Mar-11	26-Aug-22
United States of America	0	ORD	Granted	09/942,631	31-Aug-01	6,824,822	30-Nov-04	31-Aug-21
United States of America	2	CON	Granted	11/312,371	21-Dec-05	7,223,440	29-May-07	31-Aug-21
United States of America	3	CON	Granted	11/785,638	19-Apr-07	7,524,530	28-Apr-09	31-Aug-21
United States of America	6	CON	Granted	12/382,637	20-Mar-09	7,875,310	25-Jan-11	31-Aug-21
United States of America	7	CON	Published	12/967,757	14-Dec-10			

Case Number: 000166.2056

Title: POLYMER-BASED SUSTAINED RELEASE DEVICE

Owner: Assignor

Country		Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number	
Australia	0	PCT	Granted	2.004E+09	15-Apr-04	2.004E+09	18-Nov-10	15-Apr-24
Australia	1	PCT	Pending	2.005E+09	15-Apr-05	15-Apr-25		
Brazil	1	PCT	Pending	PI0509946-3	15-Apr-05			
Canada	0	PCT	Pending	2,560,981	15-Apr-04	15-Apr-24		
Canada	1	PCT	Pending	2,560,874	15-Apr-05	15-Apr-25		
China (Peoples Republic)	1	PCT	Pending	2.006E+11				
Eurasian Patent Organization	1	PCT	Granted	200601905	15-Apr-05	11584	28-Apr-09	15-Apr-25
European Patent Convention	0	PCT	Published	4750134.1	15-Apr-04	15-Apr-24		
European Patent Convention	2	DIV	Published	8001936.7	1-Feb-08			
European Patent Convention	3	DIV	Published	9011473.7	15-Apr-05			
European Patent Convention	4	DIV	Pending	10179399	24-Sep-10			
Hong Kong	0	RCN	Pending	7106714.5	22-Jun-07	15-Apr-24		
Hong Kong	1	RCN	Pending	7106409.5	14-Jun-07	15-Apr-25		
Hong Kong	3	DIV	Pending	10106007	15-Jun-10			
India	0	PCT	Granted	6215/DELNP/2006	15-Apr-04	239635	29-Mar-10	15-Apr-24
India	1	PCT	Pending	5749/DELNP/2006	15-Apr-04	15-Apr-24		
India	2	DIV	Unfiled					

Case Number: 000166.2056 (cont'd)

Title: POLYMER-BASED SUSTAINED RELEASE DEVICE

Owner: Assignor

Country		Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number		
Israel	1	PCT	Pending	178335	15-Apr-05				
Japan	0	PCT	Pending	2007-508312	15-Apr-04	15-Apr-24			
Japan	1	PCT	Pending	2007-508601	15-Apr-05	15-Apr-25			
Korea, Republic of	0	PCT	Allowed	10-2006-7023967	15-Apr-04	15-Apr-24			
Korea, Republic of	1	PCT	Pending	10-2006-7023921	15-Apr-05				
Korea, Republic of	2	DIV	Pending	10-2010-7026352					
Mexico	0	PCT	Pending	06/11924	15-Apr-04	15-Apr-24			
Mexico	1	PCT	Pending	PA/a/2006/011990	15-Apr-05				
New Zealand	1	PCT	Granted	551290	551290	12-Nov-09			
Norway	1	PCT	Pending	2006 5213	15-Apr-05				
Singapore	0	PCT	Granted	200607179-9	15-Apr-04	126993	30-Apr-09	15-Apr-24	
United States of America	1	RCE	Granted	11/104,877	13-Apr-05	7,456,254	25-Nov-08	30-Jun-25	
United States of America	3	PCT	Pending	10/592,769	14-Sep-06	15-Apr-24			
United States of America	4	DIV	Granted	11/521,091	14-Sep-06	7,563,871	21-Jul-09	15-Apr-24	
United States of America	9	CON	Granted	11/826,535	16-Jul-07	7,612,176	3-Nov-09	13-Apr-25	
United States of America	12	ORD	Published	11/578,712	23-Jan-08				
United States of America	14	CON	Published	12/483,871	12-Jun-09				
United States of America	15	CON	Published	12/585,574	17-Sep-09				



**Case Number:** 000166.2056 (cont'd)

**Title:** POLYMER-BASED SUSTAINED RELEASE DEVICE

**Owner:** Assignor

United States of  
America

CON

Published

12/713,036

17-Sep-09

**Case Number:** 166.2025

**Title:** MICROENCAPSULATION AND SUSTAINED RELEASE OF BIOLOGICALLY ACTIVE POLYPEPTIDES

**Owner:** Assignor

<b>Country</b>	<b>Sub Case</b>	<b>Case Type</b>	<b>Status</b>	<b>Application Number</b>	<b>Filing Date</b>	<b>Patent Number</b>	<b>Issue Date</b>	<b>Exp. Date</b>
United States of America	1	ORD	Granted	10/688,786	17-Oct-03	7,164,005	16-Jan-07	17-Oct-23
United States of America	2	ORD	Granted	10/688,059	17-Oct-03	7,462,365	9-Dec-08	6-Feb-25
United States of America	4	ORD	Published	12/289,857	6-Nov-08			

Joint Patents**Case Number:** 166.0073**Title:** PREPARATION OF INJECTABLE SUSPENSIONS HAVING IMPROVED INJECTABILITY**Owner:** Assignor Sub

Country	Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number	Issue Date	Exp. Date
Albania	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Australia	0	PCT	Granted	2001 255 463	19-Apr-01	2001 255 463	18-Feb-05	19-Apr-21
Austria	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Brazil	0	PCT	Published	PI0111060-8	19-Apr-01	19-Apr-21		
Brazil	1	DIV	Pending	PI0117302-2	19-Apr-01			
Bulgaria	0	PCT	Granted	107288	19-Apr-01	BG 66023	19-Apr-21	
Canada	0	PCT	Granted	2,406,536	19-Apr-01	2,406,536	22-Dec-09	19-Apr-21
China (Peoples Republic)	0	PCT	Granted	01809967.X	19-Apr-01	ZL 01809967.X	21-Jan-09	19-Apr-21
Cyprus, Republic of	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Czech Republic	0	PCT	Granted	PV 2002-3848	19-Apr-01	301 359	17-Dec-09	19-Apr-21
Denmark	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
European Patent Convention	0	PCT	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
European Patent Convention	2	DIV	Published	6010734.9	19-Apr-01	19-Apr-21		
European Patent Convention	3	DIV	Published	10174743	31-Aug-10			
Finland	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21

Case Number: 000166.0073 (cont'd)

Title: PREPARATION OF INJECTABLE SUSPENSIONS HAVING IMPROVED INJECTABILITY

Owner: Assignor Sub

Country	Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number	Issue Date	Exp. Date
France	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Germany	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Hong Kong	0	REP	Granted	3105214.6	19-Apr-01	1054319 B	2-Nov-07	19-Apr-21
Hong Kong	1	ORD	Granted	3108656.5	19-Apr-01	1056321 B	17-Jul-09	19-Apr-21
Hong Kong	2	ORD	Pending	7107885.6	20-Jul-07			
Hungary	0	PCT	Published	P0302283	19-Apr-01	19-Apr-21		
Iceland	0	PCT	Granted	6595	19-Apr-01	2471	15-Dec-08	19-Apr-21
Ireland	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Israel	0	PCT	Granted	152767	19-Apr-01	152767	30-Mar-09	19-Apr-21
Japan	0	PCT	Granted	2001-587736	19-Apr-01	4502355	30-Apr-10	19-Apr-21
Korea, Republic of	0	PCT	Granted	2002-7015892	19-Apr-01	810480	28-Feb-08	19-Apr-21
Latvia	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Liechtenstein	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Lithuania	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Luxembourg	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Macedonia	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Mexico	0	PCT	Granted	11543	19-Apr-01	246759	28-Jun-07	19-Apr-21

**Case Number:** 000166.0073 (cont'd)

**Title:** PREPARATION OF INJECTABLE SUSPENSIONS HAVING IMPROVED INJECTABILITY

**Owner:** Assignor Sub

Country	Sub Case	Case Type	Status	Application Number	Filing Date	Patent Number	Issue Date	Exp. Date
Monaco	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Netherlands	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
New Zealand	0	PCT	Granted	522,335	19-Apr-01	522,335	19-Apr-01	19-Apr-21
Norway	0	PCT	Pending	20025164	19-Apr-01	19-Apr-21		
Poland	0	PCT	Granted	P365195	19-Apr-01	204298	8-Jun-09	19-Apr-21
Portugal	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Romania	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Singapore	0	PCT	Granted	200207027-4	19-Apr-01	93152	30-Dec-04	19-Apr-21
Spain	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Sweden	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
Switzerland	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
United Kingdom	0	EPP	Granted	1928628.5	19-Apr-01	1283699	6-Jun-07	19-Apr-21
United States of America	0	ORD	Granted	09/577,875	25-May-00	6,495,164	17-Dec-02	25-May-20
United States of America	1	CON	Granted	10/259,949	30-Sep-02	6,667,061	23-Dec-03	25-May-20
United States of America	2	DIV	Granted	10/681,142	9-Oct-03	7,371,406	13-May-08	25-May-20
United States of America	3	CON	Granted	11/826,994	19-Jul-07	7,799,345	21-Sep-10	9-Oct-23

**Case Number:** 000166.0073 (cont'd)

**Title:** PREPARATION OF INJECTABLE SUSPENSIONS HAVING IMPROVED INJECTABILITY

**Owner:** Assignor Sub

<b>Country</b>	<b>Sub Case</b>	<b>Case Type</b>	<b>Status</b>	<b>Application Number</b>	<b>Filing Date</b>	<b>Patent Number</b>	<b>Issue Date</b>	<b>Exp. Date</b>
United States of America	5	CON	Published	12/856,198	13-Aug-10			

**Case Number:** 1733.1056

**Title:** PROCESS FOR THE PREPARATION OF POLYMER-BASED SUSTAINED RELEASE COMPOSITIONS

**Owner:** Assignor Sub

<b>Country</b>	<b>Sub Case</b>	<b>Case Type</b>	<b>Status</b>	<b>Application Number</b>	<b>Filing Date</b>	<b>Patent Number</b>	<b>Issue Date</b>
United States of America	1	CON		Granted	09/801,272		7-Mar-01

EXHIBIT C

Promissory Note

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NOTE

Dated: September 15, 2011

**FOR VALUE RECEIVED**, Alkermes Pharma Ireland Limited, a private limited company incorporated in Ireland (registered number 448848) ("Issuer"), promises to pay Alkermes, Inc., a Pennsylvania corporation ("Payee"), or its assigns the principal amount of Two Hundred Two Million One Hundred Thousand U.S. dollars (\$202,100,000) in the manner referred to in Section 2 below.

1. Principal: The principal amount of this Note is Two Hundred Two Million One Hundred Thousand U.S. dollars (\$202,100,000).
2. Amortization and Maturity: The principal amount of the Note shall be repaid in a single installment on the Maturity Date.
3. Prepayment: Issuer may prepay this Note, in whole or in part, on any date for the payment of interest specified below together with interest accrued upon the amount of the prepayment but without premium or penalty, upon 30 days' written notice to Payee.

4. Interest: Issuer also promises to pay interest on the unpaid principal amount hereof from the date hereof until paid in full at the applicable federal rate, as published by the U.S. Internal Revenue Service, on the last day of each fiscal year, commencing March 31, 2012, until this Note shall have been paid in full, and on the date of any payment or prepayment hereof. Interest shall be computed on the basis of a 360-day year and for the actual number of days elapsed during the period in which interest accrues. Any overdue principal or interest shall (to the fullest extent permitted by applicable law) bear interest, payable on demand, at a rate per annum equal to 2% above the rate otherwise applicable during the period such payment is overdue.

5. Place of Payment: Unless Payee shall have given instruction to the contrary, all payments due under this Note shall be made in immediately available funds to the following account:

Bank of America, 75 State Street, Boston, MA 02109

Wire Transfer ABA Number: 0260-0959-3

Account Number: 9372636916

Beneficiary name: Alkermes, Inc.

6. Payment on Business Days: Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, as defined below, such payment shall be made on the next preceding Business Day.

7. Gross-Up; Documentary Taxes:

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- (a) Each payment by Issuer under this Note shall, except as required by law, be made free and clear of, and without withholding or deduction for or on account of, any present or future income, stamp, or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings imposed by Ireland or any political subdivision or taxing authority thereof or therein or any other jurisdiction from or through which Issuer makes payment hereunder ("Covered Taxes"). If any Covered Taxes are required to be withheld or deducted from any such payment, Issuer shall pay such additional amounts as may be necessary to ensure that the net amount actually received by Payee or its assigns after such withholding or deduction is equal to the amount that the recipient would have received had no such withholding or deduction been required; provided, however, that no such additional amounts shall be payable in respect of (i) any Covered Taxes imposed by reason of any connection between Payee or its assigns and the taxing jurisdiction other than holding this Note and receiving payments hereunder, (ii) any Covered Taxes imposed by reason of a failure by Payee or its assigns to comply with the provisions of Section 7(c), and (iii) any Covered Taxes that would not have been imposed if Payee were the beneficial owner of the payment.
- (b) Issuer shall pay to the appropriate governmental authority any Covered Taxes required to be withheld or deducted in accordance with Section 7(a) before penalties are payable or interest accrues thereon, and if any such penalties are payable or any such interest accrues, Issuer shall also make payment thereof when due to the appropriate governmental authority. Within 30 days after each such payment of Covered Taxes, penalties, or interest, Issuer shall deliver to Payee or its assigns a receipt evidencing such payment.
- (c) Payee agrees to comply with any certification, identification, information, documentation, or other reporting requirement if (i) such compliance is required by law, regulation, administrative practice, or an applicable treaty as a precondition to exemption from, or reduction in the rate of, deduction or withholding of any Covered Taxes for which Issuer is required to pay additional amounts pursuant to Section 7(a) and (ii) at least 30 days prior to the first payment with respect to which Issuer shall apply this Section 7(c), Issuer shall have notified Payee that Payee will be required to comply with such requirement.
- (d) If Payee or its assigns pay any Covered Taxes or other amounts that Issuer is required to pay pursuant to this Section 7, Issuer shall indemnify Payee and its assigns on demand in full in the currency in which such Covered Taxes or other amounts are paid, whether or not such Covered Taxes were correctly or legally asserted, together with interest thereon from and including the date of payment to but excluding the date of reimbursement at the rate set forth in Section 4.

(e) Issuer shall pay any present or future stamp, transfer, or documentary taxes or any other excise or property taxes, charges, or similar levies, and any penalties, additions to tax, or interest due with respect thereto, that may be imposed by any jurisdiction in connection with the execution, delivery, enforcement or registration of this Note.

8. Representations and Warranties: Issuer represents and warrants to Payee as follows:

(a) Due Organization; Issuer: Issuer is a corporation duly organized, validly existing and in good standing under the laws of Ireland, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and to issue this Note.

(b) Due Authorization: The execution, delivery and performance of this Note has been duly authorized by all necessary action on the part of Issuer.

(c) No Conflict: The execution, delivery and performance by Issuer of this Note will not (a) violate any provision of any law or any governmental regulation applicable to Issuer or the memorandum and articles of association of Issuer, or any order, judgment or decree of any court or other agency of any government binding upon Issuer; (b) conflict with, result in a breach of or constitute a default under any agreement binding upon Issuer; or (c) result in or require the imposition of any lien upon any of the properties or assets of Issuer.

(d) Governmental Consents: The execution, delivery and performance by Issuer of this Note do not and will not require any registration with, consent or approval of, notice to or other action to, with or by any governmental authority.

(e) Binding Obligation: This Note has been duly executed and delivered by Issuer and is the legally valid and binding obligation of Issuer, enforceable against Issuer in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, liquidation, dissolution, moratorium or similar laws relating to or affecting creditors' rights generally or by the application of general principles of equity (regardless of whether considered in proceedings at law or equity).

(f) No Material Adverse Effect: Since December 31, 2010, there has been no Material Adverse Effect.

(g) No Adverse Proceeding: There is no pending or threatened litigation, arbitration or other legal proceeding against Issuer that would reasonably be expected to have a Material Adverse Effect.

(h) Taxes: Issuer has filed all material Irish and other tax returns which were required to be filed by it (subject to any valid extensions of the time for filing), and has paid, or made provision for the payment of, all material taxes owed by it, and no material tax deficiencies have been assessed or, to Issuer's knowledge, proposed against Issuer.

(i) No Defaults: Issuer is not in default of any of its material agreements, except where the consequences of such default, if any, would not reasonably be expected to have a Material Adverse Effect.

(j) Compliance with Law: Issuer is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental authorities in respect of the conduct of its business and the ownership of its properties, except such non-compliance that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

9. Covenants: Issuer covenants and agrees that, until payment in full of this Note, it shall perform the covenants contained in this Section 9 applicable to it.

(a) Financial Statements: As soon as available, and in any event within 90 days after the end of each fiscal year of Issuer, Issuer will deliver to Payee the following financial statements of Issuer: a consolidated balance sheet, a consolidated income statement, a consolidated statement of members' equity, and a consolidated statement of cash flows, in each case as of the end of such fiscal year. Such financial statements shall be prepared according to GAAP.

(b) Other Reports: Issuer shall notify Payee, promptly upon obtaining knowledge thereof, of (i) any inaccuracy in any representation or warranty in this Note, (ii) any event which would render any representation or warranty inaccurate if made on or after the time of such event and (iii) any breach of any covenant in this Note.

(c) Compliance with Laws: Issuer shall comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority, the noncompliance with which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(d) Taxes: Issuer shall pay all material taxes and assessments imposed on it prior to the date on which penalties attach thereto, except for any tax or assessment which is either not delinquent or which is being contested in good faith and by proper proceedings and against which adequate reserves have been provided.

(e) No Merger, Sale of Assets, etc.: Issuer shall not merge or consolidate with any other corporation, unless Issuer is the surviving corporation or the survivor expressly assumes all of Issuer's obligations under this Note, and shall not sell, assign, transfer, convey or otherwise dispose of substantially all of its properties or assets.

10. Event of Default: If any one or more of the following conditions or events shall occur:

- (a) Payment Default: Failure by Issuer to pay any interest on this Note within 15 days after the date due;
- (b) Default on Other Indebtedness: Failure by Issuer to pay any principal or interest in respect of any other Indebtedness beyond the grace period, if any, provided therefor, or breach or default with respect to any term of any other Indebtedness, if the effect of such failure, breach or default is to cause, or permit the holders of such Indebtedness to cause, Indebtedness in the aggregate principal amount in excess of Fifty Million U.S. dollars (\$50,000,000) to become due and payable prior to its stated maturity or Indebtedness in the aggregate principal amount in excess of Fifty Million U.S. dollars (\$50,000,000) not to be paid at maturity;
- (c) Breach of Covenants: Failure by Issuer to comply with any other covenant contained herein, and such failure shall not have been remedied or waived within 30 days after receipt by Issuer of notice from Payee of such default;
- (d) Breach of Representations: Any representation or warranty made in this Note or in any certificate or statement given to Payee pursuant to this Note shall be false in any material respect as of the date made;
- (e) Bankruptcy: An event of Bankruptcy; or
- (f) Change of Control: A Change of Control;

then Payee, by written notice to Issuer, may declare the principal amount of this Note, together with accrued interest thereon, to be immediately due and payable, whereupon such amounts shall be immediately due and payable, without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Issuer. In addition, upon the occurrence of an event of Bankruptcy, this Note, together with accrued interest thereon, shall automatically be immediately due and payable, without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Issuer.

11. Assignment: Payee may assign this Note to any person. Such assignment shall be valid upon delivery of written notice by Payee to Issuer of such assignment.

12. Definitions: As used in this Note, the following terms shall have the meanings set forth below:

“Bankruptcy” shall mean a Voluntary Bankruptcy or an Involuntary Bankruptcy. A “Voluntary Bankruptcy” means the inability of Issuer generally to pay its debts as such debts become due, the failure of Issuer generally to pay its debts as such debts become due, an admission in writing by Issuer of its inability to pay its debts generally or a general assignment by Issuer for the benefit of creditors; the filing of any petition or answer by Issuer seeking to adjudicate it a bankrupt or insolvent, or seeking for itself any liquidation, winding up, reorganization, arrangement, adjustment, protection relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking, consenting to, or acquiescing in the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property; or corporate action taken by Issuer to authorize any of the actions set forth above. An “Involuntary Bankruptcy” means the entering, without the consent or acquiescence of Issuer of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against Issuer which petition shall not be dismissed within sixty (60) days, or the entering, without the consent or acquiescence of Issuer of an order appointing a trustee, custodian, receiver or liquidator of Issuer or of all or any substantial part of the property of Issuer, which order shall not be dismissed within sixty (60) days.

“Business Day” means any day that is not a Saturday, Sunday or other day on which banks in New York City, New York, United States, or Dublin, Ireland, are authorized or required to close.

“Change of Control” means that Alkermes plc shall cease to own, directly or indirectly, 100% of the capital stock of Issuer.

“GAAP” means United States generally accepted accounting principles.

“Indebtedness”, as applied to Issuer means, without duplication (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to capital leases that is properly classified as a liability on a balance sheet in conformity with GAAP; (iii) any obligation owed for all or any part of the deferred purchase price of property or services, which purchase price is properly classified as a liability on a balance sheet in conformity with GAAP; (iv) all indebtedness secured by a lien on any property or asset owned by Issuer; and (v) all indebtedness guaranteed by Issuer, provided, however, that “Indebtedness” shall not include trade payables and accrued expenses, in each case incurred in the ordinary course of business.

“Material Adverse Effect” means a material adverse effect on (i) the business, assets, liabilities, operations or condition (financial or otherwise) of Issuer, or (ii) the ability of Issuer to fully and timely perform its obligations under this Note.

“Maturity Date” means March 31, 2020.

13. Notices: Unless notice is given to the contrary, any notices pursuant to this Note shall be given as follows:

If to Issuer:

Alkermes Pharma Ireland Limited  
Monksland, Athlone  
Co Westmeath, Ireland  
Attn.: Secretary

If to Payee:

Alkermes, Inc.  
852 Winter Street  
Waltham, MA 02451  
Attn.: General Counsel

14. Enforcement Expenses: Issuer promises to pay all costs and expenses, including reasonable attorneys' fees, incurred in the collection and enforcement of this Note.

15. Governing Law: This Note, and the rights and obligations of Payee and Issuer hereunder shall be governed by and shall be construed under the laws of the State of New York applicable to contracts to be performed entirely within that State.

16. Severability: If any term or condition of this Note shall be held to be invalid, illegal, unenforceable or in conflict with the laws of the State of New York, then such term or condition shall be modified to reflect the Parties' intention in a binding and legally enforceable manner under the laws of the State of New York. The validity, legality and enforceability of the remaining terms and conditions shall not in any way be affected or impaired thereby.

17. Subordination: This Note ranks, and shall at all times rank, pari passu, with all other unsecured indebtedness and liabilities (actual or contingent) issued, created or assumed currently or in the future.

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**SIGNED** for and on behalf  
of **ALKERMES PHARMA IRELAND LIMITED**  
by its lawfully appointed attorney

in the presence of:

/s/ \_\_\_\_\_  
(Signature)

Signature of Witness: /s/ Samira Saya \_\_\_\_\_  
Name of Witness: Samira Saya  
Address of Witness: 27 Rosemont Avenue #5, Pembroke HM08  
Occupation of Witness: Lawyer

*[Signature Page – IP Loan Note]*



## Code of Business Conduct and Ethics

This Code of Business Conduct and Ethics (the “Code”) applies to all directors, officers, and employees of Alkermes plc and its subsidiaries (the “Company”). The Company has issued this Code to promote:

- honest and ethical conduct by directors, officers and employees associated with the Company, including the ethical handling of actual or apparent conflicts of interest;
- full, fair, accurate, timely, and understandable disclosure in reports and documents that the Company submits to the United States Securities and Exchange Commission (“SEC”) and in the Company’s other public communications;
- compliance with applicable governmental laws, rules, and regulations;
- the prompt internal reporting of any violations of this Code to your supervisor, the General Counsel or the Compliance Officer; and
- accountability for adherence to the Code.

In addition, the Company has issued this Code to deter wrongdoing.

The effectiveness of this Code depends in part on the cooperation of all directors, officers, and employees in promptly disclosing to the designated persons within the Company any conduct believed to violate the standards described in this Code. The Company has established procedures to ensure that you may report any suspected violations. The Company expressly prohibits retaliation of any kind against anyone who in good faith reports suspected misconduct.

The Company seeks to foster a culture of compliance with applicable laws, rules, and regulations and the highest standards of business conduct. Everyone at the Company shall promote this culture of compliance. Suspected violations of this Code or applicable laws, rules or regulation must be reported, and the Company will take appropriate steps to investigate them internally. Violators shall be subject to discipline, as deemed appropriate by the Company in its sole discretion, including immediate termination.

This Code is not a comprehensive manual that covers every situation you might encounter. . If you have any questions about the provisions of this Code, or about how you should conduct yourself in a particular situation, you should consult your supervisor or the Company’s Compliance Officer, who is the Company’s General Counsel.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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## STANDARDS OF CONDUCT

You must ensure that any financial, business, or other activities in which you are involved outside the workplace are free of conflicts with your responsibilities to the Company. A “conflict of interest” may occur when your private interest in any way interferes– or even appears to interfere – with the interests of the Company. A conflict situation can arise when a person has interests that may impair the objective performance of his or her duties to the Company. Conflicts of interest may also arise when a person (or his or her family member) receives improper personal benefits as a result of his or her position in the Company.

You must disclose any matter that you believe *might raise doubt* regarding your ability to act objectively and in the Company’s best interest. The following is a non-exhaustive list of examples of situations involving potential conflicts of interest that should be disclosed:

- any Company or other loan to any employee, officer, or director, or Company guarantee of any personal obligation;
- employment by or acting independently as a consultant to a Company competitor, customer, supplier, business partner or collaborator;
- directing Company business to any entity in which an employee or close family member has a substantial interest;
- owning, or owning a substantial interest in, any competitor, customer, supplier, business partner or collaborator of the Company;
- using Company assets, intellectual property, or other resources for personal gain; and
- accepting anything of more than nominal value – such as gifts, discounts, or compensation – from an individual or entity that does or seeks to do business with the Company.

Directors, the Company Secretary and officers shall disclose any actual or apparent conflict situation to the Compliance Officer *and* to the Nominating and Corporate Governance Committee of the Board of Directors. In addition, as required by Irish law, the Directors must declare any actual or apparent conflicts of interests to the Board of Directors. Employees who are not officers shall disclose all such situations of which they are aware to an appropriate supervisor or department head, or to the Compliance Officer. All supervisors and department heads who receive such reports must forward them promptly to the Compliance Officer.

Directors must obtain approval from the Board of Directors before accepting any position as an officer or director of any outside business concern or entity that 1) currently has a business relationship with the Company or 2) that now is or foreseeably is expected to become a competitor of the Company.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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Officers and employees must obtain necessary approvals before accepting (i) any position as an officer or director of an outside business concern, or (ii) any position as an officer or director of board position with a not-for-profit entity if there is or may be a Company business relationship with the not-for-profit entity or an expectation of financial or other support from the Company for the not-for-profit entity. Officers must obtain such approvals from the Nominating and Corporate Governance Committee of the Board of Directors; other employees must obtain such approvals from the Compliance Officer.

Directors, officers and employees who have obtained such approvals must promptly notify the appropriate persons specified above in the event of any change in the nature of such business concern's or entity's relationship with the Company or if such concern or entity later becomes a competitor of the Company.

### **Corporate Opportunities**

You owe a duty to the Company to advance its legitimate interests. Thus you may not (i) take for yourself corporate opportunities that are discovered through the use of Company property, information or position, without first offering such opportunities to the Company; (ii) use corporate property, information, or position for personal gain; or (iii) compete with the Company.

Directors and officers must adhere to their fundamental duties of good faith, due care, and loyalty owed to all shareholders, and to act at all times with the Company's [ best interests in mind.

### **Confidentiality**

You must maintain the confidentiality of sensitive business, technical, or other information entrusted to you by the Company, its customers, suppliers, business partners or collaborators, except when disclosure is authorized or legally mandated. Confidential information includes all non-public information that might be of use to competitors or harmful to the Company, its customers, suppliers, business partners or collaborators if disclosed. This obligation is in addition to the requirements of any confidentiality agreement that you may have entered into with the Company.

### **Fair Dealing**

You must act fairly, honestly, and in good faith in any dealings on behalf of the Company with any of its customers, suppliers, business partners, collaborators, competitors, employees, and all others. You may not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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### **Protection and Proper Use of Company Assets**

You must protect and seek to ensure the efficient use of Company assets. You should protect against the improper disclosure, theft, or misuse of the Company's intellectual and physical property.

Assets of the Company should be used only for the Company's legitimate business purposes. The content of the Company's electronic communication infrastructure (e-mail, voicemail, Internet access) is not protected by any right of personal privacy, and the Company can access and monitor it at any time without notice, unless prohibited under applicable law.

### **Compliance with Laws, Rules, and Regulations**

The Company is committed to compliance with applicable laws, rules, and regulations. The Company also maintains separate, detailed policies regarding such matters as insider trading, fair employment practices, and bullying and harassment and sexual harassment that can be obtained through the Company's Compliance Officer, on the Intranet or through the Human Resources Department.

Each and every director, officer, and employee must comply with all laws applicable to our business and their position as director, officer, and/or employee. Questions or concerns about compliance issues should be raised by any of the means indicated under "Reporting and Enforcement Mechanisms" below.

### **Full, Fair, Accurate, Timely and Understandable Disclosures**

The Company strives to ensure that all business records and financial reports are accurate, complete, understandable, and not misleading. The Company is committed to complying with applicable laws requiring the fair and timely disclosure of material information and ensuring the accuracy of publicly disseminated information. To that end, the Company maintains internal controls and procedures designed to provide reasonable assurance of the safeguarding and proper management of the Company's assets; the reliability of its financial reporting in compliance with generally accepted accounting principles; and compliance with applicable laws and regulations. The Company is committed to maintaining disclosure controls and procedures designed to ensure that financial and non-financial information is collected, analyzed, and timely reported in full compliance with applicable law.

If you obtain information causing you to believe that the Company's books or records are not being maintained, or that its financial condition or results of operations are not being disclosed, in accordance with these controls and procedures, you must report the matter directly by any of the means indicated under "Reporting and Enforcement Mechanisms" below.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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## **REPORTING AND ENFORCEMENT MECHANISMS**

Among your most important responsibilities in this Company are the obligations to (1) comply with this Code and all applicable laws, rules, and regulations, and (2) report any situation or conduct you believe may constitute a possible violation of the Code or the law.

If you should learn of a potential or suspected violation of the Code, you have an obligation to report the relevant information to one of the persons listed below. You may address questions about ethics issues and raise any concerns about a possible violation of the Code or applicable law to:

- a supervisor;
- the Company's and/or the relevant subsidiary Company's Compliance Officer;
- the Company's General Counsel;
- the Audit and Risk Committee of the Board of Directors of the Company and/or
- the Nominating and Corporate Governance Committee of the Board of Directors of the Company.

Frequently, a supervisor or department head will be in the best position to resolve the issue quickly. However, you may also raise any question or concern with any of the other persons listed above. You may do so orally or in writing and, if preferred, anonymously.

If the issue or concern relates to the internal accounting controls of the Company or any auditing matter, you may report it anonymously to any member of the Audit and Risk Committee of the Board of Directors, the Nominating and Corporate Governance Committee of the Board of Directors or the Compliance Officer, pursuant to the Reporting Procedures for Auditing and Accounting, Internal Control Matters and Illegal or Unethical Behavior and No Retaliation Policy, which is available [on the Intranet].

## **POLICY AGAINST RETALIATION**

The Company will not tolerate retaliation in any form against any person who in good faith reports suspected violations of the Code or any laws, rules or regulations, voices other ethical concerns, or who is involved on the Company's behalf in investigating or helping to resolve any such issue. Anyone found to have retaliated against another employee for any such conduct may be subject to discipline, including immediate termination. If you believe you have been subjected to such retaliation, you should report the situation as soon as possible to your supervisor or to the General Counsel.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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## **PENALTIES FOR VIOLATIONS**

The Company is committed to taking prompt and consistent action in response to violations of this Code. Any covered person who violates the Code is subject to disciplinary action, including immediate termination. The Company will promptly investigate reports of suspected violations. It will evaluate suspected violations on a case-by-case basis and apply an appropriate sanction, including, in its sole discretion, reporting the violation to authorities.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

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## **WAIVER/AMENDMENTS**

Only the Board of Directors may waive application of any provision of this Code. A request for such a waiver should be submitted in writing to the Board of Directors, or a Committee of the Board of Directors designated for this purpose, for its consideration. The Nominating and Corporate Governance Committee of the Board of Directors shall review the adequacy of this policy from time to time and shall consider and, to the extent deemed advisable or appropriate, recommend that the Board of Directors approve and adopt any amendment to this policy. The Board of Directors will promptly disclose to investors, by means of a filing with the SEC or by posting a notice on the Company's website, in either case within five business days of the grant thereof, all substantive amendments to the Code as well as all waivers of the Code granted to directors or officers, including the reasons for such waivers.

Adopted by the Alkermes plc Board of Directors on 09-16-2011

Alkermes Contacts:

For Investors: Rebecca Peterson, (781) 609-6378

For U.S. Media: Jennifer Snyder, (781) 609-6166

For EU Media: Mike Sinclair, +44 20 7318 2955

Elan Contacts:

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**ALKERMES PLC AND ELAN CORPORATION PLC ANNOUNCE COMPLETION OF MERGER BETWEEN ALKERMES, INC. AND ELAN DRUG TECHNOLOGIES**

**DUBLIN, Ireland, Sept. 16, 2011** — [Alkermes plc](#) (NASDAQ: ALKS) and [Elan Corporation, plc](#) (NYSE: ELN) (“Elan”) today announced the completion of the merger between Alkermes, Inc. and Elan Drug Technologies (EDT), the drug formulation and manufacturing business unit of Elan, following the approval of the merger by Alkermes, Inc. shareholders on Sept. 8, 2011. The businesses were combined under a newly-formed company, Alkermes plc, which is incorporated in Ireland and headquartered in Dublin. Alkermes plc will be listed on the Nasdaq stock exchange under the ticker symbol “ALKS.”

“We are very excited about the creation of Alkermes plc - a unique, global, diversified company and a leader in CNS medications,” stated Richard Pops, Chief Executive Officer of Alkermes plc. “Through this transaction, we have strategically combined two highly innovative companies with proprietary technologies and important commercial products, creating a strong platform for accelerating future growth and increasing shareholder value.”

Under the terms of the business combination agreement, Elan receives \$500 million in cash and 31.9 million ordinary shares of Alkermes plc, representing approximately 25% of Alkermes plc. Based on the closing share price of Alkermes, Inc. on Thursday, Sept. 15, 2011 of \$16.52, this represents a total transaction value of approximately \$1.0 billion.

Holders of Alkermes, Inc. stock will receive one ordinary share of Alkermes plc in exchange for each share of Alkermes, Inc. that they own. Additional information regarding the exchange of Alkermes, Inc. common stock will be mailed to registered holders of Alkermes, Inc. common stock. Alkermes shareholders who hold shares through a broker or bank should receive information regarding the exchange or conversion of their shares from the institution holding their shares.



**About Alkermes plc**

Alkermes plc is a fully integrated, global biopharmaceutical company that applies its scientific expertise and proprietary technologies to develop innovative medicines that improve patient outcomes. The company has a diversified portfolio of more than 20 commercial drug products and a substantial clinical pipeline of product candidates that address central nervous system (CNS) disorders such as addiction, schizophrenia and depression. Headquartered in Dublin, Ireland, Alkermes plc has an R&D center in Waltham, Massachusetts and manufacturing facilities in Athlone, Ireland; Gainesville, Georgia; and Wilmington, Ohio. For more information, please visit Alkermes' website at [www.alkermes.com](http://www.alkermes.com).

**About Elan**

Elan is a neuroscience-based biotechnology company committed to making a difference in the lives of patients and their families by dedicating itself to bringing innovations in science to fill significant unmet medical needs that continue to exist around the world. Elan shares trade on the New York and Irish Stock Exchanges. For additional information about Elan, please visit [www.elan.com](http://www.elan.com).

**Note Regarding Forward-Looking Statements**

Certain statements set forth above may constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including, but not limited to statements about the benefits of the business combination transaction, including future financial and operating results, the Alkermes plc's plans, objectives, expectations (financial or otherwise) and intentions and other statements that are not historical facts. Although Alkermes plc and Elan believe that such statements are based on reasonable assumptions within the bounds of their respective knowledge of Alkermes plc's business and operations, the forward-looking statements are neither promises nor guarantees and the Alkermes plc's business is subject to significant risk and uncertainties and there can be no assurance that its actual results will not differ materially from such expectations.

These risks and uncertainties include, among others: the risk that the businesses will not be integrated successfully or such integration may be more difficult, time-consuming or costly than expected; uncertainty of the expected financial performance of Alkermes plc following completion of the merger; Alkermes plc's ability to achieve the cost savings and synergies contemplated by the merger within the expected time frame or at all; disruption from the proposed transaction making it more difficult to maintain relationships with customers, employees or suppliers; the allocation of such price to the net assets acquired in accordance with applicable accounting rules and methodologies. Additional information and other factors are contained in the Alkermes, Inc. Annual Report on Form 10-K, as amended, for the year ended March 31, 2011, subsequent Quarterly Reports on Form 10-Q and recent Current Reports on Form 8-K, Elan's Annual Report on Form 20-F for the year ended December 31, 2010, in the definitive proxy statement/prospectus (commission file number 333-175078) with respect to the merger transaction, and in other filings made by each company and by Alkermes plc with the Securities and Exchange Commission ("SEC") and which are available at the SEC's website at <http://www.sec.gov>. The information contained in this press release is provided by Alkermes and Elan as of the date hereof and each company disclaims any obligation to update and revise statements contained in these materials based on new information or otherwise.

Source: Elan Corporation, plc

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**SHAREHOLDER'S AGREEMENT**

**BY AND AMONG**

**ELAN CORPORATION, PLC**

**ELAN SCIENCE THREE LIMITED**

**AND**

**ALKERMES PLC**

**DATED AS OF SEPTEMBER 16, 2011**

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SHAREHOLDER'S AGREEMENT, dated as of September 16, 2011 (this "Agreement"), by and among Alkermes plc, a public limited company incorporated in Ireland (registered number 498284), whose registered address is Treasury Building, Lower Grand Canal Street, Dublin 2, Ireland (the "Company"), Elan Corporation, plc, a public limited company incorporated in Ireland (registered number 30356), whose registered address is Treasury Building, Lower Grand Canal Street, Dublin 2, Ireland (the "Shareholder Parent"), and Elan Science Three Limited, a private limited company incorporated in Ireland (registered number 477401) and a wholly-owned Subsidiary (as defined below) of Shareholder Parent, whose registered address is Treasury Building, Lower Grand Canal Street, Dublin 2, Ireland (the "Shareholder").

**WITNESSETH:**

WHEREAS, the Shareholder Parent, the Company, Antler Acquisition Corp., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and an indirect wholly-owned Subsidiary of the Company ("Merger Sub"), Alkermes, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania ("Alkermes"), and certain other parties entered into a Business Combination Agreement and Plan of Merger, dated as of May 9, 2011 (the "Merger Agreement"), pursuant to which, among other things, Merger Sub will merge with and into Alkermes (the "Merger"), and Alkermes, as the surviving company of the Merger, shall become an indirect wholly-owned Subsidiary of the Company upon the terms and conditions set forth in the Merger Agreement;

WHEREAS, pursuant to the Merger Agreement and immediately following the Closing (as defined below), the Shareholder will directly own and the Shareholder Parent will Beneficially Own (as defined below) 31,900,000 of the outstanding Ordinary Shares (as defined below), constituting approximately twenty-five percent (25%) of the total then outstanding Ordinary Shares, and the former public shareholders of Alkermes will own the remaining approximately seventy-five percent (75%) of the outstanding Ordinary Shares;

WHEREAS, the Company, the Shareholder Parent and the Shareholder desire to establish in this Agreement certain terms and conditions concerning the Ordinary Shares to be owned by the Shareholder as and from the Closing and related provisions concerning the Shareholder's relationship with and investment in the Company as and from the Closing;

WHEREAS, the execution and delivery of this Agreement is a condition to the obligations of the Shareholder Parent and Alkermes to consummate the transactions contemplated by the Merger Agreement; and

WHEREAS, this Agreement shall take effect at and as of the Closing.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

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## ARTICLE I

### DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings indicated below:

“Affiliate” shall mean, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under Common Control with that Person; provided that the Shareholder Parent and the Shareholder shall not be deemed to be an Affiliate of the Company and *vice versa*.

“Agreement” shall have the meaning set forth in the Preamble.

“Alkermes” shall have the meaning set forth in the Recitals.

“Automatic Shelf Registration” shall have the meaning set forth in Section 6.1(e).

“Beneficially Own” shall mean, with respect to any securities, (i) having “beneficial ownership” of such securities for purposes of Rule 13d-3 or 13d-5 under the Exchange Act (as in effect on the date of this Agreement); (ii) having the right to become the Beneficial Owner of such securities (whether such right is exercisable immediately or only after the passage of time or the occurrence of conditions) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; or (iii) having an exercise or conversion privilege or a settlement payment or mechanism with respect to any option, warrant, right, convertible security, stock appreciation, swap agreement or other security, contract right or derivative position, whether or not currently exercisable, at a price related to the value of the securities for which Beneficial Ownership is being determined or (A) having a value determined in whole or part with reference to, or derived in whole or in part from, the value of the securities for which Beneficial Ownership is being determined and (B) that increases in value as the value of the securities for which Beneficial Ownership is being determined increases or that provides to the holder an opportunity, directly or indirectly, to profit or share in any profit derived from any increase in the value of the securities for which Beneficial Ownership is being determined (excluding any interests, rights, options or other securities set forth in Rule 16a-1(c)(1)-(5) or (7) promulgated pursuant to the Exchange Act (as in effect on the date of this Agreement)). The terms “Beneficial Owner” and “Beneficial Ownership” shall have a correlative meaning.

“Blackout Period” shall have the meaning set forth in Section 6.1(f).

“Board” shall mean, as of any date, the Board of Directors of the Company in office on that date.

“Board Right Termination Event” shall be deemed to have occurred at such time, if any, after the Closing, as the Shareholder shall cease to Beneficially Own Voting Securities representing at least the Ownership Threshold.

“Board Right Period” shall have the meaning set forth in Section 3.1(a).



“Business Day” shall mean any day other than a Saturday, Sunday, U.S. federal or Irish public holiday or a day on which banks in New York, New York or Dublin, Ireland are authorized or obligated by law to close.

“Change of Control” shall mean, with respect to any specified Person, any of the following: (i) the sale, lease, transfer, conveyance or other disposition (including by way of liquidation or dissolution of such specified Person or one or more of its Subsidiaries), in a single transaction or in a related series of transactions, of all or substantially all of the assets of such specified Person and its Subsidiaries, taken as a whole, to any other Person (or Group) which is not, immediately after giving effect thereto, a Subsidiary of such specified Person; (ii) any Person or Group becomes, in a single transaction or in a related series of transactions, whether by way of purchase, acquisition, tender, exchange or other similar offer or recapitalization, reclassification, consolidation, merger, share exchange, scheme of arrangement or other business combination transaction, the Beneficial Owner of more than fifty percent (50%) of the combined voting power of the outstanding voting capital stock entitled to vote generally in the election of directors (or Persons performing a similar function) of such specified Person; or (iii) the consummation of any recapitalization, reclassification, consolidation, merger, share exchange, scheme of arrangement or other business combination transaction immediately following which the Beneficial Owners of the voting capital stock of such specified Person immediately prior to the consummation of such transaction do not Beneficially Own more than fifty percent (50%) of the combined voting power of the outstanding voting capital stock entitled to vote generally in the election of directors (or Persons performing a similar function) of the entity resulting from such transaction (including an entity that, as a result of such transaction, owns such specified Person or all of substantially all of the assets of such specified Person and its Subsidiaries, taken as a whole, either directly or indirectly through one or more Subsidiaries of such entity) in substantially the same proportion as their Beneficial Ownership of the voting capital stock of such specified Person immediately prior to such transaction.

“Change of Control Purchase Price” shall have the meaning set forth in Section 5.3(b).

“Claim Notice” shall have the meaning set forth in Section 6.7(a).

“Claims” shall have the meaning set forth in Section 6.6(a).

“Closing” shall mean the consummation of the Merger.

“Closing Date” shall mean the date on and as of which the Merger and this Agreement shall be effective.

“Companies Acts” shall mean the Irish Companies Acts 1963 to 2009.

“Company” shall have the meaning set forth in the Preamble.

“Control” (including, with correlative meanings, “Controlled by” and “under Common Control with”) shall mean the possession, direct or indirect, of the power to direct or cause the direction of management or policies of a Person, whether through ownership of securities, by contract or otherwise.

“Demand Registration” shall have the meaning set forth in Section 6.1(a).

“Demand Registration Statement” shall have the meaning set forth in Section 6.1(a).

“Demand Request” shall have the meaning set forth in Section 6.1(a).

“Directed Offering” shall mean any so-called “registered direct” sale, block trade or other similar offering or Transfer made pursuant to an effective registration statement filed under the Securities Act, but in which the Shareholder Shares Transferred are not widely distributed.

“Director” shall mean any member of the Board.

“Election Notice” shall have the meaning set forth in Section 5.3(a).

“Encumbrance” shall mean any lien, pledge, charge, claim, encumbrance, security interest, option, hypothecation, mortgage, easement, encroachment or other restriction or third-party right of any kind, including any right of first refusal or restriction on voting, in each case other than pursuant to this Agreement.

“Exchange Act” shall mean the United States Securities Exchange Act of 1934.

“FINRA” shall mean the Financial Industry Regulatory Authority.

“Free Writing Prospectus” shall have the meaning set forth in Section 6.4(a).

“Group” shall mean two or more Persons acting together, pursuant to any agreement, arrangement or understanding, for the purpose of acquiring, holding, voting or disposing of securities or as otherwise contemplated by Rule 13d-5(b) of the Exchange Act.

“Holdback Period” means (i) with respect to any registered offering covered by this Agreement, 90 days (or such shorter period as the managing underwriter(s) permit) after and 10 days before, the effective date of the related Registration Statement; or (ii) in the case of a takedown from a Shelf Registration Statement, 90 days (or such shorter period as the managing underwriter(s) permit) after the date of the Prospectus supplement filed with the SEC in connection with such takedown and during such prior period (not to exceed 10 days) as the Company has given reasonable written notice to the Shareholder.

“Ireland” shall mean the island of Ireland, excluding the counties of Antrim, Armagh, Derry, Down, Fermanagh and Tyrone.

“Market Value” shall mean, with respect to any Voting Securities as at any date of determination, the volume weighted average of the daily market prices of such Voting Securities over the twenty (20) consecutive trading days immediately preceding, but not including, such date of determination. For purposes of this definition, the “daily market price” for any trading day shall be (i) the volume weighted average sale price of all sales of such Voting Securities during the principal trading session on such trading day, on NASDAQ (or if no sale was made on NASDAQ on such trading day, the national stock exchange that experienced the highest volume of trades in such Voting Securities on such trading day); (ii) if such Voting Securities are not then admitted for trading on NASDAQ or listed on a national stock exchange, the average of the last reported closing bid and ask prices of such Voting Securities on such trading day in the over-the-counter market, as furnished by the National Quotation Bureau, Incorporated (or similar organization or agency succeeding to its function of reporting security prices); or (iii) if there is no such organization or agency, the average of the last reported closing bid and ask prices of such Voting Securities on such trading day as furnished by any member of the National Association of Securities Dealers, Inc. mutually selected by the Company and the Shareholder or, if they cannot agree on such selection, as selected by two such members of the National Association of Securities Dealers, Inc., one of which shall be selected by the Company and one of which shall be selected by the Shareholder.

“Merger” shall have the meaning set forth in the Recitals.

“Merger Agreement” shall have the meaning set forth in the Recitals.

“Merger Sub” shall have the meaning set forth in the Recitals.

“Nominating Committee” shall have the meaning set forth in Section 3.1(b).

“NASDAQ” shall mean The NASDAQ Stock Market LLC.

“Ordinary Shares” shall mean ordinary shares, par value \$0.01 per share, of the Company.

“Organizational Documents” shall mean, with respect to any Person, such Person’s memorandum and articles of association, articles or certificate of incorporation, formation or organization, by-laws, limited liability company agreement, partnership agreement or other constituent document or documents, each in its currently effective form as amended from time to time.

“Other Shares” shall mean shares of any class of capital stock of the Company (other than Ordinary Shares) that are entitled to vote generally in the election of Directors.

“Ownership Threshold” shall mean, at any time of determination, the Beneficial Ownership of ten percent (10%) of the Voting Securities outstanding at such time.

“Parent Public Filings” shall have the meaning set forth in Section 7.14.

“Permitted Transferee” shall mean the Shareholder Parent and any direct or indirect wholly-owned Subsidiary of the Shareholder Parent.

“Person” shall mean any individual, private or public company, corporation (including not-for-profit), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, governmental entity or other entity of any kind or nature.

“Piggy-Back Registration” shall have the meaning set forth in Section 6.2(a).

“Proceedings” shall have the meaning set forth in Section 7.6.

“Prospectus” shall mean the prospectus or prospectuses (whether preliminary or final) included in any Registration Statement and relating to Registrable Shares, as amended or supplemented and including all material, if any, incorporated by reference in such prospectus or prospectuses.

“Registrable Shares” shall mean, at any time of determination, the Shareholder Shares that are Beneficially Owned by the Shareholder at such time.

“Registration Expenses” shall have the meaning set forth in Section 6.5(a).

“Registration Rights Termination Date” shall have the meaning set forth in Section 6.3.

“Registration Statement” shall mean any registration statement of the Company which covers any of the Registrable Shares pursuant to the provisions of this Agreement, including any Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all documents, if any, incorporated by reference in such Registration Statement.

“Representatives” shall, with respect to any designated Person, mean such designated Person’s Affiliates and the respective directors, officers, employees, accountants, counsel, consultants and other agents and advisors of such designated Person and its Affiliates; provided, however, that, with respect to the Shareholder, no underwriter, broker-dealer or placement agent shall be deemed to be a Representative of the Shareholder solely as a result of such underwriter, broker-dealer or placement agent participating in the distribution of any Registrable Shares, unless such underwriter, broker-dealer or placement agent is otherwise an Affiliate of the Shareholder.

“SEC” shall mean the United States Securities and Exchange Commission.

“Securities Act” shall mean the United States Securities Act of 1933.

“Selling Expenses” shall have the meaning set forth in Section 6.5(a).

“Shareholder” shall have the meaning set forth in the Preamble or, in the event that the Shareholder Shares are Transferred to any Permitted Transferee in accordance with Section 5.1(f)(i), shall mean such Permitted Transferee.

“Shareholder Designee” shall have the meaning set forth in Section 3.1(a).

“Shareholder Parent” shall have the meaning set forth in the Preamble.

“Shareholder Parent Change of Control Event” shall mean with respect to the Shareholder Parent, any of the following: (i) the Shareholder Parent enters into definitive documentation providing for or contemplating any transaction or series of related transactions that would, if consummated, constitute a Change of Control with respect to the Shareholder Parent; (ii) the board of directors of the Shareholder Parent approves, accepts or recommends to the shareholders of the Shareholder Parent, or the shareholders of the Shareholder Parent approve, (A) any recapitalization, reclassification, consolidation, merger, share exchange, scheme of arrangement or other business combination transaction, (B) any sale, lease, transfer, conveyance or other disposition (including by way of liquidation or dissolution of the Shareholder Parent or one or more of its Subsidiaries) of all or substantially all of the assets of the Shareholder Parent and its Subsidiaries (taken as a whole) or (C) any other similar transaction, in any case that would, if consummated, constitute a Change of Control with respect to the Shareholder Parent; or (iii) a tender, takeover, exchange or other similar offer that would, if consummated, constitute a Change of Control with respect to the Shareholder Parent is commenced or the subject of an announcement of a firm intention to be made or commenced by any Person or Group and the board of directors of the Shareholder Parent either (A) publicly recommends that shareholders of the Shareholder Parent tender their shares to the Person or Group making such offer or (B) fails to recommend that the shareholders of the Shareholder Parent reject such offer, in either case within ten (10) Business Days after the date of commencement or posting of the offer document in respect of such offer.

“Shareholder Shares” shall mean (i) all Ordinary Shares Beneficially Owned by the Shareholder Parent on the Closing Date, immediately after giving effect to the Closing; and (ii) all Ordinary Shares or Other Shares issued to the Shareholder in respect of any such Securities or into which any such Securities shall be converted or exchanged in connection with stock splits, reverse stock splits, stock dividends or distributions, combinations or any similar recapitalizations, reclassifications or capital reorganizations occurring after the Closing.

“Shelf Registration Statement” shall have the meaning set forth in Section 6.1(c).

“Shelf Underwritten Offering” shall have the meaning set forth in Section 6.8(a).

“Short-Form Registration” shall have the meaning set forth in Section 6.1(c).

“Similar Securities” shall have the meaning set forth in Section 6.2(a).

“Special Registration” shall mean the registration of (i) equity securities and/or options or other rights in respect thereof solely registered on Form S-4, Form S-8 or any successor forms thereto; or (ii) shares of equity securities and/or options or other rights in respect thereof to be offered solely in connection with an employee benefit or dividend reinvestment plan.

“Standstill Period” shall have the meaning set forth in Section 4.1(a).

“Subsidiary” shall mean, with respect to any Person, any other entity (i) whose securities or other ownership interests, having by their terms the power to elect a majority of the board of directors or other Persons performing similar functions, are Beneficially Owned or Controlled, directly or indirectly, by such Person, (ii) whose business and policies such Person has the power, directly or indirectly, to direct, or (iii) of which 50% or more of the securities, partnership or other ownership interests are owned, directly or indirectly, by such Person.

“Take-Down Notice” shall have the meaning set forth in Section 6.8(a).

“Transfer” shall mean any direct or indirect sale, transfer, assignment, pledge, hypothecation, mortgage, license, gift, creation of a security interest in or lien on, placement in trust (voting or otherwise), encumbrance or other disposition of any kind to any Person, including those by way of hedging or derivative transactions; provided, however, that, any Change of Control described in clauses (ii) or (iii) of the definition thereof with respect to the Shareholder Parent shall not constitute a Transfer of any Shareholder Shares Beneficially Owned by the Shareholder. The term “Transferred” shall have a correlative meaning.

“Transfer Limitation Period” shall mean the period from and after the Closing until the date that is ninety (90) calendar days after, and conditioned upon, the completion of the Transfer contemplated by and in accordance with Section 5.1(b)(ii) (and irrespective of the number of Shareholder Shares theretofore actually Transferred by the Shareholder under Section 5.1(b)(i) and Section 5.1(b)(ii)).

“U.S. GAAP” shall have the meaning set forth in Section 7.14.

“Voting Securities” shall mean the Ordinary Shares together with any Other Shares.

“WKSI” shall have the meaning set forth in Section 6.1(e).

#### Section 1.2 Other Definitional Provisions

. Except as expressly set forth in this Agreement or unless the express context otherwise requires:

(a) the words “hereof”, “herein”, 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 have a comparable meaning when used in the plural, and vice versa;

(c) any references herein to a specific Section shall refer, respectively, to Sections of this Agreement;

(d) any reference herein to “USD” and “\$” are to United States Dollars;

(e) wherever the word “include”, “includes” or “including” is used in this Agreement, it shall be deemed to be followed by the words “without limitation”;

(f) references herein to any gender includes the other gender;

(g) a reference to a Person (including a party to this Agreement) includes a reference to that Person’s legal personal representatives and permitted successors and assigns;

(h) a reference to a document is a reference to that document as may be supplemented, amended or modified from time to time;

(i) any reference in this Agreement to any statute or statutory provision shall be deemed to include any statute or statutory provision that amends, extends, consolidates, re-enacts or replaces same, or which has been amended, extended, consolidated, re-enacted or replaced (whether before or after the date of this Agreement) by same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute;

(j) words and phrases the definitions of which are contained or referred to in the Companies Acts shall be construed as having the meanings thereby attributed to them; and

(k) any reference to an Irish legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than Ireland, be deemed to include a reference to what most nearly approximates in that jurisdiction to the Irish legal term.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the Company. The Company represents and warrants to the Shareholder and the Shareholder Parent as of the date hereof that:

(a) The Company is a public limited company duly incorporated and validly existing under the laws of Ireland.

(b) The Company has all requisite power and authority and has taken all action necessary in order to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery by the Company of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary action of the Company, including the approval of the Board. This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery of this Agreement by the Shareholder and the Shareholder Parent, constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and, as to enforceability, by general equitable principles.

(c) The execution and delivery of this Agreement by the Company and the performance of its obligations hereunder will not constitute or result in (i) a breach or violation of, or a default under, the Organizational Documents of the Company; (ii) a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under, or the creation of an Encumbrance on any of the assets of the Company (with or without notice, lapse of time or both) pursuant to, any agreement, lease, license, contract, note, mortgage, indenture, arrangement or other obligation binding upon the Company; or (iii) conflict with, breach or violate any law applicable to the Company or by which its properties are bound or affected, except, in the case of clauses (ii) and (iii) above, for any breach, violation, termination, default, creation, acceleration or conflict that would not, individually or in the aggregate, reasonably be expected to impair the ability of the Company to perform its obligations under this Agreement.

Section 2.2 Representations and Warranties of the Shareholder and the Shareholder Parent. The Shareholder and the Shareholder Parent jointly and severally represent and warrant to the Company as of the date hereof that:

(a) The Shareholder is (i) a private limited company incorporated and validly existing under the laws of Ireland and (ii) an indirect wholly-owned Subsidiary of the Shareholder Parent.

(b) The Shareholder Parent is a public limited company incorporated and validly existing under the laws of Ireland.

(c) Each of the Shareholder and the Shareholder Parent has all requisite power and authority and has taken all action necessary in order to execute and deliver this Agreement and to perform their respective obligations hereunder. The execution and delivery by the Shareholder and the Shareholder Parent of this Agreement and the performance of their respective obligations hereunder have been duly authorized by all necessary action of the Shareholder and the Shareholder Parent, including the approval of their respective boards of directors. This Agreement has been duly executed and delivered by the Shareholder and the Shareholder Parent and, assuming the due authorization, execution and delivery of this Agreement by the Company, constitutes the legal, valid and binding obligation of the Shareholder and the Shareholder Parent, enforceable against the Shareholder and the Shareholder Parent in accordance with its terms, except as limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and, as to enforceability, by general equitable principles.

(d) The execution and delivery of this Agreement by the Shareholder and the Shareholder Parent and the performance of their respective obligations hereunder will not constitute or result in (i) a breach or violation of, or a default under, the Organizational Documents of the Shareholder or the Shareholder Parent; (ii) a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under, or the creation of an Encumbrance on any of the assets of the Shareholder or the Shareholder Parent (with or without notice, lapse of time or both) pursuant to, any agreement, lease, license, contract, note, mortgage, indenture, arrangement or other obligation binding upon the Shareholder or the Shareholder Parent; or (iii) conflict with, breach or violate any law applicable to the Shareholder or the Shareholder Parent or by which their respective properties are bound or affected, except, in the case of clauses (ii) and (iii) above, for any breach, violation, termination, default, creation, acceleration or conflict that would not, individually or in the aggregate, reasonably be expected to impair the ability of the Shareholder or the Shareholder Parent to perform its obligations under this Agreement.

(e) Immediately prior to the execution hereof, none of the Shareholder Parent or any of its Affiliates Beneficially Own any shares of common stock of Alkermes.



## ARTICLE III

### CORPORATE GOVERNANCE

#### Section 3.1 Board Representation.

(a) From and after the Closing Date until a Board Right Termination Event occurs (the “Board Right Period”), the Shareholder shall have the right (but not the obligation), upon written notice to the Company, to designate one individual to serve on the Board (the “Shareholder Designee”); provided, however, that such Shareholder Designee shall satisfy the applicable requirements set forth in Section 3.1(b); provided, further, that if a Board Right Termination Event occurs, the Shareholder shall promptly cause the Shareholder Designee, if any, then serving on the Board to resign, effective immediately, from the Board and from any committees or subcommittees thereof to which the Shareholder Designee is then appointed or on which he or she is then serving, and the right of the Shareholder to designate a Shareholder Designee shall terminate.

(b) Notwithstanding anything to the contrary set forth in this Agreement, any Shareholder Designee designated by the Shareholder pursuant to Section 3.1(a) (i) shall be resident in Ireland for so long as such Shareholder Designee serves as a Director; (ii) shall qualify as an “independent director” under applicable provisions of the Exchange Act and under applicable NASDAQ rules and regulations, or the applicable rules and regulations of the principal securities exchange on which the Ordinary Shares are then listed; (iii) would not, at the time of such designation, be required to disclose any information pursuant to Item 2(d) or (e) of Schedule 13D (as in effect on the date of this Agreement) if such Shareholder Designee were the “person filing” such Schedule 13D; (iv) shall not, at the time of such designation, be prohibited or disqualified from serving as a director of a public company pursuant to any applicable rule or regulation of the SEC or NASDAQ or pursuant to applicable law, including the Companies Acts; and (v) shall, in the good faith judgment of the Nominating and Corporate Governance Committee of the Board (the “Nominating Committee”), satisfy the requirements set forth in the Company’s Organizational Documents and Corporate Governance Guidelines (as in effect from time to time), in each case as are applicable to all non-employee Directors generally. The Shareholder Designee shall, upon appointment or election, as the case may be, to the Board, execute such agreements as are required to be executed by all non-employee Directors generally and shall otherwise abide by the provisions of all codes and policies of the Company that are applicable to all non-employee Directors generally, including, as applicable, the Company’s Insider Trading Policy, policies requiring the pre-clearance of all securities trading activity, the Company’s Code of Conduct and the Company’s stock ownership policy.

(c) During the Board Right Period, the Company shall use reasonable endeavors to procure, (i) at the next scheduled meeting of the Board, which shall be validly noticed, the appointment of the Shareholder Designee to the Board; and (ii) thereafter, at each annual general meeting of shareholders of the Company occurring during the Board Right Period at which the term of the Shareholder Designee will expire in accordance with the Company’s Organizational Documents (whether by rotation or otherwise), the election or re-election, as the case may be, of the applicable Shareholder Designee to the Board, including by (A) nominating such Shareholder Designee for election to serve as a Director as provided in this Agreement, (B) subject to compliance by the Shareholder with Section 3.1(f), including such nomination and other required information regarding such Shareholder Designee in the Company’s proxy materials for such meeting of shareholders and (C) soliciting or causing the solicitation of proxies in favor of the election of such Shareholder Designee as a Director, in the case of each of clauses (i) and (ii), for a term expiring at the next annual general meeting of shareholders at which members of the class of Directors to which the Shareholder Designee belongs are to be elected or re-elected, as the case may be, or until such Shareholder Designee’s successor shall have been elected and qualified, or at such earlier time, if any, as such Shareholder Designee may resign, retire, die or be removed (for any reason) as a Director.

(d) Notwithstanding the foregoing, the Company shall not be obligated to procure the appointment of any individual to the Board pursuant to Section 3.1(c)(i) or to procure the election or re-election of any individual pursuant to Section 3.1(c)(ii) if such individual shall have previously been designated by the Shareholder pursuant to Section 3.1(a) and nominated by the Company for election or re-election, as the case may be, as a Director as provided in Section 3.1(c)(ii) (and provided that the Company shall have complied with its obligations set forth in Section 3.1(c)(ii) in respect thereof), and, following the vote of shareholders at the annual general meeting of shareholders, shall have failed to be elected or re-elected, as the case may be, as a Director by the requisite vote of the Company's shareholders.

(e) In furtherance of, and not in limitation to, the Shareholder's rights in this Section 3.1, during the Board Right Period, (i) the Shareholder shall have the right (but not the obligation), upon written notice to the Company as provided in Section 3.1(a), to designate a Shareholder Designee to replace any Shareholder Designee who shall have resigned, retired, died or been removed from office (for any reason) or who, following the voting of shareholders at a meeting of shareholders of the Company shall have failed to be elected or re-elected, as the case may be, by the requisite vote of the Company's shareholders; and (ii) the provisions of Sections 3.1(c) and 3.1(d) shall apply to, and the Company shall comply with its obligations contained therein in respect of, any such replacement Shareholder Designee.

(f) Not less than one hundred twenty (120) days prior to the anniversary of the prior year's annual general meeting of shareholders of the Company occurring during the Board Right Period at which members of the class of Directors to which the Shareholder Designee belongs are to be elected, the Shareholder shall (i) notify the Company in writing of the name of the Shareholder Designee to be nominated for election at such meeting and (ii) provide, or cause such Shareholder Designee to provide, to the Company, all information concerning such Shareholder Designee and his or her nomination to be elected as a Director at such meeting as shall reasonably be required to (A) comply with applicable securities laws, the rules of NASDAQ or any other stock exchange on which securities of the Company are then quoted or listed for trading and the Companies Acts and (B) enable the Nominating Committee to make determinations with respect to such Shareholder Designee's satisfaction of the requirements set forth in Section 3.1(b)(v); provided that the Nominating Committee shall make such determinations as promptly as practicable following receipt by the Company of the notification and information contemplated in clauses (i) and (ii) of this Section 3.1(f) and shall promptly provide the Shareholder with written notice if the Nominating Committee determines that such Shareholder Designee does not satisfy such requirements (together with a reasonably detailed description of the basis on which the Nominating Committee shall have made such determination).

(g) During the Board Right Period, the Company agrees that any Shareholder Designee serving as a Director shall be entitled to the same rights, privileges and compensation applicable to all other non-employee Directors generally or to which all such non-employee Directors are entitled, including any rights with respect to such Shareholder Designee's term of office, and with respect to indemnification arrangements, directors and officers insurance coverage and other similar protections and expense reimbursement.

(h) Notwithstanding anything in this Section 3.1 to the contrary, (i) the Company will not be obligated to take any action in respect of any Shareholder Designee pursuant to Sections 3.1(c)(ii) if the Shareholder shall have failed, in any material respect, to provide, or cause to be provided, the notice and information required by clauses (i) and (ii) of Section 3.1(f); and (ii) in the event that a breach of Article IV or Article V by the Shareholder Parent or the Shareholder shall have occurred and be continuing, in addition to any other remedies that the Company may have, the Shareholder's right to designate a Shareholder Designee shall be suspended; provided, however, that such right shall be reinstated and become effective from and after the date on which any such default shall have been cured or remedied until a Board Right Termination Event occurs.

(i) During the Board Right Period and except as required by applicable law, the Company shall not take any action to cause the removal (without cause) of a Shareholder Designee serving as a Director. The Shareholder shall cause the Shareholder Designee to resign or, if reasonably sufficient, recuse himself or herself any time the presence of such individual as a Shareholder Designee on the Board shall, in the reasonable judgment of the Board, reasonably be likely to violate applicable law or otherwise compromise the Board's exercise of its fiduciary duties.

### Section 3.2 Use of Information.

(a) Notwithstanding anything in this Agreement to the contrary, the Shareholder Designee shall not communicate or convey to the Shareholder or the Shareholder Parent (or to any Affiliate of either of them), directly or indirectly, any non-public information received or obtained in his or her capacity as a Director of the Company, including materials distributed to Directors and any information regarding the process or substance of any Board deliberations.

(b) The Shareholder Parent shall, and shall cause its Representatives and Affiliates to, use non-public information obtained under, in connection with or in performance of this Agreement (including, for the avoidance of doubt, any information obtained pursuant to Section 4.1(e)) only in connection with the Shareholder's investment in the Company and in compliance with this Agreement and the Merger Agreement, and not for any other purpose; provided, however, that nothing in this Section 3.2(b) shall, in any way, prevent, restrict, encumber or limit the Shareholder Parent or any of its Affiliates from exercising its rights or performing its obligations, or asserting or defending any claim by or against the Company or any of its Affiliates, in any such case under this Agreement, the Merger Agreement or any other agreement contemplated by the Merger Agreement. Notwithstanding the foregoing, the Shareholder Parent shall not, and shall cause its Representatives and Affiliates not to, use any such information in a manner prohibited by applicable law, including trading any securities of the Company while in possession of such non-public information to the extent such trading would violate applicable law, or expressly prohibited by this Agreement or the Merger Agreement.

## ARTICLE IV

### STANDSTILL; VOTING

#### Section 4.1 Standstill Restrictions.

(a) From and after the Closing Date until the later of (x) the ten (10) year anniversary of the Closing Date and (y) the three (3) year anniversary of the date on which the Shareholder shall cease to Beneficially Own Voting Securities representing at least the Ownership Threshold (the "Standstill Period"), without the prior written consent of the Company, the Shareholder Parent shall not, and shall cause each of its Affiliates not to, directly or indirectly, alone or in concert with any other Person, except as otherwise expressly set forth in this Section 4.1:

(i) offer to acquire or agree to acquire Beneficial Ownership of any Voting Securities in addition to the Shareholder Shares, except (A) pursuant to stock splits, reverse stock splits, stock dividends or distributions, combinations, reclassifications or any similar recapitalizations or (B) acquisitions or purchases of Voting Securities pursuant to and in accordance with Section 4.4;

(ii) acquire, offer to acquire or agree to acquire any assets of the Company or any of its Subsidiaries that are material to the operations, financial condition or prospects of the Company and its Subsidiaries, taken as a whole;

(iii) induce or attempt to induce any third party to propose or offer to acquire Beneficial Ownership of Voting Securities (other than the Shareholder Shares as and to the extent permitted in accordance with Article V);

(iv) initiate or make a proposal for any scheme of arrangement, merger, tender, takeover or exchange offer, business combination, reorganization, restructuring, recapitalization or other extraordinary transaction that would, if consummated, result in a Change of Control with respect to the Company;

(v) seek the election, appointment or removal of any Directors (other than any Shareholder Designee) or seek a change in the composition or size of the Board;

(vi) except as otherwise required by applicable law, rule or regulation as set forth in an opinion of reputable U.S. counsel, make or cause to be made any press release or similar public announcement or public communication relating to the way it intends to, or does, vote its Shareholder Shares at any meeting of the shareholders of the Company or in connection with any action by written consent at or in which Voting Securities are entitled to vote;

(vii) deposit any Shareholder Shares into a voting trust or subject any Shareholder Shares to any proxy, arrangement or agreement with respect to the voting of such any Shareholder Shares or other agreement having a similar effect (other than as recommended by the Board);

(viii) initiate, propose or otherwise solicit shareholders for the approval of any shareholder proposal or solicit proxies or consents, or in any way participate in, directly or indirectly, any "solicitation" of "proxies" to vote, or seek to influence any Person with respect to the voting of, any Voting Securities, or become a "participant" in a "solicitation" (as such terms are defined in Regulation 14A under the Exchange Act, as in effect on the date of this Agreement, whether or not such Regulation is applicable to the Company) with respect to any Voting Securities;

(ix) publicly call or requisition a call for any general, special or extraordinary meeting of the Company's shareholders;

(x) form, join or in any way participate in a Group with respect to any Voting Securities;

(xi) make any public statement or disclosure inconsistent with the foregoing;

(xii) assist, advise, induce or attempt to induce (or provide any confidential information of the Company or any of its Subsidiaries for the purpose of assisting, advising, inducing or attempting to induce) any third party with respect to, or take any affirmative action to do, any of the foregoing; or

(xiii) propose or seek an amendment or waiver of any of the provisions of this Section 4.1.

(b) This Section 4.1 shall not, in any way, prevent, restrict, encumber or limit (i) the Shareholder Parent and its Affiliates (including the Shareholder) from exercising their respective rights, performing their respective obligations or otherwise consummating the transactions contemplated by this Agreement, the Merger Agreement and any other contract or agreement contemplated by the Merger Agreement, in each case in accordance with the terms hereof or thereof, including exercising the Shareholder's rights pursuant to Article III, Section 4.3, Section 4.4, Article V (including Section 5.1(d)(i)(B)) and Article VI or (ii) any Shareholder Designee then serving as a Director from exercising and performing his or her duties (fiduciary and otherwise) as a Director in accordance with the Company's Organizational Documents, all codes and policies of the Company and all laws, rules, regulations and codes of practice, in each case as may be applicable and in effect from time to time.

(c) If, at any time during the Standstill Period, (i) the Company enters into definitive documentation providing for a transaction that, if consummated, would constitute a Change of Control with respect to the Company; (ii) the Board publicly announces its determination that (A) it will sell or dispose of, or has commenced a process by which it proposes to sell or dispose of, the Company or all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, (B) will consider offers or proposals for a transaction that, if consummated, would result in a Change of Control with respect to the Company, or (C) the Company or all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, is for sale; or (iii) a tender, takeover, exchange or similar offer that, if consummated, would constitute a Change of Control with respect to the Company is commenced or the subject of an announcement of a firm intention to be made or commenced by any Person or Group and either (A) the Shareholder Parent Beneficially Owns Voting Securities representing less than fifteen percent (15%) of the then outstanding Voting Securities or (B) the Board either (x) publicly recommends that shareholders of the Company tender their Voting Securities to the Person or Group making such offer or (y) fails to recommend that the shareholders of the Company reject such offer, in each case within ten (10) Business Days after the date of commencement or posting of such offer, then, in any such case the provisions of Section 4.1(a) shall terminate immediately and all other provisions of this Agreement shall remain in full force and effect; provided, however, that if, (x) with respect to clause (i) of this sentence, such transaction is terminated without being consummated, (y) with respect to clause (ii) of this sentence, the Board has publicly announced that it has rescinded such determination or (z) with respect to clause (iii) of this sentence, such offer or similar transaction is withdrawn, terminated or expires without being consummated or, if the Shareholder Parent Beneficially Owns Voting Securities representing at least fifteen percent (15%) of the then outstanding Voting Securities and the Board publicly recommends that the shareholders of the Company reject such offer, then, in any such case all provisions of Section 4.1(a) previously terminated shall be reinstated and shall be in full force and effect in accordance with their terms from and after the date of such termination, public announcement, withdrawal or expiration, as the case may be; provided, further, that such reinstatement shall not prevent the Shareholder Parent or any of its Affiliates from continuing to pursue any activities described in this Section 4.1(c) that were definitively commenced after the date of such termination, but at or prior to the date of such reinstatement.

(d) Notwithstanding anything to the contrary in this Section 4.1, nothing herein shall prohibit or prevent the Shareholder Parent or any of its Affiliates from acquiring securities of, or from entering into any merger or other business combination with, another Person that Beneficially Owns any Voting Securities or the securities of any successor to, or Person in control of, the Company; provided, however, that (i) such Person shall have acquired such Voting Securities or other securities other than in contemplation of the Shareholder Parent or any of its Affiliates acquiring the securities of, or entering into any such merger or other business combination with, such Person; (ii) the Beneficial Ownership of such Voting Securities or other securities by such Person shall not be a primary reason for the Shareholder Parent or any of its Affiliates acquiring the securities of, or entering into any such merger or other business combination with, such Person; and (iii) the Beneficial Ownership by the Shareholder or the Shareholder Parent or such Person of the Voting Securities held by such Person following the acquisition, merger or other business combination would not, when combined with the Beneficial Ownership by the Shareholder or the Shareholder Parent or such Person of Voting Securities held by the Shareholder Parent or one of its Affiliates, result in the Shareholder Parent or any of its Affiliates or such Person being required, pursuant to the Companies Acts, to commence an offer to acquire additional Voting Securities.

(e) Notwithstanding anything to the contrary in this Section 4.1, nothing herein shall prevent the Chairman and/or the Chief Executive Officer of the Shareholder Parent from communicating with the Chairman and/or the Chief Executive Officer of the Company (including for purposes of requesting permission to make any proposal or to take any action prohibited by this Section 4.1); provided that (i) such communication is made confidentially, does not reasonably require public disclosure by the Company, the Shareholder Parent or any of their respective Affiliates and does not reasonably require the issuance of a public response by the Company or any of its Affiliates; and (ii) neither the fact that such communication or request has been made or any of the terms thereof or facts with respect thereto are publicly disclosed, directly or indirectly, by the Shareholder Parent or any of its Affiliates.

Section 4.2 Attendance at Meetings. For so long as the Shareholder Parent Beneficially Owns Voting Securities representing at least the Ownership Threshold, the Shareholder Parent shall cause the Shareholder to, and the Shareholder shall, cause all Shareholder Shares then owned by the Shareholder to be present, in person or by proxy, at any meeting of the shareholders of the Company occurring at which an election of Directors is to be held, so that all such Shareholder Shares shall be counted for the purpose of determining the presence of a quorum at such meeting.

Section 4.3 Voting.

(a) At each meeting of shareholders of the Company occurring during the period from the Closing Date until the one (1) year anniversary of the Closing Date, the Shareholder Parent shall cause the Shareholder to, and the Shareholder shall, vote all Shareholders Shares then owned by it (to the extent entitled to vote thereon) in accordance with the recommendation of the Board with respect to any business or proposal on which the shareholders of the Company are entitled to vote.

(b) Following the one (1) year anniversary of the Closing Date, the Shareholder Parent shall cause the Shareholder to, and the Shareholder shall, continue to vote as described in paragraph (a) immediately above, except that, if, at any date following the one (1) year anniversary of the Closing Date, either (i) the Shareholder Parent Beneficially Owns Voting Securities representing fifteen percent (15%) or less of the then outstanding Voting Securities of the Company or (ii) the volume weighted average of the daily market prices (determined in accordance with the definition of Market Value) of the Ordinary Shares over the thirty (30) consecutive trading days immediately preceding, but not including, such date is not at least equal to \$7.24 per share, as appropriately adjusted for any stock split or other similar recapitalization or reclassification of the Ordinary Shares after the Closing Date, the Shareholder shall thereafter be free to vote or abstain from voting any or all Shareholder Shares then owned by it in any manner it shall determine, in its absolute and sole discretion, in respect of, any business or proposal (whether initiated by any shareholder or otherwise) coming before any meeting of shareholders of the Company.

Section 4.4 Preemption Rights. Except as expressly set forth in this Section 4.4, each of the Shareholder and the Shareholder Parent hereby irrevocably waives, and the Shareholder Parent shall cause any subsequent Permitted Transferee to which any Shareholder Shares are Transferred after the Closing Date to waive, at all times during the Board Right Period (but not at any time thereafter), any preemption rights to which it would otherwise be entitled as a result of its ownership or holding of Shareholder Shares under the Companies Acts or the Organizational Documents of the Company in respect of any issuance or offering of equity securities by the Company; provided, however, that, none of the Shareholder, the Shareholder Parent or any subsequent Permitted Transferee of any Shareholder Shares hereby waives, by virtue of this Section 4.4 or any other provision of this Agreement, and nothing in this Section 4.4 or any other provision of this Agreement shall constitute a waiver of, or otherwise operate to waive, any preemption right if and solely to the extent that (i) other shareholders of the Company have any preemption rights in respect of such issuance or offering; and (ii) such issuance or offering is made or completed for consideration per security that is, at such time, less than the Market Value thereof or, if there is no Market Value, the fair market value thereof.

## ARTICLE V

### TRANSFER RESTRICTIONS

#### Section 5.1 Transfer Restrictions.

(a) The right of the Shareholder to Transfer any Shareholder Shares is subject to the restrictions set forth in this Article V. No Transfer of Shareholder Shares by the Shareholder may be effected except in compliance with the restrictions set forth in this Article V and with the requirements of the Securities Act and any other applicable securities laws. Any attempted Transfer in violation of this Agreement shall be of no effect and null and void, regardless of whether the purported transferee has any actual or constructive knowledge of the Transfer restrictions set forth in this Agreement, and shall not be recorded on the stock transfer books of the Company.

(b) During the Transfer Limitation Period, the Shareholder shall not, and the Shareholder Parent shall cause the Shareholder not to, Transfer any Shareholder Shares without the prior written consent of the Company, except:

(i) following the six (6) month anniversary of the Closing Date, the Shareholder may Transfer up to but no more than forty and three-quarters percent (40.75%) of the Shareholder Shares in a marketed underwritten registered offering pursuant to Article VI;

(ii) from and after the date that is ninety (90) calendar days after, and conditioned upon, the completion of its Transfer under clause (i) of this Section 5.1(b) (and irrespective of the number of Shareholder Shares actually Transferred thereunder), the Shareholder may Transfer up to but no more than thirty-one and one-half percent (31.5%) of the Shareholder Shares in a marketed underwritten registered offering pursuant to Article VI.

(c) Following the Transfer Limitation Period, the Shareholder may, subject to Section 5.1(e) and Section 5.2(c), Transfer the Shareholder Shares, in whole at any time or in part from time to time, without the prior consent of the Company and without restriction; provided, however, that:

(i) any Transfer of Shareholder Shares effected pursuant to an SEC-registered offering (including an underwritten registered offering) shall be subject to the requirements of Article VI;



(ii) in connection with any Transfer of Shareholder Shares (A) effected pursuant to a Directed Offering or a privately-negotiated transaction not subject to the registration requirements of the Securities Act, in each case in which the Shareholder (or any of its Representatives) negotiates the terms of such Transfer directly with the third party purchasers of such Shareholder Shares or (B) effected in accordance with Rule 144 under the Securities Act, in each case the Shareholder shall not knowingly Transfer to any Person or Group (whether such Person or Group is purchasing Shareholder Shares for its or their own account(s) or as fiduciary on behalf of one or more accounts) in a single Transfer or series of related Transfers, Shareholder Shares representing more than six and one-quarter percent (6.25%) of the Voting Securities then outstanding (calculated on the basis of the aggregate number of Voting Securities outstanding, as contained in the then most recently-available filing by the Company with the SEC) and the Shareholder shall, to the extent reasonably practicable, (x) request that each Person to which any such Shareholder Shares were Transferred provide (but the Shareholder shall not be obligated to obtain) reasonable confirmation thereof and (y) inform any underwriters or brokers engaged by the Shareholder in connection with any such Transfer of the provisions of this Section 5.1(c)(ii); and

(iii) in connection with any Transfer of Shareholder Shares (A) effected pursuant to a Directed Offering or a privately-negotiated transaction not subject to the registration requirements of the Securities Act, in each case in which the Shareholder (or any of its Representatives) negotiates the terms of such Transfer directly with the third party purchasers of such Shareholder Shares or (B) effected in accordance with Rule 144 under the Securities Act, in each case the Shareholder shall not knowingly Transfer to any Person or Group (whether such Person or Group is purchasing Shareholder Shares for its or their own account(s) or as fiduciary on behalf of one or more accounts) that (x) is not a Person of the type described in Rule 13d-1(b)(1)(ii) under the Exchange Act (as in effect on the date of this Agreement), other than a hedge fund, unless such Person is a private equity fund or an affiliate of a private equity fund and has duly certified in writing that it is has no intent to change or influence the control of the Company or participate in any transaction having that effect as described in Rule 13d-1(c)(1) under the Exchange Act or (y) is a Person that has engaged in a proxy contest or has otherwise filed a Schedule 13D that disclosed any plan or proposal or other intent to change or influence control over an issuer, in either case described in this clause (y) during the two (2) year period immediately preceding the date of such Transfer.

(d) Notwithstanding the foregoing, (i) for the avoidance of doubt, none of Section 5.1(b), Section 5.1(c)(ii) or Section 5.1(c)(iii) shall apply to, and nothing therein shall directly or indirectly prohibit, restrict or otherwise limit, to the extent otherwise permitted by law, (A) any Transfer of Shareholder Shares made in accordance with Section 5.1(f) or (B) at any time after the Transfer Limitation Period, (x) the establishment of any “put equivalent position” (as defined under Rule 16a-1 of the Exchange Act) or any “short” position (including through swaps, options, other derivative positions, whether cash or physically settled, or otherwise), (y) any decrease in any such “put equivalent position” or “short” position or (z) the establishment of any contract, arrangement, agreement or understanding pursuant to which the Shareholder has the right or opportunity to profit or share in any profit derived from any decrease in the value of Shareholder Shares; and (ii) the restrictions set forth in Section 5.1(b), Section 5.1(c)(ii) and Section 5.1(c)(iii) shall terminate at such time as the Shareholder shall cease to Beneficially Own Voting Securities representing at least the Ownership Threshold.

(e) Notwithstanding the foregoing, except for Transfers made pursuant to Section 5.1(b) or Section 5.1(f), the Shareholder shall not, and the Shareholder Parent shall cause the Shareholder not to, effect any Transfer of Shareholder Shares in any manner that would result in the failure of the Shareholder to comply with its obligations under Section 6.10 in respect of any Holdback Period.

(f) Notwithstanding anything to the contrary set forth in this Article V, the Shareholder may, at any time (during or after the Transfer Limitation Period), (i) Transfer all, but not less than all, of the Shareholder Shares to any Permitted Transferee; provided that, prior to any such Transfer, such Permitted Transferee agrees in writing to acquire and hold such Transferred Shareholder Shares subject to and in accordance with, and otherwise to be bound by the terms of, this Agreement as if such Permitted Transferee were the Shareholder hereunder; provided, further, that if, at any time after such Transfer, such Permitted Transferee (other than the Shareholder Parent) ceases to be a wholly-owned Subsidiary of the Shareholder Parent, the Shareholder Parent shall cause all Shareholder Shares held by such Permitted Transferee to be Transferred to a Person that is, at such time, a Permitted Transferee and that, prior to such Transfer, agrees in writing to acquire and hold such Transferred Shareholder Shares subject to and in accordance with this Agreement as if such Permitted Transferee were the Shareholder hereunder; (ii) Transfer the Shareholder Shares, in whole or in part, to the Company or any Subsidiary of the Company, including pursuant to any redemption, share repurchase program, self tender offer or otherwise; or (iii) Transfer the Shareholder Shares, in whole or in part, pursuant to any (A) recapitalization, reclassification, consolidation, merger, share exchange, scheme of arrangement or other business combination transaction involving the Company, in any case approved, accepted, or recommended to the Shareholders of the Company by the Board or approved by the shareholders of the Company or (B) tender, exchange or other similar offer for any Voting Securities that is commenced by any Person or Group and the Board either (x) publicly recommends that shareholders of the Company tender their Voting Securities to the Person or Group making such offer or (y) fails to recommend that the shareholders of the Company reject such offer, in either case within ten (10) Business Days after the date of commencement thereof.

#### Section 5.2 Legends on Shareholder Shares; Securities Act Compliance.

(a) Each share certificate representing Shareholder Shares shall bear the following legend (and a comparable notation or other arrangement will be made with respect to any uncertificated Shareholder Shares):

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE ISSUER RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.”

(b) In addition, for so long as any restrictions set forth in Section 5.1 remain in effect, such legend or notation shall include the following language:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF A SHAREHOLDER’S AGREEMENT, DATED AS OF SEPTEMBER 16, 2011, AMONG THE ISSUER AND THE OTHER PARTIES THERETO, A COPY OF WHICH MAY BE INSPECTED AT THE PRINCIPAL OFFICE OF THE ISSUER OR OBTAINED FROM THE ISSUER WITHOUT CHARGE.”

(c) The Shareholder agrees that it will, if requested by the Company, deliver at its expense to the Company an opinion of reputable U.S. counsel selected by the Shareholder and reasonably acceptable to the Company, in form and substance reasonably satisfactory to the Company and counsel for the Company, that any Transfer made, other than in connection with an SEC- registered offering by the Company, does not require registration under the Securities Act.

(d) In connection with any Transfer pursuant to this Article V, the Company shall remove such portion of the legend (or eliminate or terminate such portion of the notation or arrangement) described in Sections 5.2(a) and 5.2(b) as is appropriate under the circumstances. At such time as the Shareholder delivers at its expense to the Company an opinion of reputable U.S. counsel selected by the Shareholder and reasonably acceptable to the Company, in form and substance reasonably satisfactory to the Company and counsel for the Company, that all of the Shareholder Shares may be freely sold without registration under the Securities Act, the Company agrees that it will promptly after the later of the delivery of such opinion and, in the case of certificated Shareholder Shares, the delivery by the Shareholder to the Company or its transfer agent of a certificate or certificates (in the case of a Transfer, in the proper form for Transfer) representing such Shareholder Shares issued with the legend set forth in Section 5.2(a), deliver or cause to be delivered to the Shareholder a replacement stock certificate or certificates representing such Shareholder Shares that is free from the legend set forth in Section 5.2(a) (or in the case of uncertificated Shareholder Shares, free of any notation or arrangement set forth in Section 5.2(a)). At such time as no restrictions set forth in Section 5.1 remain in effect, the Company agrees that it will, promptly upon the request of the Shareholder and, in the case of certificated Shareholder Shares, the delivery by the Shareholder to the Company or its transfer agent of a certificate or certificates (in the case of a Transfer, in the proper form for Transfer) representing Shareholder Shares issued with the legend set forth in Section 5.2(b), deliver or cause to be delivered to the Shareholder a replacement stock certificate or certificates representing such Shareholder Shares that is free from the legend set forth in Section 5.2(b) (or in the case of uncertificated Shareholder Shares, free of any notation or arrangement set forth in Section 5.2(b)).

Section 5.3 Change of Control of the Shareholder Parent.

(a) In the event that, during the period from the Closing Date until the occurrence of a Board Right Termination Event, a Change of Control with respect to the Shareholder Parent is consummated that results from a Shareholder Parent Change of Control Event, to the extent permitted by Irish law, the Company shall have the right, but not the obligation, to purchase (by way of redemption or otherwise) from the Shareholder all, but not less than all, of the Shareholder Shares held by the Shareholder on the date of consummation of such Change of Control. The Shareholder Parent shall give the Company written notice of the occurrence of such Change of Control within ten (10) Business Days after its consummation and the Company's right under this Section 5.3 shall be exercisable by delivering a written election notice to the Shareholder (such notice, an "Election Notice") within ten (10) Business Days after the date of receipt by the Company of such notice from the Shareholder Parent (or at an earlier time following the consummation of such Change of Control). The delivery of an Election Notice by the Company shall irrevocably bind the Company to purchase, and the Shareholder to sell, all of the Shareholder Shares held by the Shareholder on the date of consummation of such Change of Control in accordance with this Section 5.3. In the event that the Company fails to deliver an Election Notice within such ten (10) Business Day period following notice by the Shareholder Parent of the consummation of the Change of Control, the Company shall be deemed to have irrevocably elected not to exercise its right to purchase such Shareholder Shares in respect of such Change of Control pursuant to this Section 5.3.

(b) The purchase price for the Shareholder Shares shall equal the product of (i) the aggregate number of Shareholder Shares held by the Shareholder on the date of consummation of such Change of Control multiplied by (ii) the Market Value of each such Shareholder Share, determined as at the date of consummation of such Change of Control (the "Change of Control Purchase Price").

(c) Subject to the receipt by the parties hereto of all necessary shareholder, antitrust and other governmental, regulatory and third party approvals, the closing of the purchase of the Shareholder Shares shall take place at the executive offices of the Company at 10:00 a.m., local time, on the fifth (5th) Business Day after the date the Election Notice is delivered to the Shareholder, or on such later Business Day reasonably designated by the Company or the Shareholder, as applicable, in order to permit (i) any necessary antitrust waiting period to expire; (ii) any other necessary governmental, regulatory or third party approvals to be obtained; and (iii) the Shareholder Parent to seek the requisite approval of its shareholders for such sale if and to the extent that the Listing Rules of the Irish Stock Exchange (as in effect at such time) would require such approval. At the closing, the Shareholder shall deliver to the Company the share certificate or certificates representing all certificated Shareholder Shares held by the Shareholder on the date of consummation of such Change of Control, in exchange for the payment in full of the Change of Control Purchase Price by wire transfer of immediately available funds to an account or accounts that shall be designated by the Shareholder in writing to the Company at least two (2) Business Days prior to such closing.

## ARTICLE VI

### REGISTRATION RIGHTS

#### Section 6.1 Demand Request.

(a) Until the Registration Rights Termination Date, in connection with any Transfer of Registrable Shares permitted under Section 5.1(b), the Shareholder shall, and in connection with any other Transfer of Registrable Shares after the Transfer Limitation Period, the Shareholder may, request in writing that the Company effect a registration under the Securities Act of all or such part of the Registrable Shares as the Shareholder requests to Transfer, subject in each case to the minimum threshold requirements applicable to such registration pursuant to Section 5.1(b), Section 6.1(b) or Section 6.1(c) (such request, a “Demand Request”) (it being understood that the Demand Request in respect of the marketed underwritten offering to be effected under Section 5.1(b)(i) may be made no sooner than 45 days before the six (6) month anniversary of the Closing Date, but may be made at any time thereafter). Upon receipt of any Demand Request, the Company shall use reasonable endeavors to file, as promptly as practicable but in any event not later than the date that is thirty (30) calendar days after receipt by the Company of such Demand Request, in accordance with the provisions of this Agreement, a Registration Statement with the SEC (a “Demand Registration Statement”) covering all such Registrable Shares, in accordance with the method or methods of distribution thereof elected by the Shareholder (which, for the avoidance of doubt, shall be limited to marketed underwritten registered offerings in the case of Transfers under Section 5.1(b)). Each Demand Request shall specify the aggregate number of Registrable Shares to be registered and the intended method or methods of distribution thereof. Any registration requested by the Shareholder under this Section 6.1(a), Section 6.1(c) or Section 6.1(e) is referred to in this Agreement as a “Demand Registration.”

(b) The Shareholder shall be entitled to initiate no more than six (6) Demand Registrations, including Shelf Underwritten Offerings, in the aggregate; provided, however, that the Company shall not be obligated to effect such Demand Registration (i) unless the number of Registrable Shares requested to be registered by the Shareholder is at least five million (5,000,000) (or the equivalent thereof as of the Closing Date in the event of any stock splits); and (ii) during the ninety (90) calendar day period following the effective date of a Registration Statement pursuant to any other Demand Registration. No request for registration shall count for the purposes of the limitations in this Section 6.1(b) if (v) the Shareholder determines in good faith to withdraw (prior to the effective date of the Registration Statement relating to such request) the proposed registration, upon written notice to the Company, due to marketing conditions or regulatory reasons prior to the execution of an underwriting agreement or purchase agreement relating to such request; provided that the Shareholder reimburses the Company for all Registration Expenses incurred in good faith by the Company in connection with such Demand Registration prior to the date of such withdrawal, (w) the Registration Statement relating to a Demand Request is not declared effective within one hundred eighty (180) calendar days after the date such Registration Statement is filed with the SEC (other than by reason of the Shareholder having refused to proceed or a misrepresentation or an omission by the Shareholder), (x) prior to the sale of at least fifty percent (50%) of the Registrable Shares included in the applicable registration relating to a Demand Request, such registration is adversely affected by any stop order, injunction or other order or requirement of the SEC or other governmental agency or court for any reason and the Company fails to have such stop order, injunction, or other order or requirement removed, withdrawn or resolved to the reasonable satisfaction of the Shareholder within thirty (30) calendar days after the date of such order, (y) the Shareholder withdraws its request in the circumstances described in Section 6.1(f) or (z) the conditions to closing specified in any underwriting agreement or purchase agreement entered into in connection with the registration relating to such request are not satisfied as a result of a default or breach thereunder by the Company that proximately and primarily caused the failure of such conditions.

(c) Following the twelve (12) month anniversary of the Closing Date, the Company shall use reasonable endeavors to qualify for registration on Form S-3 or any comparable or successor form or forms or any similar short-form registration (a “Short-Form Registration”), and, if requested by the Shareholder and available to the Company, such Short-Form Registration shall be a “shelf” registration statement providing for the registration, and the sale on a continuous or delayed basis, of the Registrable Shares, pursuant to Rule 415 under the Securities Act or otherwise (a “Shelf Registration Statement”). Following the twelve (12) month anniversary of the Closing Date and prior to the Registration Rights Termination Date, the Shareholder may request no more than five (5) Short-Form Registrations, if available to the Company, with respect to the Registrable Shares, which shall count toward the six (6) Demand Registrations to which the Shareholder is entitled pursuant to Section 6.1(b); provided that the Company shall not be obligated to effect any Short-Form Registration pursuant to this Section 6.1(c), (x) unless the number of Registrable Shares requested to be registered by the Shareholder is at least five million (5,000,000) (or the equivalent thereof as of the Closing Date in the event of any stock splits) and (y) during the ninety (90) calendar day period following the effective date of a Registration Statement pursuant to any other Demand Registration, including any Shelf Registration Statement. In no event shall the Company be obligated to effect any shelf registration other than pursuant to a Short-Form Registration. If any Demand Registration is proposed to be a Short-Form Registration and an underwritten offering, if the managing underwriter(s) shall advise the Company and the Shareholder that, in its good faith opinion, it is of material importance to the success of such proposed offering to include in such Registration Statement information not required to be included in a Short-Form Registration, then the Company shall supplement the Short-Form Registration as reasonably requested by such managing underwriter(s).

(d) Upon filing any Short-Form Registration, the Company shall use reasonable endeavors to keep such Short-Form Registration effective with the SEC, to re-file such Short-Form Registration upon its expiration, and to cooperate in any shelf take-down, whether or not underwritten, by amending or supplementing the Prospectus related to such Short-Form Registration as may be reasonably requested by the Shareholder, or as otherwise required, until the earlier of (i) such time as all Registrable Shares that could be sold in such Short-Form Registration have been sold or are no longer outstanding and (ii) the Registration Rights Termination Date.

(e) To the extent that the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) (a “WKSI”) at the time any Demand Request for a Short-Form Registration is submitted to the Company and, pursuant to such Demand Request, the Shareholder requests that the Company file a Shelf Registration Statement, the Company shall file an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) on Form S-3 (an “Automatic Shelf Registration Statement”) in accordance with the requirements of the Securities Act and the rules and regulations of the SEC thereunder, which covers those Registrable Shares which are requested to be registered. At the written request of the Shareholder, the Company shall pay the registration fee in respect of a take-down from an Automatic Shelf Registration Statement promptly and, in any event, within one (1) Business Day of receiving such written request. The Company shall use reasonable endeavors to remain a WKSI (and not to become an ineligible issuer (as defined in Rule 405 under the Securities Act)) during the period in which any Automatic Shelf Registration Statement is effective. If, at any time following the filing of an Automatic Shelf Registration Statement when the Company is required to re-evaluate its WKSI status, the Company determines that it is not a WKSI, the Company shall use reasonable endeavors to post-effectively amend the Automatic Shelf Registration Statement to a Shelf Registration Statement on Form S-3 or file a new Shelf Registration Statement on Form S-3, have such Shelf Registration Statement declared effective by the SEC and keep such Registration Statement effective during the period in which such Short-Form Registration is required to be kept effective in accordance with Section 6.1(d).

(f) If the filing, initial effectiveness or continued use of a Registration Statement, including a Shelf Registration Statement, with respect to a Demand Registration, would require the Company to make a public disclosure of material non-public information, which disclosure the Company determines in good faith (after consultation with external legal counsel), (i) would be required to be made at such time in any Registration Statement so that such Registration Statement would not be materially misleading; (ii) would not be required to be made at such time but for the filing, effectiveness or continued use of such Registration Statement; and (iii) would reasonably be expected to have an adverse effect on the Company or its business or on the Company's ability to effect a reasonably imminent material proposed acquisition, disposition, financing, reorganization, recapitalization or similar transaction, then the Company may, upon giving prompt written notice of such determination to the Shareholder, delay the filing or initial effectiveness of, or suspend the use of, as applicable, such Registration Statement or a Prospectus or Free Writing Prospectus; provided, however, that the Company shall not be permitted to do so (x) on more than one (1) occasion in any six (6) month period or (y) for any single period of time in excess of sixty (60) days (in any such case, a "Blackout Period"). In the event that the Company exercises its rights under the preceding sentence, the Shareholder agrees to suspend, promptly upon receipt of the notice referred to above, the use of any Prospectus relating to such Demand Registration in connection with any sale or offer to sell Registrable Shares. If the Company so delays the filing or initial effectiveness of, or suspend the use of, as applicable, such Registration Statement or a Prospectus or Free Writing Prospectus, the Shareholder shall be entitled to withdraw such request and, if such request is withdrawn, such registration request shall not count for the purposes of the limitations set forth in Section 6.1(b) or Section 6.1(c).

(g) If a Demand Request provides that the Shareholder intends the Registrable Shares covered thereby shall be distributed by means of an underwritten offering, or if the Shareholder delivers to the Company a Take-Down Notice, the lead underwriter to administer the offering shall be chosen by the Shareholder, subject to the prior written consent, not to be unreasonably withheld or delayed, of the Company.

(h) The Company shall not include in any Demand Registration pursuant to this Section 6.1 any securities that are not Registrable Shares without the prior written consent of the Shareholder.

(i) The Shareholder shall have the right to notify the Company prior to the effectiveness of a Registration Statement relating to a Demand Registration that such Registration Statement be abandoned or withdrawn, in which event the Company shall promptly abandon or withdraw such Registration Statement.

#### Section 6.2 Piggy-Back Registration.

(a) If, at any time following the six (6) month anniversary of the Closing Date, the Company proposes or is required to file a Registration Statement under the Securities Act with respect to an offering of securities of the Company of the same class as the Registrable Shares (such securities "Similar Securities"), whether or not for sale for its own account (including a Shelf Registration Statement on Form S-3, but excluding a Registration Statement that is (i) solely in connection with a Special Registration or (ii) pursuant to a Demand Registration in accordance with Section 6.1, the Company shall give written notice as promptly as practicable, but not later than thirty (30) calendar days prior to the anticipated date of filing of such Registration Statement, to the Shareholder of its intention to effect such registration and shall include in such registration all Registrable Shares with respect to which the Company has received written notice from the Shareholder for inclusion therein within fifteen (15) calendar days after the date of the Company's notice (a "Piggyback Registration"). In the event that the Shareholder makes such written request, the Shareholder may withdraw its Registrable Shares from such Piggyback Registration by giving written notice to the Company and the managing underwriter, if any, at any time at least two (2) Business Days prior to the effective date of the Registration Statement relating to such Piggyback Registration. The Company may terminate or withdraw any Piggyback Registration under this Section 6.2(a), whether or not the Shareholder has elected to include Registrable Shares in such registration; provided, however, that, if the Shareholder has elected to include Registrable Shares in such registration and the Company terminates or withdraws such Piggyback Registration after the date on which the applicable Registration Statement is declared effective, the Company shall reimburse the Shareholder for all Selling Expenses paid by the Shareholder in respect of Registrable Shares included therein which are unsold on the date of such withdrawal or termination. No Piggyback Registration shall count towards the number of Demand Registrations to which the Shareholder is entitled under Section 6.1(b) or Section 6.1(c).

(b) If a Piggyback Registration under Section 6.2(a) is proposed to be underwritten, the Company shall so advise the Shareholder as a part of the written notice given pursuant to Section 6.2(a). In such event, the lead underwriter to administer the offering shall be chosen by the Company, subject to the prior written consent, not to be unreasonably withheld or delayed, of the Shareholder.

(c) The Company shall pay all expenses (subject to and in accordance with Section 6.5) in connection with any Piggyback Registration, whether or not any registration or prospectus becomes effective or final or is terminated or withdrawn by the Company.



(d) If any Similar Securities are to be sold in an underwritten primary offering on behalf of the Company, the Shareholder may include all the Registrable Shares it requests in such Piggyback Registration on the same terms and conditions as such Similar Securities included therein; provided, however, that if such offering involves a firm commitment underwritten offering and the managing underwriter(s) of such offering advises the Company and the Shareholder in writing that, in its good faith opinion, the total number or dollar amount of Similar Securities proposed to be sold in such offering and Registrable Shares requested by the Shareholder to be included therein, in the aggregate, exceeds the largest number or dollar amount of securities that can be sold in such offering without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), the Company shall include in such registration or prospectus only such number of securities that in the good faith opinion of such underwriter(s) can be sold in such offering without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), which securities shall be included in the following order of priority:

(i) first, the securities that the Company proposes to sell;

(ii) second, the Registrable Shares requested to be included by the Shareholder and any Similar Securities requested to be included by any other Persons exercising their contractual rights to piggyback registration, *pro rata* (if applicable) on the basis of the aggregate number of securities so requested to be included therein; and

(iii) third, any securities requested to be included therein by any other Persons (other than the Company and the Shareholder and other Persons with restricted piggyback registration rights), allocated among such Persons in such manner as the Company may determine.

(e) If the securities to be registered pursuant to this Section 6.2 are to be sold in an underwritten secondary offering on behalf of holders of Similar Securities, the Shareholder may include all Registrable Shares requested to be included in such registration in such offering on the same terms and conditions as any Similar Securities included therein; provided, however, that if the managing underwriter(s) of such offering advises the Company and the Shareholder in writing that, in its good faith opinion, the total number or dollar amount of securities to be included therein exceeds the largest number or dollar amount of securities that can be sold in such offering without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), the Company shall include in such registration only such number of securities that in the reasonable opinion of such underwriter(s) can be sold without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), which securities shall be so included in the following order of priority:

(i) first, the Similar Securities requested to be included therein by the holders exercising their contractual rights to demand such registration and the Registrable Shares requested to be included by the Shareholder, *pro rata* (if applicable) on the basis of the aggregate number of securities so requested to be included therein by each such holder; and

(ii) second, any Similar Securities requested to be included therein by the Company or any other Person not exercising a contractual right to demand registration, allocated among such Persons in such manner as the Company may determine.

### Section 6.3 Termination of Registration Obligation.

Notwithstanding anything to the contrary herein, the obligation of the Company to register Registrable Shares pursuant to this Article VI and maintain the effectiveness of any Demand Registration Statement filed pursuant to Section 6.2 shall terminate on the earliest of (a) the date on which reputable U.S. counsel shall have delivered an opinion, in form and substance reasonably satisfactory to the Company and the Shareholder, that all remaining Shareholder Shares Beneficially Owned by the Shareholder may be freely sold without registration under the Securities Act, including under Rule 144 without being subject to the volume limitations and manner of sale restrictions contained therein, (b) the date that is four (4) months after the first date on which the Shareholder Beneficially Owns Shareholder Shares representing less than the Ownership Threshold and (c) the first date on which the Shareholder Beneficially Owns Shareholder Shares representing less than five percent (5%) of the outstanding Voting Securities (the "Registration Rights Termination Date").

Section 6.4 Registration Procedures. Subject to Section 6.1(f), whenever the Shareholder shall have requested that any Registrable Shares be registered pursuant to Section 6.1 or Section 6.2, the Company shall use reasonable endeavors to effect, as soon as practicable as provided herein, the registration and sale of such Registrable Shares in accordance with the intended method or methods of disposition thereof, until the Registration Rights Termination Date. Without limiting the generality of the foregoing, and pursuant thereto, the Company shall, until the Registration Rights Termination Date, cooperate in the sale of such Registrable Shares and shall, as expeditiously as possible:

(a) prepare and file with the SEC a Registration Statement with respect to such Registrable Shares as provided herein, make all required filings with FINRA and, if such Registration Statement is not automatically effective upon filing, use reasonable endeavors to cause such Registration Statement to be declared effective as promptly as practicable after the filing thereof; provided, however, that, before filing a Registration Statement or Prospectus or any amendments or supplements thereto (including free writing prospectuses under Rule 433 under the Securities Act, each, a "Free Writing Prospectus"), the Company shall furnish to the Shareholder and the managing underwriter(s), if any, copies of the Registration Statement and all other documents proposed to be filed (including exhibits thereto), including, upon the reasonable request of the Shareholder and to the extent reasonably practicable, all documents that would be incorporated by reference or deemed to be incorporated by reference therein, which Registration Statement and documents will be subject to the reasonable review and comment of the Shareholder and its counsel, at the Shareholder's sole expense. The Company shall not file any Registration Statement or Prospectus or any amendments or supplements thereto (including Free Writing Prospectuses) with respect to any registration pursuant to Section 6.1 to which the Shareholder and its counsel or the managing underwriter(s), if any, shall reasonably object, in writing, on a timely basis, unless in the opinion of the Company, such filing is necessary to comply with applicable law;

(b) prepare and file with the SEC such amendments and supplements to such Registration Statement, the Prospectus used in connection therewith (including Free Writing Prospectuses) and Exchange Act reports as may be necessary to keep such Registration Statement effective for a period of (i) with respect to a Registration Statement other than a Shelf Registration Statement, (A) not less than four (4) months, (B) if such Registration Statement relates to an underwritten offering, such longer period as, in the opinion of counsel for the underwriter(s), a Prospectus is required by law to be delivered in connection with sales of Registrable Shares by an underwriter or dealer or (C) such shorter period as will terminate when all of the securities covered by such Registration Statement have been disposed of in accordance with the intended methods of distribution by the seller or sellers thereof set forth in such Registration Statement (but in any event not before the expiration of any longer period required under the Securities Act); or (ii) in the case of a Shelf Registration Statement, the period set forth in Section 6.1(d), and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement until such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such Registration Statement;

(c) furnish to the Shareholder and the managing underwriter(s), if any, such number of conformed copies, without charge, of such Registration Statement, each amendment and supplement thereto, including each preliminary and final Prospectus, any Free Writing Prospectus, all exhibits and other documents filed therewith and such other documents as such Persons may reasonably request, including in order to facilitate the disposition of the Registrable Shares in accordance with the intended method or methods of disposition thereof; and the Company, subject to the penultimate paragraph of this Section 6.4, hereby consents to the use of such Prospectus and each amendment or supplement thereto by Shareholder and the managing underwriter(s), if any, in connection with the offering and sale of the Registered Shares covered by such Prospectus and any such amendment or supplement thereto;

(d) use its reasonable endeavors to register or qualify such Registrable Shares under such other securities or "blue sky" laws of such jurisdictions as the Shareholder reasonably requests and do any and all other acts and things that may be necessary or reasonably advisable to enable the Shareholder to consummate the disposition in such jurisdictions of the Registrable Shares in accordance with the intended method of distribution thereof (provided that the Company shall not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subsection; (ii) subject itself to taxation in any jurisdiction wherein it is not so subject; or (iii) take any action which would subject it to general service of process in any jurisdiction wherein it is not so subject);

(e) use its reasonable endeavors to cause all Registrable Shares covered by such Registration Statement to be registered with or approved by such other governmental agencies, authorities and self-regulatory bodies as may be necessary or reasonably advisable in light of the business and operations of the Company to enable the Shareholder or the managing underwriter(s), if any, to consummate the disposition of such Registrable Shares in the United States in accordance with the intended method of disposition thereof;

(f) promptly notify the Shareholder and the managing underwriter(s), if any, at any time when a Prospectus relating thereto is required to be delivered under the Securities Act of the occurrence of any event or existence of any fact as a result of which the Prospectus (including any information incorporated by reference therein) included in such Registration Statement, as then in effect, contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading in light of the circumstances under which they were made, and, as promptly as practicable upon discovery, prepare and furnish to the Shareholder a reasonable number of copies of a supplement or amendment to such Prospectus, or file any other required document, as may be necessary so that, as thereafter delivered to any prospective purchasers of such Registrable Shares, such Prospectus shall not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading in light of the circumstances under which they were made;

(g) notify the Shareholder, Shareholder's counsel and the managing underwriter(s) of any underwritten offering, if any, (i) when the Registration Statement, any pre-effective amendment, the Prospectus or any Prospectus supplement or any post-effective amendment to the Registration Statement or any Free Writing Prospectus has been filed and, with respect to such Registration Statement or any post-effective amendment, when the same has become effective; (ii) of any request by the SEC for amendments or supplements to such Registration Statement or to such Prospectus or for additional information; (iii) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or the initiation of any proceedings for that purpose; and (iv) of the suspension of the qualification of such securities for offering or sale in any jurisdiction, or the institution of any proceedings for any such purposes;

(h) use its reasonable endeavors to cause all such Registrable Shares covered by such registration statement to be listed (after notice of issuance) on NASDAQ or the principal securities exchange or interdealer quotation system on which the Ordinary Shares are then listed or quoted;

(i) use its reasonable endeavors to cooperate with the Shareholder and the managing underwriter(s), if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Shares to be sold under the Registration Statement in a form eligible for deposit with the Depository Trust Corporation not bearing any restrictive legends (other than as required by the Depository Trust Corporation) and not subject to any stop transfer order with any transfer agent, and cause such Registrable Shares to be issued in such denominations and registered in such names as the managing underwriter(s), if any, may request in writing or, if not an underwritten offering, in accordance with the instructions of the Shareholder, in each case at least two (2) Business Days prior to any sale of Registrable Shares;

(j) enter into such agreements (including underwriting agreements with customary provisions) and take all such other actions as the Shareholder (if such registration is a Demand Registration) or the managing underwriter(s), if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Shares;

(k) make available for inspection by the Shareholder and Shareholder's counsel, any managing underwriter(s) participating in any disposition pursuant to such Registration Statement and any attorney, accountant or other agent retained by the Shareholder or underwriter(s), all financial and other records, pertinent corporate documents and documents relating to the business of the Company, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by the Shareholder or such underwriter(s), attorney, accountant or agent in connection with such Registration Statement; provided, however, that the Shareholder shall, and shall use reasonable endeavors to cause each such underwriter(s), accountant or other agent to (i) enter into a confidentiality agreement in form and substance reasonably satisfactory to the Company; and (ii) minimize the disruption to the Company's business in connection with the foregoing;

(l) otherwise use reasonable endeavors to comply with all applicable rules and regulations of the SEC, and make available to its security holders, as soon as reasonably practicable after the effective date of the Registration Statement, an earnings statement covering the period of at least 12 months beginning with the first day of the Company's first full calendar quarter after the effective date of the Registration Statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(m) in the event of the issuance of any stop order suspending the effectiveness of a Registration Statement, or of any order suspending or preventing the use of any related Prospectus or ceasing trading of any securities included in such Registration Statement for sale in any jurisdiction, use reasonable endeavors to obtain the withdrawal of such order as soon as reasonably practicable;

(n) subject to Section 6.5, cause its senior management to use reasonable endeavors to support the marketing of the Registrable Shares covered by the Registration Statement pursuant to any Demand Registration (including participation in "road shows"), taking into account the Company's business needs;

(o) obtain one or more comfort letters, addressed to the Shareholder, dated the effective date of such Registration Statement and, if requested by the Shareholder, dated the date of sale by the Shareholder (and, if such registration includes an underwritten public offering, including any Shelf Underwritten Offering, addressed to each of the managing underwriter(s) and dated the date of the closing under the underwriting agreement for such offering), signed by the independent public accountants who have issued an audit report on the Company's financial statements included in such Registration Statement in customary form and covering such matters of the type customarily covered by comfort letters as the Shareholder reasonably requests;

(p) provide legal opinions of the Company's outside counsel (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the managing underwriter(s), if any, and the Shareholder's counsel), addressed to the Shareholder, dated the effective date of such Registration Statement, each amendment and supplement thereto, and, if requested by the Shareholder, dated the date of sale by the Shareholder (and, if such registration includes an underwritten public offering, including any Shelf Underwritten Offering, addressed to each of the managing underwriter(s) and dated the date of the closing under the underwriting agreement), with respect to the Registration Statement, each amendment and supplement thereto (including the preliminary Prospectus) and such other documents relating thereto in customary form and covering such matters of the type customarily covered by legal opinions of such nature and such other matters as may be reasonably requested by Shareholder counsel (and, if applicable, by the managing underwriter(s)); and

(q) use its reasonable endeavors to take or cause to be taken all other actions, and do and cause to be done all other things, necessary or reasonably advisable in the opinion of the Shareholder's counsel to effect the registration of such Registrable Shares contemplated hereby.

Subject to the limitations on the Company's ability to delay the filing or initial effectiveness of, or suspend the use of, as applicable, a Registration Statement or a Prospectus or Free Writing Prospectus pursuant to Section 6.1(f), the Shareholder agrees that, upon receipt of any written notice from the Company of the happening of any event of the kind described in Section 6.4(f), the Shareholder shall promptly discontinue its disposition of Registrable Shares pursuant to any Registration Statement until the Shareholder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 6.4(f). If so directed by the Company, the Shareholder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies, in the Shareholder's possession of the Prospectus covering such Registrable Shares at the time of receipt of such notice. In the event that the Company shall give any such notice, the period mentioned in Section 6.4(b), as applicable, shall be extended by the number of days during the period from and including the date of the giving of such notice to and including the date when the Shareholder shall have received the copies of the supplemented or amended Prospectus contemplated by Section 6.4(f).

In the case of any underwritten offering of Registrable Shares registered under a Demand Registration Statement filed pursuant to Section 6.1(a), or in the case of a Piggyback Registration under Section 6.2, (i) all Registrable Shares or Similar Securities to be included in such offering or registration, as the case may be, shall be subject to the applicable underwriting agreement with customary terms and neither the Shareholder nor any holder of Similar Securities may participate in such offering or registration unless such Person agrees to sell such Person's securities on the basis provided therein; and (ii) neither the Shareholder nor any holder of Similar Securities may participate in such offering or registration unless such Person completes and executes all questionnaires, indemnities, underwriting agreements and other documents (other than powers of attorney) reasonably required to be executed in connection therewith, and provides such other information to the Company or the underwriter(s) as may be reasonably requested to offer or register such Person's Registrable Shares or Similar Securities, as the case may be; provided, however, that (A) the Shareholder shall not be required to make any representations or warranties other than those related to title and ownership of, and power and authority to transfer, the Registrable Shares included therein and as to the accuracy and completeness of statements made in the applicable Registration Statement, Prospectus or other document in reliance upon, and in conformity with, written information prepared and furnished to the Company or the managing underwriter(s) by the Shareholder pertaining exclusively to the Shareholder and (B) the aggregate amount of liability of the Shareholder pursuant to any indemnification obligation thereunder shall not exceed the net proceeds received by the Shareholder from such offering.

Section 6.5 Registration Expenses.

(a) Except as otherwise provided in this Agreement, all expenses incidental to the Company's performance of or compliance with this Agreement (the "Registration Expenses"), including (i) all registration and filing fees (including (A) with respect to filings required to be made with the SEC, all applicable securities exchanges and/or FINRA and (B) compliance with securities or blue sky laws including any fees and disbursements of counsel for the underwriter(s) in connection with blue sky qualifications of the Registrable Shares pursuant to Section 6.4(d)); (ii) word processing, duplicating and printing expenses (including expenses of printing certificates for Registrable Shares in a form eligible for deposit with The Depository Trust Company and of printing Prospectuses, if the printing of Prospectuses is requested by the managing underwriter(s), if any, or by the Shareholder); (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company; (v) fees and disbursements of all independent certified public accountants (including, without limitation, the fees and disbursements in connection with any "cold comfort" letters required by this Agreement), other special experts, retained by the Company, shall be borne by the Company. The Company shall, in any event, pay its internal expenses, the expenses of any annual audit or quarterly review, the expenses of any liability insurance, the expenses and fees for listing the Registrable Shares to be registered on the applicable securities exchange. All underwriting discounts, selling commissions and transfer taxes (collectively, "Selling Expenses") incurred in connection with the offering of any Registrable Shares shall be borne by the Shareholder. For the avoidance of doubt, the Company shall not bear any Selling Expenses in connection with its obligations under this Agreement. All expenses incurred in connection with any "road shows" undertaken pursuant to Section 6.4(n) shall be borne in equal proportion by the Shareholder and the Company.

(b) The Company shall not, however, be required to pay Registration Expenses for any Demand Registration begun pursuant to Section 6.1(a), Section 6.1(c) or Section 6.1(e), the request of which has been subsequently withdrawn by the Shareholder unless the withdrawal is (i) requested under the circumstances described in Section 6.1(f); or (ii) based upon (A) any fact, circumstance, event, change, effect or occurrence that individually or in the aggregate with all other facts or circumstances, events, changes, effects or occurrences has a material adverse effect on the Company or (B) material adverse information concerning the Company that the Company had not publicly disclosed at least forty-eight (48) hours prior to such registration request or that the Company had not otherwise notified, in writing, the Shareholder of at the time of such request.

(a) The Company shall, and it hereby agrees to, (i) indemnify and hold harmless the Shareholder (but not, for the avoidance of doubt, any Shareholder Designee), the Shareholder Parent and each underwriter in any offering or sale of Registrable Shares, and its and their respective Representatives and controlling Persons, if any, from and against any and all losses, claims, damages or liabilities, actions or proceedings (whether commenced or threatened) in respect thereof and expenses (including reasonable fees of counsel) (collectively, "Claims") to which each such indemnified party may become subject, insofar as such Claims (including any amounts paid in settlement reached in accordance with the requirements for consent as provided herein), or actions or proceedings in respect thereof, arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Registration Statement, or any preliminary or final Prospectus (including any Free Writing Prospectus incorporated into such Registration Statement) contained therein, or any amendment or supplement thereto, or any document incorporated by reference therein, or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of any preliminary or final Prospectus (including any Free Writing Prospectus incorporated into such Registration Statement, in light of the circumstances in which they were made), not misleading; and (ii) reimburse periodically upon demand such indemnified party for any legal or other out-of-pocket expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Claims; provided, however, that the Company shall not be liable to any such indemnified party in any such case to the extent that any such Claims arise out of or are based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, or preliminary or final Prospectus (including any Free Writing Prospectus incorporated into such Registration Statement), or amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Company by the Shareholder or any Representative of the Shareholder expressly for use therein, or if the Shareholder sold securities to the Person alleging such Claims without sending or giving, at or prior to the written confirmation of such sale, a copy of the applicable Prospectus (excluding any documents incorporated by reference therein) or of the applicable Prospectus, as then amended or supplemented (excluding any documents incorporated by reference therein), if the Company had previously furnished copies thereof to the Shareholder and such Prospectus corrected such untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement.

(b) The Shareholder shall, and hereby agrees to, (i) indemnify and hold harmless the Company and each underwriter in any offering or sale of Registrable Shares, and its and their respective Representatives and controlling Persons, if any, from and against any Claims to which each such indemnified party may become subject, insofar as such Claims (including any amounts paid in settlement reached in accordance with the requirements for consent as provided herein), or actions or proceedings in respect thereof, arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Registration Statement, or any preliminary or final Prospectus (including any Free Writing Prospectus incorporated into such Registration Statement) contained therein, or any amendment or supplement thereto, or any document incorporated by reference therein, or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of any preliminary or final Prospectus (including any Free Writing Prospectus incorporated into such Registration Statement), in light of the circumstances in which they were made), not misleading; and (ii) reimburse periodically upon demand such indemnified party for any legal or other out-of-pocket expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Claims, in each case only to the extent that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with information furnished in writing to the Company by the Shareholder or any Representative of the Shareholder, expressly for use therein, or if the Shareholder sold securities to the Person alleging such Claims without sending or giving, at or prior to the written confirmation of such sale, a copy of the applicable Prospectus (excluding any documents incorporated by reference therein) or of the applicable Prospectus, as then amended or supplemented (excluding any documents incorporated by reference therein), if the Company had previously furnished copies thereof to the Shareholder and such Prospectus corrected such untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement; provided, however, that the liability of the Shareholder hereunder shall be limited to an amount equal to the dollar amount of the net proceeds received by the Shareholder from Shareholder Shares sold by the Shareholder pursuant to such Registration Statement or Prospectus.



(c) The Shareholder and the Company agree that if, for any reason, the indemnification provisions contemplated by Section 6.6(a) or Section 6.6(b) are unavailable to or are insufficient to hold harmless an indemnified party in respect of any Claims referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such Claims in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other hand, with respect to statements or omissions that that resulted in such Claims. The relative fault of such indemnifying party and indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or by such indemnified party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. If, however, the allocation in the first sentence of this Section 6.6(c) is not permitted by applicable law, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative faults, but also the relative benefits of the indemnifying party and the indemnified party, as well as any other relevant equitable considerations. The parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 6.6(c) were to be determined by *pro rata* allocation or by any other method of allocation which does not take into account the equitable considerations referred to in the preceding sentences of this Section 6.6(c). The amount paid or payable by an indemnified party as a result of the Claims referred to above shall be deemed to include (subject to the limitations set forth in Section 6.7) any legal or other fees or expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action, proceeding or claim. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, the Shareholder shall not be liable to contribute any amount in excess of the dollar amount of the net proceeds received by the Shareholder from Shareholder Shares sold by the Shareholder pursuant to such Registration Statement or Prospectus.

Section 6.7 Indemnification Procedures.

(a) If an indemnified party shall desire to assert any claim for indemnification provided for under Section 6.6 in respect of, arising out of or involving a Claim against the indemnified party, such indemnified party shall notify the Company or the Shareholder, as the case may be (the "Indemnifying Party"), in writing of such Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "Claim Notice") promptly after receipt by such indemnified party of written notice of the Claim; provided, however, that failure to provide a Claim Notice shall not affect the indemnification obligations provided hereunder except to the extent the Indemnifying Party shall have been materially prejudiced as a result of such failure. The indemnified party shall deliver to the Indemnifying Party, promptly after the indemnified party's receipt thereof, copies of all notices and documents (including court papers) received by the indemnified party relating to the Claim; provided, however, that failure to provide any such copies shall not affect the indemnification obligations provided hereunder except to the extent the Indemnifying Party shall have been materially prejudiced as a result of such failure.

(b) If a Claim is made against an indemnified party, the Indemnifying Party will be entitled to participate in the defense thereof and, if it so chooses and acknowledges without reservation its obligation to indemnify the indemnified party therefor, to assume the defense thereof with separate counsel selected by the indemnifying party and reasonably satisfactory to the indemnified party. Should the Indemnifying Party so elect to assume the defense of a Claim, the Indemnifying Party will not be liable to the indemnified party for legal expenses subsequently incurred by the indemnified party in connection with the defense thereof, unless the Claim involves potential conflicts of interest or substantially different defenses for the indemnified party and the Indemnifying Party. If the Indemnifying Party assumes such defense, the indemnified party shall have the right to participate in defense thereof and to employ counsel, at its own expense (except as provided in the immediately preceding sentence), separate from the counsel employed by the Indemnifying Party. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the indemnified party for any period during which the Indemnifying Party has not assumed the defense thereof and as otherwise contemplated by the two immediately preceding sentences. If the Indemnifying Party chooses to defend any Claim, the indemnified party shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information that are reasonably relevant to such Claim, and the indemnified party shall use reasonable endeavors to make employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Whether or not the Indemnifying Party shall have assumed the defense of a Claim, the indemnified party shall not admit any liability with respect to, or settle, compromise or discharge, such Claim without the Indemnifying Party's prior written consent (which consent shall not be unreasonably withheld or delayed). The Indemnifying Party may pay, settle or compromise a Claim without the written consent of the indemnified party, so long as such settlement includes (i) an unconditional release of the indemnified party from all liability in respect of such Claim, (ii) does not subject the indemnified party to any injunctive relief or other equitable remedy, and (iii) does not include a statement or admission of fault, culpability or failure to act by or on behalf of any indemnified party.

Section 6.8 Shelf Take-Down.

(a) At any time that a Shelf Registration Statement covering Registrable Shares is effective, if the Shareholder delivers notice (a "Take-Down Notice") to the Company stating that it intends to effect an underwritten offering of all or part of its Registrable Shares included on the Shelf Registration Statement (a "Shelf Underwritten Offering"), the Company shall amend or supplement the Shelf Registration Statement or related Prospectus as may be necessary in order to enable such Registrable Shares to be distributed pursuant to the Shelf Underwritten Offering; provided, however, that the Shareholder shall not be entitled to deliver an aggregate of more than three (3) Take-Down Notices in any twelve (12) month period and the Shareholder may not deliver any Take-Down Notice within thirty (30) days after the effective date of any Registration Statement of the Company hereunder. For the avoidance of doubt, a Shelf Underwritten Offering shall count against the limit set forth in Section 6.1(b).

(b) In connection with any Shelf Underwritten Offering, in the event that the managing underwriter advises the Company and the Shareholder in writing that, in its good faith opinion, the total number or dollar amount of Registrable Shares requested by the Shareholder to be included therein exceeds the largest number or dollar amount of Registrable Shares that can be sold in such offering without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), the Company shall include in such registration or prospectus only such number of Registrable Shares that in the good faith opinion of such underwriter(s) can be sold in such offering without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price).

Section 6.9 Rule 144; Rule 144A. The Company covenants that it will use its reasonable endeavors to timely file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, and to take such further action as the Shareholder may reasonably request, all to the extent required from time to time to enable the Shareholder to sell Registrable Shares without registration under the Securities Act within the limitation of the exemptions provided by (i) Rule 144 or Rule 144A or Regulation S under the Securities Act; or (ii) any similar rule or regulation hereafter adopted by the SEC. Upon the request of the Shareholder, the Company will deliver to the Shareholder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

Section 6.10 Holdback. In consideration for the Company agreeing to its obligations under this Agreement, the Shareholder agrees, in connection with any underwritten offering made pursuant to a Registration Statement in which the Shareholder has elected to include Registrable Shares, upon the written request of the managing underwriter(s) of such offering, not to effect (other than pursuant to such underwritten offering) any public sale or distribution of Registrable Shares, including any sale pursuant to Rule 144 or Rule 144A, or make any short sale of, loan, grant any option for the purchase of, or otherwise Transfer (other than to a Permitted Transferee in accordance with Section 5.1(f)(i), any Registrable Shares or any securities convertible into or exchangeable or exercisable for any other securities of the Company without the prior written consent of the managing underwriter(s) during the Holdback Period. The Company agrees that the Shareholder shall only be bound so long as and to the extent that each other shareholder seeking to exercise registration rights with respect to such offering is similarly bound; provided that a request under this Section 6.10 shall not be effective more than once in any twelve (12) month period.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1 Termination. Except with respect to the obligations set forth in Section 6.6, and Section 6.7, which shall survive the termination of this Agreement, this Agreement shall terminate and be of no further force and effect upon the earlier of (a) the later of (i) the tenth anniversary of the Closing Date; and (ii) the date that is three years after the first date on which the Shareholder shall cease to Beneficially Own Voting Securities representing at least the Ownership Threshold and (b) the consummation of a Change of Control with respect to the Company.

Section 7.2 Injunctive Relief. Each party hereto acknowledges that it would be impossible to determine the amount of damages that would result from any breach of any of the provisions of this Agreement and that the remedy at law for any breach, or threatened breach, of any of such provisions would likely be inadequate and, accordingly, agrees that the other party shall, in addition to any other rights or remedies which it may have, be entitled to such equitable and injunctive relief as may be available from any court of competent jurisdiction to compel specific performance of, or restrain any party from violating, any of such provisions. In connection with any action or proceeding for injunctive relief, each party hereto hereby waives the claim or defense that a remedy at law alone is adequate and agrees, to the maximum extent permitted by law, to have each provision of this Agreement specifically enforced against it, without the necessity of posting bond or other security against it, and consents to the entry of injunctive relief against it enjoining or restraining any breach or threatened breach of such provisions of this Agreement.

Section 7.3 Assignments. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as contemplated by Section 5.1(f), none of the parties may directly or indirectly assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party. Any purported direct or indirect assignment in violation of this Section 7.3 shall be null and void *ab initio*.

Section 7.4 Amendments; Waiver. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by (i) the Company, where enforcement of the amendment, modification, discharge or waiver is sought against the Company; (ii) the Shareholder, where enforcement of the amendment, modification, discharge or waiver is sought against the Shareholder; or (iii) the Shareholder Parent, where enforcement of the amendment, modification, discharge or waiver is sought against the Shareholder Parent. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the party granting such waiver in any other respect or at any other time. The waiver by the Company or the Shareholder of a breach of or a default under any of the provisions of this Agreement or the failure to exercise or delay in exercising any right or privilege hereunder, shall not be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any party may otherwise have at law or in equity.

Section 7.5 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the others shall be in writing and shall be deemed given to a party when (i) delivered to the appropriate address by hand or by nationally recognized overnight courier service; (ii) sent by facsimile with confirmation of transmission by the transmitting equipment; or (iii) received by the addressee, if sent by certified mail, return receipt requested, in each case, to the following addresses or facsimile numbers and marked to the attention of the person (by name or title) designated below, or to such other persons or addresses as may be designated in writing by the party to receive such notice as provided below:

To the Company:

Alkermes plc  
Treasury Building  
Lower Grand Canal Street  
Dublin 2, Ireland  
Telephone: +353 1 772 8000  
Fax: +353 1 772 8001  
Attention: Secretary

With copies (which shall not constitute notice) to:

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
Telephone: +1 212 225-2000  
Fax: +1 212 225-3999

Attention: Daniel S. Sternberg  
William A. Groll

and:

Arthur Cox  
Earlsfort Centre  
Earlsfort Terrace  
Dublin 2, Ireland  
Telephone: +353 1 618 0000

Fax: + 353 1 616 3901  
Attention: Christopher P. J. McLaughlin

To the Shareholder and the Shareholder Parent:

Elan Corporation, plc  
Treasury Building  
Lower Grand Canal Street  
Dublin 2, Ireland  
Telephone: +353 1 709 4000  
Facsimile: + 353 1 709 4713  
Attn.: Company Secretary

With copies (which shall not constitute notice) to:

Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, NY 10005  
Telephone: +1 212 701-3000  
Facsimile: +1 212 269-5420  
Attention: Christopher T. Cox

and:

A&L Goodbody Solicitors  
25/28 International Financial Services Centre  
North Wall Quay  
Dublin 1, Ireland  
Telephone: +353 1 649 2000  
Fax: + 353 1 649 2649  
Attention: John Given

Section 7.6 Governing Law; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury. THIS AGREEMENT AND ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH IT OR ITS SUBJECT MATTER OR FORMATION INCLUDING NON-CONTRACTUAL DISPUTES OR CLAIMS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF IRELAND. Each party hereto irrevocably agrees that the courts of Ireland are to have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement and, for such purposes, irrevocably submits to the exclusive jurisdiction of such courts. Any proceeding, suit or action arising out of or in connection with this Agreement ("Proceedings") shall therefore be brought in the courts of Ireland. Solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, each party irrevocably (i) waives any objection to Proceedings in the courts of Ireland on the grounds of venue or on the grounds of *forum non conveniens* and (ii) agrees that service of process upon such party in any such Proceeding shall be effective if notice is given in accordance with Section 7.5. EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 7.7 Interpretation. The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. The parties hereto have participated jointly in the negotiation and drafting of this Agreement and, in the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. In the event of any conflict or inconsistency between the provisions of this Agreement and the articles of association of the Company, the terms of this agreement shall prevail.

Section 7.8 Entire Agreement; No Other Representations. Except for the Merger Agreement and the articles of association of the Company, this Agreement constitutes the entire agreement, and supersedes all prior agreements, understandings representations and warranties both written and oral, between the parties with respect to the subject matter hereof.

Section 7.9 No Third-Party Beneficiaries. Except as explicitly provided for in Section 6.6 and Section 6.7, this Agreement is not intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 7.10 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 provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid 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 or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 7.11 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

Section 7.12 Effectiveness. This Agreement shall become effective at and as of the Closing.

Section 7.13 Relationship of the Parties. No provision of this Agreement creates a partnership between any of the parties or makes a party the agent of any other party for any purpose. A party has no authority or power to bind, to contract in the name of, or to create a liability for, another party in any way or for any purpose.

Section 7.14 Accounting Matters. In order to allow the Shareholder Parent to make appropriate determinations with respect to the accounting for its investment in the Voting Securities of the Company under the equity method of accounting (determined in accordance with generally accepted accounting principles in the United States (“U.S. GAAP”) as applicable to the Shareholder Parent), the Company will use reasonable endeavors (i) to provide all support reasonably requested by the Shareholder Parent related to determining the purchase price accounting in accordance with the equity method of accounting determined in accordance with U.S. GAAP, as applicable to the Shareholder Parent; (ii) to cooperate, and use reasonable endeavors to cause the Company’s independent certified public accountants to cooperate, with the Shareholder Parent to the extent reasonably requested by the Shareholder Parent in the preparation of the Shareholder Parent’s filings, including periodic filings, public earnings releases or other press releases, (collectively the “Parent Public Filings”); (iii) provide to the Shareholder Parent all information that the Shareholder Parent reasonably requests in connection with any Parent Public Filings or that, in the reasonable judgment of Shareholder Parent or its legal counsel, is required to be disclosed or incorporated by reference therein under any applicable law; (iv) provide such information to enable the Shareholder Parent to prepare, print and release all Parent Public Filings on a timely basis and (v) use its reasonable endeavors to cause the Company’s independent certified public accountants to consent to any reference to them as experts in any Parent Public Filings required under applicable law.

Section 7.15 Further Assurances

Upon the terms and subject to the conditions set forth in this Agreement, from and after the Closing Date, the parties hereto shall each use reasonable endeavors to promptly (i) take, or to cause to be taken, all actions, and to do, or to cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable under applicable law or otherwise to consummate and make effective the transactions contemplated by this Agreement; (ii) obtain from any governmental or regulatory authority or third party any and all necessary clearances, waivers, consents, authorizations, approvals, permits or orders required to be obtained in connection with the performance of this Agreement and the consummation of the transactions contemplated hereby; and (iii) execute and deliver any additional instruments necessary to consummate the transactions contemplated by this Agreement.

Section 7.16 Rights and Obligations of Parties. The obligations of (i) the Company, on the one hand, to the Shareholder and the Shareholder Parent, on the other hand, and (ii) the Shareholder and the Shareholder Parent, on the one hand, to the Company, on the other hand, are owed to them as separate and independent obligations of and each party will have the right to protect and enforce its rights under this Agreement without joining any other party in any proceedings. The Shareholder and the Shareholder Parent shall be jointly and severally liable for all costs, fees, expenses, indemnities and any other liabilities of either of them under this Agreement.

*[The remainder of this page is intentionally left blank.]*



IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective authorized officers as of the date first written above.

**SIGNED** for and on behalf  
of **ALKERMES PLC**  
by its lawfully appointed attorney

/s/ \_\_\_\_\_  
(Signature)

in the presence of:

Signature of Witness: /s/ Patricia Ponsonby  
Name of Witness: Patricia Ponsonby  
Address of Witness: Treasury Bldg., Lower Grand Canal St.  
Dublin 2  
Occupation of Witness: Solicitor

[Signature Page to Shareholder's Agreement]

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**SIGNED** for and on behalf  
of **ELAN CORPORATION PLC**

by  
in the presence of:

/s/ \_\_\_\_\_  
(Signature)

Signature of Witness: /s/ Darragh O'Dea  
Name of Witness: Darragh O'Dea  
Address of Witness: 25-28 North Wall Quay,  
Dublin 1  
Occupation of Witness: Solicitor

**SIGNED** for and on behalf  
of **ELAN SCIENCE THREE LIMITED**

by  
in the presence of:

/s/ \_\_\_\_\_  
(Signature)

Signature of Witness: /s/ Darragh O'Dea  
Name of Witness: Darragh O'Dea  
Address of Witness: 25-28 North Wall Quay,  
Dublin 1  
Occupation of Witness: Solicitor

*[Signature Page to Shareholder's Agreement]*

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