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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2017

OR

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

For the transition period from to

Commission file number 001-14895

SAREPTA THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**93-0797222**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
215 First Street, Suite 415 Cambridge, MA	**02142**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (617) 274-4000

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller Reporting Company	☐
Emerging growth company	☐		

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

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

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

Common Stock with $0.0001 par value	**64,332,309**
(Class)	**(Outstanding as of July 28, 2017)**

SAREPTA THERAPEUTICS, INC.
FORM 10-Q
INDEX

Item 1. Financial Statements

SAREPTA THERAPEUTICS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(unaudited, in thousands, except shares and per share amounts)

	As of June 30, 2017	As of December 31, 2016
Assets		
Current assets:		
Cash and cash equivalents	$ 168,348	$ 122,420
Short-term investments	132,598	195,425
Accounts receivable	17,791	5,228
Inventory	41,754	12,813
Restricted investment	—	10,695
Asset held for sale	1,529	—
Other current assets	28,565	26,895
Total current assets	390,585	373,476
Restricted cash and investments	784	784
Property and equipment, net of accumulated depreciation of $33,047 and $30,346 as of June 30, 2017 and December 31, 2016, respectively	39,393	37,801
Intangible assets, net of accumulated amortization of $2,862 and $3,134 as of June 30, 2017 and December 31, 2016, respectively	7,795	8,076
Other non-current assets	11,582	3,967
Total assets	$ 450,139	$ 424,104
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 10,921	$ 29,690
Accrued expenses	39,179	31,016
Current portion of long-term debt	11,217	10,108
Deferred revenue	3,303	3,303
Other current liabilities	1,340	1,305
Total current liabilities	65,960	75,422
Long-term debt	—	6,042
Deferred rent and other	6,407	5,949
Total liabilities	72,367	87,413
Commitments and contingencies (Note 15)		
Stockholders' equity:		
Preferred stock, $0.0001 par value, 3,333,333 shares authorized; none issued and outstanding	—	—
Common stock, $0.0001 par value, 99,000,000 shares authorized; 55,341,113 and 54,759,234 issued and outstanding at June 30, 2017 and December 31, 2016, respectively	6	5
Additional paid-in capital	1,523,080	1,503,126
Accumulated other comprehensive loss	(38)	(120)
Accumulated deficit	(1,145,276)	(1,166,320)
Total stockholders' equity	377,772	336,691
Total liabilities and stockholders' equity	$ 450,139	$ 424,104

See accompanying notes to unaudited condensed consolidated financial statements.

SAREPTA THERAPEUTICS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)
(unaudited, in thousands, except per share amounts)

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2017	2016	2017	2016
Revenues:				
Product, net	$ 35,011	$ —	$ 51,353	$ —
Total revenues	35,011	—	51,353	—
Costs and expenses:				
Cost of sales	534	—	786	—
Research and development	58,908	44,348	88,027	83,174
Selling, general and administrative	36,069	17,752	62,285	38,628
EXONDYS 51 litigation and license charges	2,839	—	2,839	—
Total cost and expenses	98,350	62,100	153,937	121,802
Operating loss	(63,339)	(62,100)	(102,584)	(121,802)
Other income (loss):				
Gain from sale of Priority Review Voucher	—	—	125,000	—
Interest income (expense) and other, net	184	(201)	519	(269)
Total other income (loss)	184	(201)	125,519	(269)
(Loss) income before income tax (benefit) expense	(63,155)	(62,301)	22,935	(122,071)
Income tax (benefit) expense	(109)	—	1,891	—
Net (loss) income	(63,046)	(62,301)	21,044	(122,071)
Other comprehensive income:				
Unrealized gain on short-term securities - available-for-sale	17	6	82	112
Total other comprehensive income	17	6	82	112
Comprehensive (loss) income	$ (63,029)	$ (62,295)	$ 21,126	$ (121,959)
Net income (loss) per share:				
Basic (loss) earnings per share	$ (1.15)	$ (1.35)	$ 0.38	$ (2.66)
Diluted (loss) earnings per share	$ (1.15)	$ (1.35)	$ 0.37	$ (2.66)
Weighted average number of shares of common stock used in calculating:				
Basic (loss) earnings per share	54,976	46,157	54,913	45,927
Diluted (loss) earnings per share	54,976	46,157	56,176	45,927

See accompanying notes to unaudited condensed consolidated financial statements.

SAREPTA THERAPEUTICS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited, in thousands)

	For the Six Months Ended June 30,	
	2017	2016
Cash flows from operating activities:		
Net income (loss)	$ 21,044	$ (122,071)
Adjustments to reconcile net income (loss) to cash flows from operating activities:		
Gain from sale of Priority Review Voucher	(125,000)	—
Depreciation and amortization	3,409	2,873
Amortization of (discount) premium on available-for-sale securities and non-cash interest	(143)	394
Loss on abandonment of patents	604	24
Stock-based compensation	16,177	13,665
Changes in operating assets and liabilities, net:		
Net increase in accounts receivable	(12,563)	(5)
Net increase in inventory	(28,941)	—
Net increase in other assets	(9,285)	(394)
Net (decrease) increase in accounts payable, accrued expenses, deferred revenue and other liabilities	(8,337)	1,542
Net cash used in operating activities	(143,035)	(103,972)
Cash flows from investing activities:		
Purchase of property and equipment	(7,336)	(1,587)
Purchase of intangible assets	(1,601)	(768)
Purchase of available-for-sale securities	(100,348)	—
Proceeds from sale of Priority Review Voucher	125,000	—
Maturity of restricted investment	10,695	—
Maturity and sale of available-for-sale securities	163,521	100,712
Net cash provided by investing activities	189,931	98,357
Cash flows from financing activities:		
Repayments of long-term debt and notes payable	(5,054)	(2,551)
Proceeds from sales of common stock, net of offering costs	—	37,500
Proceeds from exercise of options and purchase of stock under the Employee Stock Purchase Program	4,086	2,181
Net cash provided by (used in) financing activities	(968)	37,130
Increase (decrease) in cash and cash equivalents	45,928	31,515
Cash, cash equivalents and restricted cash:		
Beginning of period	122,556	80,439
End of period	168,484	111,954
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	$ 538	$ 828
Supplemental schedule of non-cash investing activities and financing activities:		
Shares withheld for taxes	$ 309	$ 104
Intangible assets included in accrued expenses	$ 265	$ 259
Asset held for sale	$ 1,529	$ —
Accrual for debt issuance costs related to the senior secured term loan	$ 400	$ 400
Accrual for senior secured term loan principal payment	$ —	$ 833
Accrual for offering costs related to the June 2016 equity offering	$ —	$ 170
Property and equipment included in accrued expenses	$ —	$ 99

See accompanying notes to unaudited condensed consolidated financial statements.

1. BUSINESS

Sarepta Therapeutics, Inc. (together with its wholly-owned subsidiaries, "Sarepta" or the "Company") is a commercial-stage biopharmaceutical company focused on the discovery and development of unique RNA-targeted therapeutics for the treatment of rare neuromuscular diseases. Applying its proprietary, highly-differentiated and innovative platform technologies, the Company is able to target a broad range of diseases and disorders through distinct RNA-targeted mechanisms of action. The Company is primarily focused on rapidly advancing the development of its potentially disease-modifying Duchenne muscular dystrophy ("DMD") drug candidates. On September 19, 2016, the United States Food and Drug Administration ("FDA") granted accelerated approval for EXONDYS 51, indicated for the treatment of DMD in patients who have a confirmed mutation of the DMD gene that is amenable to exon 51 skipping. EXONDYS 51 is studied in clinical trials under the name of eteplirsen and is marketed in the U.S. under the trademarked name of EXONDYS 51® (eteplirsen) Injection.

In November 2016, the Company submitted a marketing authorization application ("MAA") for eteplirsen to the European Medicine Agency ("EMA") and the application was validated in December 2016. The Company requested and received a six-month clock stop of EMA's review of its MAA for eteplirsen to complete an ADME study required for the Company's MAA. In addition to working on the ADME study, the Company is using the clock stop period to collect additional data and conduct additional analyses from existing studies with the goal of submitting these to the EMA to additionally support its MAA, assuming the data and information gathered is positive, and to address any EMA questions or requests. The Company continues to work with the EMA during their review process and anticipate they will complete their review and make a final decision on the approvability of the Company's MAA for eteplirsen in 2018. The Company also initiated a Managed Access Program ("MAP") for eteplirsen in certain geographies to treat DMD patients amenable to exon 51 skipping. This MAP (also known as an early/expanded access, or named patient program) provides a mechanism through which physicians can legally and ethically prescribe eteplirsen to patients who meet pre-specified medical criteria and can secure funding. Initially, this limited program was launched in select countries throughout Europe, North America and South America for certain patients where eteplirsen is not currently approved. The Company plans to expand the program to include more countries over time. The program is administered by Clinigen Group plc's Idis Managed Access division.

As of June 30, 2017, the Company had approximately $301.7 million of cash, cash equivalents and investments, consisting of $168.3 million of cash and cash equivalents, $132.6 million of short-term investments and $0.8 million of restricted cash and investments. The Company believes that, together with the recent equity and debt financings, its balance of cash, cash equivalents and investments as of the date of the issuance of this report is sufficient to fund its current operational plan for at least the next twelve months, though it may pursue additional cash resources through public or private financings, seek additional government funding and establish collaborations with or license its technology to other companies.

2. SIGNIFICANT ACCOUNTING POLICIES AND RECENT ACCOUNTING PRONOUNCEMENTS

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP"), reflect the accounts of Sarepta Therapeutics, Inc. and its wholly-owned subsidiaries. All intercompany transactions between and among its consolidated subsidiaries have been eliminated. Management has determined that the Company operates in one segment: discovering, developing, manufacturing and delivering therapies to patients for the treatment of rare neuromuscular diseases.

Estimates and Uncertainties

The preparation of the unaudited condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, equity, revenue, expenses and the disclosure of contingent assets and liabilities. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include revenue recognition, inventory, valuation of stock-based awards, research and development expenses and income tax.

Concentration of Credit Risk

Financial instruments which potentially subject the Company to concentrations of credit risk consist of accounts receivable from customers and cash, cash equivalents and investments held at financial institutions.

For the six months ended June 30, 2017, the majority of the Company's accounts receivable arose from product sales in the U.S. and all customers have standard payment terms which generally require payment within 30 to 45 days. Three individual customers accounted for 55%, 29% and 16% of net product revenues and 58%, 30% and 12% of accounts receivable from product sales, respectively. The Company monitors the financial performance and creditworthiness of its customers so that it can properly assess and respond to changes in the customers' credit profile. As of June 30, 2017, the Company believes that such customers are of high credit quality.

As of June 30, 2017, the Company's money market funds, commercial paper, corporate bonds and government and governmental agency bonds were concentrated at a single financial institution, which potentially exposes the Company to credit risks. However, the Company does not believe that there is significant risk of non-performance by the financial institution.

Significant Accounting Policies

For details about the Company's accounting policies, please read *Note 2, Summary of Significant Accounting Policies and Recent Accounting Pronouncements* of the Annual Report on Form 10-K for the year ended December 31, 2016.

In November 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-18, "*Statement of Cash Flows: Restricted Cash*". The amendments in this update requires amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. ASU No. 2016-18 will be effective for fiscal years beginning after December 15, 2017, with early adoption permitted. The Company elected to early adopt this guidance as of January 1, 2017. This guidance was applied using a retrospective transition method for each period and, accordingly, the Company included approximately $0.1 million of restricted cash in cash and cash equivalents as of the beginning and ending periods in the accompanying unaudited condensed consolidated financial statements.

During the second quarter of 2017, the Company granted its new CEO 3,300,000 options with service and market conditions. A market condition relates to the achievement of a specified price of the Company's common stock, a specified amount of intrinsic value indexed to the Company's common stock or a specified price of the Company's common stock in terms of other similar equity shares. The grant date fair value for the options with service and market conditions is determined by a lattice model with Monte Carlo simulations and, with consideration given to estimated forfeitures, is recognized as stock-based compensation expense on a straight-line basis over the vesting period.

There have not been any other material changes to the Company's accounting policies as of June 30, 2017.

Recent Accounting Pronouncements

In May 2017, the FASB issued ASU No. 2017-09, "*Compensation – Stock Compensation (Topic 718): Scope of Modification Accounting*". The amendments in this update provide guidance about which changes to the terms or conditions of a stock-based payment award requires an entity to apply modification accounting in Topic 718. ASU No. 2017-09 will be effective for fiscal years beginning after December 15, 2017, with early adoption permitted. The Company elected to early adopt this guidance as of June 30, 2017 and determined that the adoption of this guidance does not have any impact on its consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, "*Statement of Cash Flows: Classification of Certain Cash Receipts and Cash Payments*". The amendments in this update clarify how certain cash receipts and cash payments are presented and classified in the statement of cash flows. ASU No. 2016-15 will be effective for fiscal years beginning after December 15, 2017, with early adoption permitted. As of June 30, 2017, the Company has not elected to early adopt this guidance and does not expect the adoption of this guidance to have any impact on its consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, "*Leases (Topic 842)*", which supersedes Topic 840, "*Leases*". Under the new guidance, a lessee should recognize assets and liabilities that arise from its leases and disclose qualitative and quantitative information about its leasing arrangements. In transition, lessees and lessors are required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach. ASU No. 2016-02 will be effective for fiscal years beginning after December 15, 2018, with early adoption permitted. The adoption of this standard is expected to have an impact on the amount of the Company's assets and liabilities. As of June 30, 2017, the Company has not elected to early adopt this guidance or determined the effect that the adoption of this guidance will have on its consolidated financial statements.

In May 2014, the FASB issued ASU No. 2014-09, "*Revenue from Contracts with Customers (Topic 606)*". This ASU supersedes the revenue recognition requirements in Accounting Standards Codification Topic 605, "*Revenue Recognition*". Under the new guidance, a company is required to recognize revenue when it transfers goods or renders services to customers at an amount that

it expects to be entitled to in exchange for these goods or services. The new standard allows for either a full retrospective with or without practical expedients or a retrospective with a cumulative catch upon adoption transition method. This guidance was originally intended to be effective for the fiscal years beginning after December 15, 2016, with early adoption not permitted. In August 2015, the FASB issued ASU No. 2015-14, "*Deferral of the Effective Date*", which states that the mandatory effective date of this new revenue standard will be delayed by one year, with early adoption only permitted in fiscal year 2017. During the second quarter of 2016, the FASB issued three amendments to the new revenue standard to address some application questions: ASU No. 2016-10, "*Identifying Performance Obligations and Licensing*", ASU No. 2016-11, "*Rescission of SEC Guidance Because of Accounting Standards Updates 2014-09*", and ASU No. 2016-12, "*Narrow-Scope Improvements and Practical Expedients*". In December 2016, the FASB issued ASU No. 2016-20, "*Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers"*, which amends certain narrow aspects of the guidance issued in ASU 2014-09 including guidance related to the disclosure of remaining performance obligations and prior-period performance obligations, as well as other amendments to the guidance on loan guarantee fees, contract costs, refund liabilities, advertising costs and the clarification of certain examples. These three amendments will be effective upon adoption of Topic 606. The Company is currently reviewing the new standards as compared to its current accounting policies with respect to its product revenues and a review of its customer contracts is also in process. During the second half of 2017, the Company plans to finalize its review of product revenues as well as revenue streams from its MAPs to determine the impact that this standard may have on its results of operations, financial position and disclosures. As of June 30, 2017, the Company has not yet determined which adoption method it will utilize or the effect that the adoption of this guidance will have on its consolidated financial statements.

Reclassification

The Company has revised the presentation as well as the caption of certain cash flows from financing activities in the unaudited condensed consolidated statements of cash flows to conform to the current period presentation. "Proceeds from exercise of options, purchase of stock under the Employee Stock Purchase Program and sales of common stock" of $39.7 million for the six months ended June 30, 2016 has been reclassified to "Proceeds from sales of common stock, net of offering costs" of $37.5 million and "Proceeds from exercise of options and purchase of stock under the Employee Stock Purchase Program" of $2.2 million and presented separately within cash flows from financing activities in the unaudited condensed consolidated statements of cash flows. This revision had no impact on net cash provided by financing activities or change in cash and cash equivalents.

Additionally, the Company has revised the presentation as well as the captions of certain accrued expenses in *Note 10, Accrued Expenses* to the unaudited condensed consolidated financial statements to conform to the current period presentation. "Product revenue related reserves" of $0.3 million as of December 31, 2016 has been reclassified from "Other" of $3.6 million and presented separately in the accrued expenses table. The reclassification had no impact on total current liabilities or total liabilities.

3. GAIN FROM SALE OF PRIORITY REVIEW VOUCHER

In February 2017, the Company entered into an agreement with Gilead Sciences, Inc. ("Gilead") to sell the Company's Rare Pediatric Disease Priority Review Voucher ("PRV"). The Company received the PRV when EXONDYS 51 was approved by the FDA for the treatment of patients with DMD amenable to exon 51 skipping. Following the early termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, in March 2017, the Company completed its sale of the PRV to a subsidiary of Gilead. Pursuant to the Agreement, the subsidiary of Gilead paid the Company $125.0 million, which was recorded as a gain from sale of the PRV as it did not have a carrying value at the time of the sale.

4. FAIR VALUE MEASUREMENTS

The Company has certain financial assets that are recorded at fair value which have been classified as Level 1, 2 or 3 within the fair value hierarchy as described in the accounting standards for fair value measurements.

- Level 1 — quoted prices for identical instruments in active markets;
- Level 2 — quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and
- Level 3 — valuations derived from valuation techniques in which one or more significant value drivers are unobservable.

The tables below present information about the Company's financial assets that are measured and carried at fair value and indicate the level within the fair value hierarchy of valuation techniques it utilizes to determine such fair value:

	Fair Value Measurement as of June 30, 2017			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Money market funds	$ 40,261	$ 40,261	$ —	$ —
Commercial paper	58,428	—	58,428	—
Government and government agency bonds	79,254	—	79,254	—
Corporate bonds	19,302	—	19,302	—
Certificates of deposit	648	648	—	—
Total assets	$ 197,893	$ 40,909	$ 156,984	$ —

	Fair Value Measurement as of December 31, 2016			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Money market funds	$ 1,147	$ 1,147	$ —	$ —
Commercial paper	69,304	—	69,304	—
Government and government agency bonds	105,287	—	105,287	—
Corporate bonds	20,834	—	20,834	—
Certificates of deposit	11,343	11,343	—	—
Total assets	$ 207,915	$ 12,490	$ 195,425	$ —

The Company's assets with fair value categorized as Level 1 within the fair value hierarchy include money market funds and certificates of deposit. Money market funds are publicly traded mutual funds and are presented as cash equivalents in the unaudited condensed consolidated balance sheets as of June 30, 2017.

The Company's assets with fair value categorized as Level 2 within the fair value hierarchy consist of commercial paper, government and government agency bonds and corporate bonds. These assets have been initially valued at the transaction price and subsequently valued, at the end of each reporting period, through income-based approaches utilizing observable market data.

The carrying amounts reported in the unaudited condensed consolidated balance sheets for cash and cash equivalents, accounts receivable and accounts payable approximate fair value because of the immediate or short-term maturity of these financial instruments. The carrying amounts for long-term debt approximate fair value based on market activity for other debt instruments with similar characteristics and comparable risk.

5. CASH, CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS

It is the Company's policy to mitigate credit risk in its financial assets by maintaining a well-diversified portfolio that limits the amount of exposure as to maturity and investment type. The weighted average maturity of the Company's available-for-sale securities as of June 30, 2017 and December 31, 2016 was approximately seven and four months, respectively.

The following tables summarize the Company's cash, cash equivalents and short-term investments for each of the periods indicated:

	As of June 30, 2017			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
	(in thousands)			
Cash and money market funds	$ 143,962	$ —	$ —	$ 143,962
Commercial paper	58,443	—	(15)	58,428
Government and government agency bonds	79,273	—	(19)	79,254
Corporate bonds	19,306	—	(4)	19,302
Total assets	$ 300,984	$ —	$ (38)	$ 300,946
As reported:				
Cash and cash equivalents	$ 168,352	$ —	$ (4)	$ 168,348
Short-term investments	132,632	—	(34)	132,598
Total assets	$ 300,984	$ —	$ (38)	$ 300,946

	As of December 31, 2016			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
	(in thousands)			
Cash and money market funds	$ 122,420	$ —	$ —	$ 122,420
Commercial paper	69,355	—	(51)	69,304
Government and government agency bonds	105,340	—	(53)	105,287
Corporate bonds	20,850	—	(16)	20,834
Total assets	$ 317,965	$ —	$ (120)	$ 317,845
As reported:				
Cash and cash equivalents	$ 122,420	$ —	$ —	$ 122,420
Short-term investments	195,545	—	(120)	195,425
Total assets	$ 317,965	$ —	$ (120)	$ 317,845

6. ACCOUNTS RECEIVABLE AND RESERVES FOR PRODUCT SALES

The Company's accounts receivable arise from product sales, government research contracts and other grants. They are generally stated at the invoiced amount and do not bear interest.

The accounts receivable from product sales represents receivables due from the Company's specialty distributor and specialty pharmacies. The Company monitors the financial performance and creditworthiness of its customers so that it can properly assess and respond to changes in the customers' credit profiles. The Company provides reserves against trade receivables for estimated losses that may result from a customer's inability to pay. Amounts determined to be uncollectible are written-off against the established reserve. As of June 30, 2017, the credit profiles for the Company's customers are deemed to be in good standing and write-offs of accounts receivable are not considered necessary. Historically, no accounts receivable amounts related to government research contracts and other grants have been written off and, thus, an allowance for doubtful accounts receivable related to government research contracts and other grants is not considered necessary.

The following table summarizes the components of the Company's accounts receivable for the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Product sales, net of reserves	$ 16,862	$ 4,002
Government contract receivables	929	1,226
Total accounts receivable	$ 17,791	$ 5,228

The balance for government contract receivables for both periods presented is subject to government audit and will not be collected until the completion of the audit. The decrease in unbilled receivables is related to contract finalization and subsequent collection of the European Union SKIP-NMD Agreement related to the Company's exon 53 product candidate.

The following table summarizes an analysis of the change in reserves for discounts and allowances for the periods indicated:

	Chargebacks	Rebates	Other Accruals	Total
		(in thousands)		
Balance, as of December 31, 2016	$ 1	$ 238	$ 67	$ 306
Provision	1,413	1,901	350	3,664
Payments/credits	(1,173)	(405)	(287)	(1,865)
Balance, as of June 30, 2017	$ 241	$ 1,734	$ 130	$ 2,105

The following table summarizes the total reserves above included in the Company's unaudited condensed consolidated balance sheets for the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Reduction to accounts receivable	$ 241	$ 1
Component of accrued expenses	1,864	305
Total reserves	$ 2,105	$ 306

7. INVENTORY

Inventories are stated at the lower of cost and net realizable value with cost determined on a first-in, first-out basis. The Company capitalizes inventory costs associated with products following regulatory approval when future commercialization is considered probable and the future economic benefit is expected to be realized. EXONDYS 51 which may be used in clinical development programs are included in inventory and charged to research and development expense when the product enters the research and development process and no longer can be used for commercial purposes. The following table summarizes the components of the Company's inventory for the period indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Raw materials	$ 27,814	$ 9,531
Work in progress	13,780	3,175
Finished goods	160	107
Total inventory	$ 41,754	$ 12,813

8. ASSET HELD FOR SALE

The Company owns a facility located at 1749 SW Airport Avenue, Corvallis, OR ("Airport Facility"). The Airport Facility was previously leased to an unrelated third party. In July 2016, the third party lessee terminated the lease and vacated the facility. It has been unoccupied since then. The Company has set up a program and is actively marketing the Airport Facility. The Airport Facility with net book value of approximately $1.5 million was reclassified as an asset held for sale which is presented as a component of current assets as of March 31, 2017. There have been no changes to the asset held for sale during the second quarter of 2017.

9. OTHER CURRENT ASSETS AND OTHER NON-CURRENT ASSETS

The following table summarizes the Company's other current assets for each of the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Manufacturing-related deposits and prepaids	$ 21,035	$ 23,604
Prepaid clinical and preclinical expenses	3,974	1,225
Other prepaids	2,416	1,152
Other	1,140	914
Total other current assets	$ 28,565	$ 26,895

The following table summarizes the Company's other non-current assets for each of the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Prepaid clinical expenses	$ 7,056	$ 3,725
Manufacturing-related deposits	4,284	—
Other	242	242
Total other non-current assets	$ 11,582	$ 3,967

10. ACCRUED EXPENSES

The following table summarizes the Company's accrued expenses for each of the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Accrued clinical and preclinical costs	$ 11,148	$ 10,033
Accrued employee compensation costs	8,035	8,748
Accrued contract manufacturing costs	5,886	4,673
Accrued professional fees	5,012	2,799
Accrued EXONDYS 51 litigation and license charges	2,839	—
Product revenue related reserves	1,864	305
Accrued research costs	547	1,186
Other	3,848	3,272
Total accrued expenses	$ 39,179	$ 31,016

11. RESTRUCTURING

In March 2016, the Company announced a long-term plan ("Corvallis plan") to consolidate all of the Company's operations to Massachusetts as part of a strategic plan to increase operational efficiency. As part of the consolidation, research activities and some employees have transitioned to the Company's facilities in Andover and Cambridge, Massachusetts. As of June 30, 2017, the relocations and terminations were substantially completed.

In December 2016 and April 2017, respectively, the second floor and the first floor of the Corvallis facility were vacated and closed and made available for sub-leasing. Using a discounted cash flow methodology and based on monthly rent payments as well as estimated sublease income, the Company cumulatively recognized a total of approximately $1.5 million and $2.3 million, respectively, in restructuring expenses for the second and the first floor related to the vacated space. As of June 30, 2017, the Company continues to be obligated to make $5.6 million of minimum lease payments and certain other contractual maintenance costs for the whole facility.

For the three and six months ended June 30, 2017, the Company recorded $2.5 million and $2.8 million of restructuring expenses, respectively, $0.1 million and $2.3 million, respectively, of which related to the closure of second and the first floor of the Corvallis facility. For the three and six months ended June 30, 2016, the Company recorded $0.6 million and $1.2 million of restructuring expenses, respectively, $0.5 million and $1.1 million, respectively, of which related to workforce reduction.

The following table summarizes the restructuring expenses by function for the periods indicated:

	For the Three Months Ended June 30, 2017			For the Three Months Ended June 30, 2016		
			(in thousands)			
	Cash	Non-cash	Total	Cash	Non-cash	Total
Research and development	$ 104	$ —	$ 104	$ 463	$ 48	$ 511
Selling, general and administrative	2,420	—	2,420	73	42	115
Total restructuring expenses	$ 2,524	$ —	$ 2,524	$ 536	$ 90	$ 626

	For the Six Months Ended June 30, 2017			For the Six Months Ended June 30, 2016		
			(in thousands)			
	Cash	Non-cash	Total	Cash	Non-cash	Total
Research and development	$ 174	$ —	$ 174	$ 820	$ 193	$ 1,013
Selling, general and administrative	2,586	—	2,586	104	42	146
Total restructuring expenses	$ 2,760	$ —	$ 2,760	$ 924	$ 235	$ 1,159

The following table summarizes the restructuring reserve for the periods indicated:

	As of June 30, 2017	As of December 31, 2016
	(in thousands)	
Restructuring reserve beginning balance	$ 1,588	$ —
Restructuring expenses incurred during the period	2,760	3,651
Amounts paid during the period	(850)	(2,063)
Restructuring reserve ending balance	$ 3,498	$ 1,588

12. STOCK-BASED COMPENSATION

The following table summarizes the Company's stock awards granted for each of the periods indicated:

	For the Three Months Ended June 30,				For the Six Months Ended June 30,			
	2017		2016		2017		2016	
	Grants	Weighted Average Grant Date Fair Value	Grants	Weighted Average Grant Date Fair Value	Grants	Weighted Average Grant Date Fair Value	Grants	Weighted Average Grant Date Fair Value
Stock options	3,579,467 (1)	$ 13.64	7,600	$ 15.61	4,456,959 (1)	$ 14.16	1,213,376	$ 11.94
Restricted stock units	20,000	$ 36.26	—	$ —	181,029 (3)	$ 33.03	—	$ —
Restricted stock awards	335,000 (2)	$ 34.65	—	$ —	341,500 (2)	$ 34.58	25,775	$ 13.71

(1) The Company granted its new CEO 3,300,000 options with service and market conditions. These options have a five-year cliff vesting schedule. The fair value of $13.48 for these options was determined by a lattice model with Monte Carlo simulations. The remaining 279,467 service-based options which have a weighted average grant date fair value of $15.49 have a four-year vesting schedule with 25% vest on the first anniversary and 1/48 monthly thereafter.

(2) The Company granted its new CEO 335,000 restricted stock awards ("RSAs") with a fair value of $34.65. These RSAs have a four-year vesting schedule with 25% vest on the first anniversary and 1/48 vest monthly thereafter.

(3) The Company granted certain executives 156,029 restricted stock units ("RSUs") with certain sales target and regulatory milestones. As of June 30, 2017, one performance condition of these RSUs was achieved. As a result, 50% of these RSUs became immediately vested and, accordingly, the Company recorded $2.5 million of stock-based compensation expenses. As of June 30, 2017, the remaining two performance conditions have been deemed as not probable of being achieved. If and when deemed probable that such performance milestones may be achieved within the required time frame, the Company may recognize up to $2.6 million of stock-based compensation related to these grants. The remaining RSUs are service-based awards granted to the members of the board of directors.

Stock-based Compensation Expense

For the three months ended June 30, 2017 and 2016, total stock-based compensation expense was $10.5 million and $6.8 million, respectively. For the six months ended June 30, 2017 and 2016, total stock-based compensation expense was $16.2 million and $13.5 million. Included in these amounts for the three and six months ended June 30, 2017 are $2.5 million and $2.2 million of stock-based compensation expense incurred in connection with the achievement of one performance condition of certain RSUs and the resignation of the Company's former CEO, respectively. The following table summarizes stock-based compensation expense by function included within the unaudited condensed consolidated statements of operations and comprehensive income (loss):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2017	2016	2017	2016
	(in thousands)		(in thousands)	
Research and development	$ 2,195	$ 2,404	$ 4,069	$ 4,853
Selling, general and administrative	8,270	4,426	12,108	8,667
Total stock-based compensation expense	$ 10,465	$ 6,830	$ 16,177	$ 13,520

The following table summarizes stock-based compensation expense by grant type included within the unaudited condensed consolidated statements of operations and comprehensive income (loss):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2017	2016	2017	2016
	(in thousands)		(in thousands)	
Stock options	$ 6,763	$ 5,772	$ 11,801	$ 11,470
Restricted stock awards/units	3,250	273	3,454	457
Stock appreciation rights	—	115	—	230
Employee stock purchase plan	452	670	922	1,363
Total stock-based compensation expense	$ 10,465	$ 6,830	$ 16,177	$ 13,520

13. INCOME TAXES

The Company's tax provision for interim periods is typically determined using an estimate of its annual effective tax rate, adjusted for discrete items arising in that quarter. In each quarter, the Company updates its estimate of the annual effective tax rate, and if the estimated annual tax rate changes, the Company makes a cumulative adjustment in that quarter. The Company computed its tax provision for the six months ended June 30, 2017 based upon the year-to-date effective tax rate as opposed to an estimated annual effective tax rate. The Company concluded that the year-to-date effective tax rate is the most appropriate method to use for the six months ended June 30, 2017, given a reliable estimate of the annual effective tax rate cannot be made.

For the three and six months ended June 30, 2017, the Company recorded an income tax benefit of $0.1 million and income tax expense of $1.9 million, respectively. For the three and six months ended June 30, 2016, the Company did not record any income tax expense or benefit. The effective tax rates for the six months ended June 30, 2017 and 2016 are 2.3% and 0%, respectively. The increase in the income tax expense liability as of June 30, 2017 as compared to the balance as of December 31, 2016 is due to additional state and federal income taxes payable as a result of the increase in the amount of income before income taxes. The increase in income is primarily attributable to the gain on the sale of the Company's PRV to Gilead for $125.0 million in cash during the period ended March 31, 2017.

14. NET EARNINGS (LOSS) PER SHARE

Basic net earnings (loss) per share is computed by dividing net income (loss) by the weighted-average number of shares of common stock outstanding. Diluted net earnings (loss) per share is computed by dividing net income (loss) by the weighted-average number of shares of common stock and dilutive common stock equivalents outstanding. For the three months ended June 30, 2017 and 2016 as well as for the six months ended June 30, 2016, there was no difference between basic and diluted net loss per share since the effect of common stock equivalents would be anti-dilutive due to the net loss position and, therefore, would be excluded from the diluted net loss per share calculation.

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2017	2016	2017	2016
	(in thousands, except per share amounts)			
Net (loss) income	$ (63,046)	$ (62,301)	$ 21,044	$ (122,071)
Weighted-average number of shares of common stock and common stock equivalents outstanding:				
Weighted-average number of shares of common stock outstanding for computing basic loss per share	54,976	46,157	54,913	45,927
Dilutive effect of outstanding stock awards and stock options after application of the treasury stock method*	—	—	1,263	—
Weighted-average number of shares of common stock and dilutive common stock equivalents outstanding for computing diluted loss per share	54,976	46,157	56,176	45,927
Net (loss) income per share:				
Basic (loss) earnings per share	$ (1.15)	$ (1.35)	$ 0.38	$ (2.66)
Diluted (loss) earnings per share	$ (1.15)	$ (1.35)	$ 0.37	$ (2.66)

* For the three months ended June 30, 2017, stock options, RSAs and SARs to purchase 10.1 million shares of the Company's common stock were excluded from the net loss per share calculation as their effect would have been anti-dilutive. For the six months ended June 30, 2017, out of money stock options, unvested performance-based RSUs and RSAs whose performance milestones were not achieved and potentially issuable common stock for ESPP to purchase approximately 7.0 million shares of the Company's common stock were excluded from the net earnings per share calculation as their effect would have been anti-dilutive. For the three and six months ended June 30, 2016, stock options, RSAs and SARs to purchase 7.3 million shares of the Company's common stock were excluded from the net loss per share calculation as their effect would have been anti-dilutive.

15. COMMITMENTS AND CONTINGENCIES

Litigation

In the normal course of business, the Company may from time to time be named as a party to various legal claims, actions and complaints, including matters involving securities, employment, intellectual property, effects from the use of therapeutics utilizing its technology, or others. For example, purported class action complaints were filed against the Company and certain of its officers in the U.S. District Court for the District of Massachusetts on January 27, 2014 and January 29, 2014. The complaints were consolidated into a single action (Corban v. Sarepta, et. al., No. 14-cv-10201) by order of the court on June 23, 2014. Plaintiffs' consolidated amended complaint, filed on July 21, 2014, asserted violations of Section 10(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Securities and Exchange Commission Rule 10b-5 against the Company, and Chris Garabedian, Sandy Mahatme, and Ed Kaye ("Individual Defendants," and collectively with the Company, the "Corban Defendants"), and violations of Section 20(a) of the Exchange Act against the Individual Defendants. Plaintiffs alleged that the Corban Defendants made material misrepresentations or omissions during the putative class period of July 24, 2013 through November 12, 2013, regarding a data set for a Phase 2b study of eteplirsen and the likelihood of the FDA accepting the Company's new drug application for eteplirsen for review based on that data set. Plaintiffs sought compensatory damages and fees. On August 18, 2014, the Corban Defendants filed a motion to dismiss, which the Court granted on March 31, 2015. Plaintiffs subsequently sought leave to file a second amended complaint, which the Corban Defendants opposed. On September 2, 2015, the Court denied Plaintiffs' motion for leave to amend as futile. Plaintiffs filed a notice of appeal on September 29, 2015, seeking review of the Court's March 31, 2015 order dismissing the case and the Court's September 2, 2015 order denying leave to amend. On January 27, 2016, Plaintiffs filed in the district court a motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(2), arguing that the FDA Briefing Document published on or about January 15, 2016, was material and would have changed the Court's ruling. On February 26, 2016, the First Circuit stayed the appeal pending the district court's ruling on the 60(b)(2) motion. Defendants opposed the 60(b)(2) motion, and on April 21, 2016, the Court denied Plaintiffs' motion for relief from judgment. On May 19, 2016, Plaintiffs filed a motion to alter or amend the April 21, 2016 order pursuant to Federal Rule of Civil Procedure 59(e). On May 20, 2016, the Court denied Plaintiffs' motion, and Plaintiffs

filed a notice of appeal of the Court's April 21, 2016 denial of their 60(b)(2) motion and May 20, 2016 denial of their 59(e) motion. On June 13, 2016, the First Circuit granted Plaintiffs' motion to consolidate the two appeals. Oral argument took place on March 7, 2017. A decision has not yet been issued by the First Circuit. An estimate of the possible loss or range of loss cannot be made at this time.

Another complaint was filed in the U.S. District Court for the District of Massachusetts on December 3, 2014 styled William Kader, Individually and on Behalf of All Others Similarly Situated v. Sarepta Therapeutics Inc., Christopher Garabedian, and Sandesh Mahatme (Kader v. Sarepta et.al 1:14-cv-14318). On March 20, 2015, Plaintiffs filed an amended complaint asserting violations of Section 10(b) of the Exchange Act and Securities and Exchange Commission Rule 10b-5 against the Company, and Chris Garabedian and Sandy Mahatme ("Individual Defendants," and collectively with the Company, the "Kader Defendants"), and violations of Section 20(a) of the Exchange Act against the Individual Defendants. Plaintiffs alleged that the Kader Defendants made material misrepresentations or omissions during the putative class period of April 21, 2014 through October 27, 2014, regarding the sufficiency of the Company's data for submission of an NDA for eteplirsen and the likelihood of the FDA accepting the NDA based on that data. Plaintiffs sought compensatory damages and fees. The Kader Defendants moved to dismiss the amended complaint on May 11, 2015. On April 5, 2016, following oral argument on March 29, 2016, the Court granted Defendants' motion to dismiss. On April 8, 2016, Lead Plaintiffs filed a motion for leave to file an amended complaint, which Defendants opposed. On January 6, 2017, the Court denied Plaintiffs' motion for leave to amend and dismissed the case. Plaintiffs filed a notice of appeal on February 3, 2017. A briefing schedule was set on March 13, 2017. Appellants' brief was filed April 24, 2017. Appellee's brief was filed May 24, 2017. The Court has not yet scheduled a date for oral argument. An estimate of the possible loss or range of loss cannot be made at this time.

On February 5, 2015, a derivative suit was filed in the 215th Judicial District of Harris County, Texas against the Company's Board of Directors (*David Smith, derivatively on behalf of Sarepta Therapeutics, Inc., v. Christopher Garabedian et al., No. 2015-06645*). The claims allege that Sarepta's directors caused Sarepta to disseminate materially false and/or misleading statements in connection with disclosures concerning the Company's submission of the NDA for eteplirsen. Plaintiff seeks unspecified compensatory damages, actions to reform and improve corporate governance and internal procedures, disgorgement of profits, benefits and other compensation obtained by the directors, and attorneys' fees. The parties have agreed to stay the case pending resolution of the *Corban* and *Kader* cases. An estimate of the possible loss or range of loss cannot be made at this time.

On March 16, 2016, a derivative suit was filed in the U.S. District Court for the District of Massachusetts against the Company's Board of Directors (*Dawn Cherry, on behalf of nominal defendant Sarepta Therapeutics, Inc., v. Behrens et al., No. 16-cv-10531*). The claims allege that the defendants authorized the Company to make materially false and misleading statements about the Company's business prospects in connection with its development of eteplirsen from July 10, 2013 through the date of the complaint. Plaintiffs seek unspecified damages, actions to reform and improve corporate governance and internal procedures, and attorneys' fees. The parties have agreed to stay the case pending resolution of the Corban and Kader cases. An estimate of the possible loss or range of loss cannot be made at this time.

Additionally, on September 23, 2014, a derivative suit was filed against the Company's Board of Directors with the Court of Chancery of the State of Delaware (*Terry McDonald, derivatively on behalf of Sarepta Therapeutics, Inc., et al. v. Goolsbee et al., No. 10157*). The claims allege, among other things, that (i) the Company's non-employee directors paid themselves excessive compensation fees for 2013, (ii) that the compensation for the Company's former Chief Executive Officer, Christopher Garabedian, was also excessive and such fees were the basis for Mr. Garabedian's not objecting to or stopping the excessive fees for the non-employee directors and (iii) that the disclosure in the 2013 proxy statement was deficient. The relief sought, among others, includes disgorgement and rescindment of allegedly excessive or unfair payments and equity grants to Mr. Garabedian and the directors, unspecified damages plus interest, a declaration that the Company's Amended and Restated 2011 Equity Plan at the 2013 annual meeting was ineffective and a revote for approved amendments, correction of misleading disclosures and plaintiff's attorney fees. The parties have agreed to a Memorandum of Understanding concerning the settlement terms and do not believe that disposition of the McDonald suit will have a material financial impact on the Company. The parties are now engaged in the confirmatory discovery process that, when complete, will allow plaintiffs' counsel to represent to the court that the terms of the settlement are fair. Defendants have provided documents to plaintiffs, who are now in the process of reviewing the materials.

16. SUBSEQUENT EVENTS

In July 2017, the Company and the University of Western Australia ("UWA") on one hand entered into a settlement agreement with BioMarin Leiden Holding BV, its subsidiaries BioMarin Nederlands BV and BioMarin Technologies BV (collectively, "BioMarin"), and on the same day the Company entered into a license agreement with BioMarin and Academisch Ziekenhuis Leiden ("AZL", and collectively with the Company, UWA and BioMarin, the "Settlement Parties"). On the same day, the Company entered into a license agreement with BioMarin. Under these agreements, BioMarin agrees to provide the Company with an exclusive license to certain intellectual property with an option to convert the exclusive license into a co-exclusive license and the Settlement Parties agree to stop most existing efforts to continue with ongoing litigation and opposition and other administrative proceedings concerning BioMarin's intellectual property. Under terms of the agreements, the Company agrees to make total up-front

payments of $35.0 million upon execution of the agreements, consisting of $20.0 million under the settlement agreement and $15.0 million under the license agreement. Additionally, the Company may be liable for up to approximately $65.0 million in regulatory and sales milestones for eteplirsen as well as exon 45 and exon 53 skipping product candidates. BioMarin will also be eligible to receive royalty payments, ranging from 4% - 8% which for defined exon 51 skipping products, exon 45 skipping products and exon 53 skipping products will expire in December 2023 in the U.S. and September 2024 in the EU. For the three and six months ended June 30, 2017, the Company recognized a settlement charge of $2.8 million which related to estimated royalties between September 2016 and June 2017.

In July 2017, the Company entered into an amended and restated credit agreement (the "Amended and Restated Credit and Security Agreement") which provides a term loan of $60.0 million and a revolving credit and security agreement (the "Revolving Credit Agreement") which provides an aggregate revolving loan commitment of $40.0 million (which may be increased by an additional tranche of $20.0 million) with MidCap Financial Trust. Borrowings under the Amended and Restated Credit and Security Agreement bear interest at a rate per annum equal to 6.25%, plus one-month London Interbank Offered Rate ("LIBOR"), and borrowings under the Revolving Credit Agreement bear interest at a rate of 3.95%, plus one-month LIBOR. In addition to paying interest on the outstanding principal under the Amended and Restated Credit and Security Agreement, the Company will pay (i) an origination fee equal to 0.50% of the amount of the term loan when advanced under the Amended and Restated Credit and Security Agreement, (ii) and origination fee equal to 0.50% of the amount of the revolving loan when advanced under the Revolving Credit Agreement, (iii) a final payment fee equal to 2.00% of the amount borrowed under the Amended and Restated Credit and Security Agreement when the term loan is fully repaid and (iv) an unused line fee, minimum balance fee, collateral fee, deferred revolving loan original fee and certain other fees under the Revolving Credit Agreement. Commencing on July 1, 2018, and continuing for the remaining thirty six months of the facility, the Company will be required to make monthly principal payments based on the straight-line amortization schedule set forth in the Amended and Restated Credit and Security Agreement, subject to certain adjustments as described therein. Both facilities mature in July 2021. As of the date of the issuance of this report, the Company has received $34.8 million of net proceeds for the debt offerings, net of approximately $9.2 million repayment of the outstanding loan payable and $1.1 million of fees.

In July 2017, the Company sold approximately 8.8 million shares of common stock through an underwritten public offering, including 1.2 million shares sold to the underwriters. The offering price was $42.50 per share. As of the date of the issuance of this report, the Company expected to receive net proceeds of approximately $354.0 million from the offering, net of commission and offering expenses of approximately $19.9 million.

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

This section should be read in conjunction with our unaudited condensed consolidated financial statements and related notes included in Part I, Item 1 of this Quarterly Report on Form 10-Q and the section contained in our Annual Report on Form 10-K for the year ended December 31, 2016 under the caption "Part II-Item 7 — Management's Discussion and Analysis of Financial Condition and Results of Operations". This discussion contains certain forward-looking statements, which are often identified by words such as "believe," "anticipate," "expect," "intend," "plan," "will," "may," "estimate," "could," "continue," "ongoing," "predict," "potential," "likely," "seek" and other similar expressions, as well as variations or negatives of these words. These statements contain projections of future results of operations or financial condition, or state other "forward-looking" information. These statements relate to our future plans, objectives, expectations, intentions and financial performance and the assumptions that underlie these statements. These forward-looking statements include, but are not limited to:

- *our continued efforts to ensure the successful commercialization of EXONDYS 51 in the U.S., expanding our global footprint, meeting or outperforming revenue projections, and maintaining our accelerated approval status, including through obtaining data from our ongoing and planned studies to determine the safety and efficacy of EXONDYS 51 and executing our plans to hire additional personnel, increase awareness on the importance of genetic testing and knowing/understanding Duchenne muscular dystrophy ("DMD") mutations, and identifying and addressing procedural barriers for patients to obtain therapy such as payor reimbursement challenges, maintaining the marketing, distribution and supply infrastructure we have built for EXONDYS 51 and our expectations regarding the timing, costs, and investments associated with these activities;*

- *our expectations regarding timing and the factors that will influence and our ability to obtain full approval of eteplirsen in the U.S. and in the jurisdictions we target outside of the U.S., which depends in part on data from our ongoing and planned studies demonstrating a clinical benefit and acceptable safety profile of eteplirsen, as well as our ability to (i) in the U.S., complete to the United States Food and Drug Administration's ("FDA") satisfaction our post-marketing requirements and commitments, (ii) in the EU, successfully navigate the EU drug approval process and (iii) in jurisdictions other than the U.S. where eteplirsen could obtain regulatory approval, build the commercial, medical and other company infrastructure and product supply needed to support a successful launch;*

- *the potential acceptance of EXONDYS 51, and our product candidates if they receive regulatory approval, in the marketplace and the accuracy of our projections regarding the market size in each of the jurisdictions that we target;*

- *our ability to further secure long term supply of EXONDYS 51 and our product candidates, including PPMO, to satisfy our planned commercial, managed access program ("MAP") and clinical needs, which could require, among other things, securing more supply of subunits, drug substance Active Pharmaceutical Ingredients ("APIs") and drug product, by negotiating and entering into additional commercial and clinical supply agreements, and further evolving or scaling up manufacturing using appropriate techniques to synthesize and purify our product candidates that meet regulatory, Company quality control and other applicable requirements;*

- *our expectations regarding our ability to successfully conduct or accelerate research, development, pre-clinical, clinical and post-approval trials, and our expectations regarding the timing, design and results of such trials, including the potential consistency of data produced by these trials with prior results, as well as any new data and analyses relating to the safety profile and potential clinical benefits of EXONDYS 51 and our product candidates;*

- *our potential success in advancing the development of our follow-on exon-skipping drug candidates targeting DMD and further exploring potential funding, collaborations and other opportunities to support such development;*

- *the potential and advancement of our phosphorodiamidate morpholino oligomer ("PMO") chemistries, our peptide-conjugated PMO ("PPMO") chemistries, our other PMO-based chemistries, and our other technologies to treat DMD and other diseases and therapeutic areas that we target;*

- *our ability to successfully expand the global footprint of eteplirsen in jurisdictions in which we have yet to obtain or do not have any near term ability or plans to obtain a full regulatory approval, including through obtaining an approval from the European Medicines Agency ("EMA") in the EU, establishing compliant and successful MAPs, expanding our MAPs to include more countries over time, and entering into any additional distribution, service and other contracts needed to support these MAPs;*

- *the impact of regulations and regulatory decisions by the FDA and other regulatory agencies on our business, as well as the development of our product candidates and our financial and contractual obligations;*

- *the possible impact of any competing products on the commercial success of EXONDYS 51 and our product candidates and our ability to compete against such products;*

- *the impact of potential difficulties in product development manufacturing for commercial or clinical supply of EXONDYS 51 or pre-clinical or clinical supply of our product candidates, including PPMO, due to potential negative factors such as failing to successfully establish and maintain the Company infrastructure necessary to support the Company's research, development and commercialization efforts;*
- *our expectations regarding our ability to become a leading developer and marketer of PMO-based and RNA-targeted therapeutics and commercial viability of EXONDYS 51 across various jurisdictions, as well as our product candidates, chemistries and technologies;*
- *our ability to enter into research, development or commercialization alliances with universities, hospitals, independent research centers, non-profit organizations, pharmaceutical and biotechnology companies and other entities for specific molecular targets or selected disease indications and our ability to selectively pursue opportunities to access certain intellectual property rights that complement our internal portfolio through license agreements or other arrangements;*
- *our expectations regarding the potential benefits of the partnership, licensing and/or collaboration arrangements and other strategic arrangements and transactions we have entered into or may enter into in the future;*
- *the extent of protection that our patents provide and our pending patent applications may provide, if patents issue from such applications, to our technologies and programs, and our ability to maintain patent protection for our technologies and programs;*
- *our plans and ability to file and progress to issue additional patent applications to enhance and protect our new and existing technologies and programs;*
- *our ability to invalidate some or all of the claims of patents issued to competitors and pending patent applications if issued to competitors, and the potential impact of those claims on the potential commercialization and continued commercialization, where authorized, of EXONDYS 51 and the potential commercialization of our product candidates, including exon 45 and exon 53;*
- *our ability to successfully challenge the patent positions of our competitors and successfully defend our patent positions in any actions that the United States Patent and Trademark Office (the "USPTO") or any appeals court may take or has taken with respect to our patent claims or those of third parties;*
- *our ability to operate our business without infringing the intellectual property rights of others;*
- *our estimates regarding how long our currently available cash and cash equivalents will be sufficient to finance our operations and business plans and statements about our future capital needs;*
- *our estimates regarding future revenues, research and development expenses, other expenses, capital requirements and payments to third parties;*
- *our ability to raise additional funds to support our business plans and strategies, including business development, and the impact of our amended and restated credit and security agreement with MidCap Financial Trust, a Delaware statutory trust, as administrative agent ("MidCap") and new revolving credit and security agreement with MidCap, on our financial condition and future operations;*
- *our expectations relating to potential funding from government and other sources for the development of some of our product candidates;*
- *the impact of any litigation on us, including actions brought by stockholders;*
- *our ability to attract and retain key employees needed to execute our business plans and strategies and our expectations regarding our ability to manage the impact of any loss of key employees;*
- *our expectation that Dr. Edward M. Kaye will serve us in an advisory capacity to ensure a smooth transition to our new Chief Executive Officer, Mr. Douglas S. Ingram, and expectations regarding the potential benefits the Company may inure under Mr. Ingram's leadership;*
- *our ability to comply with applicable environmental laws and regulations;*
- *the impact of the potential achievement of performance conditions and milestones relating to our stock awards; and*
- *our beliefs and expectations regarding milestone, royalty or other payments that could be due to third parties under existing agreements.*

We undertake no obligation to update any of the forward-looking statements contained in this Quarterly Report on Form 10-Q after the date of this report, except as required by law or the rules and regulations of the U.S. Securities and Exchange Commission ("SEC"). We caution readers not to place undue reliance on forward-looking statements. Our actual results could differ materially from those discussed in this Quarterly Report on Form 10-Q. The forward-looking statements contained in this Quarterly Report on Form 10-Q, and other written and oral forward-looking statements made by us from time to time, are subject to certain risks and uncertainties that could cause actual results to differ materially from those anticipated in the forward-looking statements, including the risks, uncertainties and assumptions identified under the heading "Risk Factors" in this Quarterly Report on Form 10-Q.

Overview

U.S. Approval, MAA, and MAP

We are a U.S. commercial-stage biopharmaceutical company focused on the discovery and development of unique RNA-targeted therapeutics for the treatment of rare neuromuscular diseases. Applying our proprietary, highly-differentiated and innovative platform technologies, we are able to target a broad range of diseases and disorders through distinct RNA-targeted mechanisms of action. We are primarily focused on rapidly advancing the development of our potentially disease-modifying pipeline of exon-skipping drug candidates targeting DMD. On September 19, 2016, the FDA granted accelerated approval for EXONDYS 51, indicated for the treatment of DMD in patients who have a confirmed mutation of the DMD gene that is amenable to exon 51 skipping. EXONDYS 51 was studied in clinical trials under the name of eteplirsen and is marketed in the U.S. under the trademarked name of EXONDYS 51® (eteplirsen) Injection. We commenced shipments of EXONDYS 51 to customers at the end of the third quarter of 2016.

Additionally, we submitted a Marketing Authorization Application ("MAA") for eteplirsen to the EMA in November 2016 and the application was validated in December 2016. We continue to work with EMA during its review process.

We have also initiated a MAP for eteplirsen in select countries in Europe, North America and South America where it currently has not been approved. The MAP provides a mechanism through which physicians can prescribe eteplirsen, within their professional responsibility, to patients who meet pre-specified medical and other criteria and can secure funding. We plan to expand the program to include more countries over time and expect to commence shipments on the MAP in late 2017.

Our RNA-targeted Technologies

Our RNA-targeted technologies work at the most fundamental level of biology and potentially could have a meaningful impact across a broad range of human diseases and disorders. Our lead program focuses on the development of disease-modifying therapeutic candidates for DMD, a rare genetic muscle-wasting disease caused by the absence of dystrophin, a protein necessary for muscle function. EXONDYS 51 is the first approved disease-modifying therapy for DMD in the U.S. and is also our first product candidate to receive marketing approval from the FDA. As of the date of this report, EXONDYS 51 has not been approved for sale or marketing by any regulatory agency or authority outside of the U.S.

The original PMO structure and variations of this structure referred to herein (collectively "PMO-based") are central to our proprietary chemistry platform. Our next generation PMO-based chemistries include PPMO, PMO-X® and PMO*plus*®. PMO-based compounds are highly resistant to degradation by enzymes, potentially enabling robust and sustained biological activity. In contrast to other RNA-targeted therapeutics, which are usually designed to down-regulate protein expression, our technologies are designed to selectively up-regulate or down-regulate protein expression, and more importantly, create novel proteins. PMO-based compounds have demonstrated inhibition of mRNA translation and alteration of pre-mRNA splicing. PMO-based compounds have the potential to reduce off-target effects, such as the immune stimulation often observed with ribose-based RNA technologies. We believe that our highly differentiated, novel, proprietary and innovative RNA-targeted PMO-based platform may represent a significant improvement over other RNA-targeted technologies. In addition, PMO-based compounds are highly adaptable molecules: with minor structural modifications, they can potentially be rapidly designed to target specific tissues, genetic sequences, or pathogens, and therefore, we believe they could potentially be applied to treat a broad spectrum of diseases.

PPMO, our next generation chemistry, features covalent attachment of a cell-penetrating peptide to a PMO with the goal of enhanced delivery into the cell. Based on our in-vivo pre-clinical research to date, we believe our proprietary class of PPMO compounds demonstrate an increase in dystrophin production and a more durable response compared to PMO. In addition, PPMO treatment in non-human primates is well tolerated and results in high levels of exon-skipping in skeletal, cardiac and smooth muscle tissues. Pre-clinical studies also indicate that PPMOs may require less frequent dosing than PMO, and that PPMOs could potentially be tailored to reach other organs. We are in the process of conducting IND-enabling GLP toxicology studies, and we are targeting filing an investigation new drug application before year-end in 2017 for PPMO ("SRP-5051") DMD exon 51.

Our Clinical Programs

We are in the process of conducting, starting, or planning several studies in the U.S. and Europe for EXONDYS 51 and other product candidates designed to skip exons 45 and 53 ("SRP-4045" and "SRP-4053", respectively). These are comprised of:

(i) studies we are currently conducting to further evaluate EXONDYS 51, including an open label extension of our Phase 2b study, the Phase 3 PROMOVI study (an open label study on ambulatory patients with a concurrent untreated control arm), a study on participants with advanced stage DMD and a study on participants with early stage DMD, each of which will allow for patients to transition to commercial drug after meeting certain criteria;
(ii) additional EXONDYS 51 studies we are discussing with regulatory authorities and planning to initiate to comply with U.S. and/or EU regulatory requirements for the new drug applications ("NDA") and MAAs, respectively (e.g. a Phase 2 study on participants between the ages of six months and four years in connection with our Pediatric Investigation Plan in the EU, and two additional Phase 1 studies);
(iii) studies we are planning to fulfill for our post-marketing FDA requirements/commitments for EXONDYS 51;
(iv) a randomized, double-blind dose-ranging study that we completed for SRP-4045 that has transitioned into an open-label study;
(v) a two-part randomized, double-blind, placebo-controlled, dose titration safety, tolerability and pharmacokinetics study for a SRP-4053 for which Part I has been completed and has now transitioned into Part II, an open label efficacy and safety study; and
(vi) ESSENCE, a placebo-controlled study with SRP-4045 and SRP 4053, which has begun enrolling patients in the U.S. and for which we plan to have sites in the EU, Israel and Canada.
(vii) additional Phase 1 studies we are planning to initiate for SRP-4053 and SRP-4045.

In addition to advancing our exon-skipping product candidates for DMD, we are working with several strategic partners under various agreements to research and develop multiple treatment approaches to DMD. Included in these strategic partners are (i) Summit (Oxford) Ltd. ("Summit"), with whom we are collaborating under an exclusive License and Collaboration Agreement that grants us rights to Summit's utrophin modulator pipeline in Europe, Turkey and the Commonwealth of Independent States and an option to acquire rights in Latin America, (ii) Nationwide Children's Hospital, with whom we are collaborating on the advancement of their microdystrophin gene therapy program under a research and exclusive option agreement and their Galgt2 gene therapy program under an exclusive license agreement, and (iii) Genethon, with whom we are collaborating on the advancement of their microdystrophin gene therapy program under a sponsored research and option license agreement.

Manufacturing

We believe we have developed proprietary state-of-the-art manufacturing and techniques that allow synthesis and purification of our product candidates to support both clinical development as well as commercialization. Our current main focus in manufacturing is to continue scaling up production of our PMO-based products and optimizing manufacturing for PPMO. We have entered into certain manufacturing and supply arrangements with third party suppliers which will in part utilize these techniques to support production of certain of our product candidates and their components. We have recently opened a facility in Andover, Massachusetts, which significantly enhances our research and development manufacturing capabilities. However, we currently do not have any of our own internal manufacturing capabilities to produce our product and product candidates for commercial and/or clinical use.

Cash, Cash Equivalents and Investments

As of June 30, 2017, we had approximately $301.7 million of cash, cash equivalents and investments, consisting of $168.3 million of cash and cash equivalents, $132.6 million of short-term investments and $0.8 million restricted cash and investments. We believe that, together with the recent equity and debt financings, our balance of cash, cash equivalents and investments is sufficient to fund our current operational plan for at least the next twelve months.

The likelihood of our long-term success must be considered in light of the expenses, difficulties and delays frequently encountered in the development and commercialization of new pharmaceutical products, competitive factors in the marketplace, the risks associated with government sponsored programs and the complex regulatory environment in which we operate. We may never achieve significant revenue or profitable operations.

Recent Developments

CEO Appointment

On June 26, 2017, the Board of Directors appointed Douglas S. Ingram to serve as our President and Chief Executive Officer. Mr. Ingram was also elected to the board of directors as a Group I director who will hold office as a director until the Company's 2018 annual meeting of stockholders or until his successor is earlier elected.

BioMarin Agreements

License Agreement

On July 17, 2017, we and BioMarin Leiden Holding BV, BioMarin Nederlands BV and BioMarin Technologies BV (collectively, the "BioMarin Parties") executed a License Agreement (the "License Agreement"), pursuant to which the BioMarin Parties granted us a royalty-bearing, worldwide license under patent rights ("Licensed Patents") and know-how ("Licensed Know-How") controlled by the BioMarin Parties with respect to the BioMarin Parties' DMD program, which are potentially necessary or useful for the treatment of DMD, to practice and exploit the Licensed Patents and Licensed Know-How in all fields of use and for all purposes, including to develop and commercialize antisense oligonucleotide products that target one or more exons of the dystrophin gene to induce exon skipping, including eteplirsen. The license granted by the BioMarin Parties to us under the terms of the License Agreement is exclusive, even as to the BioMarin Parties, with respect to the Licensed Patents, and is non-exclusive with respect to Licensed Know-How. Under the License Agreement, the BioMarin Parties have the option to convert the exclusive license under the Licensed Patents into a co-exclusive license (co-exclusive with the BioMarin Parties).

Settlement Agreement

On July 17, 2017, we and The University of Western Australia on the one hand, and the BioMarin Parties and Academisch Ziekenhuis Leiden ("AZL") on the other hand (collectively, the "Settlement Parties"), executed a settlement agreement (the "Settlement Agreement") pursuant to which all legal actions in the U.S. and certain legal actions in Europe would be stopped or withdrawn as between the Settlement Parties.

The foregoing description of the Settlement Agreement and the License Agreement does not purport to be a complete description and is qualified in its entirety by reference to the Settlement Agreement and License Agreement that are filed as Exhibits 10.7 and 10.8, respectively, to this Quarterly Report on Form 10-Q.

Amended and Restated Credit Agreement

On July 18, 2017, we entered into (i) an amended and restated credit agreement (the "Amended and Restated Credit and Security Agreement") which provides a term loan of $60.0 million and (ii) a revolving credit and security agreement (the "Revolving Credit Agreement" and together with the Amended and Restated Credit and Security Agreement, the "Credit Agreements") which provides an aggregate revolving loan commitment of $40.0 million (which may be increased by an additional tranche of $20.0 million), each with MidCap. Borrowings under the Amended and Restated Credit and Security Agreement bear interest at a rate of 6.25% plus the one-month London Interbank Offered Rate ("LIBOR"), and borrowings under the Revolving Credit Agreement bear interest at a rate of 3.95%, plus the one-month LIBOR.

The foregoing description of the Credit Agreements does not purport to be a complete description and is qualified in its entirety by reference to the agreements that are filed as Exhibits 10.9, 10.10, 10.11 and 10.12 to this Quarterly Report on Form 10-Q.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations is based upon our unaudited condensed consolidated financial statements included elsewhere in this report. The preparation of our unaudited condensed consolidated financial statements in accordance with accounting principles generally accepted in the United States requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses and related disclosure of contingent assets and liabilities for the periods presented. Some of these judgments can be subjective and complex and, consequently, actual results may differ from these estimates. For any given individual estimate or assumption we make, there may also be other estimates or assumptions that are reasonable. We believe that the estimates and judgments upon which we rely are reasonable based upon historical experience and information available to us at the time when we make these estimates and judgments. To the extent there are material differences between these estimates and actual results, our unaudited condensed consolidated financial statements will be affected. Although we believe that our judgments and estimates are appropriate, actual results may differ from these estimates.

The policies that we believe are the most critical to aid the understanding of our financial results include:

- revenue recognition;
- inventory;
- research and development expense;
- stock-based compensation; and
- income taxes.

There have been no changes to our critical accounting policies and significant estimates as detailed in our Annual Report on Form 10-K for the year ended December 31, 2016.

Results of Operations for the Three and Six Months Ended June 30, 2017 and 2016

The following tables set forth selected consolidated statements of operations data for each of the periods indicated:

	For the Three Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands, except per share amounts)		$	%
Revenues:				
Product, net	$ 35,011	$ —	$ 35,011	NA
Total revenues	35,011	—	35,011	NA
Costs and expenses:				
Cost of sales	534	—	534	NA
Research and development	58,908	44,348	14,560	33%
Selling, general and administrative	36,069	17,752	18,317	103%
EXONDYS 51 litigation and license charges	2,839	—	2,839	NA
Total cost and expenses	98,350	62,100	36,250	58%
Operating loss	(63,339)	(62,100)	(1,239)	2%
Other income (loss):				
Interest income (expense) and other, net	184	(201)	385	(192)%
Loss before income tax benefit	(63,155)	(62,301)	(854)	1%
Income tax benefit	(109)	—	(109)	NA
Net loss	$ (63,046)	$ (62,301)	$ (745)	1%
Net loss per share - basic and diluted	$ (1.15)	$ (1.35)	$ 0.20	(15)%

	For the Six Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands, except per share amounts)		$	%
Revenues:				
Product, net	$ 51,353	$ —	$ 51,353	NA
Total revenues	51,353	—	51,353	NA
Costs and expenses:				
Cost of sales	786	—	786	NA
Research and development	88,027	83,174	4,853	6%
Selling, general and administrative	62,285	38,628	23,657	61%
EXONDYS 51 litigation and license charges	2,839	—	2,839	NA
Total cost and expenses	153,937	121,802	32,135	26%
Operating loss	(102,584)	(121,802)	19,218	(16)%
Other income (loss):				
Gain from sale of Priority Review Voucher	125,000	—	125,000	NA
Interest income (expense) and other, net	519	(269)	788	(293)%
Income (loss) before income tax expense	22,935	(122,071)	145,006	(119)%
Income tax expenses	1,891	—	1,891	NA
Net income (loss)	$ 21,044	$ (122,071)	$ 143,115	(117)%
Basic earnings (loss) per share	$ 0.38	$ (2.66)	$ 3.04	(114)%
Diluted earnings (loss) per share	$ 0.37	$ (2.66)	$ 3.03	(114)%

Revenues

We record product revenues net of applicable discounts and allowances which include Medicaid rebates, Public Health Services chargebacks and co-pays. Reserves established for these discounts and allowances are classified as reductions of accounts receivable (if the amount is payable to our customer) or a liability (if the amount is payable to a party other than our customer). These reserves are based on estimates of the amounts earned or to be claimed on the related sales. Our estimates take into consideration current contractual and statutory requirements. Actual amounts may ultimately differ from our estimates. If actual results are different from our estimates, we adjust these estimates, which will have an effect on earnings in the period of adjustment. Product revenues, net for the three and six months ended June 30, 2017 reflect sales from EXONDYS 51 in the U.S.

Cost of Sales

Our cost of sales relates to sales of EXONDYS 51 following its commercial launch in the U.S. Prior to receiving regulatory approval for EXONDYS 51 from the FDA in September 2016, we expensed such manufacturing and material costs as research and development expenses. For EXONDYS 51 sold during the three and six months ended June 30, 2017, a majority of related manufacturing costs incurred had previously been expensed as research and development expenses, as such costs were incurred prior to the FDA approval of EXONDYS 51. Therefore, the cost of sales presented in the unaudited condensed consolidated statements of operations and comprehensive income (loss) only included the cost of packaging and labeling for commercial sales as well as amortization of an in-licensed right. If product related costs had not previously been expensed as research and development expenses prior to receiving FDA approval, the cost to produce the EXONDYS 51 sold would have been approximately $1.9 million and $2.9 million for the three and six months ended June 30, 2017, respectively.

Research and Development Expenses

Research and development expenses associated with our programs include clinical trial site costs, clinical manufacturing costs, costs incurred for consultants, up-front fees and milestones paid to third parties in connection with technologies which have not reached technological feasibility and do not have an alternative future use, and other external services, such as data management and statistical analysis support, and materials and supplies used in support of clinical programs. Internal research and development expenses include salaries, stock-based compensation and allocation of our facility costs.

Future research and development expenses may increase as our internal projects, such as those for our DMD product candidates, enter or proceed through later stage clinical development. We are currently conducting various clinical trials for EXONDYS 51. We completed Part I and have started conducting Part II of a Phase 1/2a clinical trial for an exon 53-skipping product candidate in the EU. We have completed the dose titration portion and are conducting the open-label portion of a study for our exon 45-skipping product candidate. We have initiated a placebo-controlled study with product candidates designed to skip exons 45 and 53 in the U.S., the EU, Canada and Israel. The remainder of our research and development programs are in various stages of research and pre-clinical development. However, our research and development efforts may not result in any approved products. Product candidates that appear promising at early stages of development may not reach the market for a variety of reasons. Similarly, any of our product candidates may be found to be unsafe or ineffective during clinical trials, may have clinical trials that take longer to complete than anticipated, may fail to receive necessary regulatory approvals, or may prove impracticable to manufacture in commercial quantities at reasonable cost and with acceptable quality.

As a result of these uncertainties and risks inherent in the drug development process, we cannot determine the duration or completion costs of current or future clinical stages of any of our product candidates. Similarly, we cannot determine when, if, or to what extent we may generate revenue from the commercialization of any product candidate. The time frame for development of any product candidate, associated development costs and the probability of regulatory and commercial success vary widely.

Our research and development programs span various disease targets. The lengthy process of securing regulatory approvals for new drugs requires substantial resources. Accordingly, we cannot currently estimate, with any degree of certainty, the amount of time or money that we will be required to expend in the future on our product candidates prior to their regulatory approval, if such approval is ever granted.

Research and development expenses represent a substantial percentage of our total operating expenses. We do not maintain or evaluate and, therefore, do not allocate internal research and development costs on a project-by-project basis. As a result, a significant portion of our research and development expenses are not tracked on a project-by-project basis, as the costs may benefit multiple projects.

The following tables summarize research and development expenses by project for each of the periods indicated:

	For the Three Months Ended June 30,			
	2017	2016	Change $	Change %
	(in thousands)			
EXONDYS 51	$ 10,554	$ 19,359	$ (8,805)	(45)%
Exon 45	4,905	1,033	3,872	375%
Exon 53	4,718	3,147	1,571	50%
Other projects	3,306	538	2,768	514%
Summit and UWA collaboration and license expenses	22,000	7,000	15,000	214%
Internal research and development expenses	13,425	13,271	154	1%
Total research and development expenses	$ 58,908	$ 44,348	$ 14,560	33%

	For the Six Months Ended June 30,			
	2017	2016	Change $	Change %
	(in thousands)			
EXONDYS 51	$ 19,484	$ 39,371	$ (19,887)	(51)%
Exon 53	8,140	5,040	3,100	62%
Exon 45	7,987	2,465	5,522	224%
Other projects	4,753	1,065	3,688	346%
Summit and UWA collaboration and license expenses	22,000	7,000	15,000	214%
Internal research and development expenses	25,663	28,233	(2,570)	(9)%
Total research and development expenses	$ 88,027	$ 83,174	$ 4,853	6%

The Company has revised the presentation as well as the certain caption in the research and development expenses by project tables presented above. “Summit and UWA collaboration and license expenses” of $7.0 million for the three and six months ended June 30, 2016 was reclassified out of eteplirsen (exon 51) of $26.4 million and $46.4 million, respectively, and presented separately in the tables.

The following tables summarize research and development expenses by category for each of the periods indicated:

	For the Three Months Ended June 30,			
	2017	2016	Change $	Change %
	(in thousands)			
Summit and UWA collaboration and license expenses	$ 22,000	$ 7,000	15,000	214%
Clinical and manufacturing expenses	19,907	22,544	(2,637)	(12)%
Compensation and other personnel expenses	6,095	6,207	(112)	(2)%
Preclinical expenses	2,498	887	1,611	182%
Professional services	2,305	1,639	666	41%
Stock-based compensation	2,195	2,404	(209)	(9)%
Facility-related expenses	2,159	2,007	152	8%
Research and other	1,749	1,660	89	5%
Total research and development expenses	$ 58,908	$ 44,348	$ 14,560	33%

	For the Six Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands)		$	%
Clinical and manufacturing expenses	$ 34,269	$ 44,908	$ (10,639)	(24)%
Summit and UWA collaboration and license expenses	22,000	7,000	15,000	214%
Compensation and other personnel expenses	11,781	12,639	(858)	(7)%
Professional services	4,467	4,039	428	11%
Facility-related expenses	4,367	4,091	276	7%
Stock-based compensation	4,069	4,853	(784)	(16)%
Preclinical expenses	4,022	1,971	2,051	104%
Research and other	3,052	3,673	(621)	(17)%
Total research and development expenses	$ 88,027	$ 83,174	$ 4,853	6%

Research and development expenses for the three months ended June 30, 2017 increased by $14.6 million, or 33%, compared with the three months ended June 30, 2016. This was primarily driven by a milestone payment of $22.0 million to Summit as the milestone of the last patient dosed in the safety arm cohort to the PhaseOut DMD study was achieved in May 2017 and an increase of $1.6 million in preclinical expenses due to a ramp-up of preclinical studies in our PPMO platform and other follow-on exons. These increases were partially offset by an up-front payment of $7.0 million to University of Western Australia ("UWA") in June 2016 and a decrease of $2.6 million in clinical and manufacturing expenses due to lower manufacturing expenses because of the capitalization of inventory following the approval of EXONDYS 51 by the FDA partially offset by increased patient enrollment in our ongoing clinical trials.

Research and development expenses for the six months ended June 30, 2017 increased by $4.9 million, or 6%, compared with the six months ended June 30, 2016. This was primarily driven by a milestone payment of $22.0 million to Summit as the milestone of the last patient dosed in the safety arm cohort to the PhaseOut DMD study was achieved in May 2017 and an increase of $2.1 million in preclinical expenses due to a ramp-up of preclinical studies in our PPMO platform and other follow-on exons. The increases were partially offset by a decrease of $10.6 million in clinical and manufacturing expenses due to lower manufacturing expenses because of the capitalization of inventory following the approval of EXONDYS 51 by the FDA partially offset by increased patient enrollment in our ongoing clinical trials and decreases of $0.9 million in compensation and other personnel expenses and $0.8 million in stock-based compensation primarily due to a reduction in headcount in Corvallis, Oregon because of the restructuring plan implemented in March 2016.

Selling, General and Administrative Expenses

Selling, general and administrative expenses consist of salaries, benefits, stock-based compensation and related costs for personnel in our executive, finance, legal, information technology, business development, human resources, commercial and other general and administrative functions. Other general and administrative expenses include an allocation of our facility costs and professional fees for legal, consulting and accounting services.

The following tables summarize selling, general and administrative expenses by category for each of the periods indicated:

	For the Three Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands)		$	%
Professional services	$ 11,188	$ 3,815	$ 7,373	193%
Compensation and other personnel expenses	8,735	6,840	1,895	28%
Stock-based compensation	6,070	4,426	1,644	37%
Former CEO severance	3,400	—	3,400	NA
Restructuring expenses	2,420	115	2,305	2,004%
Facility-related expenses	1,404	955	449	47%
Other	2,852	1,601	1,251	78%
Total selling, general and administrative expenses	$ 36,069	$ 17,752	$ 18,317	103%

	For the Six Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands)		$	%
Professional services	$ 20,929	$ 9,611	$ 11,318	118%
Compensation and other personnel expenses	17,514	14,709	2,805	19%
Stock-based compensation	9,908	8,667	1,241	14%
Former CEO severance	3,400	—	3,400	NA
Facility-related expenses	3,152	2,095	1,057	50%
Restructuring expenses	2,586	146	2,440	1,671%
Other	4,796	3,400	1,396	41%
Total selling, general and administrative expenses	$ 62,285	$ 38,628	$ 23,657	61%

The Company has revised the presentation as well as the certain captions in the selling, general and administrative expenses tables presented above. For the three months ended June 30, 2016, “restructuring expenses” of $0.1 million and “facility-related expenses” of $1.0 million were reclassified out of “other” of $2.7 million and presented separately in the table. For the six months ended June 30, 2016, “restructuring expenses” of $0.1 million and “facility-related expenses” of $2.1 million were broken out of “other” of $5.6 million and presented separately in the table.

Selling, general and administrative expenses for the three months ended June 30, 2017 increased by $18.3 million, or 103%, compared with the three months ended June 30, 2016. This was primarily driven by increases of $7.4 million in professional services primarily driven by increased legal fees due to on-going litigations and commercial initiatives, $3.4 million in estimated severance due to the resignation of our former CEO, $2.3 million in restructuring expenses related to the closure of our Corvallis, Oregon site, $1.9 million in compensation and other personnel expenses primarily due to increase in headcount and $1.6 million in stock-based compensation primarily due to the achievement of one performance milestone related to the restricted stock units granted to executives in March 2017.

Selling, general and administrative expenses for the six months ended June 30, 2017 increased by $23.7 million, or 61%, compared with the six months ended June 30, 2016. This was primarily driven by increases of $11.3 million in professional services primarily driven by increased legal fees due to on-going litigations and commercial initiatives, $3.4 million in estimated severance due to the resignation of our former CEO, $2.8 million in compensation and other personnel expenses primarily due to increased headcount, $2.4 million in restructuring expenses related to the closure of our Corvallis, Oregon site and $1.2 million in stock-based compensation primarily due to the achievement of one performance milestone related to the restricted stock units granted to executives in March 2017.

EXONDYS 51 Litigation and License Charges

On July 18, 2017, we entered into the Settlement Agreement and the License Agreement with the BioMarin Parties. The BioMarin Parties have agreed to provide us with an exclusive license to certain intellectual property with an option to convert the exclusive license into a co-exclusive license and both the BioMarin Parties and we have agreed to stop most existing efforts to continue with the ongoing litigation and opposition proceedings. Under the terms of the agreements, we agreed to make total up-front payments of $35.0 million upon execution of the agreements, consisting of $20.0 million under the Settlement Agreement and $15.0 million under the License Agreement. Additionally, we may be liable for up to approximately $65.0 million in regulatory and sales milestones for eteplirsen as well as exon 45 and exon 53 skipping product candidates. The BioMarin Parties will also be eligible to receive royalty payments, ranging from 4% - 8% which will expire in December 2023 in the U.S. and September 2024 in the EU. For the three and six months ended June 30, 2017, we recognized a settlement charge of $2.8 million which related to estimated royalties between September 2016 and June 2017.

Gain from Sale of Priority Review Voucher

In February 2017, we entered into an agreement with Gilead Sciences, Inc. (“Gilead”) to sell our Rare Pediatric Disease Priority Review Voucher (“PRV”). We received the PRV when EXONDYS 51 was approved by the FDA for the treatment of patients with DMD amenable to exon 51 skipping. Following the early termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, in March 2017, we completed our sale of the PRV to a subsidiary of Gilead. Pursuant to the agreement, the subsidiary of Gilead paid us $125.0 million, which was recorded as a gain from sale of the PRV as it did not have a carrying value at the time of the sale.

Interest income (expense) and other, net

Interest income (expense) and other, net, primarily consists of interest income on our cash, cash equivalents and investments, interest expense and rental income and loss. Our cash equivalents and investments consist of commercial paper, government and government agency debt securities, money market investments and certificates of deposit. Interest expense includes interest accrued on our senior secured term loan and our mortgage loan related to our Corvallis, Oregon property. Rental income is from leasing excess space in some of our facilities.

For the three and six months ended June 30, 2017, interest income and other, net was approximately $0.2 million and $0.5 million, respectively. For the three and six months ended June 30, 2016, interest expense and other, net was approximately $0.2 million and $0.3 million, respectively. The favorable changes for both periods primarily reflected increased interest income from higher balances of cash, cash equivalent and investments.

Income tax expense

Corresponding to the gain from sale of the PRV, the income tax benefit for the three months ended June 30, 2017 was approximately $0.1 million and the income tax expense for the six months ended June 30, 2017 was $1.9 million, primarily related to alternative minimum tax. Income tax expenses for the same period in 2016 was zero as we were in a loss position.

Liquidity and Capital Resources

The following table summarizes our financial condition for each of the periods indicated:

	As of June 30, 2017	As of December 31, 2016	Change	Change
	(in thousands)		$	%
Financial assets:				
Cash and cash equivalents	$ 168,348	$ 122,420	$ 45,928	38%
Short-term investments	132,598	195,425	(62,827)	(32)%
Restricted cash and investments	784	11,479	(10,695)	(93)%
Total cash, cash equivalents and investments	$ 301,730	$ 329,324	$ (27,594)	(8)%
Borrowings:				
Current portion of long-term debt	$ 11,217	$ 10,108	$ 1,109	11%
Long-term debt	—	6,042	(6,042)	(100)%
Total borrowings	$ 11,217	$ 16,150	$ (4,933)	(31)%
Working capital				
Current assets	$ 390,585	$ 373,476	$ 17,109	5%
Current liabilities	65,960	75,422	(9,462)	(13)%
Total working capital	$ 324,625	$ 298,054	$ 26,571	9%

For the period ended June 30, 2017, our principal source of liquidity was derived from proceeds from the sale of the PRV, equity financings and product sales of EXONDYS 51. For the period ended December 31, 2016, our principal source of liquidity was from equity financings and product sales. Our principal uses of cash are research and development expenses, selling, general and administrative expenses, investments, capital expenditures and other working capital requirements.

Our future expenditures and capital requirements may be substantial and will depend on many factors, including but not limited to the following:

- our ability to generate revenues from sales of EXONDYS 51 and potential future products;
- the timing and costs of building out our manufacturing capabilities;
- the timing of advanced payments related to our future inventory commitments;
- the timing and costs associated with our clinical trials and preclinical studies;
- the attainment of milestones and our obligations to make milestone payments to the BioMarin Parties, Summit, UWA and other institutions;

- repayment of outstanding loans; and
- the costs of filing, prosecuting, defending and enforcing patent claims and our other intellectual property rights.

Our cash requirements are expected to continue to increase as we advance our research, development and commercialization programs and we expect to seek additional financing primarily from, but not limited to, the sale and issuance of equity, debt securities or the licensing or sale of our technologies. We cannot provide assurances that financing will be available when and as needed or that, if available, the financings will be on favorable or acceptable terms. If we are unable to obtain additional financing when and if we require, this would have a material adverse effect on our business and results of operations. To the extent we issue additional equity securities, our existing stockholders could experience substantial dilution.

Cash Flows

	For the Six Months Ended June 30,			
	2017	2016	Change	Change
	(in thousands)		$	%
Cash provided by (used in)				
Operating activities	$ (143,035)	$ (103,972)	$ (39,063)	38%
Investing activities	189,931	98,357	91,574	93%
Financing activities	(968)	37,130	(38,098)	(103)%
Increase in cash and cash equivalents	$ 45,928	$ 31,515	$ 14,413	46%

Operating Activities. Cash used in operating activities increased by $39.1 million for the six months ended June 30, 2017 compared with the six months ended June 30, 2016. This was primarily due to unfavorable changes of $60.3 million in operating assets and liabilities primarily related to increases in accounts receivables and inventory as we launched EXONDYS 51 partially offset by an increase of $3.1 million in non-cash adjustments and a decrease of $19.2 million in operating loss driven by product sales for EXONDYS 51 partially offset by increases in research and development expenses and selling, general and administrative expenses.

Investing Activities. The cash provided by investing activities increased by $91.6 million for the six months ended June 30, 2017 compared with the six months ended June 30, 2016. This was driven by proceeds of $125.0 million from sale of the PRV and increases of $62.8 million from the maturity of available-for-sale security and $10.7 million from the maturity of a restricted investment partially offset by increases of purchase of available-for-sales securities of $100.3 million, $5.7 million in purchases of property and equipment and $0.8 million in purchases of intangible assets.

Financing Activities. Cash used by financing activities for the six months ended June 30, 2017 was approximately $1.0 million. Cash provided by financing activities for the six months ended June 30, 2016 was approximately $37.1 million. The unfavorable change was primarily driven by gross proceeds of $37.5 million from sales of common stock in June 2016 and an increase of $2.5 million in repayments of long-term debt and notes payable partially offset by an increase of $1.9 million in proceeds from exercise of options and purchase of stock under the Employee Stock Purchase Program.

Milestone Obligations

As of June 30, 2017, we were obligated to make up to $743.5 million of future development, up-front royalty and sales milestone payments associated with certain of our collaboration and license agreements. Payments under these agreements generally become due and payable upon achievement of certain development, regulatory or sales milestones. For the three and six months ended June 30, 2017 and 2016, we recognized $22.0 million and $7.0 million milestone and up-front payment to Summit and UWA, respectively, as research and development expense.

Other Funding Commitments

As of June 30, 2017, we have several on-going clinical studies in various clinical trial stages. Our most significant clinical trial expenditures are to contract research organizations (“CROs”). The CRO contracts are generally cancellable at our option. As of June 30, 2017, we have approximately $54.4 million in cancellable future commitments based on existing CRO contracts.

Off-Balance Sheet Arrangements

During the periods presented, we did not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or for another contractually narrow or limited purpose.

Recent Accounting Pronouncements

For additional information, please read *Note 2, Significant Accounting Policies and Recent Accounting Pronouncements* of the unaudited condensed consolidated financial statements contained in Part I, Item 1 of this report, Form 10-Q for the quarterly period ended June 30, 2017.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Our current investment policy is to maintain a diversified investment portfolio consisting of money market investments, government and government agency bonds and high-grade corporate bonds with maturities of three years or less. Our cash is deposited in and invested through highly rated financial institutions in North America. As of June 30, 2017, we had approximately $301.7 million of cash, cash equivalents and investments, comprised of $168.3 million of cash and cash equivalents, $132.6 million of short-term investments and $0.8 million restricted cash and investments. Our cash equivalents and short-term investments consist of commercial paper, government and government agency debt securities, corporate bonds, money market investments and certificates of deposit. The fair value of cash equivalents and short-term investments is subject to change as a result of potential changes in market interest rates. The potential change in fair value for interest rate sensitive instruments has been assessed on a hypothetical 10 basis point adverse movement across all maturities. As of June 30, 2017, we estimate that such hypothetical adverse 10 basis point movement would result in a hypothetical loss in fair value of less than $0.1 million to our interest rate sensitive instruments.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation as of the end of the period covered by this Quarterly Report on Form 10-Q for the period ended June 30, 2017, under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of our disclosure controls and procedures pursuant to paragraph (b) of Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934 (the "Exchange Act"). The purpose of this evaluation was to determine whether as of the evaluation date our disclosure controls and procedures were effective to provide reasonable assurance that the information we are required to disclose in our filings with the SEC under the Exchange Act (i) is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (ii) is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Based on that evaluation, management has concluded that as of June 30, 2017, our disclosure controls and procedures were effective.

Changes in Internal Control over Financial Reporting

During the quarterly period ended June 30, 2017, there were no changes in the Company's internal controls over financial reporting that have materially affected or are reasonably likely to materially affect the Company's internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings

For material legal proceedings, please read *Note 15, Commitments and Contingencies - Litigation* to our unaudited condensed consolidated financial statements included in this report.

Item 1A. Risk Factors.

Factors That Could Affect Future Results

Set forth below and elsewhere in this report and in other documents we file with the SEC, including the Annual Report on Form 10-K for the year ended December 31, 2016, are descriptions of risks and uncertainties that could cause actual results to differ materially from the results contemplated by the forward-looking statements contained in this report. Because of the following factors, as well as other variables affecting our operating results, past financial performance should not be considered a reliable indicator of future performance and investors should not use historical trends to anticipate results or trends in future periods. The risks and uncertainties described below are not the only ones facing us. Other events that we do not currently anticipate or that we currently deem immaterial also affect our results of operations and financial condition.

Risks Related to Our Business

We are highly dependent on the commercial success of EXONDYS 51 in the U.S.; we may not be able to meet expectations with respect to EXONDYS 51 sales or attain profitability and positive cash-flow from operations.

On September 19, 2016, the FDA granted accelerated approval for EXONDYS 51 as a therapeutic treatment for DMD in patients who have a confirmed mutation in the DMD gene that is amenable to exon 51 skipping. EXONDYS 51 is currently commercially available in the U.S. only, although it is available in limited countries outside of the U.S. through our MAP. The commercial success of EXONDYS 51 continues to depend on a number of factors, including, but not limited to:

- the effectiveness of our sales, managed markets, marketing efforts and support for EXONDYS 51;
- the consistency of any new data we collect and analyses we conduct with prior results, whether they support a favorable safety and efficacy profile of EXONDYS 51 and any potential impact on our FDA accelerated approval status and/or FDA package insert for EXONDYS 51;
- the effectiveness of our ongoing EXONDYS 51 commercialization activities, including negotiating and entering into any additional commercial, supply and distribution contracts, scaling up manufacturing and hiring any additional personnel as needed to support commercial efforts;
- our ability to comply with FDA post-marketing requirements and commitments, including through successfully conducting additional studies that confirm clinical efficacy and safety of EXONDYS 51 and acceptance of the same by the FDA and medical community since continued approval for this indication may be contingent upon verification of the clinical benefit in confirmatory trials;
- the occurrence of any side effects, adverse reactions or misuse, or any unfavorable publicity in these areas;
- the cost-effectiveness of EXONDYS 51 and whether we can consistently manufacture it in commercial quantities and at acceptable costs;
- the rate and consistency with which EXONDYS 51 is prescribed by physicians, which depends on physicians' views on the safety and efficacy of EXONDYS 51;
- our ability to secure and maintain adequate reimbursement for EXONDYS 51, including during re-authorizations processes that may be required for patients who initially obtained coverage by third parties, including government payors, managed care organizations and private health insurers;
- the development or commercialization of competing products or therapies for the treatment of DMD, or its symptoms;
- our ability to increase awareness of the importance of genetic testing and knowing/understanding DMD mutations, and identifying and addressing procedural barriers to obtaining therapy;
- our ability to remain compliant with laws and regulations that apply to us and our commercial activities;
- the actual market-size for EXONDYS 51, which may be different than expected;
- the sufficiency of our drug supply to meet commercial and clinical demands which could be negatively impacted if our projections on the potential number of amenable patients and their average weight are inaccurate, we are subject to unanticipated regulatory requirements that increase our drug supply needs, our current drug supply is destroyed or negatively impacted at our manufacturing sites, storage sites or in transit, or it takes longer than we project for the number of patients we anticipate to get on EXONDYS 51 and any significant portion of our EXONDYS 51 supply expires before we are able to sell it;
- our ability to obtain regulatory approvals to commercialize EXONDYS 51 in markets outside of the U.S.; and
- the awareness of patients with DMD of their mutation and whether the mutation is amenable to EXONDYS 51.

In addition, the process leading to a patient's first infusion of EXONDYS 51 may be slower for certain patients. For example, the time to first infusion may take longer if a patient chooses to put in an intravenous port, which eases access to the vein. As the launch of EXONDYS 51 continues to progress, we expect the variation among patients to decline, leading to a faster time to infusion. However, delays in the process prior to first infusion could negatively impact the sales of EXONDYS 51.

We may experience significant fluctuations in sales of EXONDYS 51 from period to period and, ultimately, we may never generate sufficient revenues from EXONDYS 51 to reach or maintain profitability or sustain our anticipated levels of operations.

We may not be able to expand the global footprint of or obtain any significant revenues from sales of eteplirsen outside of the U.S.

Although we initiated a limited launch of an ex-U.S. eteplirsen MAP, which we plan to expand to other jurisdictions in the future, and continue to pursue regulatory approval of eteplirsen in certain targeted jurisdictions, such as the EU and Israel, we may not be successful in expanding access to eteplirsen nor produce any significant revenues from eteplirsen sales outside of the U.S. for various reasons. For example, healthcare providers in MAP jurisdictions may not be convinced that their patients can benefit from eteplirsen or may prefer to wait until such time as eteplirsen is approved by a regulatory authority in their country before prescribing eteplirsen. Even if a healthcare provider is interested in obtaining access to eteplirsen for its patient through the MAP, the patient will not be able to obtain access to eteplirsen if payment for the drug is not secured, which may be difficult due to the cost of eteplirsen. Additionally, we may not be able to obtain regulatory approval in the jurisdictions we have targeted such as the EU if our product approval applications and data packages submitted to regulatory authorities and any additional data and analyses we submit in response to requests and concerns from regulatory authorities do not support or convince regulatory authorities of the safety and efficacy of eteplirsen. If we fail to obtain regulatory approvals, particularly for our eteplirsen MAA in the EU, our ability to make revenues from eteplirsen sales outside of the U.S. will be extremely limited. Even if we are successful in obtaining regulatory approval of eteplirsen outside of the U.S., our revenue earning capacity will depend on commercial and medical infrastructure, pricing and reimbursement negotiations and decisions with third party payors, including government payors. See "— *Even though EXONDYS 51 has been approved for marketing in the U.S., we may never receive approval to commercialize EXONDYS 51 outside of the U.S.*"

EXONDYS 51 may cause undesirable side effects or have other properties that could negatively impact its U.S. approval status and/or limit its commercial potential outside of the U.S.

If we or others identify previously unknown side effects, in particular if they are severe, or if known side effects are more frequent or severe than in the past, then:

- sales of EXONDYS 51 may decrease;
- regulatory approvals for EXONDYS 51 may be restricted, withdrawn or pending applications for approvals may be rejected;
- we may decide to, or be required to, send product warning letters or field alerts to physicians, pharmacists and hospitals;
- additional non-clinical or clinical studies, changes in labeling or changes to manufacturing processes, specifications and/or facilities may be required;
- our reputation in the marketplace may suffer; and
- government investigations or lawsuits, including class action suits, may be brought against us.

Any of the above occurrences would harm or prevent sales of EXONDYS 51, increase our expenses and impair our ability to successfully commercialize EXONDYS 51. Furthermore, as EXONDYS 51 is used in wider populations and in a less rigorously controlled environment than in clinical studies, regulatory authorities, healthcare practitioners, third party payors or patients may perceive or conclude that the use of EXONDYS 51 is associated with previously unknown serious adverse effects, undermining our commercialization efforts.

We currently rely on third parties to manufacture EXONDYS 51 and to produce our product candidates; our dependence on these parties, including any inability on our part to accurately anticipate product demand and timely secure manufacturing capacity to meet commercial, MAP, clinical and pre-clinical product demand may impair the availability of product to successfully support various programs, including research and development and the potential commercialization of our product candidates.

We currently do not have the internal ability to undertake the manufacturing process for EXONDYS 51 or our product candidates in the quantities needed to meet commercial, clinical or MAP demand for EXONDYS 51, or to conduct our research and development programs and conduct clinical trials for our product candidates, including PPMO. Therefore, we rely on, and expect to continue relying on for the foreseeable future, a limited number of third parties to manufacture and supply materials (including raw materials and subunits), drug substance, API and drug product, as well as to perform additional steps in the manufacturing process, such as the filling and labeling of vials and storage of EXONDYS 51 and our product candidates. There are a limited number of third parties with facilities and capabilities suited for the manufacturing process of EXONDYS 51 and our product candidates, which creates a heightened risk that we may not be able to obtain materials and APIs in the quantity and purity that we require. In addition, the process for adding new manufacturing capacity can be lengthy and could cause delays in our development efforts. Any interruption of the development or operation of those facilities due to, among other reasons, events such as order delays for equipment or materials, equipment malfunction, quality control and quality assurance issues, regulatory delays and possible negative effects of such delays on supply chains and expected timelines for product availability, production yield issues, shortages of qualified personnel, discontinuation of a facility or business or failure or damage to a facility by natural disasters such as earthquake or fire, could result in the cancellation of shipments, loss of product in the manufacturing process or a shortfall in available EXONDYS 51, product candidates or materials.

If these third parties were to cease providing quality manufacturing and related services to us, and we are not able to engage appropriate replacements in a timely manner, our ability to manufacture EXONDYS 51 or our product candidates in sufficient quality and quantity required for our planned commercial, pre-clinical and clinical or MAP use of EXONDYS 51 would adversely affect our various product research, development and commercialization efforts.

We have, through our third party manufacturers, produced or are in the process of producing supply of our product candidates and EXONDYS 51, respectively, based on our current understanding of market demands and our anticipated needs for our research and development efforts, clinical trials, MAPs and commercial sales. In light of the limited number of third parties with the expertise to produce EXONDYS 51 and our product candidates, the lead time needed to manufacture them, and the availability of underlying materials, we may not be able to, in a timely manner or at all, establish or maintain sufficient commercial and other manufacturing arrangements on the commercially reasonable terms necessary to provide adequate supply of EXONDYS 51 and our other product candidates to meet demands that meet or exceed our projected needs. Furthermore, we may not be able to obtain the significant financial capital that may be required in connection with such arrangements. Even after successfully engaging third parties to execute the manufacturing process for EXONDYS 51 and our product candidates, such parties may not comply with the terms and timelines they have agreed to for various reasons, some of which may be out of their or our control, which could impact our ability to execute our business plans on expected or required timelines in connection with the commercialization of EXONDYS 51 and the continued development of our product candidates, including our follow-on exon-skipping product candidates and PPMO. We may also be required to enter into long-term manufacturing agreements that contain exclusivity provisions and /or substantial termination penalties, which could have a material adverse effect on our business prior to and after commercialization.

The third parties we use in the manufacturing process for EXONDYS 51 and our product candidates may fail to comply with cGMP regulations.

Our contract manufacturers are required to produce our materials, APIs and drug products under current Good Manufacturing Practice regulations (“cGMP”). We and our contract manufacturers are subject to periodic inspections by the FDA and corresponding state and foreign authorities to ensure strict compliance with cGMP and other applicable government regulations. While we work diligently with all contract manufacturers to maintain full compliance, we do not have direct control over a third party manufacturer’s compliance with these regulations and requirements. In addition, changes in cGMP could negatively impact the ability of our contract manufacturers to complete the manufacturing process of EXONDYS 51 and our product candidates in a compliant manner on the schedule we require for commercial and clinical trial use, respectively. The failure to achieve and maintain compliance with cGMP and other applicable government regulations, including failure to detect or control anticipated or unanticipated manufacturing errors, could result in product recalls, clinical holds, delayed or withheld approvals, patient injury or death. This risk is particularly heightened as we optimize manufacturing for follow-on exon skipping products and next-generation technologies such as PPMO. If our contract manufacturers fail to adhere to applicable cGMP and other applicable government regulations, or experience manufacturing problems, we will suffer significant consequences, including product seizures or recalls, postponement or cancellation of clinical trials, loss or delay of product approval, fines and sanctions, loss of revenue, termination of the development of a product candidate, reputational damage, shipment delays, inventory shortages, inventory write-offs and other product-related charges and increased manufacturing costs. If we experience any of these results, the success of our commercialization of EXONDYS 51 and/or our development efforts for our product candidates, including PPMO, could be significantly delayed, fail or otherwise be negatively impacted.

We may not be able to successfully scale up manufacturing of EXONDYS 51 or our product candidates in sufficient quality and quantity or within sufficient timelines, or be able to secure ownership of intellectual property rights developed in this process, which could negatively impact the commercial success of EXONDYS 51 and/or the development of our product candidates and next generation chemistries like PPMO.

We are working to increase manufacturing capacity and scale up production of some of the components of our drug products. During the remainder of 2017, our focus remains on (i) achieving larger-scale manufacturing capacity for EXONDYS 51 throughout the manufacturing supply chain (ii) continuing to increase material and API production capacity to provide the anticipated amounts of drug product needed for our planned studies for our product candidates and (iii) optimizing manufacturing for our follow-on exon skipping product candidates, including PPMO. We may not be able to successfully increase manufacturing capacity or scale up the production of materials, APIs and drug products, whether in collaboration with third party manufacturers or on our own, in a manner that is safe, compliant with cGMP conditions or other applicable legal or regulatory requirements, in a cost-effective manner, in a time frame required to meet our timeline for commercialization, clinical trials and other business plans, or at all. Compliance with cGMP requirements and other quality issues may arise during our efforts to increase manufacturing capacity and scale up production with our current or any new contract manufacturers. These issues may arise in connection with the underlying materials, the inherent properties of EXONDYS 51 or a product candidate, EXONDYS 51 or a product candidate in combination with other components added during the manufacturing and packaging process or during shipping and storage of the APIs or finished drug product. In addition, in order to release EXONDYS 51 for commercial use and demonstrate stability of product candidates for use in clinical trials (and any subsequent drug products for commercial use), our manufacturing processes and analytical methods must be validated in accordance with regulatory guidelines. We may not be able to successfully validate, or maintain validation of, our manufacturing processes and analytical methods or demonstrate adequate purity, stability or comparability of EXONDYS 51 or our product candidates in a timely or cost-effective manner, or at all. If we are unable to successfully validate our manufacturing processes and analytical methods or to demonstrate adequate purity, stability or comparability, the commercial availability of EXONDYS 51 and the continued development and/or regulatory approval of our product candidates, including PPMO, may be delayed or otherwise negatively impacted, which could significantly harm our business.

During work with our third party manufacturers to increase and optimize manufacturing capacity and scale up production, it is possible that they could make proprietary improvements in the manufacturing and scale-up processes for EXONDYS 51 or our product candidates, including PPMO. We may not own or be able to secure ownership of such improvements or may have to share the intellectual property rights to those improvements. Additionally, it is possible that we will need additional processes, technologies and validation studies, which could be costly and which we may not be able to develop or acquire from third parties. Any failure to secure the intellectual rights required for the manufacturing process needed for large-scale clinical trials or commercialization of EXONDYS 51 or the continued development of our product candidates, including PPMO, could cause significant delays in our business plans or otherwise negatively impact the commercialization of EXONDYS 51 or the continued development of our product candidates, including PPMO.

If we are unable to maintain our agreements with third parties to distribute EXONDYS 51 to patients, our results of operations and business could be adversely affected.

We rely on third parties to commercially distribute EXONDYS 51 to patients in the U.S. We have contracted with a third party logistics company to warehouse EXONDYS 51 and with specialty pharmacies to sell and distribute it to patients. A specialty pharmacy is a pharmacy that specializes in the dispensing of medications for complex or chronic conditions that require a high level of patient education and ongoing management.

This distribution network requires significant coordination with our sales and marketing and finance organizations. In addition, failure to coordinate financial systems could negatively impact our ability to accurately report product revenue from EXONDYS 51. If we are unable to effectively manage the distribution process, the sales of EXONDYS 51, as well as any future products we may commercialize, could be delayed or severely compromised and our results of operations may be harmed.

In addition, the use of specialty pharmacies involves certain risks, including, but not limited to, risks that these organizations will:

- not provide us with accurate or timely information regarding their inventories, the number of patients who are using EXONDYS 51 or serious adverse events and/or product complaints regarding EXONDYS 51;
- not effectively sell or support EXONDYS 51;
- reduce or discontinue their efforts to sell or support EXONDYS 51;
- not devote the resources necessary to sell EXONDYS 51 in the volumes and within the time frame we expect;

- be unable to satisfy financial obligations to us or others; or
- cease operations.

Any such events may result in decreased product sales, lower product revenue, loss of revenue, and/or reputational damage, which would harm our results of operations and business.

With respect to the distribution of eteplirsen to patients outside of the U.S., we have contracted with third party distributors and service providers to distribute eteplirsen in certain countries on a named patient basis and through our ex-U.S. MAP. We will need to build out our network for commercial distribution in any of the jurisdictions in which eteplirsen is approved, which will also require third party contracts. The use of distributors and service providers involves certain risks, including, but not limited to, risks that these organizations will not comply with applicable laws and regulations, or not provide us with accurate or timely information regarding serious adverse events and/or product complaints regarding eteplirsen. Any such events may result in regulatory actions that may include suspension or termination of the distribution and sale of eteplirsen in a certain country, loss of revenue, and/or reputational damage, which could harm our results of operations and business.

If we are unable to successfully maintain and further develop internal commercialization capabilities, sales of EXONDYS 51 may be negatively impacted.

We have hired and trained a commercial team and put in the organizational infrastructure we believe we need to support the commercial success of EXONDYS 51 in the U.S. Factors that may inhibit our efforts to maintain and further develop commercial capabilities include:

- an inability to retain an adequate number of effective commercial personnel;
- an inability to train sales personnel, who may have limited experience with our company or EXONDYS 51, to deliver a consistent message regarding EXONDYS 51 and be effective in convincing physicians to prescribe EXONDYS 51;
- an inability to equip sales personnel with compliant and effective materials, including medical and sales literature to help them educate physicians and our healthcare providers regarding EXONDYS 51 and its proper administration and educate payors on the safety and efficacy profile of EXONDYS 51 to support favorable coverage decisions; and
- unforeseen costs and expenses associated with maintaining and further developing an independent sales and marketing organization.

If we are not successful in maintaining an effective commercial, sales and marketing infrastructure, we will encounter difficulty in achieving, maintaining or increasing projected sales of EXONDYS 51 in the U.S., which would adversely affect our business and financial condition.

We are subject to uncertainty relating to reimbursement policies which, if not favorable for EXONDYS 51, could hinder or prevent EXONDYS 51's commercial success.

Our ability to successfully maintain and/or increase EXONDYS 51 sales in the U.S. depends in part on the coverage and reimbursement levels set by governmental authorities, private health insurers and other third party payors. Third party payors are increasingly challenging the effectiveness of and prices charged for medical products and services. We may not be able to obtain or maintain adequate third party coverage or reimbursement for EXONDYS 51, or we may be required to sell EXONDYS 51 at an unsatisfactory price.

We expect that private insurers will continue to consider the efficacy, cost-effectiveness and safety of EXONDYS 51, including any new data and analyses that we are able to collect and make available in a compliant manner, in determining whether to approve reimbursement for EXONDYS 51 and at what levels. If any new data and information we collect is not favorable, third party insurers may make coverage decisions that negatively impact sales of EXONDYS 51. We continue to have discussions with payors, some of which may eventually deny coverage. We may not receive approval for reimbursement of EXONDYS 51 from additional private insurers on a satisfactory rate or basis, in which case our business would be materially adversely affected. In addition, obtaining these approvals can be a time consuming and expensive process. Our business would be materially adversely affected if we are not able to maintain favorable coverage decisions and/or fail to receive additional favorable coverage decisions from third party insurers, in particular during re-authorization processes for patients that have already initiated therapy. Our business could also be adversely affected if private insurers, including managed care organizations, the Medicare or Medicaid programs or other reimbursing bodies or payors limit the indications for which EXONDYS 51 will be reimbursed.

Additionally, in the wake of government and public scrutiny of pharmaceutical pricing practices, there have been efforts at the federal and state levels to implement legislation or regulations to promote transparency in drug pricing or limit drug prices. Such initiatives are likely to continue the pressure on pharmaceutical pricing, may require us to modify our business practices with healthcare practitioners, and may also increase our regulatory burdens and operating costs.

In some foreign countries, particularly Canada and the countries of Europe, Latin America and Asia Pacific, the pricing of prescription pharmaceuticals is subject to strict governmental control. In these countries, pricing negotiations with governmental authorities can take 12 to 24 months or longer after the receipt of regulatory approval and product launch. In order to obtain favorable reimbursement for the indications sought or pricing approval in some countries, we may be required to collect additional data, including conducting additional studies. Furthermore, several European countries have implemented government measures to either freeze or reduce pricing of pharmaceutical products. If reimbursement for our products is unavailable in any country in which reimbursement is sought, limited in scope or amount, or if pricing is set at unsatisfactory levels, our business could be materially harmed.

We expect to experience pricing pressures in connection with the sale of EXONDYS 51 and our future products due to a number of factors, including current and future healthcare reforms and initiatives by government health programs and private insurers (including managed care plans) to reduce healthcare costs.

Healthcare reform and other governmental and private payor initiatives may have an adverse effect upon, and could prevent commercial success of EXONDYS 51 and our other product candidates.

The U.S. government and individual states have aggressively pursued healthcare reform, as evidenced by the passing of the Affordable Care Act and the current debate concerning modifications to or repeal of such Act. The Affordable Care Act substantially changed the way healthcare is financed by both governmental and private insurers and contains a number of provisions that affect coverage and reimbursement of drug products and/or that could potentially reduce the demand for pharmaceutical products such as increasing drug rebates under state Medicaid programs for brand name prescription drugs and extending those rebates to Medicaid managed care and assessing a fee on manufacturers and importers of brand name prescription drugs reimbursed under certain government programs, including Medicare and Medicaid. Other aspects of healthcare reform, such as expanded government enforcement authority and heightened standards that could increase compliance-related costs, could also affect our business. Modifications to or repeal of all or certain provisions of the Affordable Care Act are being actively debated as a result of the outcome of the 2016 presidential election and Republicans maintaining control of both houses of Congress, consistent with statements made by President Donald Trump and members of Congress both during the presidential campaign and continuing into 2017. We cannot predict the ultimate content, timing or effect of any changes to the Affordable Care Act or other federal and state reform efforts. There is no assurance that federal or state health care reform will not adversely affect our future business and financial results, and we cannot predict how future federal or state legislative, judicial or administrative changes relating to healthcare reform will affect our business.

The U.S. government, state legislatures and foreign governments have shown significant interest in implementing cost-containment programs to limit the growth of government-paid healthcare costs, including price controls, restrictions on reimbursement and requirements for substitution of generic products for branded prescription drugs. We anticipate that the U.S. Congress, state legislatures and the private sector will continue to consider and may adopt healthcare policies intended to curb rising healthcare costs. These cost containment measures may include:

- controls on government funded reimbursement for drugs;
- caps or mandatory discounts under certain government sponsored programs;
- controls on healthcare providers;
- challenges to the pricing of drugs or limits or prohibitions on reimbursement for specific products through other means;
- reform of drug importation laws;
- expansion of use of managed care systems in which healthcare providers contract to provide comprehensive healthcare for a fixed cost per person; and
- prohibition on direct-to-consumer advertising or drug marketing practices.

We are unable to predict what additional legislation, regulations or policies, if any, relating to the healthcare industry or third party coverage and reimbursement may be enacted in the future or what effect such legislation, regulations or policies would have on our business. Any cost containment measures, including those listed above, or other healthcare system reforms that are adopted, could significantly decrease the available coverage and the price we might establish for EXONDYS 51 and our other potential products, which would have an adverse effect on our net revenues and operating results.

The Food and Drug Administration Amendments Act of 2007 also provides the FDA enhanced post-marketing authority, including the authority to require post-marketing studies and clinical trials, labeling changes based on new safety information, and compliance with risk evaluations and mitigation strategies approved by the FDA. The FDA's exercise of this authority could result in increased development-related costs following the commercial launch of EXONDYS 51, and could result in potential restrictions on the sale and/or distribution of EXONDYS 51, even in its approved indications and patient populations.

Even though EXONDYS 51 received accelerated approval by the FDA as a treatment for DMD in patients who have a confirmed mutation in the DMD gene that is amenable to exon 51 skipping, it faces future post-approval development and regulatory requirements, which will present additional challenges we will need to successfully navigate.

On September 19, 2016, the FDA granted accelerated approval for EXONDYS 51 as a therapeutic treatment for patients with DMD who have a confirmed mutation in the DMD gene that is amenable to exon 51 skipping. This indication is based on an increase in dystrophin in skeletal muscles observed in some patients treated with EXONDYS 51. EXONDYS 51 will be subject to ongoing FDA requirements governing the labeling, packaging, storage, advertising, promotion, recordkeeping, and we are required to submit additional safety, efficacy and other post-marketing information.

Continued approval for this indication is contingent upon completing various post-marketing requirements and commitments, including the requirement to conduct a randomized, controlled clinical trial to verify the drug's clinical benefit. These post-approval requirements and commitments may not be feasible and/or could impose significant burdens and costs on us; could negatively impact our development, manufacturing and supply of EXONDYS 51; and could negatively impact our financial results. Failure to meet post-approval commitments and requirements, including completion of enrollment and in particular, any failure to obtain positive safety and efficacy data from our ongoing and planned EXONDYS 51 studies, would lead to negative regulatory action from the FDA and/or withdrawal of regulatory approval of EXONDYS 51, and could also negatively impact a decision from EMA on our MAA. In addition, if additional data we collect on eteplirsen in connection with our MAA does not support the safety and efficacy or EXONDYS 51, our approval status in the U.S. could be negatively impacted.

Manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with cGMP regulations. Drug product manufacturers are required to continuously monitor and report adverse events from clinical trials and commercial use of the product. If we or a regulatory agency discover previously unknown adverse events or events of unanticipated severity or frequency, a regulatory agency may require labeling changes implementation of risk evaluation and mitigation strategy program, or additional post-marketing studies or clinical trials. If we or a regulatory agency discover previously unknown problems with a product, such as problems with a facility where the API or drug product is manufactured or tested, a regulatory agency may impose restrictions on that product and/or the manufacturer, including removal of specific product lots from the market, withdrawal of the product from the market, or suspension of manufacturing. Sponsors of drugs approved under FDA accelerated approval provisions also are required to submit to FDA, at least 30 days before initial use, all promotional materials intended for use after the first 120 days following marketing approval. If we or the manufacturing facilities for EXONDYS 51 fail to comply with applicable regulatory requirements, a regulatory agency may:

- issue warning letters or untitled letters;
- seek an injunction or impose civil or criminal penalties or monetary fines;
- suspend or withdraw or alter the conditions of our marketing approval;
- mandate modifications to promotional materials or require us to provide corrective information to healthcare practitioners;
- suspend any ongoing clinical trials;
- require us to enter into a consent decree, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions and penalties for noncompliance;
- refuse to approve pending applications or supplements to applications submitted by us;
- suspend or impose restrictions on operations, including costly new manufacturing requirements;
- seize or detain products, refuse to permit the import or export of products or require us to initiate a product recall; or
- refuse to allow us to enter into supply contracts, including government contracts.

Even though EXONDYS 51 has been approved for marketing in the U.S., we may never receive approval to commercialize EXONDYS 51 outside of the U.S.

We are not permitted to market or sell EXONDYS 51 in the EU or in any other foreign countries on a commercial basis until we receive the requisite approval from such country's regulatory authorities. In order to market any product in a foreign country, we must comply with numerous and varying regulatory requirements for approval in those countries regarding demonstration of evidence of the product's safety and efficacy and governing, among other things, labeling, distribution, advertising, and promotion, as well as pricing and reimbursement of the product. Approval procedures vary among countries, and can involve additional product testing and additional administrative review periods. The time required to obtain approval in other countries might differ significantly from that required to obtain approval in the U.S. In particular, in many foreign countries, it is required that a product receives pricing and reimbursement approval before the product can be distributed commercially. This can result in substantial delays, and the price that is ultimately approved in some countries may be lower than the price for which we expect to offer EXONDYS 51.

Marketing approval in one country does not ensure marketing approval in another, but a failure or delay in obtaining marketing approval in one country may have a negative effect on the approval process in others. Failure to obtain marketing approval in other countries or any delay or setback in obtaining such approval would impair our ability to develop foreign markets for eteplirsen and could adversely affect our business and financial condition. Any such complications may reduce our target market and delay or limit the full commercial potential of eteplirsen. Many foreign countries are undertaking cost-containment measures that could affect pricing or reimbursement of eteplirsen.

In November 2016, we submitted a MAA for eteplirsen to the EMA. The application was validated in December 2016 and is currently under review. We believe that we submitted a robust package of clinical, dystrophin and safety data to support the review of eteplirsen; however, EMA may or could take a different view. We also believe that, in contrast to the FDA approval, the clinical data will be central in evaluating the application, while dystrophin will be supportive of the drug's mechanism of action. Obtaining approval of an MAA or any other filing for approval in a foreign country is an extensive, lengthy, expensive and uncertain process, and the regulatory authority may reject a filing or delay, limit or deny approval of eteplirsen for many reasons, including:

- we may not be able to demonstrate to the satisfaction of foreign regulatory authorities that eteplirsen is safe and effective for the treatment of patients with DMD who have a confirmed mutation in the DMD gene that is amenable to exon 51 skipping;
- the results of clinical trials may not meet the level of statistical or clinical significance required for approval by foreign regulatory authorities;
- foreign regulatory authorities may disagree with the adequacy (number, design, size, controls, conduct or implementation) of our clinical trials prior to granting approval, and we may not be able to generate the required data on a timely basis, or at all;
- regulatory authorities may conclude that data we submit to them, including data from clinical trials or any other additional data and analyses we submit in support of an approval or in response to requests from regulatory authorities, fail to demonstrate an appropriate level of safety or efficacy of eteplirsen or that eteplirsen's clinical benefits outweigh its safety risks; or such regulatory authorities may disagree with our interpretation of data from preclinical studies or clinical trials and require that we conduct one or more additional trials;
- regulatory authorities outside the U.S. may not accept data generated at our clinical trial sites;
- regulatory authorities outside the U.S. may impose limitations or restrictions on the approved labeling of eteplirsen, thus limiting intended users or providing an additional hurdle for market acceptance of the product;
- regulatory authorities outside the U.S. may identify deficiencies in the manufacturing processes, or may require us to change our manufacturing process or specifications;
- we may not be able to validate our manufacturing process to the satisfaction of regulatory authorities outside the U.S. or demonstrate adequate cGMP compliance; or
- regulatory authorities outside the U.S. may adopt new or revised approval policies and regulations.

If we are unable to execute effectively our sales and marketing activities outside the U.S., we may be unable to generate sufficient product revenue.

EXONDYS 51 is our first commercial product. As a result, our sales, marketing, managerial and other non-technical capabilities are relatively new in the U.S. and we are currently in the process of building a commercial sales force at risk in Europe. We plan to continue to build commercial infrastructure in the EU and in other key countries in order to be ready to launch eteplirsen with a relatively small specialty sales force in the event eteplirsen is ultimately approved in those jurisdictions. The establishment and

development of our commercial infrastructure will continue to be expensive and time consuming, and we may not be able to successfully fully develop this capability in a timely manner or at all. We anticipate building sales, medical, marketing, managerial, distribution and other capabilities across multiple jurisdictions to prepare for potential approvals ex-U.S. Doing so will require a high degree of coordination and compliance with laws and regulations in such jurisdictions. If we are unable to effectively coordinate such activities or comply with such laws and regulations, our ability to commercialize eteplirsen in such jurisdictions will be adversely affected. Even if we are able to effectively hire a sales force and develop a marketing and sales capabilities, our sales force may not be successful in commercializing eteplirsen or any other product candidate that we develop. If we are unable to establish adequate manufacturing, sales, marketing, supply and distribution capabilities, whether independently or with third parties, we may not be able to generate product revenue and may not become profitable outside of the U.S.

EXONDYS 51 may not be widely adopted by patients, payors or healthcare providers, which would adversely impact our potential profitability and future business prospects.

EXONDYS 51's commercial success, particularly in the near term in the U.S., depends upon its level of market adoption by patients, payors and healthcare providers. If EXONDYS 51 does not achieve an adequate level of market adoption for any reason, our potential profitability and our future business prospects will be severely adversely impacted. The degree of market acceptance of EXONDYS 51 depends on a number of factors, including:

- our ability to demonstrate to the medical community, including specialists who may purchase or prescribe EXONDYS 51, the clinical efficacy and safety of EXONDYS 51 as the prescription product of choice DMD amenable to exon-51 skipping in the U.S.;
- the effectiveness of our sales and marketing organizations and distribution networks;
- the ability of patients or providers to be adequately reimbursed for EXONDYS 51 in a timely manner from government and private payors;
- the actual and perceived efficacy and safety profile of EXONDYS 51, particularly if unanticipated adverse events related to EXONDYS 51 treatment arise and create safety concerns among potential patients or prescribers or if new data and analyses we obtain for eteplirsen do not support, or are interpreted by some parties to not support, the efficacy of EXONDYS 51; and
- the efficacy and safety of our other exon-skipping product candidates, including our exon 45 and exon 53 product candidates, and third parties' competitive therapies.

The patient population suffering from DMD, and in particular those with mutations amenable to exon-51 skipping, is small and has not been established with precision. If the actual number of patients is smaller than we estimate, our revenue and ability to achieve profitability may be adversely affected.

DMD is a fatal genetic neuromuscular disorder affecting an estimated one in approximately every 3,500 to 5,000 males born worldwide, of which up to 13% are estimated to be amenable to exon-51 skipping. Our estimate of the size of the patient population is based on published studies as well as internal analyses. If the results of these studies or our analysis of them do not accurately reflect the number of patients with DMD, our assessment of the market may be inaccurate, making it difficult or impossible for us to meet our revenue goals, or to obtain and maintain profitability. Since EXONDYS 51 targets a small patient population, the per-patient drug pricing must be high in order to recover our development and manufacturing costs, fund adequate patient support programs, fund additional research and achieve profitability. We may be unable to maintain or obtain sufficient sales volumes at a price high enough to justify our product development efforts and our sales, marketing and manufacturing expenses.

We have been granted orphan drug exclusivity for EXONDYS 51 in the U.S. and an orphan drug designation for eteplirsen in the EU, however, there can be no guarantee that we will be able to maintain orphan exclusivity for these product candidates nor that we will receive orphan drug approval or exclusivity and prevent third parties from developing and commercializing products that are competitive to EXONDYS 51 or our other product candidates.

To date, we have been granted orphan drug exclusivity for EXONDYS 51 in the U.S and an orphan drug designation in the EU for eteplirsen. Product candidates granted orphan status in Europe can be provided with up to ten years of marketing exclusivity, meaning that another application for marketing authorization of a later, similar medicinal product for the same therapeutic indication will generally not be approved in Europe during that time period. Although we may have product candidates that obtain orphan drug exclusivity in Europe, the orphan status and associated exclusivity period may be modified for several reasons, including a significant change to the orphan medicinal product designations or status criteria after-market authorization of the orphan product (*e.g.*, product profitability exceeds the criteria for orphan drug designation), problems with the production or supply of the orphan drug, or a competitor drug, although similar, is safer, more effective or otherwise clinically superior than the initial orphan drug.

As discussed above, we are not guaranteed to receive or maintain orphan status for our current or future product candidates, and if our product candidates that are granted orphan status were to lose their status as orphan drugs or the marketing exclusivity provided for them in the U.S. or the EU, our business and operations could be adversely affected. While orphan status for any of our products, if granted or maintained, would provide market exclusivity in the U.S. and the EU for the time periods specified above upon approval, we would not be able to exclude other companies from obtaining regulatory approval of products using the same active ingredient for the same indication beyond the exclusivity period applicable to our product on the basis of orphan drug status. In addition, we cannot guarantee that another company will not receive approval to market a product candidate that is granted orphan drug status in the U.S. or the EU for the same drug and orphan indication as any of our product candidates for which we plan to file an NDA or MAA. If that were to happen, any pending NDA or MAA for our product candidate for that indication may not be approved until the competing company's period of exclusivity has expired in the U.S. or the EU, as applicable.

If we are unable to maintain orphan drug exclusivity for EXONDYS 51 in the U.S., we may face increased competition.

Under the Orphan Drug Act, the FDA may designate a product as an orphan drug if it is a drug intended to treat a rare disease or condition affecting fewer than 200,000 people in the U.S. A company that first obtains FDA approval for a designated orphan drug for the specified rare disease or condition generally receives orphan drug marketing exclusivity for that drug for a period of seven years from the date of its approval. This orphan drug exclusivity prevents the approval of another drug containing the same active moiety used for the same orphan indication, except in circumstances where, based on the FDA's determination, a subsequent drug is safer, more effective or makes a major contribution to patient care, or if the orphan drug manufacturer is unable to assure that a sufficient quantity of the orphan drug is available to meet the needs of patients with the rare disease or condition. Orphan drug exclusivity may also be lost if the FDA later determines that the initial request for designation was materially defective. EXONDYS 51 was granted orphan drug exclusivity in the U.S. through September 19, 2023 for the treatment of DMD in patients who have a confirmed mutation of the DMD gene that is amenable to exon 51 skipping. However, such exclusivity may not effectively protect the product from competition if the FDA determines that a subsequent drug containing the same active moiety for the same indication is safer, more effective or makes a major contribution to patient care, or if we are unable to assure the FDA that sufficient quantities of EXONDYS 51 are available to meet patient demand. In addition, orphan drug exclusivity does not prevent the FDA from approving competing drugs for the same or similar indication containing a different active moiety or from approving a drug containing the same active moiety for a different indication. If a subsequent drug is approved for marketing for the same or similar indication, we may face increased competition, and our revenues from the sale of EXONDYS 51 will be adversely affected.

We could incur significant liability if it is determined that we are promoting any "off-label" use of EXONDYS 51.

Physicians are permitted to prescribe drug products for uses that are not described in the product's labeling and that differ from those approved by applicable regulatory agencies. Off-label uses are common across medical specialties. Although the FDA and other regulatory agencies do not regulate a physician's choice of treatments, the FDA and other regulatory agencies do generally prohibit advertising and promotion of off-label uses of approved drug products or promotion of an approved drug on information that is not in the final, FDA-approved label for a product and restrict communications on off-label use. Accordingly, we may not promote EXONDYS 51 in the U.S. for use in any indications other than for the treatment of DMD in patients who have a confirmed mutation in the DMD gene that is amenable to exon 51 skipping. Additionally, we face limitations on our ability to promote EXONDYS 51 based on any information that is not included in the final FDA-approved label, including previously published clinical data. The FDA and other regulatory authorities actively enforce laws and regulations prohibiting promotion of a product for off-label uses and the promotion of products for which marketing approval has not been obtained. A company that is found to have improperly promoted its drug product will be subject to significant liability, including civil and administrative remedies as well as criminal sanctions.

Notwithstanding the regulatory restrictions on off-label promotion, the FDA and other regulatory authorities allow companies to engage in truthful, non-misleading and non-promotional scientific exchange concerning their products and recent FDA guidance suggests that there are circumstances in which the Agency would not object to the promotion of certain information that is not included in the approved labeling but that is consistent with the approved labeling. We intend to engage in medical education activities and communicate with healthcare providers in compliance with all applicable laws, regulatory guidance and industry best practices. Although we have established a compliance program and continue to enhance it to ensure that all such activities are performed in a legal and compliant manner, EXONDYS 51 is our first commercial product which could increase risk of non-compliance with our internal compliance policies and applicable rules and regulations, which could negatively impact our business.

Most of our product candidates are at an early stage of development and may never receive regulatory approval.

Other than EXONDYS 51, which the FDA approved for use in the U.S. in September 2016 and for which we filed an MAA in November 2016 with the EMA, our most advanced product candidates are exon 45 and 53 skipping products. We are in the process of conducting, starting or planning various EXONDYS 51 clinical studies including studies that are required to comply with regulatory NDA and/or MAA filing requirements as well as studies we need to conduct to comply with our post-marketing FDA requirements/commitments to verify and describe clinical benefit. The exon 53-skipping product candidate, which we are working on with the SKIP-NMD consortium, is currently in the clinic in EU. The Part I dose-titration portion of this Phase 1/2a study has been completed and Part II open label portion of the study is ongoing. We have also completed the dose titration portion and are conducting the open-label portion of a study for our exon 45-skipping product candidate. Additionally, we are enrolling patients in the U.S. and working towards initiating sites in the EU, Israel and Canada for a clinical trial using exon 45- and 53-skipping product candidates, which we refer to as the ESSENCE study. The remainder of our product candidates are in discovery or early stages of development. These product candidates will require significant further development, financial resources and personnel to develop into commercially viable products and obtain regulatory approval, if at all. Currently, our exon 45-skipping product candidate and the exon 53-skipping product candidate we are developing with the SKIP-NMD consortium, each for DMD, are in active clinical development. Our other product candidates, including our anti-bacterials and AVI-7537 in Ebola and AVI-7288, are in discovery, pre-clinical development or inactive. Given the FDA approval of EXONDYS 51, we expect that much of our effort and many of our expenditures over the next several years will be devoted to clinical development and regulatory activities associated with EXONDYS 51 and other exon-skipping candidates as part of our larger follow-on exon strategy in DMD, our other disease candidates, our proprietary chemistry, and other potential therapeutic areas that provide long-term market opportunities. We may be delayed, restricted, or unable to further develop our active and other product candidates or successfully obtain approvals needed to market them. Although EXONDYS 51 was approved under accelerated approval by the FDA in the U.S., we may not be able to obtain an approval of EXONDYS 51 in the EU.

Our RNA-targeted antisense technologies have only been incorporated into one therapeutic commercial product and additional studies may not demonstrate safety or efficacy of our technologies in other product candidates.

Our RNA-targeted platform, utilizing proprietary PMO-based technology has only been incorporated into one therapeutic commercial product to date, EXONDYS 51, however, our confirmatory trials for EXONDYS 51 must verify and describe the clinical benefits in order for EXONDYS 51 to remain approved in the U.S. All of our product candidates to date use our PMO-based technology. Although we have conducted and are in the process of conducting clinical studies with EXONDYS 51, an exon 45-skipping product candidate and an exon 53-skipping product candidate and pre-clinical studies with our other product candidates that use our PMO-based antisense technology, additional studies may be needed to determine the safety and efficacy of our PMO-based antisense technology, including our novel PPMO technology. In addition, nonclinical models used to evaluate the activity and toxicity of product candidate compounds are not necessarily predictive of toxicity or efficacy of these compounds in the treatment of human disease. As such, there may be substantially different results observed in clinical trials from those observed in pre-clinical studies. Any failures or setbacks in developing or utilizing our PMO-based technologies, including adverse effects in humans, could have a detrimental impact on our product candidate pipeline and our ability to maintain and/or enter into new corporate collaborations regarding these technologies, which would negatively affect our business and financial condition.

Our pre-clinical and clinical trials may fail to demonstrate acceptable levels of safety, efficacy, and quality of our product candidates, including those based on our PMO-based technologies, which could prevent or significantly delay their regulatory approval.

To obtain the requisite regulatory approvals to market and sell any of our product candidates, we must demonstrate, through extensive pre-clinical and clinical studies that the product candidate is safe and effective in humans. Ongoing and future pre-clinical and clinical trials of our product candidates may not show sufficient safety, efficacy or adequate quality to obtain or maintain regulatory approvals. For example, although the pre-clinical data for PPMO collected to date is promising, the additional data we collect, including in the clinic, may not be consistent with the pre-clinical data or show a safe benefit that warrants further development or pursuit of a regulatory approval for PPMO product candidates. Furthermore, success in pre-clinical and early clinical trials does not ensure that the subsequent trials will be successful, nor does it predict final results of a confirmatory trial. If our study data do not consistently or sufficiently demonstrate the safety or efficacy of any of our product candidates, including for those that are based on our PMO-based technologies, then the regulatory approvals for such product candidates could be significantly delayed as we work to meet approval requirements, or, if we are not able to meet these requirements, such approvals could be withheld or withdrawn. For example, we cannot provide assurances that data from our EXONDYS 51 ongoing studies will be positive and consistent through the study periods or that the interpretation by regulators, such as the FDA or EMA, of the data we collect for our product candidates will be consistent with our interpretations.

If there are significant delays in obtaining or we are unable to obtain or maintain required regulatory approvals, we will not be able to commercialize our product candidates in a timely manner or at all, which could impair our ability to generate sufficient revenue and have a successful business.

The research, testing, manufacturing, labeling, approval, commercialization, marketing, selling and distribution of drug products are subject to extensive regulation by applicable local, regional and national regulatory authorities and regulations may differ from jurisdiction to jurisdiction. In the U.S., approvals and oversight from federal (e.g., FDA), state and other regulatory authorities are required for these activities. Sale and marketing of our product candidates in the U.S. or other countries is not permitted until we obtain the required approvals from the applicable regulatory authorities. Our ability to obtain the government or regulatory approvals required to commercialize any of our product candidates in any jurisdiction, including in the U.S. or the EU, cannot be assured, may be significantly delayed or may never be achieved for various reasons including the following:

- Our non-clinical, clinical, Chemistry, Manufacturing and Controls and other data and analyses from past, current and future studies for any of our product candidates may not be sufficient to meet regulatory requirements for marketing application approvals. The regulatory authorities could disagree with our interpretations and conclusions regarding data we provide in connection with NDA or MAA submissions for one or more of our product candidates, and may delay, reject or refuse to accept for review, or approve any NDA or MAA submission we make or identify additional requirements for product approval to be submitted upon completion, if ever. In addition, in the U.S., an FDA advisory committee could determine that our data are insufficient to provide a positive recommendation for approval of any NDA we submit to the FDA. Even if we meet FDA requirements and an advisory committee votes to recommend approval of an NDA submission, the FDA could still disagree with the advisory committee's recommendation and deny approval of a product candidate based on their review.
- The regulatory approval process for product candidates targeting orphan diseases, such as DMD, that use new technologies and processes, such as antisense oligonucleotide therapies, and alternative approaches or endpoints for the determination of efficacy is uncertain due to, among other factors, evolving interpretations of a new therapeutic class, the broad discretion of regulatory authorities, lack of precedent, varying levels of applicable expertise of regulators or their advisory committees, scientific developments, changes in the competitor landscape, shifting political priorities and changes in applicable laws, rules or regulations and interpretations of the same. We cannot be sure that any of our product candidates will qualify for accelerated approval or any other expedited development, review and approval programs, or that, if a drug does qualify, that the product candidates will be approved, will be accepted as part of any such program or that the review time will be shorter than a standard review. As a result of uncertainty in the approval process for products intended to treat serious rare diseases, we may not be able to anticipate, prepare for or satisfy requests or requirements from regulatory authorities, including completing and submitting planned NDAs and MAAs for our product candidates, in a timely manner, or at all. Examples of such requests or requirements could include, but are not limited to, conducting additional or redesigned trials and procedures (e.g., additional patient muscle biopsies and dystrophin analyses), repeating or completing additional analysis of our data, or providing additional supportive data. In addition, in the U.S., an FDA advisory committee or regulators may disagree with our data analysis, interpretations and conclusions at any point in the approval process, which could negatively impact the approval of our NDA or result in a decision by the Company not to proceed with an NDA submission for a product candidate based on feedback from regulators.
- We may not have the resources required to meet regulatory requirements and successfully navigate what is generally a lengthy, expensive and extensive approval process for commercialization of drug product candidates. Any failure on our part to respond to these requirements in a timely and satisfactory manner could significantly delay or negatively impact confirmatory study timelines and/or the development plans we have for the exon 53- and exon 45-skipping or other product candidates. Responding to requests from regulators and meeting requirements for clinical studies, submissions and approvals may require substantial personnel, financial or other resources, which, as a small biopharmaceutical company, we may not be able to obtain in a timely manner or at all. In addition, our ability to respond to requests from regulatory authorities that involve our agents, third party vendors and associates may be complicated by our own limitations and those of the parties we work with. It may be difficult or impossible for us to conform to regulatory guidance or successfully execute our product development plans in response to regulatory guidance, including guidance related to clinical trial design with respect to any NDA or MAA submissions.

Due to the above factors, among others, our product candidates could take a significantly longer time to gain regulatory approval than we expect, or may never gain regulatory approval, which would delay or eliminate any potential commercialization or product revenue for us and result in a material adverse effect on the Company that could involve changes, delays in or terminations of programs in our pipeline, delays or terminations of pre-clinical and clinical studies, and termination of contracts related to the development of our product candidates which can include significant termination costs, workforce reductions and limited ability to raise additional funds to execute company plans.

Even if we are able to comply with all regulatory requests and requirements, the delays resulting from satisfying such requests and requirements, the cost of compliance, or the effect of regulatory decisions (e.g., decisions limiting labeling and indications requested by us for a product candidate) may no longer make commercialization of a product candidate desirable for us from a business perspective, which could lead us to decide not to commercialize a product candidate.

Even after approval and commercialization of a product candidate, we remain subject to ongoing regulatory compliance and oversight to maintain our approval. Conducting our confirmatory studies could take years to complete, could yield negative or uninterpretable results or could result in an FDA determination that the studies do not provide the safety and efficacy requirements to maintain regulatory approval. If we are not able to maintain regulatory compliance, we may be subject to civil and criminal penalties or we may not be permitted to continue marketing our products, which could have a material adverse effect on our financial condition and harm our competitive position in the market place.

If we fail to comply with healthcare and other regulations, we could face substantial penalties and our business, operations and financial condition could be adversely affected.

As a manufacturer of pharmaceuticals, certain federal and state healthcare laws and regulations will apply to or affect our business. The regulations include:

- federal healthcare program anti-kickback laws, which prohibit, among other things, persons from soliciting, receiving or providing remuneration, directly or indirectly, to induce either the referral of an individual, for an item or service or the purchasing or ordering of a good or service, for which payment may be made under federal healthcare programs such as Medicare and Medicaid;
- federal false claims laws which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, information or claims for payment from Medicare, Medicaid or other third party payors that are false or fraudulent;
- the Federal Food, Drug and Cosmetic Act, which among other things, strictly regulates drug product and medical device marketing, prohibits manufacturers from marketing such products for off-label use and regulates the distribution of samples;
- federal laws that require pharmaceutical manufacturers to report certain calculated product prices to the government or provide certain discounts or rebates to government authorities or private entities, often as a condition of reimbursement under government healthcare programs;
- the so-called “federal sunshine” law, which requires pharmaceutical and medical device companies to monitor and report certain financial interactions with physicians and teaching hospitals to the federal government for re-disclosure to the public; and
- state law equivalents of the above federal laws, such as anti-kickback and false claims laws which may apply to items or services reimbursed by any third party payor, including commercial insurers, state laws regulating interactions between pharmaceutical manufactures and health care providers, and state laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and often are not preempted by federal laws, thus complicating compliance efforts.

Responding to government investigations, defending any claims raised, and any resulting fines, restitution, damages and penalties, settlement payments or administrative actions, as well as any related actions brought by stockholders or other third parties, could have a material impact on our reputation, business and financial condition and divert the attention of our management from operating our business.

The number and complexity of both federal and state laws continues to increase, and additional governmental resources are being used to enforce these laws and to prosecute companies and individuals who are believed to be violating them. In particular, the Healthcare Reform Act includes a number of provisions aimed at strengthening the government's ability to pursue anti-kickback and false claims cases against pharmaceutical manufacturers and other healthcare entities, including substantially increased funding for healthcare fraud enforcement activities, enhanced investigative powers, and amendments to the False Claims Act that make it easier for the government and whistleblowers to pursue cases for alleged kickback and false claim violations. While it is too early to predict what effect these changes will have on our business, we anticipate that government scrutiny of pharmaceutical sales and marketing practices will continue for the foreseeable future and subject us to the risk of government investigations and enforcement actions. For example, federal enforcement agencies recently have shown interest in pharmaceutical companies' product and patient assistance programs, including manufacturer reimbursement support services and relationships with specialty pharmacies. Some of these investigations have resulted in significant civil and criminal settlements. Responding to a government investigation or enforcement action would be expensive and time-consuming, and could have a material adverse effect on our business and financial condition and growth prospects.

In connection with the commercial launch of EXONDYS 51, we have initiated our compliance program and are in the process of expanding our experienced compliance team that will continue to work towards developing a program based on industry best practices that is designed to ensure that our commercialization of EXONDYS 51 complies with all applicable laws, regulations and industry standards. As this program has not yet been tested and the requirements in this area are constantly evolving, we cannot be certain that our program will eliminate all areas of potential exposure. Although compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be entirely eliminated. Any action against us for violation of these laws, even if we successfully defend against such action, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with applicable federal and state privacy, security, fraud and reporting laws may prove costly.

We rely on third parties to provide services in connection with our pre-clinical and clinical development programs. The inadequate performance by or loss of any of these service providers could affect our product candidate development.

Several third parties provide services in connection with our pre-clinical and clinical development programs, including in vitro and in vivo studies, assay and reagent development, immunohistochemistry, toxicology, pharmacokinetics, clinical assessments, data monitoring and management, statistical analysis and other outsourced activities. If these service providers do not adequately perform the services for which we have contracted or cease to continue operations and we are not able to quickly find a replacement provider or we lose information or items associated with our product candidates, our development programs may be delayed.

We are winding down our expired U.S. government contract, and thus further development of our Ebola and Marburg product candidates may be limited by our ability to obtain additional funding for these programs and by the intellectual property and other rights retained by the U.S. government.

We have historically relied on U.S. government contracts and awards to fund and support certain development programs, including our Ebola and Marburg programs. The July 2010 U.S. Department of Defense ("DoD") contract providing funds for our Marburg program expired in July 2014, and the Ebola portion of the contract was previously terminated by the DoD in 2012 for convenience of the DoD. We are currently involved in contract wind-down activities and may be subject to additional government audits prior to collecting final cost reimbursements and fees owed by the government. If we are not able to complete such audits or other government requirements successfully, then the government may withhold some or all of the currently outstanding amounts owed to us. We may explore and evaluate options to continue advancing the development of our Ebola and Marburg product candidates, which may or may not include funding through U.S. government programs. As a result of government budgetary cuts, appropriations and sequestration, among other reasons, the viability of the government and its agencies as a partner for further development of our Ebola and Marburg programs, or other programs, is uncertain. The options for us to further develop product candidates that were previously developed under contracts with the U.S. government with third parties may be limited or difficult in certain respects given that, after termination or expiration of a U.S. government contract, the government has broad license rights in intellectual property developed under such contract. Therefore, the U.S. government may have the right to develop all or some parts of product candidates that we have developed under a U.S. government contract after such contract has terminated or expired.

We may not be able to successfully conduct clinical trials due to various process-related factors which could negatively impact our business plans.

The successful start and completion of any of our clinical trials within time frames consistent with our business plans is dependent on regulatory authorities and various factors, which include, but are not limited to, our ability to:

- recruit and retain employees, consultants or contractors with the required level of expertise;
- recruit and retain sufficient patients needed to conduct a clinical trial;
- enroll and retain participants, which is a function of many factors, including the size of the relevant population, the proximity of participants to clinical sites, activities of patient advocacy groups, the eligibility criteria for the trial, the existence of competing clinical trials, the availability of alternative or new treatments, side effects from the therapy, lack of efficacy, personal issues and ease of participation;
- timely and effectively contract with (under reasonable terms), manage and work with investigators, institutions, hospitals and the contract research organizations ("CROs") involved in the clinical trial;
- negotiate contracts and other related documents with clinical trial parties and institutional review boards, such as informed consents, CRO agreements and site agreements, which can be subject to extensive negotiations that could cause significant delays in the clinical trial process, with terms possibly varying significantly among different trial sites and CROs and possibly subjecting the Company to various risks;
- ensure adherence to trial designs and protocols agreed upon and approved by regulatory authorities and applicable legal and regulatory guidelines;
- manage or resolve unforeseen adverse side effects during a clinical trial;
- conduct the clinical trials in a cost-effective manner, including managing foreign currency risk in clinical trials conducted in foreign jurisdictions and cost increases due to unforeseen or unexpected complications such as enrollment delays, or needing to outsource certain Company functions during the clinical trial; and
- execute clinical trial designs and protocols approved by regulatory authorities without deficiencies.

If we are not able to manage the clinical trial process successfully, our business plans could be delayed or be rendered unfeasible for us to execute within our planned or required time frames, or at all.

We have incurred operating losses since our inception and we may not achieve or sustain profitability.

We incurred an operating loss of $63.3 million for the three months ended June 30, 2017. Our accumulated deficit was $1.1 billion as of June 30, 2017. Although we launched EXONDYS 51 in the U.S. in September 2016, we believe that it will take us some time to attain profitability and positive cash flow from operations. We have not yet generated significant revenues from product sales and have generally incurred expenses related to research and development of our technologies and product candidates, from general and administrative expenses that we have incurred while building our business infrastructure. We anticipate that our expenses will increase substantially if and/or as we:

- continue our launch and commercialization of EXONDYS 51 in the U.S.;
- expand the global footprint of EXONDYS 51 outside of the U.S.;
- establish our sales, marketing and distribution capabilities;
- continue our research, pre-clinical and clinical development of our product candidates;
- respond to and satisfy requests and requirements from regulatory authorities in connection with development and potential approval of our product candidates;
- initiate additional clinical trials for our product candidates;
- seek marketing approvals for our product candidates that successfully complete clinical trials;
- acquire or in-license other product candidates;

- maintain, expand and protect our intellectual property portfolio;
- increase manufacturing capabilities including capital expenditures related to our real estate facilities and entering into manufacturing agreements;
- hire additional clinical, quality control and scientific personnel; and
- add operational, financial and management information systems and personnel, including personnel to support our product development and planned future commercialization efforts.

As a result, we expect to continue to incur significant operating losses for the foreseeable future. Because of the numerous risks and uncertainties associated with developing pharmaceutical products, we are unable to predict the extent of any future losses or when, or if, we will become profitable.

We will need additional funds to conduct our planned research, development, manufacturing and business development efforts. If we fail to attract and manage significant capital on acceptable terms or fail to enter into strategic relationships, we could be forced to delay, reduce or eliminate our product development programs or commercialization efforts.

We will likely require additional capital from time to time in the future in order to meet FDA post-marketing approval requirements and market and sell EXONDYS 51 as well as continue the development of product candidates in our pipeline, to expand our product portfolio and to continue or enhance our business development efforts. The actual amount of funds that we may need and the sufficiency of the capital we have or are able to raise will be determined by many factors, some of which are in our control and others that are beyond our control. The Company and our board of directors continue to assess optimization in the size and structure of the Company as well as in its strategic plans. For example, in March 2016, we announced a long-term plan to consolidate facilities within Massachusetts and closing our Corvallis, Oregon offices by end of that year. In June 2017, we announced the opening of our research and manufacturing center in Andover, Massachusetts. In addition, we recently established our European headquarters in Zug, Switzerland. Any failure on our part to strategically and successfully manage the funds we raise, with respect to factors within our control, could impact our ability to successfully commercialize EXONDYS 51 and continue developing our product candidates. Some of the factors partially or entirely outside of our control that could impact our ability to raise funds, as well as the sufficiency of funds the Company has to execute its business plans successfully, include the success of our research and development efforts, the status of our pre-clinical and clinical testing, costs and timing relating to securing regulatory approvals and obtaining patent rights, regulatory changes, competitive and technological developments in the market, regulatory decisions, and any commercialization expenses related to any product sales, marketing, manufacturing and distribution. An unforeseen change in these factors, or others, might increase our need for additional capital.

We would expect to seek additional financing from the sale and issuance of equity or equity-linked or debt securities, and we cannot predict that financing will be available when and as we need financing or that, if available, the financing terms will be commercially reasonable. If we are unable to obtain additional financing when and if we require it, or on commercially reasonable terms, this would have a material adverse effect on our business and results of operations.

If we are able to consummate such financings, the trading price of our common stock could be adversely affected and/or the terms of such financings may adversely affect the interests of our existing stockholders. To the extent we issue additional equity securities or convertible securities, our existing stockholders could experience substantial dilution in their economic and voting rights. Additional financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. We could also be required to seek funds through arrangements with collaborators or otherwise at an earlier stage than otherwise would be desirable and we may be required to relinquish rights to some of our technologies or product candidates, or otherwise agree to terms unfavorable to us, any of which may have a material adverse effect on our business, operating results and prospects.

Further, we may also enter into relationships with pharmaceutical or biotechnology companies to perform research and development with respect to our technologies, research programs, conduct clinical trials or market our product candidates. Other than pre-clinical collaborations with academic or research institutions and government entities for the development of additional exon-skipping product candidates for the treatment of DMD and clinical collaboration for a product candidate for the treatment of influenza, we currently do not have a strategic relationship with a third party to perform research or development using our technologies or assist us in funding the continued development and commercialization of any of our programs or product candidates. If we were to have such a strategic relationship, such third party may require us to issue equity to such third party, relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates, or to grant licenses on terms that may not be favorable to us.

Our indebtedness resulting from our Amended and Restated Credit and Security Agreement and new Revolving Credit Agreement and security agreement with MidCap could adversely affect our financial condition or restrict our future operations.

On July 18, 2017, we entered into (i) an the Amended and Restated Credit and Security Agreement with MidCap that provides a term loan of $60.0 million, (ii) the Revolving Credit Agreement that provides a revolving loan commitment of $40.0 million (which may be increased by an additional tranche of $20.0 million), (iii) an amendment to the pledge agreement related to the Amended and Restated Credit and Security Agreement and (iv) a pledge agreement related to the Revolving Credit Agreement. Our agreements with MidCap create limitations on us, including:

- requiring us to maintain pledge cash and certain other assets in favor of MidCap during the term of the agreements;
- limiting our flexibility in planning for, or reacting to, changes in our business and our industry;
- placing us at a competitive disadvantage compared to our competitors who have less debt or competitors with comparable debt at more favorable interest rates;
- limiting our ability to borrow additional amounts for working capital, capital expenditures, research and development efforts, acquisitions, debt service requirements, execution of our business strategy and other purposes; and
- resulting in an acceleration of the maturity of such term loans upon the occurrence of a material adverse change or another default under the agreements with MidCap.

Any of these factors could materially and adversely affect our business, financial condition and results of operations.

The estimates and judgments we make, or the assumptions on which we rely, in preparing our consolidated financial statements could prove inaccurate.

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the U.S. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of our assets, liabilities, revenues and expenses, the amounts of charges accrued by us and related disclosure of contingent assets and liabilities. Such estimates and judgments include revenue recognition, inventory, valuation of stock-based awards, research and development expenses and income tax. We base our estimates on historical experience, facts and circumstances known to us and on various other assumptions that we believe to be reasonable under the circumstances. We cannot provide assurances, however, that our estimates, or the assumptions underlying them, will not change over time or otherwise prove inaccurate. If this is the case, we may be required to restate our consolidated financial statements, which could, in turn, subject us to securities class action litigation. Defending against such potential litigation relating to a restatement of our consolidated financial statements would be expensive and would require significant attention and resources of our management. Moreover, our insurance to cover our obligations with respect to the ultimate resolution of any such litigation may be inadequate. As a result of these factors, any such potential litigation could have a material adverse effect on our financial results and cause our stock price to decline, which could in turn subject us to securities class action litigation.

Our ability to use net operating loss carryforwards and other tax attributes to offset future taxable income may be limited as a result of future transactions involving our common stock.

In general, under Section 382 of the Internal Revenue Code, a corporation that undergoes an ‘‘ownership change’’ is subject to limitations on its ability to utilize its pre-change net operating losses and certain other tax assets to offset future taxable income. In general, an ownership change occurs if the aggregate stock ownership of certain stockholders increases by more than 50 percentage points over such stockholders’ lowest percentage ownership during the testing period, which is generally three years. An ownership change could limit our ability to utilize our net operating loss and tax credit carryforwards for taxable years including or following such “ownership change.” Limitations imposed on the ability to use net operating losses and tax credits to offset future taxable income could require us to pay U.S. federal income taxes earlier than we estimated or than would have otherwise been required if such limitations were not in effect and could cause such net operating losses and tax credits to expire unused, in each case reducing or eliminating the benefit of such net operating losses and tax credits and potentially adversely affecting our financial position. Similar rules and limitations may apply for state income tax purposes.

If we fail to retain our key personnel or are unable to attract and retain additional qualified personnel, our future growth and our ability to compete would suffer.

We are highly dependent on the efforts and abilities of the principal members of our senior management. Additionally, we have scientific personnel with significant and unique expertise in RNA-targeted therapeutics and related technologies. The loss of the services of any one of the principal members of our managerial team or staff may prevent us from achieving our business objectives.

The competition for qualified personnel in the biotechnology field is intense, and our future success depends upon our ability to attract, retain and motivate such personnel. In order to develop and commercialize our products successfully, we will be required to retain key management and scientific employees. In certain instances, we may also need to expand or replace our workforce and our management ranks. In addition, we rely on certain consultants and advisors, including scientific and clinical advisors, to assist us in the formulation and advancement of our research and development programs. Our consultants and advisors may be employed by other entities or have commitments under consulting or advisory contracts with third parties that limit their availability to us, or both. If we are unable to attract, assimilate or retain such key personnel, our ability to advance our programs would be adversely affected.

On April 24, 2017, Dr. Edward M. Kaye informed our board of directors of his intention to resign as President and Chief Executive Officer. On June 26, 2017, Dr. Kaye tendered his resignation as President and Chief Executive Officer effective on that date. Also on June 26, 2017, due to Dr. Kaye's resignation as President and Chief Executive Officer and as required by the terms of his employment agreement, Dr. Kaye tendered his resignation as a director of the Company, effective upon a date to be determined by the board of directors or the board's Nominating and Corporate Governance Committee. On June 26, 2017, the board of directors also appointed Douglas S. Ingram to serve as the Company's President and Chief Executive Officer. Mr. Ingram was also elected to the board of directors as a Group I director who will hold office as a director until the Company's 2018 annual meeting of stockholders or until his successor is earlier elected.

While Dr. Kaye is expected to serve us in an advisory capacity to ensure a smooth transition, we cannot guarantee that the transition to the new Chief Executive Officer will be smooth, successful or will not result in a negative impact to the Company. Leadership transitions can be inherently difficult to manage and may cause uncertainty or a disruption to our business or may increase the likelihood of turnover in other key officers and employees. If we lose the services of one or more of our senior management or key employees, or if one or more of them decides to join a competitor or otherwise to compete with us, our business could be harmed.

Our business operations are dependent upon our Chief Executive Officer to learn his new role.

We have a new Chief Executive Officer who started on June 26, 2017. As Mr. Ingram gains experience in his role, we could experience inefficiencies or a lack of business continuity due to loss of historical knowledge and a lack of familiarity with business processes, operating requirements, policies and procedures, and key information technologies and related infrastructure used in our day-to-day operations and we may experience additional costs as the new Chief Executive Officer learns his role and gains necessary experience. It is important to our success that the Chief Executive Officer quickly adapts to and excels in his new role. If he is unable to do so, our business, financial results and stock price could be materially adversely affected.

If we are unable to effectively manage our growth, execute our business strategy and implement compliance controls and systems, the trading price of our common stock could decline. Any failure to establish and maintain effective internal control over financial reporting could adversely affect investor confidence in our reported financial information.

We anticipate continued growth in our business operations due, in part, to the commercialization of EXONDYS 51. This future growth could create a strain on our organizational, administrative and operational infrastructure. Our ability to manage our growth properly and maintain compliance with all applicable rules and regulations will require us to continue to improve our operational, legal, financial and management controls, as well as our reporting systems and procedures. We may not be able to build the management and human resources and infrastructure necessary to support the growth of our business. The time and resources required to implement systems and infrastructure that may be needed to support our growth is uncertain, and failure to complete implementation in a timely and efficient manner could adversely affect our operations.

We may engage in future acquisitions or collaborations with other entities that increase our capital requirements, dilute our stockholders, cause us to incur debt or assume contingent liabilities and subject us to other risks.

We actively evaluate various strategic transactions on an ongoing basis, including licensing or acquiring complementary products, technologies or businesses. Potential acquisitions or collaborations with other entities may entail numerous risks, including increased operating expenses and cash requirements, assimilation of operations and products, retention of key employees, diversion of our management's attention and uncertainties in our ability to maintain key business relationships of the acquired entities. In addition, if we undertake acquisitions, we may issue dilutive securities, assume or incur debt obligations, incur large one-time expenses and acquire intangible assets that could result in significant future amortization expense.

Our success, competitive position and future revenue depend in part on our ability and the abilities of our licensors to obtain and maintain patent protection for our technologies, product and product candidates, to preserve our trade secrets, to prevent third parties from infringing on our proprietary rights and to operate without infringing on the proprietary rights of third parties.

We currently hold various issued patents and exclusive rights to issued patents and own and have licenses to various patent applications, in each case in the U.S. as well as other countries. We anticipate filing additional patent applications both in the U.S. and in other countries. The patent process, however, is subject to numerous risks and uncertainties, and we can provide no assurance that we will be successful in obtaining and defending patents or in avoiding infringement of the rights of others. Even when our patent claims are allowed, the claims may not issue, or in the event of issuance, may not be sufficient to protect the technology owned by or licensed to us or our collaborators. Even if our patents and patent applications do provide our product, product candidates and platform technology with a basis for exclusivity, we and our collaborators may not be able to develop or commercialize such product and product candidates or platform technology due to patent positions held by one or more third parties.

We may not be able to obtain and maintain patent protection for our product or product candidates necessary to prevent competitors from commercializing competing product candidates. Our patent rights might be challenged, invalidated, circumvented or otherwise not provide any competitive advantage, and we might not be successful in challenging the patent rights of our competitors through litigation or administrative proceedings. Additionally, in order to maintain or obtain freedom to operate for our products and product candidates, we may incur significant expenses, including those associated with entering into agreements with third parties that require milestone and royalty payments. For example, on July 17, 2017, we and The University of Western Australia on the one hand, and the BioMarin Parties and AZL on the other hand, executed a Settlement Agreement pursuant to which all existing efforts pursuing ongoing litigation, opposition and other administrative proceedings would be stopped as between the Settlement Parties and the Settlement Parties would cooperate to withdraw the Actions before the European Patent Office (except for actions involving third parties), the USPTO, the U.S. Court of Appeals for the Federal Circuit and the High Court of Justice of England and Wales, except for the cross-appeal of the Interlocutory Decision of the Opposition Division dated April 15, 2013 of the European Patent Office of EP 1619249B1 in which we will withdraw our appeal and the BioMarin Parties and AZL will continue with its appeal, with us having the right to provide input of the appeal. Any adverse rulings on the appeal could come at any time and, if negative, could adversely affect our business and result in a decline in our stock price. Defending our patent positions may continue to require significant financial resources and could negatively impact other Company objectives. In addition, the expected benefits and opportunities related to the Settlement Agreement and the License Agreement may not be realized or may take longer to realize than expected due to challenges and uncertainties regarding the sales of EXONDYS 51, the research and development of future exon-skipping products, BioMarin's retained rights to convert the exclusive patent license under the Settlement Agreement to a co-exclusive license, BioMarin continuing certain oppositions and appeals, and patent oppositions that have been filed by other third parties, and patent oppositions and other patent challenges that may be filed by third parties in the future.

The DMD patent landscape is continually evolving, and we may be able to assert that certain activities engaged in by third parties infringe on our current or future patent rights. There has been, and we believe that there will continue to be, significant litigation in the biopharmaceutical and pharmaceutical industries regarding patent and other intellectual property rights. As such, the patents and patent applications that we own or license and rely on for exclusivity for our product candidates may be challenged. In the U.S., our patents may be challenged in an Inter Partes Review proceeding or other related proceeding. In other countries, other procedures are available for a third party to challenge the validity of our patent rights. For instance, we have rights to European Patent No. 2206781, which protects SRP-4053. This patent was opposed at the European Patent Office. We filed our response to the opponent's opposition statement and the European Patent Office issued a summons for oral proceeding. The outcome and timing of a final written decision from the European Patent Office cannot be predicted or determined as of the date of this report.

As a matter of public policy, there might be significant pressure on governmental bodies to limit the scope of patent protection or impose compulsory licenses for disease treatments that prove successful. Additionally, jurisdictions other than the U.S. might have less restrictive patent laws than the U.S., giving foreign competitors the ability to exploit these laws to create, develop and market competing products. The USPTO and patent offices in other jurisdictions have often required that patent applications concerning pharmaceutical and/or biotechnology-related inventions be limited or narrowed substantially to cover only the specific innovations exemplified in the patent application, thereby limiting the scope of protection against competitive challenges. Accordingly, even if we or our licensors are able to obtain patents, the patents might be substantially narrower than anticipated.

On September 16, 2011, the Leahy-Smith America Invents Act (the "Leahy-Smith Act"), was signed into law. The Leahy-Smith Act includes a number of significant changes to U.S. patent law, including provisions that affect the way patent applications will be prosecuted, and may also affect patent litigation. The USPTO has issued regulations and procedures to govern administration of the Leahy-Smith Act, but many of the substantive changes to patent law associated with the Leahy-Smith Act have only recently become effective. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition. For instance, a third party may petition the PTAB seeking to challenge the validity of some or all of

the claims in any of our patents through an *Inter Partes Review* ("IPR") or other post-grant proceeding. Should the PTAB institute an IPR (or other) proceeding and decide that some or all of the claims in the challenged patent are invalid, such a decision, if upheld on appeal, could have a material adverse effect on our business and financial condition.

The full impact of several recent U.S. Supreme Court decisions relating to patent law is not yet known. For example, on March 20, 2012, in *Mayo Collaborative Services, DBA Mayo Medical Laboratories, et al. v. Prometheus Laboratories, Inc* ., the Court held that several claims drawn to measuring drug metabolite levels from patient samples and correlating them to drug doses were not patentable subject matter. The decision appears to impact diagnostics patents that merely apply a law of nature via a series of routine steps and it has created uncertainty around the ability to patent certain biomarker-related method claims. Additionally, on June 13, 2013, in *Association for Molecular Pathology v. Myriad Genetics, Inc.*, the Court held that claims to isolated genomic DNA are not patentable, but claims to complementary DNA molecules were held to be valid. The effect of the decision on patents for other isolated natural products is uncertain and, as with the Leahy-Smith Act, these decisions could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition.

Our business prospects will be impaired if third parties successfully assert that EXONDYS 51 or our product candidates or technologies infringe proprietary rights of such third parties.

Our competitors may make significant investments in competing technologies, and might have or obtain patents that limit, interfere with or eliminate our ability to make, use and sell EXONDYS 51 or our product candidates in important commercial markets.

If EXONDYS 51 or our product candidates or technologies infringe enforceable proprietary rights of others, we could incur substantial costs and may have to:

- obtain rights or licenses from others, which might not be available on commercially reasonable terms or at all;
- abandon development of an infringing product candidate;
- redesign EXONDYS 51, product candidates or processes to avoid infringement;
- pay damages; and/or
- defend litigation or administrative proceedings which might be costly whether we win or lose, and which could result in a substantial diversion of financial and management resources.

Any of these events could substantially harm our potential earnings, financial condition and operations. The DMD patent landscape is continually evolving and multiple parties, including both commercial entities and academic institutions, may have rights to claims or may be pursuing additional claims that could provide these parties a basis to assert that EXONDYS 51 or our product candidates infringe on the intellectual property rights of such parties. Similarly, we may be able to assert that certain activities engaged in by these parties infringe on our current or future patent rights. There has been, and we believe that there will continue to be, significant litigation in the biopharmaceutical and pharmaceutical industries regarding patent and other intellectual property rights. We also cannot be certain that other third parties will not assert patent infringement in the future with respect to any of our development programs.

We face intense competition and rapid technological change, which may result in other companies discovering, developing or commercializing competitive products.

The biotechnology and pharmaceutical industries are highly competitive and subject to significant and rapid technological change. We are aware of many pharmaceutical and biotechnology companies that are actively engaged in research and development in areas related to antisense technology and other RNA technologies, or that are developing alternative approaches to or therapeutics for the disease indications on which we are focused. Some of these competitors are developing or testing product candidates that now, or may in the future, compete directly with EXONDYS 51 or our follow on exon-skipping product candidates. For example, we believe that companies including Alnylam Pharmaceuticals, Inc., Ionis Pharmaceuticals, Inc. (formerly Isis Pharmaceuticals, Inc.), Roche Innovation Center Copenhagen (formerly Santaris Pharma A/S), Wave Life Sciences, Daiichi Sankyo and Nippon Shinyaku Co. Ltd. share a focus on RNA-targeted drug discovery and development. Competitors with respect to EXONDYS 51 or our product candidates include Nippon Shinyaku, Daiichi Sankyo, Wave Life Sciences and Shire plc; and other companies such as PTC have also been working on DMD programs. Additionally, several companies and institutions have entered into collaborations or other agreements for the development of product candidates, including mRNA, gene (CRIPSR and AAV, among others) and small molecule therapies that are potential competitors for therapies being developed in the muscular dystrophy, neuromuscular and rare disease space, including, but not limited to, Pfizer, Inc., Bristol-Myers Squibb, Roche, Biogen Idec, Inc., Ionis Pharmaceuticals, Inc., Alexion

Pharmaceuticals, Inc., Sanofi, Eli Lilly, Alnylam, Moderna Therapeutics, Inc., Summit, Akashi, Catabasis, and Oxford University. Although BioMarin announced on May 31, 2016 its intent to discontinue clinical and regulatory development of drisapersen as well as its other clinical stage candidates, BMN 044, BMN 045 and BMN 053, then-currently in Phase 2 studies for distinct forms of DMD, it further announced its intent to continue to explore the development of next generation oligonucleotides for the treatment of DMD.

If any of our competitors are successful in obtaining regulatory approval for any of their product candidates, it may limit our ability to gain or keep market share in the DMD space or other diseases targeted by our exon-skipping platform and product candidate pipeline.

It is possible that our competitors will succeed in developing technologies that limit the market size for EXONDYS 51 or our product candidates, impact the regulatory approval process for our product candidates that are more effective than our product candidates or that would render our technologies obsolete or noncompetitive. Our competitors may, among other things:

- develop safer or more effective products;
- implement more effective approaches to sales and marketing;
- develop less costly products;
- obtain regulatory approval more quickly;
- have access to more manufacturing capacity;
- develop products that are more convenient and easier to administer;
- form more advantageous strategic alliances; or
- establish superior intellectual property positions.

We may be subject to product liability claims and our insurance may not be adequate to cover damages.

The current and future use of our product candidates by us and our collaborators in clinical trials, expanded access programs, the sale of EXONDYS 51 and future products, or the use of our products under emergency use vehicles may expose us to liability claims inherent to the manufacture, clinical testing, marketing and sale of medical products. These claims might be made directly by consumers or healthcare providers or indirectly by pharmaceutical companies, our collaborators or others selling such products. Regardless of merit or eventual outcome, we may experience financial losses in the future due to such product liability claims. We have obtained limited general commercial liability insurance coverage for our clinical trials. We intend to expand our insurance coverage to include the sale of commercial products in connection with the FDA's approval of EXONDYS 51. However, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against all losses. If a successful product liability claim or series of claims is brought against us for uninsured liabilities or in excess of insured liabilities, our assets may not be sufficient to cover such claims and our business operations could be impaired.

Our operations involve the use of hazardous materials, and we must comply with environmental laws, which can be expensive, and may affect our business and operating results.

Our research and development activities involve the use of hazardous materials, including organic and inorganic solvents and reagents. Accordingly, we are subject to federal, state and local laws and regulations governing the use, storage, handling, manufacturing, exposure to and disposal of these hazardous materials. In addition, we are subject to environmental, health and workplace safety laws and regulations, including those governing laboratory procedures, exposure to blood-borne pathogens and the handling of bio-hazardous materials. Although we believe that our activities conform in all material respects with such environmental laws, there can be no assurance that violations of these laws will not occur in the future as a result of human error, accident, equipment failure or other causes. Liability under environmental, health and safety laws can be joint and several and without regard to fault or negligence. The failure to comply with past, present or future laws could result in the imposition of substantial fines and penalties, remediation costs, property damage and personal injury claims, loss of permits or a cessation of operations, and any of these events could harm our business and financial condition. We expect that our operations will be affected by other new environmental, health and workplace safety laws on an ongoing basis, and although we cannot predict the ultimate impact of any such new laws, they may impose greater compliance costs or result in increased risks or penalties, which could harm our business.

We rely significantly on information technology and any failure, inadequacy, interruption or security lapse of that technology, including any cyber security incidents, could harm our ability to operate our business effectively.

In the ordinary course of our business, we collect and store sensitive data, including intellectual property, our proprietary business information and that of our suppliers, as well as personally identifiable information of EXONDYS 51 patients, clinical trial participants and employees. Similarly, our third party providers possess certain of our sensitive data. The secure maintenance of this information is critical to our operations and business strategy. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance or other disruptions. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost or stolen. Any such access, disclosure or other loss of information, including our data being breached at third party providers, could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, disrupt our operations and damage our reputation, which could adversely affect our business.

We may incur substantial costs in connection with litigation and other disputes.

In the ordinary course of business we may, and in some cases have, become involved in lawsuits and other disputes such as securities claims, intellectual property challenges, including interferences declared by the USPTO, and employee matters. It is possible that we may not prevail in claims made against us in such disputes even after expending significant amounts of money and company resources in defending our positions in such lawsuits and disputes. The outcome of such lawsuits and disputes is inherently uncertain and may have a negative impact on our business, financial condition and results of operations.

Risks Related to Our Common Stock

Our stock price is volatile and may fluctuate due to factors beyond our control.

The market prices for and trading volumes of securities of biotechnology companies, including our securities, has historically been volatile. Our stock has had significant swings in trading prices, in particular in connection with our public communications regarding feedback received from regulatory authorities. For example, over the last fifteen months, our stock has increased as much as 74% in a single day or decreased as much as 44% in a single day. The market has from time to time experienced significant price and volume fluctuations unrelated to the operating performance of particular companies. The market price of our common stock may fluctuate significantly due to a variety of factors, including but not limited to:

- the commercial performance of EXONDYS 51 in the U.S.;
- the timing of our submissions to regulatory authorities and regulatory decisions and developments;
- positive or negative clinical trial results or regulatory interpretations of data collected in clinical trials conducted by us, our strategic partners, our competitors or other companies with investigational drugs targeting the same, similar or related diseases to those targeted by us;
- delays in beginning and completing pre-clinical and clinical studies for potential product candidates;
- delays in entering or failing to enter into strategic relationships with respect to development and/or commercialization of EXONDYS 51 or our product candidates or entry into strategic relationships on terms that are not deemed to be favorable to our Company;
- technological innovations, product development or additional commercial product introductions by ourselves or competitors;
- changes in applicable government regulations or regulatory requirements in the approval process;
- developments concerning proprietary rights, including patents and patent litigation matters, such as developments in the interferences declared by the USPTO, including in the near term any outcomes of ongoing interference proceedings and over the longer term the outcomes from any related appeals;
- public concern relating to the commercial value, efficacy or safety of any of our products;
- our ability to obtain funds, through the issuance of equity or equity linked securities or incurrence of debt, or other corporate transactions;
- comments by securities analysts;

- developments in litigation such as the stockholder lawsuits against us;
- changes in senior management; or
- general market conditions in our industry or in the economy as a whole.

Broad market and industry factors may seriously affect the market price of a company's stock, including ours, regardless of actual operating performance. In addition, in the past, following periods of volatility in the overall market and the market price of a particular company's securities, securities class action litigation has often been instituted against these companies. Such litigation could result in substantial costs and a diversion of our management's attention and resources.

Provisions of our certificate of incorporation, bylaws and Delaware law might deter acquisition bids for us that might be considered favorable and prevent or frustrate any attempt to replace or remove the then-current management and board of directors.

Certain provisions of our certificate of incorporation and bylaws may make it more difficult for a third party to acquire control of us or effect a change in our board of directors and management. These provisions include:

- when the board is comprised of six or more directors, classification of our board of directors into two classes, with one class elected each year;
- directors may only be removed for cause by the affirmative vote of a majority of the voting power of all the then-outstanding shares of voting stock;
- prohibition of cumulative voting of shares in the election of directors;
- right of the board of directors to elect directors to fill a vacancy created by the expansion of the board of directors or the resignation, death, disqualification or removal of a director;
- express authorization of the board of directors to make, alter or repeal our bylaws;
- prohibition on stockholder action by written consent;
- advance notice requirements for nominations for election to our board or for proposing matters that can be acted upon by stockholders at stockholder meetings;
- the ability of our board of directors to authorize the issuance of undesignated preferred stock, the terms and rights of which may be established and shares of which may be issued without stockholder approval, including rights superior to the rights of the holders of common stock; and
- a super-majority (66 2/3%) of the voting power of all of the then-outstanding shares of capital stock are required to amend, rescind, alter or repeal our bylaws and certain provisions of our certificate of incorporation.

In addition, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our certificate of incorporation and our bylaws and in the Delaware General Corporation Law could make it more difficult for stockholders or potential acquirers to obtain control of our board of directors or initiate actions that are opposed by the then-current board of directors.

We expect our operating results to fluctuate in future periods, which may adversely affect our stock price.

Our operating results have fluctuated in the past, and we believe they will continue to do so in the future. Our operating results may fluctuate due to the variable nature of our revenue and research and development expenses. Likewise, our research and development expenses may experience fluctuations as a result of the timing and magnitude of expenditures incurred in support of our proprietary drug development programs. In one or more future periods, our results of operations may fall below the expectations of securities analysts and investors. In that event, the market price of our common stock could decline.

A significant number of shares of our common stock are issuable pursuant to outstanding stock awards, and we expect to issue additional stock awards and shares of common stock in the future. Exercise of these awards and sales of shares will dilute the interests of existing security holders and may depress the price of our common stock.

As of June 30, 2017, there were approximately 55.3 million shares of common stock outstanding and outstanding awards to purchase 10.1 million shares of common stock under various incentive stock plans. Additionally, as of June 30, 2017, there were approximately 2.2 million shares of common stock available for future issuance under our Amended and Restated 2011 Equity Incentive Plan, approximately 0.3 million shares of common stock available for issuance under our 2013 Employee Stock Purchase Plan and approximately 0.9 million shares of common stock available for issuance under our 2014 Employment Commencement Incentive Plan. We may issue additional common stock and warrants from time to time to finance our operations. We may also issue additional shares to fund potential acquisitions or in connection with additional stock options or other equity awards granted to our employees, officers, directors and consultants under our Amended and Restated 2011 Equity Incentive Plan, our 2013 Employee Stock Purchase Plan or our 2014 Employment Commencement Incentive Plan. The issuance of additional shares of common stock or warrants to purchase common stock and the perception that such issuances may occur or exercise of outstanding warrants or options may have a dilutive impact on other stockholders and could have a material negative effect on the market price of our common stock.

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

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

None.

Item 5. Other Information.

None.

Item 6. Exhibits.

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

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

SAREPTA THERAPEUTICS, INC.
(Registrant)

Date: August 3, 2017

By: /s/ DOUGLAS S. INGRAM
Douglas S. Ingram
President and Chief Executive Officer
(Principal Executive Officer)

Date: August 3, 2017

By: /s/ SANDESH MAHATME
Sandesh Mahatme
Executive Vice President,
Chief Financial Officer and
Chief Business Officer
(Principal Financial and Accounting Officer)

EXHIBIT INDEX

Exhibit Number	Exhibit Description	Incorporated by Reference to Filings Indicated				Provided Herewith
		Form	File No.	Exhibit	Filing Date	
10.1	Amendment No. 1 to the License and Collaboration Agreement between Summit (Oxford) Ltd. and Sarepta Therapeutics Inc. dated June 13, 2017					X
10.2†	Employment Agreement, dated as of June 26, 2017, between Sarepta Therapeutics, Inc. and Douglas S. Ingram	8-K	001-14895	10.1	6/28/2017	
10.3†	Change in Control and Severance Agreement by and between Douglas S. Ingram and Sarepta Therapeutics, Inc., effective June 26, 2017	8-K	001-14895	10.2	6/28/2017	
10.4†	Amendment No. 1 to the Sarepta Therapeutics, Inc. 2014 Employment Commencement Incentive Plan	8-K	001-14895	10.3	6/28/2017	
10.5†	Restricted Stock Agreement under the 2014 Employment Commencement Incentive Plan	8-K	001-14895	10.4	6/28/2017	
10.6†	Performance Stock Option Award Agreement under the 2014 Employment Commencement Incentive Plan	8-K	001-14895	10.5	6/28/2017	
10.7	Settlement Agreement between Sarepta Therapeutics, Inc., Sarepta International C.V. and The University of Western Australia on the one hand, and BioMarin Leiden Holding BV, BioMarin Nederlands BV and BioMarin Technologies BV on the other hand dated July 17, 2017					X
10.8*	License Agreement between Sarepta Therapeutics, Inc. and Sarepta International C.V. on the one hand and BioMarin Leiden Holding BV, BioMarin Nederlands BV and BioMarin Technologies BV on the other hand dated July 17, 2017					X
10.9	Amended and Restated Credit and Security Agreement between Sarepta Therapeutics, Inc. and MidCap Financial Trust dated July 18, 2017					X
10.10	Revolving Credit and Security Agreement between Sarepta Therapeutics, Inc. and MidCap Financial Trust dated July 18, 2017					X
10.11	Amendment to the Pledge Agreement related to the Amended and Restated Credit and Security Agreement between Sarepta Therapeutics, Inc. and MidCap Financial Trust dated July 18, 2017					X
10.12	Pledge Agreement related to the Revolving Credit Agreement between Sarepta Therapeutics, Inc. and MidCap Financial Trust dated July 18, 2017					X
31.1	Certification of the Company's Chief Executive Officer, Douglas S. Ingram, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X

Exhibit Number	Exhibit Description	Incorporated by Reference to Filings Indicated				Provided Herewith
		Form	File No.	Exhibit	Filing Date	
31.2	Certification of the Company's Executive Vice President, Chief Financial Officer and Chief Business Officer, Sandesh Mahatme, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1**	Certification of the Company's Chief Executive Officer, Douglas S. Ingram, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
32.2**	Certification of the Company's Executive Vice President, Chief Financial Officer and Chief Business Officer, Sandesh Mahatme, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	XBRL Instance Document.					X
101.SCH	XBRL Taxonomy Extension Schema Document.					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.					X

† Indicates management contract or compensatory plan, contract or arrangement.

* Confidential treatment has been requested for portions of this exhibit.

** The Certifications attached as Exhibits 32.1 and 32.2 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the SEC and are not to be incorporated by reference into any filings of Sarepta Therapeutics, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Form 10-Q, irrespective of any general incorporation language contained in such filing.

AMENDMENT NO. 1
to the
LICENSE AND COLLABORATION AGREEMENT
between
SUMMIT (OXFORD) LIMITED
and
SAREPTA THERAPEUTICS, INC.

This Amendment No. 1 to the License and Collaboration Agreement ("**Amendment No. 1**") is made on June 13, 2017 ("**Amendment No. 1 Execution Date**"), with retroactive effect to April 3, 2017 ("**Amendment No. 1 Effective Date**"), by and between **Summit (Oxford) Limited**, a company organized and existing under the laws of England and Wales ("**Summit**") and **Sarepta Therapeutics, Inc.**, a corporation organized and existing under the laws of Delaware ("**Sarepta**").

WHEREAS, Summit and Sarepta entered into a License and Collaboration Agreement dated October 3, 2016 (the "**Agreement**");

WHEREAS, the parties wish to amend the Agreement in order to extend the dates by which the Parties must enter into the Pharmacovigilance Agreement and the Supply Agreements and related quality agreements;

NOW THEREFORE, in consideration of the mutual covenants set forth in this Amendment No. 1, and other good and valuable consideration, the parties agree as follows:

1. All capitalized terms not defined in this Amendment No. 1 shall have the meanings set forth in the Agreement.

2. The clause "Within six (6) months after the Effective Date" in Section 3.4 of the Agreement is hereby amended to read as follows: "Prior to December 31, 2018."

3. The clause "Within twelve (12) months after the Effective Date" in Section 6.2 of the Agreement is hereby amended to read as follows: "Prior to December 31, 2018."

4. Entire Agreement/Amendments. Except as amended by this Amendment No. 1, the Agreement shall remain in full force and effect. After the Amendment No. 1 Effective Date, every reference in the Agreement to the "Agreement" shall mean the Agreement as amended by this Amendment No. 1.

5. Counterparts. This Amendment No. 1 may be executed in two or more counterparts, including by facsimile or PDF signature pages, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 as of the Amendment No. 1 Execution Date.

SAREPTA THERAPEUTICS, INC.

BY: /s/ David T. Howton

NAME: David T. Howton

TITLE: Sr. Vice President & General Counsel

SUMMIT (OXFORD) LTD

BY: /s/ Glyn Edwards

NAME: Glyn Edwards

TITLE: CEO

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Exhibit 10.7

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("**Agreement**") is executed as of July 17, 2017 (the "**Execution Date**"), by and between **Sarepta Therapeutics, Inc.**, with offices at 215 First Street, Suite 415, Cambridge, MA 02142, USA and **Sarepta International C.V.**, with offices at Fred. Roeskestraat 123, 1076 EE Amsterdam, The Netherlands (collectively, "**Sarepta**"), **The University of Western Australia** having its principal office at 35 Stirling Highway, Crawley, Australia 6009 ("**UWA**") on the one hand, and BioMarin Leiden Holding BV and its subsidiaries, BioMarin Nederlands BV and BioMarin Technologies BV (collectively, "**BioMarin**"), and Academisch Ziekenhuis Leiden ("**AZL**"), having its principal office at Albinusdreef 2, 2333 ZA Leiden, Netherlands on the other hand. BioMarin, AZL, Sarepta and UWA may, from time-to-time, be individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

RECITALS

WHEREAS, AZL is named as the sole owner of the entire right, title and interest in and to **[**]** and all patents and patent applications claiming priority thereto or derived therefrom;

WHEREAS, AZL is named as the sole owner of the entire right, title and interest in and to **[**]** and all patents and patent applications claiming priority thereto or derived therefrom;

WHEREAS, AZL and Prosensa Technologies B.V. are named as joint owners of the entire right, title and interest in and to **[**]** and all patents and patent applications claiming priority thereto or derived therefrom;

WHEREAS, AZL, Prosensa Technologies B.V., Prosensa B.V., and Prosensa Holding B.V. are named as joint owners of the entire right, title and interest in and to **[**]** and all patents and patent applications claiming priority thereto or derived therefrom;

WHEREAS, UWA is named as the sole owner of the entire right, title and interest in and to **[**]** and all patents and patent applications claiming priority thereto or derived therefrom;

WHEREAS, AZL exclusively licensed to BioMarin certain of its right, title and interest in and to certain patent applications and patents in the Actions (as defined below) pursuant to (i) a certain Research and License Agreement by and between Prosensa Holding B.V. and AZL, acting under the name of Leiden University Medical Center, dated as of September 1, 2003, as amended as of March 1, 2008 and (ii) the acquisition of Prosensa Holding B.V. by BioMarin;

WHEREAS, UWA exclusively licensed to Sarepta its entire right, title and interest in and to certain patents in the Actions pursuant to a certain Exclusive License Agreement, dated as of November 24, 2008, as amended and restated pursuant to a certain Amended and Restated Exclusive License Agreement, dated as of April 10, 2013, as amended as of June 19, 2016;

WHEREAS, Sarepta opposed the following European patents **[**]**;

WHEREAS, Sarepta and BioMarin both appealed the Interlocutory Decision of the Opposition Division of the European Patent Office (the "**EPO**") dated April 15, 2013 for EP '249 (the "**EP '249 Appeal**");

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**;

WHEREAS, **[**]**.

WHEREAS, AZL, BioMarin, UWA and Sarepta desire to resolve the Actions without further cost and delay and avoid future conflicts and controversies concerning the Parties' respective intellectual property that each owns or controls in the field of exon skipping for muscular dystrophy;

WHEREAS, BioMarin and Sarepta are entering into that certain License Agreement, effective as of the Effective Date (the "**License Agreement**"), executed contemporaneously with this Agreement;

NOW, THEREFORE, the Parties, intending to be legally bound hereby, agree as follows:

1. DEFINITIONS

1.1. "**[**]**" has the meaning set forth in the Recitals.

1.2. "**[**]**" has the meaning set forth in the Recitals.

1.3. "**[**]**" has the meaning set forth in the Recitals.

1.4. "**Actions**" means all conflicts and controversies concerning, and all oppositions of, Patents that are owned or controlled by the Parties, and all appeals thereof, in each case between any of BioMarin, AZL, Sarepta, and UWA, or any Affiliate thereof. The Actions are identified in Schedule 1.1 (Actions).

1.5. "**Affiliate**" means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" will refer to: (a) the possession, directly or indirectly, of the power to direct the management or policies of an entity, whether through the ownership of voting securities, by contract or otherwise; or (b) the ownership, directly or indirectly, of 50% or more of the voting securities of such entity.

1.6. "**Agreement**" has the meaning set forth in the preamble.

1.7. "**Applicable Law**" means all applicable laws, statutes, rules, regulations and guidelines, including all good manufacturing practices and all applicable standards or guidelines promulgated by a regulatory authority.

1.8. "**AZL**" has the meaning set forth in the preamble.

1.9. "**[**]**" has the meaning set forth in the Recitals.

1.10. "**[**]**" has the meaning set forth in the Recitals.

1.11. "**[**]**" has the meaning set forth in the Recitals.

1.12. "**[**]**" has the meaning set forth in the Recitals.

1.13. "**[**]**" has the meaning set forth in the Recitals.

1.14. "**[**]**" has the meaning set forth in the Recitals.

1.15. "**BioMarin**" has the meaning set forth in the preamble.

1.16. **"BioMarin Involved IP**" has the meaning set forth in Section 4.1 (BioMarin Release of Sarepta).

1.17. "**Business Day**" means any day other than a Saturday, a Sunday or a day on which commercial banks located in New York, New York are authorized or required by law to remain closed.

1.18. "**CDA**" means the Mutual Non-Disclosure Agreement, dated as of **[**]**, by and between Sarepta Therapuetics, Inc. and BioMarin Pharmaceutical Inc., as amended.

1.19. "**Challenged Party**" has the meaning set forth in Section 8.3 (Patent Challenge Prohibition).

1.20. "**Challenging Party**" has the meaning set forth in Section 8.3 (Patent Challenge Prohibition).

1.21. "**Change of Control**" will occur with respect to a Party if: (a) any Third Party acquires directly or indirectly the beneficial ownership of any voting security of such Party, or if the percentage ownership of such Third Party in the voting securities of such Party is increased through stock redemption, cancellation or other recapitalization, and immediately after such acquisition or increase such Third Party is, directly or indirectly, the beneficial owner of voting securities representing more than 50% of the total voting power of all of the then outstanding voting securities of such Party; (b) a merger, consolidation, recapitalization or reorganization of such Party is consummated, other than any such transaction, which would result in shareholders or equity holders of such Party immediately prior to such transaction, owning at least fifty percent 50% of the outstanding voting securities of the surviving entity (or its parent entity) immediately following such transaction; (c) the shareholders or equity holders of such Party approve a plan of complete liquidation of such Party, or an agreement for the sale or disposition by such Party of all or substantially all of such Party's assets, other than pursuant to the transaction described above or to an Affiliate; or (d) the sale or transfer to a Third Party of all or substantially all of such Party's consolidated assets taken as a whole.

1.22. "**Claims**" means any claims, counterclaims, cross-claims, defenses, allegations, demands, debts, dues, liabilities, requests for declaratory relief, proceedings, actions, or causes of action of any kind and of whatsoever nature or character, arising in any jurisdiction in the world (regardless of whether existing in the past or present, whether known or unknown, or whether accrued, actual, contingent, latent or otherwise) made or brought for the purpose of recovering any damages (including Damages) or royalties or obtaining any equitable relief or any other relief of any kind and any and all claims for reimbursement of legal fees, costs and disbursements.

1.23. "**Confidential Information**" has the meaning set forth in Section 6.1 (Definition).

1.24. "**Damages**" means damages of any kind or nature (including claims for an account of profits), past, present, or future, arising from any Claims based on acts or omissions occurring on or before the Effective Date in any jurisdiction in the world or available under any state, provincial, federal, or international law, or the law of any country (or any other act, action, administrative rule or procedure, legislation or regulation of any kind or description), including any actual, general, specific, direct, indirect, commercial, economic, consequential, incidental, special, punitive, exemplary, or treble damages, that can be obtained directly, indirectly, or by way of contribution or indemnity, under any theory of liability whatsoever, including but not limited to, any liability that is contributory, strict, contractual or tortious in character, whether at law or in equity. The term "Damages" will also include loss of revenue, loss of expected profits or expected savings, extradition of infringer's

profits, fines, monetary penalties, court costs, interest, pre-judgment and post-judgment interest, attorney's fees, expert fees, and any other related costs or expenses. "Damages" will specifically include damages for unknown Claims that are based on acts or omissions occurring on or before the Effective Date that are unknown to the claiming party as of the Effective Date.

1.25. "**Effective Date**" has the meaning given in Section 9.15 (Effective Date).

1.26. "**Enforcing Party**" has the meaning set forth in the License Agreement.

1.27. "**Execution Date**" has the meaning set forth in the preamble.

1.28. "**[**]**" has the meaning set forth in the Recitals.

1.29. "**EP '249**" has the meaning set forth in the Recitals.

1.30. "**[**]**" has the meaning set forth in the Recitals.

1.31. "**[**]**" has the meaning set forth in the Recitals.

1.32. "**[**]**" has the meaning set forth in the Recitals.

1.33. "**[**]**" has the meaning set forth in the Recitals.

1.34. "**[**]**" has the meaning set forth in the Recitals.

1.35. "**[**]**" has the meaning set forth in the Recitals.

1.36. "**[**]**" has the meaning set forth in the Recitals.

1.37. "**[**]**" has the meaning set forth in the Recitals.

1.38. "**[**]**" has the meaning set forth in the Recitals.

1.39. "**[**]**" has the meaning set forth in the Recitals.

1.40. "**[**]**" has the meaning set forth in the Recitals.

1.41. "**EP '249 Appeal**" has the meaning set forth in the Recitals.

1.42. "**EP [**] Oppositions**" has the meaning set forth in the Recitals.

1.43. "**EPO**" has the meaning set forth in the Recitals.

1.44. "**EPO Appeal Board**" means the technical boards of appeal and the Legal Board of the EPO.

1.45. "**Federal Circuit**" has the meaning set forth in the Recitals.

1.46. "**Government**" means the government of the United States of America.

1.47. "**License Agreement**" has the meaning set forth in the Recitals.

1.48. "**Licensed IP**" has the meaning set forth in the License Agreement.

1.49. "**Licensed Patent**" has the meaning set forth in the License Agreement.

1.50. "**[**]**" has the meaning set forth in the Recitals.

1.51. "**[**]**" has the meaning set forth in the Recitals.

1.52. "**Opposable Patents**" has the meaning set forth in the Recitals.

1.53. "**Party**" and "**Parties**" has the meaning set forth in the preamble.

1.54. "**Patent Challenge**" has the meaning set forth in Section 8.3 (Patent Challenge Prohibition).

1.55. "**Person**" means an individual, corporation, partnership, limited liability company, trust, business trust, association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, governmental authority or any other form of entity not specifically listed herein.

1.56. "**[**]**" has the meaning set forth in the Recitals.

1.57. "**[**]**" has the meaning set forth in the Recitals.

1.58. "**[**]**" has the meaning set forth in the Recitals.

1.59. "**[**]**" has the meaning set forth in the Recitals.

1.60. "**Recipient**" has the meaning set forth in Section 6.2 (Obligations).

1.61. "**Sarepta**" has the meaning set forth in the preamble.

1.62. **"Sarepta Involved IP**" has the meaning set forth in Section 4.2 (Sarepta Release of BioMarin).

1.63. "**Sarepta Related Entities**" has the meaning set forth in Section 4.1 (BioMarin Release of Sarepta).

1.64. "**Term**" has the meaning set forth in Section 8.1 (Term).

1.65. **Territory**" means worldwide.

1.66. "**Third Party**" means any Person other than a Party or an Affiliate of a Party.

1.67. "**UK**" means the countries of England, Scotland, Wales and Northern Ireland.

1.68. "**UK Court**" means the Patents Court in The Chancery Division of The High Court of England and Wales

1.69. "**UK Revocation Action**" has the meaning set forth in the Recitals.

1.70. "**USPTO**" has the meaning set forth in the Recitals.

1.71. "**UWA**" has the meaning set forth in the preamble.

1.72. "**[**]**" has the meaning set forth in the Recitals.

1.73. "**[**]**" has the meaning set forth in the Recitals.

1.74. "**[**]**" has the meaning set forth in the Recitals.

1.75. "**[**]**" has the meaning set forth in the Recitals.

1.76. "**[**]**" has the meaning set forth in the Recitals.

2. SETTLING ALL OUTSTANDING ACTIONS

2.1. **Settlement of Actions and Future Conflicts.** The Parties agree they will take all necessary steps to stop and abandon any presently existing efforts to continue with the Actions and take affirmative actions to dismiss the Actions in accordance with this Section 2. The Parties further agree to avoid and not initiate any actions that are reasonably likely to initiate a future legal intellectual property conflict involving the subject matter generally described in the patents and patent applications in the Actions. To the extent such a legal conflict arises despite the best efforts of the Parties to avoid the conflict and without any action of a Party to initiate the conflict, the Parties agree in good faith to promptly resolve and settle any such future dispute in accordance with the manner set forth in this Agreement. Notwithstanding anything to the contrary in this Section 2.1 (Settlement of Actions and Future Conflicts) or elsewhere in this Agreement, Sarepta may bring a Patent Challenge under Section 6.1.3 (Prosecution Dispute Escalation) of the License Agreement and Sarepta and BioMarin may initiate and resolve a Patent Coverage Dispute (as defined in the License Agreement) under Section 6.4 (Patent Coverage Disputes) of the License Agreement.

2.2. **The US Interference Appeals.**

2.2.1. AZL and Sarepta, on behalf of UWA, agree to and shall file a signed Dismissal Agreement in the Federal Circuit with respect to Docket No. **[**]** within 3 (three) business days of the execution of this Agreement. The

Dismissal Agreement will be in the form of the document attached to this Agreement as Schedule 2.2.1.

2.2.2. AZL and Sarepta, on behalf of UWA, agree to and shall file a signed Dismissal Agreement in the Federal Circuit with respect to Docket No. **[**]** within 3 (three) business days of the execution of this Agreement. The Dismissal Agreement will be in the form of the document attached to this Agreement as Schedule 2.2.2.

2.2.3. AZL and Sarepta, on behalf of UWA, agree to and shall file a signed Dismissal Agreement in the Federal Circuit with respect to Docket Nos. **[**]** within 3 (three) business days of the execution of this Agreement. The Dismissal Agreement will be in the form of the document attached to this Agreement as Schedule 2.2.3.

2.2.4. The Parties agree not to take any action or prompt or facilitate a Third Party to take any action to further the **[**]**, the **[**]**, the **[**]**, or appeals thereof, including the appeals at the Federal Circuit.

2.2.5. To the extent the USPTO declares an interference between patents and/or applications that claim priority to either the **[**]** or the **[**]** after the Effective Date, the Parties agree in good faith to promptly resolve and settle any such future dispute in accordance with the manner set forth in this Agreement. BioMarin and AZL agree to expressly abandon the **[**]** if the USPTO declares an interference between the **[**]** (or a subsequently filed application with substantially similar claims claiming priority to the **[**]**) and a patent claiming priority to the **[**]**.

2.2.6. BioMarin and AZL agree to expressly abandon the **[**]** and the **[**]** and shall file with the USPTO a Petition for Express Abandonment pursuant to 37 C.F.R. § 1.138 in the form of the document attached to this Agreement as Schedule 2.2.6.

2.3. The UK Revocation Action.

2.3.1. Sarepta Therapeutics, Inc., BioMarin Technologies B.V., and AZL shall, alongside this Agreement, sign a Notice of Discontinuance and a Consent Order in the form of the documents attached to this Agreement as Schedule 2.3.1. Sarepta shall as soon as practicable thereafter file said Consent Order with the UK Court for sealing.

2.3.2. Once said Consent Order has been sealed by the UK Court, Sarepta agrees to immediately withdraw the UK Revocation Action by filing with the UK Court and serving on BioMarin and AZL or their local counsel said Notice of Discontinuance and sealed Consent Order.

2.3.3. AZL and BioMarin agree not to take any action or prompt or facilitate a Third Party from taking any substantive action to further their application pursuant to section 75 of the Patents Act 1977 to amend European Patent (UK) No. 1619249 (B1) dated May 2, 2017. The Parties acknowledge and agree that European Patent (UK) No. 1619249 (B1) will be maintained in amended form as determined by the EPO in its Interlocutory Decision on April 15, 2013 for EP '249, or the form of the claims as determined by the EPO Appeal Board, if applicable, unless EP '249 is invalidated, revoked, amended or otherwise rejected by the UK Patent Office or a court in the UK having authority and without any action or involvement by Sarepta or UWA.

2.4. The EP '249 Appeal.

2.4.1. Sarepta agrees to immediately withdraw its appeal of the Interlocutory Decision in connection with opposition of EP '249 dated April 15, 2013 by filing a Withdrawal of Appeal with the EPO in the form of the document attached to this Agreement as Schedule 2.4.1.

2.4.2. BioMarin shall be permitted to further the EP '249 Appeal. Sarepta agrees not to take any action or prompt or facilitate a Third Party to take any action to further the EP '249 Appeal except to address any formalities as requested by the EPO to effect resolution and discontinuation of the EP '249 Appeal. **[**]**.

2.4.3. The Parties acknowledge and agree that EP '249 will be maintained in amended form as determined by the EPO in its Interlocutory Decision on April 15, 2013, or the form of the claims as determined by the EPO Appeal Board, if applicable, unless EP '249 is invalidated, revoked, amended or otherwise rejected by the EPO or a Court having authority and without any action or involvement by Sarepta or UWA.

2.4.4. Upon the EPO issuing a final decision in the EP '249 Appeal, BioMarin shall revalidate the EP '249, as directed or necessary, in any country where the EP '249 is validated as of the Effective Date.

2.5. The Remaining EP [**] Oppositions.

2.5.1. Subject to Section 2.4 (The EP '249 Appeal) as to EP 249, Sarepta agrees to immediately withdraw all EP **[**]** Oppositions that it filed by filing in each EP **[**]** Opposition a Withdrawal of Opposition with the EPO in the form of the document attached to this Agreement as Schedule 2.5.1. Sarepta agrees that it will not take any action or prompt or facilitate a Third Party to take any substantive action to further the EP **[**]** Oppositions.

2.5.2. Subject to Section 2.5.3 and Section 2.5, BioMarin and AZL agree not to further defend the validity of the patents that are the subject of the EP **[**]** Oppositions by filing in each case a Withdrawal of Request for Oral Proceedings with the EPO in the form of the document attached to this Agreement as Schedule 2.5.2. Subject to Section 2.5.3, BioMarin and AZL agree to allow the EP **[**]** Oppositions to continue in writing based on the submissions of record as of the Effective Date and will not take any substantive action to influence the outcome of oppositions against the patents that are the subject of the EP **[**]** Oppositions. Subject to Section 2.5.3, the Parties agree not to appeal any decision of the EPO in any of the EP **[**]** Oppositions and to be bound by any such decision of the EPO in any such EP **[**]** Opposition, if any. Subject to Section 2.5.3, upon the Parties filing their respective notices with the EPO pursuant to this Section 2.5, any paper proposed to be filed with the EPO by one Party in the EP **[**]** Oppositions after such Notice of Withdrawal will be sent to the other Party for review and comment reasonably in advance of such filing, but not less than 5 (five) business days of the date of the proposed filing, the acceptance of such comments and implementation of which shall not be unreasonably withheld.

2.5.3. AZL and BioMarin will not file a Withdrawal of Request for Oral Proceedings in the opposition proceedings in connection with **[**]** or **[**]**. BioMarin will **[**]**. The Parties agree that AZL and BioMarin will **[**]**. **[**]** agree to keep **[**]** timely informed of all substantive communications to and from the EPO and the Third Party opponent(s) in the oppositions of **[**]** and **[**]** and will provide **[**]** with any paper proposed to be filed with the EPO for review and comment reasonably in advance of such filing, but not less than 15 (fifteen) business days of the date of the proposed filing, the acceptance of such comments and implementation of which shall not be unreasonably withheld, as well as permit **[**]** support of the defense of **[**]** and **[**]**.

2.5.4. Sarepta agrees that it will neither oppose the Opposable Patents nor instruct a Third Party to oppose the Opposable Patents.

2.6. The [**] Opposition.

2.6.1. Sarepta agrees to immediately cease pursuing the **[**]** Opposition **[**]** the filing at the EPO of a Withdrawal of Opposition in the form of the document attached to this Agreement as Schedule 2.6.1. Sarepta agrees that it will not take any action or prompt or facilitate a Third Party to take any substantive action to further the **[**]** Opposition.

2.6.2. BioMarin and AZL agree not to further defend the validity of the patents that are the subject of the **[**]** Opposition by filing at the EPO a Withdrawal of Request for Oral Proceedings in the form of the document attached to

this Agreement as Schedule 2.6.2. BioMarin and AZL agree to allow the **[**]** Opposition to continue in writing based on the submissions of record as of the Effective Date and will not take any substantive action to influence the outcome of that opposition. The Parties agree not to appeal any decision of the EPO in the **[**]** Opposition and to be bound by any such decision of the EPO in the **[**]** Opposition, if any. Upon the Parties filing their respective notices with the EPO pursuant to this Section 2.6, any paper proposed to be filed with the EPO by one Party in the **[**]** Opposition after the filing of such notices will be sent to the other Party for review and comment reasonably in advance of such filing, but not less than 5 (five) business days of the date of the proposed filing, the acceptance of such comments and implementation of which shall not be unreasonably withheld.

2.7. The [**] Oppositions.

2.7.1. Sarepta agrees to immediately cease pursuing all **[**]** Oppositions **[**]** filing at the EPO of a Withdrawal of Opposition against **[**]** in the form of the document attached to this Agreement as Schedule 2.7.1 and by not effecting the filing of an appeal against the Interlocutory Decision of the Opposition Division of the EPO in respect of **[**]**. Sarepta agrees that it will not take any action or prompt or facilitate a Third Party to take any substantive action to further the **[**]** Oppositions.

2.7.2. BioMarin and AZL agree not to further defend the validity of the patents that are the subject of the **[**]** Oppositions by filing at the EPO a Withdrawal of Request for Oral Proceedings in respect of **[**]** in the form of the document attached to this Agreement as Schedule 2.7.2 and by not filing an appeal against the Interlocutory Decision of the Opposition Division of the EPO in respect of **[**]**. BioMarin and AZL agree to allow the opposition to **[**]** to continue in writing based on the submissions on the record as of the Effective Date and will not take any substantive action to influence the outcome of that opposition. The Parties agree not to appeal any decision of the EPO in respect of any of the **[**]** Oppositions and to be bound by any such decision of the EPO in any **[**]** Opposition. Upon the Parties filing their respective notices with the EPO in respect of **[**]** pursuant to this Section 2.7, and upon the expiry of the time period for filing an appeal against the Interlocutory Decision of the Opposition Division of the EPO in respect of **[**]**, any paper proposed to be filed with the EPO by one Party in any of the **[**]** Oppositions after the filing of such notices will be sent to the other Party for review and comment reasonably in advance of such filing, but not less than 5 (five) business days of the date of the proposed filing, the acceptance of such comments and implementation of which shall not be unreasonably withheld.

3. FILING OF PAPERS; COOPERATION

3.1. To the extent this Agreement and/or the License Agreement is required to be filed with a governmental authority in a country in the Territory under Applicable Law, the Parties agree to effect such filing under seal, if possible, pursuant to Section 6.4.1 (Compliance with Law). The Parties agree that this Agreement and the License Agreement, will be filed in the USPTO by Sarepta, on behalf of UWA, in accordance with 37 C.F.R. §41.205/35 U.S.C. §135(c). Sarepta, on behalf of UWA, will file the Agreements in a sealed envelope and request that the documents be kept separate from the files of the interferences, and made available only to Government agencies on written request, **[**]**.

3.2. The Parties will cooperate with each other and promptly furnish any and all papers requested by any authority to complete, resolve and settle the Actions in accordance with this Agreement.

4. RELEASE

4.1. **BioMarin Release of Sarepta.** BioMarin and AZL, on behalf of themselves and each of their Affiliates, officers, directors, inventors, managers, members, employees, contractors, agents, experts, consultants, attorneys, successors-in-interest to the Licensed IP (as defined in the License Agreement), including the patents and patent applications involved in the Actions, and predecessors-in-interest to the Licensed IP, including the patents and patent applications involved in the Actions, hereby irrevocably settles, releases, and forever discharges: (a) Sarepta and any Affiliate, successor, or assign, and each of their officers, directors, managers, members, employees, experts, consultants, and attorneys (collectively, "**Sarepta Related Entities**", and each a "**Sarepta Related Entity**") and UWA and its officers, directors, managers, members, employees, experts, consultants, and attorneys, from any and all Claims or Damages of any kind or nature, at law, in equity, or otherwise, known or unknown, suspected or unsuspected, disclosed or undisclosed, relating to, based upon, or arising out of the Licensed IP (as defined in the License Agreement), including the patents and patent applications it controls that are involved in the Actions in any country or any region in the Territory (collectively, **"BioMarin Involved IP**"), or Actions, including any act of past, present or future infringement, misappropriation, or other violation of any portion of the BioMarin Involved IP; and (b) any Sarepta or Sarepta Related Entity customer, end-user, agent, supplier, distributor, reseller, contractor, consultant, service or partner, in relation to any Sarepta or Sarepta Related Entity product or service from any and all Claims or liabilities of any kind or nature, at law, in equity, or otherwise, known or unknown, suspected or unsuspected, disclosed or undisclosed, throughout the world, relating to, based upon, or arising out of the BioMarin Involved IP or the Claims asserted in the Actions or potentially asserted in an action arising out of the BioMarin Involved IP.

4.2. **Sarepta Release of BioMarin.** Sarepta, on behalf of itself and UWA, and each of their Affiliates, officers, directors, inventors, managers, members, employees, contractors, agents, experts, consultants, attorneys, successors-in-interest to the patents and patent applications involved in the Actions, and predecessors-in-interest to the patents and patent applications involved in the Actions, hereby irrevocably settles, releases, and forever discharges: (a) BioMarin and any Affiliate, successor, or assign, and each of their officers, directors, managers, members, employees, experts, consultants, and attorneys (collectively, "**BioMarin Related Entities**", and each a "**BioMarin Related Entity**") and AZL and its officers, directors, managers, members, employees, experts, consultants, and attorneys, from any and all Claims or Damages of any kind or nature, at law, in equity, or otherwise, known or unknown, suspected or unsuspected, disclosed or undisclosed, relating to, based upon, or arising out of the patents it controls that are involved in the Actions, or any application that claims priority from such patents and patent applications and any patents granting therefrom, any application to which any of the foregoing applications claims priority and any patents granting therefrom, and all divisionals, continuations, continuations-in-part, reissues, extensions and reexaminations of any such application in any country or any region in the Territory (collectively, **"Sarepta Involved IP**") or Actions, including any act of past, present or future infringement, misappropriation, or other violation of any portion arising from the Sarepta Involved IP; and (b) any BioMarin or BioMarin Related Entity customer, end-user, agent, supplier, distributor, reseller, contractor, consultant, service or partner, in relation to any BioMarin or BioMarin Related Entity product or service from any and all Claims or liabilities of any kind or nature, at law, in equity, or otherwise, known or unknown, suspected or unsuspected, disclosed or undisclosed, throughout the world, relating to, based upon, or arising out of the Sarepta Involved IP or the Claims asserted in the Actions or potentially asserted in an action arising out of the Sarepta Involved IP.

5. PAYMENT TERMS

5.1. **Settlement Payment.** Within 10 days following the Effective Date, Sarepta will pay BioMarin a one-time, non-refundable, non-creditable settlement payment of twenty million U.S. Dollars ($20,000,000). BioMarin and AZL acknowledge and agree that UWA shall have no obligation to make the foregoing payment and shall not have any liability resulting from Sarepta not making the foregoing payment.

5.2. **Costs of Settling.** Each Party agrees to bear its own costs and legal fees incurred prior to and after the Effective Date in connection with the Actions and any related matters, including those associated with its performance under the terms and conditions of this Agreement.

5.3. **Late Payments**. Any late payments will bear interest, accruing and compounding daily from the date such payment is due, at the lower rate of (a) an annual rate of **[**]** percent (**[**]**%) and (b) the highest rate permitted under Applicable Law.

5.4. **Payment Method**.

5.4.1. **Method of Payment**. All payments due hereunder will be made by wire transfer in U.S. Dollars to the credit of such bank account as may be designated by BioMarin in writing to Sarepta. Any payment which falls due on a date which is not a Business Day may be made on the next succeeding Business Day.

6. CONFIDENTIALITY

6.1. **Definition**. "**Confidential Information**" means (a) the terms and provisions of this Agreement, including discussions and drafts relating thereto and (b) information disclosed in connection with the prosecution, maintenance, enforcement or defense of the patents and patent applications involved in the Actions. Notwithstanding anything to the contrary herein, the terms and provisions of this Agreement will be deemed the Confidential Information of both Parties.

6.2. **Obligations**. During the term of this Agreement and for 10 years thereafter, the receiving Party will (a) protect all Confidential Information of the disclosing Party against unauthorized disclosure to Third Parties and (b) not use or disclose the Confidential Information of the disclosing Party, except as permitted by or in furtherance of exercising rights or carrying out obligations hereunder or for internal legal, accounting or finance purposes. The receiving Party will treat all Confidential Information provided by the disclosing Party with the same degree of care as the receiving Party uses for its own similar information, but in no event less than a reasonable degree of care. The receiving Party may disclose the Confidential Information to its Affiliates, and their respective directors, officers, employees, subcontractors, sublicensees, consultants, attorneys, accountants, banks and investors (collectively, "**Recipients**") who have a need-to-know such information for purposes related to this Agreement, provided that the receiving Party will hold such Recipients to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement.

6.3. **Exceptions to Confidentiality**. The obligations under this Section 6 (Confidentiality) will not apply to any information to the extent the receiving Party can demonstrate by competent evidence that such information:

(a) is (at the time of disclosure) or becomes (after the time of disclosure) known to the public or part of the public domain through no breach

of this Agreement by the receiving Party or any Recipients to whom it disclosed such information;

(b) was known to, or was otherwise in the possession of, the receiving Party prior to the time of disclosure by the disclosing Party;

(c) is disclosed to the receiving Party on a non-confidential basis by a Third Party who is entitled to disclose it without breaching any confidentiality obligation to the disclosing Party; or

(d) is independently developed by or on behalf of the receiving Party or any of its Affiliates, as evidenced by its written records, without use or access to the Confidential Information.

6.4. Permitted Disclosures.

6.4.1. **Compliance with Law**. The restrictions set forth in this Section 6 (Confidentiality) will not apply to any Confidential Information that the receiving Party is required to disclose under Applicable Law or a court order or other governmental order (including regulations of the Securities Exchange Commission and the rules of any securities exchange or market), provided that the receiving Party: (a) provides the disclosing Party with prompt notice of such disclosure requirement if legally permitted; (b) affords the disclosing Party an opportunity to oppose or limit, or secure confidential treatment for such required disclosure; and (c) if the disclosing Party is unsuccessful in its efforts pursuant to subsection (b), discloses only that portion of the Confidential Information that the receiving Party is legally required to disclose as advised by the receiving Party's legal counsel.

6.4.2. **Permitted Disclosures**. Notwithstanding the restrictions set forth in this Section 6 (Confidentiality), in the event that a Party wishes to enter into a sublicense in accordance with the License Agreement, such Party may disclose to a Third Party the existence and terms of this Agreement, provided that such Party will hold such Third Parties to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement.

6.4.3. **Disclosure of Agreement Terms**. Notwithstanding the restrictions set forth in this Section 6 (Confidentiality), a Party may, without the prior consent of the other Party, disclose the terms and provisions of this Agreement to any Third Party that (a) is performing diligence in connection with any permitted Change of Control or similar transaction, (b) is an underwriter or placement agent or its counsel in connection with any offering by such Party, or (c) is a permitted sublicensee under the License

Agreement or a permitted assignee of this Agreement, provided that such Party will hold such Third Party to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement.

6.5. **Right to Injunctive Relief**. Each Party agrees that breaches of this Section 6 (Confidentiality) may cause irreparable harm to the other Party and will entitle such other Party, in addition to any other remedies available to it (subject to the terms of this Agreement), the right to seek injunctive relief enjoining such action.

6.6. **Ongoing Obligation for Confidentiality**. Upon expiration or termination of this Agreement, the receiving Party will, and will cause its Recipients to, destroy, delete or return (as requested by the disclosing Party) any Confidential Information of the disclosing Party, except for one copy which may be retained in its confidential files solely for the purpose of confirming compliance with its obligations herein. Notwithstanding the foregoing, this Section 6.6 (Ongoing Obligation for Confidentiality) does not require (a) the alteration, modification, deletion or destruction of backup tapes or other backup media made in the ordinary course of business, or (b) the destruction or return of copies of this Agreement, provided that, in each case ((a) and (b)), any retained copies be maintained as Confidential Information in accordance with this Section 6 (Confidentiality).

7. REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1. **Representations and Warranties by Each Party**. Each Party represents and warrants, and covenants, as applicable, to the other Party as of the Effective Date that:

(a) *Organization; Power and Authority*. Such Party (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and (ii) has the power, authority and legal right, and is free to enter into this Agreement and, in so doing, will not violate any other agreement to which such Party is a party as of the Effective Date, or conflict with the rights granted to any Third Party;

(b) *Due Execution*. This Agreement has been duly executed and delivered on behalf of such Party and constitutes a legal, valid, and binding obligation of such Party and is enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity;

(c) *Authorization*. Such Party has taken all action necessary to authorize the execution and delivery of this Agreement;

(d) *Consents*. Such Party has obtained all necessary consents, approvals, and authorizations of all regulatory authorities and other Third Parties required to be obtained by such Party in connection with the execution and delivery of this Agreement and the performance of its obligations hereunder;

(e) *No Litigation.* There is no action or proceeding pending or, to the knowledge of such Party, threatened that could reasonably be expected to impair or delay the ability of such Party to perform its obligations under this Agreement; and

(f) *No Conflicts*. The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not and will not conflict with or violate any requirement of Applicable Law or any provision of the articles of incorporation, bylaws, limited partnership agreement, or any similar instrument of such Party, as applicable, in any material way, and (ii) do not and will not conflict with, violate or breach, or constitute a default or require any consent under, any contractual obligation or court or administrative order by which such Party is or will be bound.

7.2. Representations and Warranties by BioMarin. BioMarin represents and warrants to Sarepta as of the Effective Date that:

(a) *No Claims*. Except as disclosed in Schedule 7.2(a) or as a result of the Actions, there are no claims, judgments or settlements against or amounts with respect thereto owed by BioMarin or any of its Affiliates relating to the patents and patent applications that it controls in the Actions, and there are no pending or threatened lawsuits, revocation actions, invalidity or nullity proceedings, oppositions, interferences, reissue proceedings, re-examinations or other proceedings regarding any of such patents and patent applications.

7.3. Representations and Warranties by Sarepta. Sarepta represents and warrants to BioMarin as of the Effective Date that:

(a) *No Claims*. Except as disclosed in Schedule 7.3(a) or as a result of the Actions, to Sarepta's knowledge, there are no claims, judgments or settlements against or amounts with respect thereto owed by Sarepta or any of its Affiliates relating to the patents that it controls in the Actions.

(b) Authority to Bind UWA. Sarepta has the power, authority and legal right to bind UWA pursuant to any section of this Agreement under which Sarepta agrees to anything on behalf of UWA.

7.4. **Disclaimer**. Notwithstanding anything to the contrary herein, the Parties agree that Sarepta's entry into this Agreement and its payment obligations hereunder do not represent an admission or acknowledgement that the making, using or selling of any Sarepta product would, absent a license, infringe any claim of any patent or patent application, if issued, in the Actions. Sarepta hereby disclaims any such admission or acknowledgement.

8. TERM; TERMINATION

8.1. **Term**. The term of this Agreement will commence as of the Effective Date and, unless earlier terminated as expressly provided herein, will expire upon the last-to-expire patent or patent application, if granted, involved in the Actions, or any family member thereof, including extensions ("**Term**"). Except as expressly provided in this Section 8 (Term; Termination), BioMarin may not terminate this Agreement for any reason.

8.2. **Termination for Cause**. Each Party will have the right to terminate this Agreement in the event the other Party materially breaches this Agreement and fails to cure such breach within **[**]** of receiving notice thereof; provided, however, that if such breach is capable of being cured, but cannot be cured within such **[**]** period, and the breaching Party initiates actions to cure such breach within such period and thereafter diligently pursues such actions, the breaching Party will have such additional period as is reasonable to cure such breach. If either Party initiates a dispute in accordance with Section 9.3 (Governing Law; Exclusive Jurisdiction) to resolve a dispute or controversy in connection with the material breach for which termination is being sought and is diligently pursuing such procedure, then the cure period set forth in this Section 8.2 (Termination for Cause) will be tolled during the pendency of such dispute resolution procedure. Any termination by a Party under this Section 8.2 (Termination for Cause) will be without prejudice to any damages or other legal or equitable remedies to which it may be entitled from the other Party.

8.3. **Effect of Termination of the License Agreement**. If the License Agreement is terminated in its entirety, then this Agreement will automatically terminate in its entirety. If the License Agreement is terminated by Sarepta with respect to one or more Licensed Patents (as defined therein), then Section 8.4 (Patent Challenge Prohibition) and Section 8.5 (Patent Challenge Remedy) will not apply with respect to the Licensed Patent(s) to which the License Agreement was terminated.

8.4. **Patent Challenge Prohibition.** Except to the extent the following is unenforceable under the laws of a particular jurisdiction, each Party (the "**Challenged Party**") may pursue the applicable remedy set forth in Section 8.5 (Patent Challenge Remedy) if the other Party (the "**Challenging Party**") or its Affiliates, individually

or in association with any other person or entity, commences a legal action challenging the validity, enforceability or scope of any of the patents or patent applications involved in the Actions, where such legal action is not necessary or reasonably required to assert a cross-claim or a counter-claim, or in response to a subpoena or court or administrative law request or order (a "**Patent Challenge**"); provided, however, that the Challenged Party may not pursue such remedy as a result of any Patent Challenge (a) that the Challenging Party first asserts against the Challenged Party or any of its Affiliates as a defense to any claim of infringement in respect of the Sarepta Involved IP or the BioMarin Involved IP by the Challenged Party or any of its Affiliates, or (b) **[**]**.

8.5. **Patent Challenge Remedy**. Subject to the terms of Section 8.4 (Patent Challenge Prohibition), upon the commencement of a Patent Challenge (a) where the Challenging Party is Sarepta, BioMarin may terminate this Agreement and the License Agreement upon ninety (90) days' written notice to Sarepta, and (b) where the Challenging Party is BioMarin, the licenses granted by BioMarin to Sarepta under the License Agreement will be fully-paid and royalty-free, beginning on the date on which Sarepta is first notified of the Patent Challenge, in each case ((a) and (b)) notwithstanding anything to the contrary in the License Agreement other than the terms of the License Agreement described in this Section 8.5 (Patent Challenge Remedy). Notwithstanding anything to the contrary in this Section 8.5 (Patent Challenge Remedy) or elsewhere in this Agreement, if Sarepta brings a Patent Challenge under Section 6.1.3 (Prosecution Dispute Escalation) of the License Agreement, then BioMarin may terminate this Agreement and the License Agreement only with respect to the applicable Licensed Patent (as defined in the License Agreement) and only in the manner set forth in Section 6.1.3 (Prosecution Dispute Escalation) of the License Agreement. Further notwithstanding anything to the contrary in this Section 8.5 (Patent Challenge Remedy) or elsewhere in this Agreement, BioMarin may not terminate this Agreement or the License Agreement as a result of a Patent Coverage Dispute (as defined in the License Agreement) under Section 6.4 (Patent Coverage Disputes) of the License Agreement.

8.6. **Effect of Termination**.

8.6.1. **Accrued Obligations**. Termination or expiration of this Agreement will not affect the rights and obligations of the Parties accrued prior to termination or expiration hereof, including, without limitation, the non-refundable, non-creditable nature of the settlement payment described in Section 5.1 (Settlement Payment).

8.7. **Survival**. Without limiting the foregoing Section 8.6.1 (Accrued Obligations) the provisions of Section 1 (Definitions), Section 5.4 (Payment Method), Section 6 (Confidentiality), Section 7.4 (Disclaimer), Section 8.6 (Effect of Termination), Section 8.7 (Survival) and Section 9 (General Provision) will survive expiration or termination of this Agreement.

9. GENERAL PROVISIONS

9.1. **Assignment**. Neither Party may assign its rights and obligations under this Agreement without the other Party's prior written consent, except that: (a) BioMarin or Sarepta may assign its rights and obligations under this Agreement in whole or in part to one or more of its Affiliates without the consent of the other Party; and (b) BioMarin and Sarepta may assign this Agreement in connection with a Change of Control transaction or sale of substantially all the assets to which this Agreement relates; provided, that any such permitted assignee assumes all obligations of its assignor under this Agreement. The assigning Party will provide the other Party with prompt written notice of any such assignment. No permitted assignment will relieve the assignor of liability for its obligations hereunder. Any attempted assignment in contravention of the foregoing will be void.

9.2. **Severability**. Should one or more of the provisions of this Agreement become void or unenforceable as a matter of law, then such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement, and the Parties agree to substitute a valid and enforceable provision therefor which, as nearly as possible, achieves the desired economic effect and mutual understanding of the Parties under this Agreement.

9.3. **Governing Law; Exclusive Jurisdiction**.

9.3.1. **Governing Law**. This Agreement will be governed by and construed under the laws in effect in the State of New York, United States of America, without giving effect to any conflicts of laws provision thereof or of any other jurisdiction that would produce a contrary result.

9.3.2. **Jurisdiction**. Each Party, by its execution hereof, (a) hereby irrevocably submits to the exclusive jurisdiction of the state courts of the State of New York or the United States District Court for the Southern District of New York for the purpose of any and all actions, suits or proceedings arising in whole or in part out of, related to, based upon or in connection with this Agreement or the subject matter hereof, (b) hereby waives to the extent not prohibited by Applicable Law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such action brought in one of the above-named courts should be dismissed on grounds of *forum non conveniens*, should be transferred to any court other than one of the above-named courts, or should be stayed by reason of the pendency of some other proceeding in any other court other than one of the above-named courts, or that this Agreement or the subject matter hereof may not be enforced in or by such court, and (c) hereby agrees not to commence any such action other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the

transfer or removal of any such action to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, application may be made to any court of competent jurisdiction with respect to the enforcement of any judgment or award.

9.4. **Waivers and Amendments**. The failure of any Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement will not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other Party. No waiver will be effective unless it has been given in writing and signed by the Party giving such waiver. No provision of this Agreement may be amended or modified other than by a written document signed by authorized representatives of each Party.

9.5. **Relationship of the Parties**. Nothing contained in this Agreement will be deemed to constitute a partnership, joint venture, or legal entity of any type between Sarepta and BioMarin, or to constitute one Party as the agent of the other. Moreover, each Party agrees not to construe this Agreement, or any of the transactions contemplated hereby, as a partnership for any tax purposes. Each Party will act solely as an independent contractor, and nothing in this Agreement will be construed to give any Party the power or authority to act for, bind, or commit the other Party.

9.6. **Successors and Assigns**. This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

9.7. **Notices**. All notices, consents, waivers, and other communications under this Agreement must be in writing and will be deemed to have been duly given when: (a) delivered by hand (with written confirmation of receipt); (b) sent by fax (with written confirmation of receipt), provided that a copy is sent by an internationally recognized overnight delivery service (receipt requested); or (c) when received by the addressee, if sent by an internationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and fax numbers set forth below (or to such other addresses and fax numbers as a Party may designate by written notice):

If to Sarepta:

Sarepta Therapeutics, Inc.
215 First Street, Suite 415
Cambridge, MA 02142
Attention: General Counsel
Ty Howton
Email: **[**]**

With a copy (which will not constitute notice) to:

Ropes & Gray LLP
Prudential Tower

800 Boylston Street
Boston, MA 02199
Attention: David M. McIntosh
Email: David.McIntosh@ropesgray.com

If to UWA: The University of Western Australia
35 Stirling Highway
Crawley, Western Australia 6009
Attention: Director, Office of Industry and Innovation
Email: **[**]**

If to BioMarin: BioMarin Pharmaceutical, Inc.
105 Digital Drive
Novato, Ca 94949
Attention: General Counsel
G. Eric Davis, Esq.
Email: **[**]**

With a copy (which will not constitute notice) to:

Jones Day
4655 Executive Drive, Suite 1500
San Diego, Ca 92121
Attention: John E. Wehrli, Esq.
Email: jwehrli@jonesday.com

If to AZL: T.a.v. Prof. G.J.B. van Ommen
Postbus 9600
2300 RC Leiden
Einthovenweg 20
2333 ZC Leiden
Postzone: S4-P
cc. Dr. R. Smailes
Rijnsburgerweg 10
2333 AA Leiden

9.8. **No Third Party Beneficiary Rights**. Except as expressly provided in this Agreement, this Agreement is not intended to and will not be construed to give any Third Party any interest or rights (including, without limitation, any Third Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

9.9. **Entire Agreement**. This Agreement, together with its Schedules, and the Settlement Agreement and the CDA together set forth the entire agreement and

understanding of the Parties as to the subject matter hereof and supersede all proposals, oral or written, and all other prior communications between the Parties with respect to such subject matter. In the event of any conflict between a material provision of this Agreement and any Exhibit or Schedule hereto, the Agreement will control.

9.10. **Headings**. The headings to the Sections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the several Sections hereof.

9.11. **Interpretation**. Except where the context expressly requires otherwise, (a) the use of any gender herein will be deemed to encompass references to either or both genders, and the use of the singular will be deemed to include the plural (and vice versa), (b) the words "include", "includes" and "including" will be deemed to be followed by the phrase "without limitation", (c) the word "will" will be construed to have the same meaning and effect as the word "shall," (d) any definition of or reference to any agreement, instrument or other document herein will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (e) any reference herein to any Person will be construed to include the Person's successors and permitted assigns, (f) the words "herein", "hereof" and "hereunder," and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Sections, Exhibits or Schedules will be construed to refer to Sections, Exhibits or Schedules of this Agreement, and references to this Agreement include all Exhibits and Schedules hereto, (h) the word "notice" means notice in writing (whether or not specifically stated) and will include notices, consents, approvals and other written communications contemplated under this Agreement, (i) provisions that require that a Party, the Parties or any committee hereunder "agree," "consent" or "approve" or the like will require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise (but excluding e-mail and instant messaging), (j) references to any specific law, rule or regulation, or article, section or other division thereof, will be deemed to include the then-current amendments thereto or any replacement or successor law, rule or regulation thereof and (k) the term "or" will be interpreted in the inclusive sense commonly associated with the term "and/or."

9.12. **Cumulative Remedies**. No remedy referred to in this Agreement is intended to be exclusive, but each will be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

9.13. **Waiver of Rule of Construction**. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, any rule of construction that any ambiguity in this Agreement will be construed against the drafting Party will not apply.

9.14. **Counterparts**. The Agreement may be executed in two or more counterparts, including by facsimile or PDF signature pages, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

9.15. **Effective Date**. This Agreement will not be effective (and will be null and void) unless and until AZL (i) executes this Agreement within seven days of the Execution Date, and (ii) simultaneously therewith consents in writing to BioMarin's execution of the License Agreement (such date, if and when (i) and (ii) are satisfied, the "**Effective Date**").

[*Signatures on next page*]

IN WITNESS WHEREOF, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Sarepta International C.V.

By: /s/ Joseph Bratica
Name: Joseph Bratica
Title: VP and Assistant Treasurer

The University of Western Australia

By: /s/ Prof. Robyn Owens
Name: Prof. Robyn Owens
Title: Deputy Vice-Chancellor (Research)

Sarepta Therapeutics, Inc.

By: /s/ Douglas S. Ingram
Name: Douglas S. Ingram
Title: VP and Assistant Treasurer

BioMarin Leiden Holdings BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

Academisch Ziekenhuis Leiden

By: /s/ Willy J.M. Spaan
Name: Willy J.M. Spaan
Title: Chair of the Executive Board

BioMarin Nederlands BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

BioMarin Technologies BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

Schedule 1.1
Actions
[**]

Schedule 2.2.1
Form of Dismissal Agreement
([**])
[**]

Schedule 2.2.2
Form of Dismissal Agreement
(Docket [**])
[**]

Schedule 2.2.3
Form of Dismissal Agreement
(Docket Nos. [**])

Schedule 2.2.6
Form of Petition for Express Abandonment
([**]; [**])
[**]

Schedule 2.4.1

Form of Withdrawal of Appeal
([**] Appeal.)
[**]

Schedule 2.5.1

Form of Withdrawal of Opposition
(EP [**] Oppositions)
[**]

Schedule 2.5.2

Form of Withdrawal of Request for Oral Proceedings
(EP [**] Oppositions)

Attached.

Schedule 2.6.1
Form of Withdrawal of Opposition
[**]

Schedule 2.6.2
Form of Withdrawal of Request for Oral Proceedings
([**] Opposition)

Attached.

Schedule 2.7.1
Form of Withdrawal of Opposition
([**] Oppositions)
[**]

Schedule 2.7.2
Form of Withdrawal of Request for Oral Proceedings
([**] Oppositions)

Attached.

Schedule 7.2(a)
BioMarin Claims, Judgments or Settlements

Attached.

Schedule 7.3(a)
Sarepta Claims, Judgments or Settlements

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Exhibit 10.8

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("**Agreement**") is executed as of July 17, 2017 (the "**Execution Date**"), by and between **Sarepta Therapeutics, Inc.**, with offices at 215 First Street, Suite 415, Cambridge, MA 02142, USA and **Sarepta International C.V.**, with offices at Fred. Roeskestraat 123, 1076 EE Amsterdam, The Netherlands (collectively, "**Sarepta**") on the one hand, and BioMarin Leiden Holding BV and its subsidiaries, BioMarin Nederlands BV and BioMarin Technologies BV (collectively, "**BioMarin**"), on the other hand. BioMarin and Sarepta may, from time-to-time, be individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

RECITALS

WHEREAS, Academisch Ziekenhuis Leiden ("**AZL**") is the sole owner of certain of the Licensed IP (as defined below);

WHEREAS, BioMarin is the exclusive licensee of certain Licensed IP that is solely owned by AZL or jointly owned by BioMarin and AZL, pursuant to (a) the Leiden Agreement (as defined below) and (b) BioMarin's acquisition of Prosensa Holding B.V. ("**Prosensa**");

WHEREAS, BioMarin is the sole owner of certain other Licensed IP in the field of exon skipping for muscular dystrophy that it acquired through its acquisition of Prosensa in 2014;

WHEREAS, Sarepta is the exclusive licensee of certain intellectual property solely owned by the University of Western Australia ("**UWA**") pursuant to that certain Exclusive License Agreement, dated as of November 24, 2008, by and between Sarepta and UWA, as amended and restated pursuant to that certain Amended and Restated Exclusive License Agreement, dated as of April 10, 2013, by and between Sarepta and UWA, as amended as of June 19, 2016;

WHEREAS, Sarepta is the sole owner of certain other intellectual property in the field of exon skipping for muscular dystrophy;

WHEREAS, Sarepta has received Regulatory Approval for the commercial sale of an Exon 51 Skipping Product (as defined below) in the United States and is developing certain other exon-skipping drug candidates for the treatment of Duchenne muscular dystrophy;

WHEREAS, the Parties have been engaged in various patent conflicts and proceedings and AZL, BioMarin, UWA and Sarepta desire to resolve the aforesaid conflicts, appeals, oppositions and any and all controversies between the parties therefrom; and

WHEREAS, pursuant to that certain Settlement Agreement, effective as of the Effective Date, by and between the Parties (the "**Settlement Agreement**"), the Parties have agreed to simultaneously enter into this Agreement pursuant to which BioMarin will grant a license to Sarepta under the Licensed IP, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties, intending to be legally bound hereby, agree as follows:

1. DEFINITIONS

1.1. "**Actions**" means all conflicts and controversies concerning, and all oppositions of, Patents that are owned or controlled by the Parties, and all appeals thereof, in each case between any of BioMarin, AZL, Sarepta, and UWA, or any Affiliate thereof. The Actions are identified in Schedule 1.1 (Actions).

1.2. "**Affiliate**" means, with respect to a Party, any Person that currently or in the future controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" will refer to: (a) the possession, directly or indirectly, of the power to direct the management or policies of an entity, whether through the ownership of voting securities, by contract or otherwise; or (b) the ownership, directly or indirectly, of 50% or more of the voting securities of such entity.

1.3. "**ANDA Act**" has the meaning set forth in Section 7.7 (Generic Challenge).

1.4. "**Applicable Law**" means all applicable laws, statutes, rules, regulations and guidelines, including all good manufacturing practices and all applicable standards or guidelines promulgated by a regulatory authority.

1.5. "**AZL**" has the meaning set forth in the Recitals.

1.6. "**Bankruptcy Code**" has the meaning set forth in Section 6.5 (Bankruptcy).

1.7. "**Bankrupt Party**" has the meaning set forth in Section 6.5 (Bankruptcy).

1.8. "**BioMarin Co-Exclusive License Option**" has the meaning set forth in Section 2.4.1 (Exercise of Co-Exclusive License Option).

1.9. "**BioMarin Disclosed Know-How**" means the Know-How referenced in Section 1.10(b)(ii).

1.10. "**BioMarin Know-How**" means all Know-How other than Leiden Know-How that is (a) Controlled by BioMarin or its Affiliates, and (b) (i) described in Schedule 1.9 (BioMarin Know-How) or (ii) otherwise disclosed by BioMarin or its Affiliates to Sarepta or its Affiliates. For clarity, BioMarin Know-How includes BioMarin Regulatory Documentation.

1.11. "**BioMarin Option Notice**" has the meaning set forth in Section 2.4.1 (Exercise of Co-Exclusive License Option).

1.12. "**BioMarin Option Quarter**" means the Calendar Quarter during which BioMarin exercises the BioMarin Co-Exclusive License Option.

1.13. "**BioMarin Regulatory Documentation**" means all Regulatory Documentation that is owned or Controlled by BioMarin or its Affiliates with respect to Drisapersen, BMN-044, BMN-045, and BMN-053.

1.14. "**BMN-044**" means **[**]**.

1.15. "**BMN-045**" means **[**]**.

1.16. "**BMN-053**" means **[**]**.

1.17. "**Business Day**" means any day other than a Saturday, a Sunday or a day on which commercial banks located in New York, New York are authorized or required by law to remain closed.

1.18. "**Calendar Quarter**" means the respective periods of three consecutive calendar months ending on March 31, June 30, September 30 and December 31 of each Calendar Year; provided that the first Calendar Quarter of the Term will begin on the Effective Date and end on the first September 30 thereafter and the last Calendar Quarter of the Term will end on the last day of the Term.

1.19. "**Calendar Year**" means any 12-month period commencing on January 1 and ending on December 31; provided that the first Calendar Year of the Term will begin on the Effective Date and end on the first December 31 thereafter and the last Calendar Year of the Term will end on the last day of the Term.

1.20. "**Casimersen**" means **[**]**.

1.21. "**CDA**" means the Mutual Non-Disclosure Agreement, dated as of **[**]**, by and between Sarepta Therapeutics, Inc. and BioMarin Pharmaceutical Inc., as amended.

1.22. "**Challenge Action**" has the meaning set forth in Section 7.1 (Notification).

1.23. "**Change of Control**" will occur with respect to a Party if: (a) any Third Party acquires directly or indirectly the beneficial ownership of any voting security of such Party, or if the percentage ownership of such Third Party in the voting securities of such Party is increased through stock redemption, cancellation or other recapitalization, and immediately after such acquisition or increase such Third Party is, directly or indirectly, the beneficial owner of voting securities representing more than 50% of the total voting power of all of the then outstanding voting securities of such Party; (b) a merger, consolidation, recapitalization or reorganization of such Party is consummated, other than any such transaction, which would result in shareholders or equity holders of such Party immediately prior to such transaction, owning at least fifty percent 50% of the outstanding voting securities of the surviving entity (or its parent entity) immediately following such transaction; (c) the shareholders or equity holders of such Party approve a plan of complete liquidation of such Party, or an agreement for the sale or disposition by such Party of all or substantially all of such Party's assets, other than pursuant to

the transaction described above or to an Affiliate; or (d) the sale or transfer to a Third Party of all or substantially all of such Party's consolidated assets taken as a whole.

1.24. "**Claim(s)**" means any claims, counterclaims, cross-claims, defenses, allegations, demands, debts, dues, liabilities, requests for declaratory relief, proceedings, actions, or causes of action of any kind and of whatsoever nature or character, arising in any jurisdiction in the world (regardless of whether existing in the past or present, whether known or unknown, or whether accrued, actual, contingent, latent or otherwise) made or brought for the purpose of recovering any damages (including Damages) or royalties or obtaining any equitable relief or any other relief of any kind and any and all claims for reimbursement of legal fees, costs and disbursements.

1.25. "**Confidential Information**" has the meaning set forth in Section 8.1 (Definition).

1.26. "**Control**" or "**Controlled**" means, with respect to a Patent or any Know-How, the legal authority or right (whether by ownership, license or otherwise other than pursuant to this Agreement) of a Party or its Affiliates to grant a license or sublicense of or under such Patent or Know-How to the other Party without violating the terms of any agreement or other arrangement with any Third Party or violating any law or regulation.

1.27. "**Cover**" or "**Covered**" means, with respect to a Product and an issued and unexpired Patent, that the making, using, selling, importing or other exploitation of such Product would, absent a license, literally infringe one or more Valid Claims of such Patent.

1.28. **"Damages"** means damages of any kind or nature (including claims for an account of profits), past, present, or future, arising from any Claims based on acts or omissions occurring on or before the Effective Date in any jurisdiction in the world or available under any state, provincial, federal, or international law, or the law of any country (or any other act, action, administrative rule or procedure, legislation or regulation of any kind or description), including any actual, general, specific, direct, indirect, commercial, economic, consequential, incidental, special, punitive, exemplary, or treble damages, that can be obtained directly, indirectly, or by way of contribution or indemnity, under any theory of liability whatsoever, including but not limited to, any liability that is contributory, strict, contractual or tortious in character, whether at law or in equity. The term "Damages" will also include loss of revenue, loss of expected profits or expected savings, extradition of infringer's profits, fines, monetary penalties, court costs, interest, pre-judgment and post-judgment interest, attorney's fees, expert fees, and any other related costs or expenses. "Damages" will specifically include damages for unknown Claims that are based on acts or omissions occurring on or before the Effective Date that are unknown to the claiming party as of the Effective Date.

1.29. "**Drisapersen**" means **[**]**.

1.30. "**Effective Date**" has the meaning given in Section 13.15 (Effective Date).

1.31. "**Execution Date**" has the meaning set forth in the preamble.

1.32. "**EMA**" means the European Medicines Agency and any successor governmental authority having substantially the same function.

1.33. "**Enforcing Party**" has the meaning set forth in Section 7.2 (Right to Enforce and Defend).

1.34. "**Eteplirsen**" means **[**]**.

1.35. "**European Union**" means all members of the European Union as of the applicable date, but in all cases including the United Kingdom.

1.36. "**Exon 45 Skipping Product**" means a Product in which Casimersen is the active pharmaceutical ingredient.

1.37. "**Exon 51 Skipping Product**" means a Product in which Eteplirsen is the active pharmaceutical ingredient.

1.38. "**Exon 53 Skipping Product**" means a Product in which Golodirsen is the active pharmaceutical ingredient.

1.39. "**Exon 51 European Approval Payment**" has the meaning set forth in Section 4.1 (Development Milestone Payments).

1.40. "**FDA**" means the United States Food and Drug Administration and any successor governmental authority having substantially the same function.

1.41. "**First Commercial Sale**" means, with respect to a Royalty Bearing Product in a country, the first sale for end use or consumption of such Royalty Bearing Product in such country after all Regulatory Approvals legally required for such sale have been granted by the Regulatory Authority of such country.

1.42. "**First Commercial Sale Date**" means, with respect to a Royalty Bearing Product in a country, the later of the (a) date of First Commercial Sale of such Royalty Bearing Product in such country, and (b) the Effective Date.

1.43. "**Follow-On Products**" means, on a country-by-country basis, all Products other than Lead Products that are Covered by a Licensed Patent in the applicable country.

1.44. "**FTE**" has the meaning set forth in Section 3.1 (Initial Transfer of Documentation).

1.45. "**FTE Rate**" means **[**]**.

1.46. "**GAAP**" means the generally accepted accounting principles in the United States, consistently applied.

1.47. "**Generic Product**" for a given country means a pharmaceutical product that (a) is sold by a Person that is not Sarepta, or an Affiliate or Sublicensee of Sarepta, and that has not been granted authorization by Sarepta or any of its Affiliates or Sublicensees to make such sales, (b) contains the same active pharmaceutical ingredient(s) as are contained in a Royalty Bearing Product and (c) is approved by the applicable Regulatory Authority pursuant to an abbreviated approval process that relies, in whole or in part, on such Regulatory Authority's previous grant of marketing authorization for a Royalty Bearing Product, or on the safety or efficacy data submitted in support of such marketing authorization.

1.48. "**Golodirsen**" means **[**]**.

1.49. "**Indemnifying Party**" has the meaning set forth in Section 10.1 (Indemnification).

1.50. "**Indemnitees**" has the meaning set forth in Section 10.1 (Indemnification).

1.51. "**Know-How**" means all chemical or biological materials and other tangible materials, inventions, improvements, practices, discoveries, developments, data, information, technology, methods, protocols, formulas, knowledge, know-how, trade secrets, processes, assays, skills, experience, techniques and results of experimentation and testing, including pharmacological, toxicological and pre-clinical and clinical data and analytical and quality control data; provided, however, excluding in any event any published Patents (such that if at any time during the Term, the Person that Controls the relevant Know-How files a Patent application that covers the Know-How, such Know-How shall no longer be considered "Know-How" under this Agreement following the publication of such Patent application).

1.52. "**Lead Products**" means, collectively, (a) Exon 45 Skipping Products, (b) Exon 51 Skipping Products, and (c) Exon 53 Skipping Products.

1.53. "**Leiden Agreement**" means that certain Research and License Agreement, dated as of September 1, 2003, by and between Prosensa and AZL, acting under the name of Leiden University Medical Center, as amended.

1.54. "**Leiden Know-How**" means the "LUMC Technology" as such term is defined in Section 1.12 of the Leiden Agreement.

1.55. "**Licensed IP**" means Licensed Patents and Licensed Know-How.

1.56. "**Licensed Know-How**" means the (a) BioMarin Know-How and (b) Leiden Know-How.

1.57. "**Licensed Patents**" means all Patents in the Territory that are Controlled by BioMarin or its Affiliates as of the Effective Date and at any time during the Term

that are necessary or useful (or, with respect to patent applications, would be necessary or useful if such patent applications were to issue as patents) to research, develop, make, have made, use, sell, offer for sale, have sold, import or export any Product in the Territory, including all Patents listed in Schedule 1.57 (Licensed Patents) hereto, as such schedule may be amended from time to time by the Parties after the Effective Date.

1.58. "**Milestone Event**" means any milestone event set forth in Section 4.1 (Development Milestone Payments) or Section 4.3 (Sales Milestone Payment) corresponding to a Milestone Payment.

1.59. "**Milestone Payment**" means any milestone payment set forth in Section 4.1 (Development Milestone payments) or Section 4.3 (Sales Milestone Payment) corresponding to a Milestone Event.

1.60. "**Monetization Transaction**" has the meaning set forth in Section 4.7 (Royalty Monetization).

1.61. "**Net Sales**" means the aggregate gross invoiced sales prices from sales of all units of all Royalty Bearing Products sold by Sarepta, its Affiliates or its Sublicensees (each a "**Selling Party**") to independent Third Parties after deducting, if not previously deducted, from the amount invoiced:

[**]

Such amounts will be determined from the books and records of the Selling Parties, maintained in accordance with GAAP.

In the case of any sale or other disposal for value, such as barter or counter-trade, of a Royalty Bearing Product, or part thereof, other than in an arm's length transaction exclusively for cash, Net Sales will be calculated as above on the value of the non-cash consideration received or, if higher, the fair market price of the Royalty Bearing Product in the country of sale or disposal, as determined in accordance with GAAP.

Notwithstanding the foregoing, the resale of Royalty Bearing Products by a wholesaler or distributor who purchases Royalty Bearing Products from Sarepta, or any Affiliate or Sublicensee of Sarepta, for resale and who does not pay a royalty or other consideration to Sarepta or such Affiliate or Sublicensee in connection with the resale of such Royalty Bearing Products will not be treated as a Net Sale by a Sublicensee (regardless of whether a Sublicense is granted to such wholesaler or distributor), provided that a royalty is being paid to BioMarin on the Net Sale to such wholesaler or distributor by Sarepta or any Affiliate or Sublicensee pursuant to Section 4.4 (Royalties). In addition, any distribution of Royalty Bearing Products made in connection with clinical trials or for which the Selling Party does not receive consideration above its cost of goods, including distribution for compassionate use and product donations, will not be considered for the purpose of defining Net Sales under this Agreement, and no royalty will be due thereon.

In the event that a Royalty Bearing Product is sold in the form of a combination product containing one or more active pharmaceutical ingredients in addition to such Royalty Bearing Product, Net Sales of such combination product will be adjusted by multiplying the actual Net Sales (as defined above) for such combination product by the fraction A/(A+B) where A is the average sale price of the Royalty Bearing Product when sold separately and B is the total of the average sale prices of the other active pharmaceutical ingredient(s) when sold separately, in each case, during the applicable Calendar Quarter in the country in which the sale of the combination product occurred, or if the sales of both the Royalty Bearing Product, on the one hand, and the other active pharmaceutical ingredient(s), on the other hand, did not occur in such country in such period, then in the most recent Calendar Quarter in which all such sales occurred. Alternatively, in the event that such average sale prices cannot be determined for both the Royalty Bearing Product, on the one hand, and all other active pharmaceutical ingredient(s) included in the combination product, on the other hand, Net Sales will be adjusted **[**]**.

1.62. "**New License Agreement**" has the meaning set forth in Section 11.4.2 (Effect of Termination on Sublicensees).

1.63. "**Other Countries**" means all countries in the Territory other than: (i) the United States, and (ii) all countries of the European Union.

1.64. "**Party**" and "**Parties**" has the meaning set forth in the preamble.

1.65. "**Patents**" means any and all (a) pending patent applications, including all provisional applications, priority applications, regular applications, international applications, continuations, continuations-in-part, additions, divisions, counterparts, amendments, and amalgamations; (b) issued patents, including all patents in the Territory issuing from the applications in clause (a), and any reissues and re-examinations thereof; (c) confirmation, importation and registration patents of any of the foregoing patents and patent applications in the Territory; and (d) extensions and renewals of any of the foregoing patents and patent applications in the Territory in whatever legal form and by whatever legal title they are granted.

1.66. "**Person**" means an individual, corporation, partnership, limited liability company, trust, business trust, association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, governmental authority or any other form of entity not specifically listed herein.

1.67. "**PHSA**" means the Public Health Services Act of 1944, as amended from time to time, and the regulations and guidelines promulgated thereunder.

1.68. "**PPC**" has the meaning set forth in Section 6.1.1 (Patent Prosecution Committee).

1.69. "**Products**" means any and all pharmaceutical products comprising as an active pharmaceutical ingredient an antisense oligonucleotide or modified form thereof that targets one or more exons of the dystrophin gene to induce exon skipping and is potentially useful for the treatment of muscular dystrophy, alone or in

combination with one or more other active pharmaceutical ingredients, in any and all forms, presentations, dosages and formulations. For clarity, all Lead Products and all Follow-On Products are Products.

1.70. "**Prosensa**" has the meaning set forth in the Recitals.

1.71. "**Recipient**" has the meaning set forth in Section 8.2 (Obligations).

1.72. "**Record Retention Period**" has the meaning set forth in Section 5.1.1 (Relevant Records).

1.73. "**Regulatory Approval**" means any and all approvals, licenses, registrations or authorizations of any Regulatory Authority obtained by Sarepta or its Affiliates or any of their Sublicensees that are necessary for the provision, marketing and sale of a Royalty Bearing Product in a country or group of countries (including all pricing and reimbursement approvals, if required for sale of a product in such country or group of countries). For clarity, a product will be deemed to have received "Regulatory Approval" in a country or group of countries upon receipt of all approvals, licenses, registrations or authorizations of any Regulatory Authority that are necessary for named patient sales or expanded access program sales of such product in such country or group of countries.

1.74. "**Regulatory Authority**" means any applicable national, supra-national, regional, state or local regulatory authority involved in granting approvals for the development, manufacturing or commercialization of pharmaceutical products, including the FDA and the EMA.

1.75. "**Regulatory Documentation**" means all (a) applications submitted to and in support of an actual or potential Regulatory Approval, any and all amendments thereto, and other filings with Regulatory Authorities, (b) correspondence and reports submitted to or received from Regulatory Authorities (including minutes and official contact reports relating to any communications with any Regulatory Authority) and all supporting documents with respect thereto, including all adverse event files and complaint files, and (c) clinical, non-clinical and other data contained or relied upon in any of the foregoing.

1.76. "**Residuals**" has the meaning set forth in Section 8.5 (Residuals).

1.77. "**Royalty Bearing Product**" means on a country-by-country and Product-by-Product basis, all (a) Lead Products, and (b) Follow-On Products. Notwithstanding the foregoing, upon BioMarin's exercise of the BioMarin Co-Exclusive License Option, the term "Royalty Bearing Product" will have the meaning given to it in Section 2.4.2 (Co-Exclusive License).

1.78. "**Royalty Term**" means, on a country-by-country and Royalty Bearing Product-by-Royalty Bearing Product basis, (a) with respect to all Royalty Bearing Products that are Lead Products, the period of time beginning on the First Commercial Sale Date

and ending: (i) on December 31, 2023 in the United States, (ii) on September 30, 2024 in the European Union, and (iii) in Other Countries, on the earlier of (A) the date there are no Licensed Patents claiming priority to **[**]**, in the applicable country or (B) September 30, 2024, and (b) with respect to all Royalty Bearing Products that are Follow-On Products, the period of time beginning on the First Commercial Sale Date and ending upon the date the relevant Follow-On Product is no longer Covered by a Licensed Patent in the applicable country. Notwithstanding the foregoing, upon BioMarin's exercise of the BioMarin Co-Exclusive License Option, the term "Royalty Term" will have the meaning given to it in Section 2.4.2 (Co-Exclusive License).

1.79. "**Sarepta License**" has the meaning set forth in Section 2.1 (License Grant to Sarepta).

1.80. "**Sublicense**" has the meaning set forth in Section 2.2 (Right to Sublicense).

1.81. "**Sublicensee**" means any entity to whom Sarepta or its Affiliates has granted a Sublicense under this Agreement.

1.82. "**Settlement Agreement**" has the meaning set forth in the Recitals.

1.83. "**Target Exon**" means any one or more nucleotides between and including the splice-donor site and splice-acceptor site of a given exon of the pre-mRNA of the human dystrophin gene, the skipping of which exon is induced by a Product. For example, the Target Exon of Casimersen is exon 45, the Target Exon of Eteplirsen is exon 51, and the Target Exon of Golodirsen is exon 53.

1.84. "**Term**" has the meaning set forth in Section 11.1 (Term).

1.85. "**Territory**" means worldwide.

1.86. "**Third Party**" means any Person other than a Party or an Affiliate of a Party.

1.87. "**Third Party Claim**" means any Claim by, or written notice provided by, a Third Party that alleges that the development, manufacture or commercialization of a Royalty Bearing Product by or on behalf of Sarepta results in any actual, perceived or threatened direct, contributory or induced infringement or misappropriation of a Patent or any Know-How owned or controlled by such Third Party or its Affiliates.

1.88. "**Third Party Infringement Action**" has the meaning set forth in Section 7.1 (Notification).

1.89. "**Third Party License**" has the meaning set forth in Section 4.4.3 (Third Party License Offset).

1.90. "**Third Party Royalties**" means collectively (a) royalty or profit share payments calculated as a percentage of Sarepta's or its Affiliates' or any of their Sublicensee's

sales or profits, (b) upfront license fees, (c) annual license fees, (d) event-based milestones or (e) other amounts, in each case ((a)-(e)) that Sarepta or its Affiliates are required to pay under a Third Party License.

1.91. "**Transferred Know-How**" has the meaning set forth in Section 3.1 (Transfer of Documentation).

1.92. "**UWA**" has the meaning set forth in the Recitals.

1.93. **"Valid Claim"** means a claim of an issued and unexpired Patent, which claim has not been withdrawn, cancelled, refused, abandoned, disclaimed, revoked or held unenforceable or invalid by an unappealable decision of a court or other governmental agency of competent jurisdiction, or has not been appealed within the time allowed for appeal.

2. LICENSE GRANT

2.1. **License Grant to Sarepta**. BioMarin hereby grants to Sarepta a license with the right to grant Sublicenses (as provided in Section 2.2 (Right to Sublicense)) under the Licensed IP to research, develop, make, have made, use, sell, offer for sale, have sold, import and export Products, or otherwise practice and exploit the Licensed IP, in the Territory in all fields of use and for all purposes during the Term (the "**Sarepta License**"), which license is (a) non-exclusive, with respect to the Licensed Know-How and (b) exclusive, with respect to all Licensed Patents. Subject to Section 2.4 (BioMarin Co-Exclusive License Option), the foregoing license under clause 2.1(b) is exclusive even as to BioMarin. For clarity, pursuant to the Sarepta License, Sarepta may use the Licensed Know-How for any purpose relating to Products, including in regulatory submissions relating to Products.

2.2. **Right to Sublicense**. Sarepta will have the right to grant sublicenses of any and all of the rights licensed to Sarepta under this Agreement (each, a "**Sublicense**") through multiple tiers, only to: (i) any Third Party collaboration partner, regional licensee, manufacturer, and distributor, provided that (a) such Sublicenses are consistent with the terms and conditions of this Agreement and (b) such Sublicenses are limited to Products with respect to which Sarepta controls the worldwide commercial rights (except as Sarepta may have licensed to Third Parties), (ii) any Third Party set forth on Schedule 2.2 **[**]** or (iii) any Third Party set forth on Schedule 2.2 **[**]**. Sarepta will be responsible for enforcing each Sublicensee's obligations that relate to this Agreement under each Sublicense, including any applicable obligations pursuant to Section 4.4.3 (Third Party License Offset) and Section 7.3 (Defense Cost Sharing).

2.3. **Affiliates**. Sarepta may exercise its rights and perform its obligations under this Agreement directly or through one or more of its Affiliates. Sarepta's Affiliates will have the benefit of all rights (including all licenses) of Sarepta under this Agreement. Accordingly, in this Agreement "Sarepta" will be interpreted to mean

"Sarepta or its Affiliates" where necessary to give Sarepta's Affiliates the benefit of the rights provided to Sarepta in this Agreement including, without limitation, the license granted pursuant to Section 2.1 (License Grant to Sarepta) hereof; provided, however, that in any event Sarepta will remain responsible hereunder for the acts and omissions, including financial liabilities, of its Affiliates.

2.4. BioMarin Co-Exclusive License Option.

2.4.1. **Exercise of Co-Exclusive License Option.** During the Term, BioMarin will have the option to convert clause (b) of the Sarepta License into a co-exclusive license (with BioMarin) as described in Section 2.4.2 (Co-Exclusive License) (the "**BioMarin Co-Exclusive License Option**"). BioMarin may exercise the BioMarin Co-Exclusive License Option at any time during the Term by providing 60 days' prior notice thereof to Sarepta (the "**BioMarin Option Notice**").

2.4.2. **Co-Exclusive License.** From and after the date on which the BioMarin Option Notice is effective, (a) the Sarepta License under Section 2.1(b) (License Grant to Sarepta) will be limited by and subject to BioMarin's reservation of the co-exclusive right (co-exclusive with Sarepta) to practice and exploit the Licensed IP in the Territory in all fields of use during the remainder of the Term, subject to the terms of this Agreement, (b) the royalties payable to BioMarin on Net Sales of Royalty Bearing Products will be reduced as set forth in Section 4.4.1 (Royalty Rates), and (c) the definitions of "Royalty Bearing Product" in Section 1.77 (Royalty Bearing Product) and "Royalty Term" in Section 1.78 (Royalty Term) will be automatically replaced by the following definitions, respectively, for all purposes of this Agreement:

"**Royalty Bearing Product**" means, on a country-by-country and Product-by-Product basis, all (i) Lead Products and (ii) Follow-On Products that are in each case ((i) and (ii)) Covered by a Licensed Patent in the applicable country.

"**Royalty Term**" means, on a country-by-country and Royalty Bearing Product-by-Royalty Bearing Product basis, the period of time beginning on the First Commercial Sale Date and ending on the earlier of (i) the date the relevant Royalty-Bearing Product is no longer Covered by a Licensed Patent in the applicable country or (ii) December 31, 2023 in the United States and September 30, 2024 in all other countries in the Territory.

2.4.3. **BioMarin Right to License**. From and after the date on which the BioMarin Option Notice is effective, BioMarin may grant licenses under the Licensed IP, through multiple tiers, only to any Third Party collaboration partner, regional licensee, manufacturer or distributor, provided that (a) such licenses are consistent with the terms and conditions of this Agreement, and

(b) such licenses are limited to Products for which BioMarin retains the exclusive right to directly commercialize in the United States and the European Union.

2.5. **No Additional Rights**. Nothing in this Agreement will be construed to confer any rights upon either Party by implication, estoppel, or otherwise as to any active pharmaceutical ingredients, compounds, products, technology, know-how, copyright, trade secret, or Patent of the other Party or its Affiliates other than the rights under the Licensed IP expressly granted herein.

2.6. **Diligence Disclaimer**. ***Notwithstanding anything to the contrary in this Agreement, Sarepta will not have any, and Sarepta hereby disclaims any and all, diligence obligations, either express or implied, in connection with Products or the grant of licenses and rights under this Agreement. Without limitation, Sarepta will have no obligation to use any efforts to develop, market, commercialize or otherwise exploit Products.***

3. TRANSFER OF KNOW-HOW

3.1. **Initial Transfer of Documentation**. Within a reasonable period of time not to exceed 10 Business Days following the Effective Date, BioMarin will provide Sarepta with electronic embodiments (or tangible embodiments, if electronic embodiments are not available) of true, complete and correct copies of all Licensed Know-How listed in Schedule 3.1 (Transferred Know-How) in a reasonable format agreed upon by the Parties (including by download of digital files to a secure website or e-room designated and controlled by Sarepta) (such Know-How, the "**Transferred Know-How**"). During the period ending **[**]** days after the Effective Date of this Agreement, BioMarin will provide a full-time equivalent employee ("**FTE**") having sufficient technical knowledge and capabilities to support the transfer of the Transferred Know-How at BioMarin's cost and expense for up to **[**]** hours. To the extent that Sarepta requests more than **[**]** hours of FTE support during the period starting **[**]** days after the Effective Date of this Agreement and ending **[**]** days after the Effective Date, Sarepta will, within **[**]** days following the receipt of an applicable invoice from BioMarin, pay to BioMarin an amount equal to the FTE Hourly Rate multiplied by the sum of the documented number of hours (in excess of **[**]** hours) of FTE work done to provide the Transferred Know-How to Sarepta. Except as provided in the foregoing sentence, BioMarin will be responsible for all expenses incurred by BioMarin in providing the Transferred Know-How to Sarepta.

4. PAYMENT TERMS

4.1. **Upfront Payment.** Within 10 Business Days following the Effective Date, Sarepta will pay BioMarin a non-refundable, non-creditable initial payment of fifteen million U.S. Dollars ($15,000,000).

4.2. **Development Milestone Payments**. Subject to the terms and conditions of this Agreement and commencing upon the Effective Date, Sarepta will pay to BioMarin the Milestone Payments set forth in this Section 4.2 (Development Milestone Payments) for Royalty Bearing Products, whether the corresponding Milestone Event is achieved by Sarepta or its Affiliates or any of their Sublicensees. Each Milestone Payment set forth in this Section 4.2 (Development Milestone Payments) is payable with respect to each Royalty Bearing Product targeting a different Target Exon but only once with respect to all Royalty Bearing Products that target the same Target Exon, and the total payments payable under this Section 4.2 (Development Milestone payments) will in no event exceed US $20,000,000 per Target Exon, irrespective of whether the applicable Milestone Event(s) is achieved by Sarepta, its Affiliates or any of their Sublicensees. Sarepta will notify BioMarin promptly following the achievement of each Milestone Event described in this Section 4.2 (Development Milestone Payments) and will pay the associated Milestone Payment within 30 days following achievement of such Milestone Event. Notwithstanding the foregoing, the Regulatory Approval of any Lead Product (a) by the FDA after December 31, 2023 or (b) by the EMA after September 30, 2024 will in each case ((a) and (b)) be deemed to not be a Development Milestone Event, regardless of whether such Regulatory Approval would otherwise qualify as a Development Milestone Event under this Section 4.2 (Development Milestone Payments). For clarity, the Exon 51 European Approval Payment is payable only once.

Development Milestone Event	*Milestone Payment*
Regulatory Approval by the EMA of the first Exon 51 Skipping Product	US $10,000,000 (the "**Exon 51 European Approval Payment**")
Regulatory Approval by the FDA of the first Royalty Bearing Product (other than Exon 51 Skipping Product) with respect to each Target Exon	US $10,000,000
Regulatory Approval by the EMA of the first Royalty Bearing Product (other than Exon 51 Skipping Product) with respect to each Target Exon	US $10,000,000

4.3. **Sales Milestone Payment**. Subject to the terms and conditions of this Agreement and commencing upon the Effective Date, Sarepta will pay to BioMarin the Milestone Payment set forth in this Section 4.3 (Sales Milestone Payment) for Royalty Bearing Products, whether the corresponding Milestone Event is achieved by Sarepta or its Affiliates or any of their Sublicensees. The Milestone Payment set forth in this Section 4.3 (Sales Milestone Payment) is payable only once,

irrespective of whether the applicable Milestone Event is achieved by Sarepta, its Affiliates or any of their Sublicensees. Sarepta will notify BioMarin promptly following the achievement of the Milestone Event described in this Section 4.3 (Sales Milestone Payment) and will pay the associated Milestone Payment within 30 days following the achievement of the Milestone Event. Notwithstanding the foregoing, on a Royalty Bearing Product-by-Royalty Bearing Product and country-by-country basis, the Net Sales of any Royalty Bearing Product in any country following the expiration of the Royalty Term for such Royalty Bearing Product in such country will be excluded from the calculation of "aggregate Net Sales" for the purpose of determining the Sales Milestone Event under this Section 4.3 (Sales Milestone Payment).

Sales Milestone Event	*Milestone Payment*
First Calendar Year in which aggregate Net Sales of Royalty Bearing Products exceed US $650,000,000 in the Territory	US $15,000,000

4.4. Royalties.

4.4.1. Royalty Rates. Subject to the terms and conditions of this Agreement and commencing upon the beginning of the first Calendar Quarter, Sarepta will pay to BioMarin, on a Royalty Bearing Product-by-Royalty Bearing Product and country-by-country basis, royalties on the Net Sales of Royalty Bearing Products during the applicable Royalty Term as set forth below:

*If the BioMarin Co-Exclusive License Option has **not** been exercised:*	*Royalty Rate*
(a) Net Sales of a Royalty Bearing Product in the United States in a Calendar Quarter prior to the BioMarin Option Quarter	5%
(b) Net Sales of a Royalty Bearing Product outside the United States in a Calendar Quarter prior to the BioMarin Option Quarter	8%
*If the BioMarin Co-Exclusive License Option **has** been exercised or upon the occurrence of the conditions set forth in Section 4.4.3 (Third Party License Offset) or Section 7.3 (Defense Cost Sharing):*	*Royalty Rate*

(c) Net Sales of a Royalty Bearing Product in the United States in a Calendar Quarter during and after the BioMarin Option Quarter	4%
(d) Net Sales of a Royalty Bearing Product outside the United States in a Calendar Quarter during and after the BioMarin Option Quarter	5%

If the manufacture, use, performance or sale of any Royalty Bearing Product is Covered by more than one Valid Claim or Patent of the Licensed Patents, multiple royalties will not be due as a result of being so covered. Following the expiration of the applicable Royalty Term in a country in the Territory with respect to a Royalty Bearing Product (but not following an earlier termination of this Agreement), the Sarepta License with respect to such Royalty Bearing Product in such country will be fully-paid, irrevocable, perpetual and royalty-free, on a Royalty Bearing Product-by-Royalty Bearing Product and country-by-country basis.

4.4.2. **Royalty Adjustments for Generic Products**. On a Royalty Bearing Product-by-Royalty Bearing Product and country-by-country basis, the royalty payments owed with respect to a Royalty Bearing Product in a country in the Territory pursuant to Section 4.4 (Royalties) will be reduced by **[**]**% of the amounts otherwise payable pursuant to Section 4.4.1 (Royalty Rates) commencing in the Calendar Quarter during which one or more Generic Products with respect to such Royalty Bearing Product has captured in aggregate **[**]**% of the market for such Royalty Bearing Product and continuing for **[**]**.

4.4.3. **Third Party License Offset**.

(a) *Sarepta Cross-License Request*. If (i) Sarepta or any of its Affiliates or Sublicensees considers it necessary, on advice of counsel, to obtain a license under or acquire rights to intellectual property controlled by any Third Party **[**]** (any such license, a "**Third Party License**") and (ii) such Third Party **[**]**, then Sarepta may, in its sole discretion, request BioMarin to license the Licensed Patents to such Third Party under the terms set forth in Section 4.4.3(b) (BioMarin Cross-License).

(b) *BioMarin Cross-License*. If BioMarin licenses the Licensed Patents to a Third Party following Sarepta's request pursuant to Section 4.4.3(a) (Sarepta Cross-License Request) or Section 7.3 (Defense Cost Sharing), then (i) all such Third Party's products **[**]** will be subject to **[**]**, respectively, and such Third Party products will be subject to **[**]** of this Agreement under **[**]**, as applicable

[**], (ii) the terms and conditions of such license agreement will be consistent with the terms and conditions of this Agreement including, without limitation, Section 2 (License Grant), Section 4 (Payment Terms) (other than Section 4.4.3 (Third Party License Offset), **[**]**, which sections shall not be included in any such license agreement), Section 5 (Records; Audit Rights), Section 8 (Confidentiality), Section 9 (Representations, Warranties and Covenants), Section 10 (Indemnification; Limitation of Liability), Section 11 (Term; Termination), Section 12.1.1 (Use of Names) and Section 13 (General Provisions), and be subject to Sarepta's prior written approval, which shall not be unreasonably withheld or delayed, (iii) BioMarin will only enter into such license agreement simultaneously with Sarepta's entry into the Third Party License, (iv) BioMarin will cooperate in good faith to facilitate a comprehensive settlement with such Third Party including providing Sarepta drafts of the proposed license agreement and the opportunity to participate in negotiations with such Third Party, and (v) upon BioMarin's entry into such license agreement, the royalty rates under this Agreement will be **[**]**.

(c) *Royalty Offset*. If, within **[**]** following the applicable Sarepta request under Section 4.4.3(a) (Sarepta Cross-License Request), BioMarin does not offer to license the Licensed Patents to such Third Party under the terms set forth in Section 4.4.3(b) (BioMarin Cross-License) and subsequently negotiate a license agreement with such Third Party in good faith in accordance with Section 4.4.3(b) (BioMarin Cross-License) for at least **[**]** following such offer to license or such shorter period as Sarepta may direct, then Sarepta may deduct **[**]**% of the amount of Third Party Royalties actually paid by Sarepta or its Affiliates to such Third Party with respect to any Royalty Bearing Product from amounts payable to BioMarin under Section 4.4 (Royalties) of this Agreement with respect to such Royalty Bearing Product; provided that, in no event will payments to BioMarin be reduced pursuant to this Section 4.4.3 (Third Party License Offset) by more than **[**]**% of the payments that would otherwise be payable pursuant to Section 4.4 (Royalties).

4.4.4. **Royalty Holiday for Managed Access Programs**. Notwithstanding anything to the contrary in this Agreement, any and all consideration received by Sarepta, its Affiliates or Sublicensees prior to **[**]** in connection with the sale of any Royalty Bearing Product under compassionate use programs, patient access programs, managed access programs, expanded access or similar programs, "named patient sales," or use under the ATU system in France, or other equivalent systems or programs, will be excluded from the determination of Net Sales for the purpose of calculating royalty payments under this Agreement.

4.4.5. **Reports; Payment of Royalty**. No sooner than 35 days following the end of each Calendar Quarter until the completion of the final Royalty Term, and within 45 days following the end of each such Calendar Quarter, Sarepta will (a) provide BioMarin with a report (a "**Royalty Report**") that includes reasonably detailed information regarding a total monthly sales calculation on a country-by-country basis of gross sales of Royalty Bearing Products, Net Sales of Royalty Bearing Products (detailing all deductions) and all royalties payable for the applicable Calendar Quarter (including any foreign exchange rates used), and (b) pay BioMarin the royalties payable for the applicable Calendar Quarter.

4.4.6. **Late Payments**. Any late payments will bear interest, accruing and compounding daily from the date such payment is due, at the lower rate of (a) **[**]** and (b) the highest rate permitted under Applicable Law.

4.5. **Payment Method**.

4.5.1. **Currency**. With respect to Net Sales invoiced in U.S. dollars, the Net Sales and the amounts due for royalties under Section 4.4.1 (Royalty Rates) will be expressed in U.S. dollars. With respect to Net Sales invoiced in a currency other than U.S. dollars, payments will be calculated based on amounts converted to U.S. dollars using currency exchange rates for the Calendar Quarter for which remittance is made for such royalties. Conversion of Net Sales recorded in local currencies to U.S. dollars will be performed in a manner consistent with Sarepta's normal practices used to prepare its audited financial statements for external reporting purposes, provided that such practices use a widely accepted source of published exchange rates.

4.5.2. **Method of Payment**. All payments due hereunder will be made by wire transfer in U.S. Dollars to the credit of such bank account as may be designated by BioMarin in writing to Sarepta. Any payment which falls due on a date which is not a Business Day may be made on the next succeeding Business Day.

4.6. **Taxes**. The Parties shall execute such appropriate documentation as may be necessary to minimize or eliminate any tax withholdings. Notwithstanding such efforts, if Sarepta concludes that tax withholdings under the Applicable Law of any country are required with respect to payments to BioMarin, then Sarepta will first notify BioMarin and provide BioMarin with 20 days to determine whether there are actions BioMarin can undertake to avoid such withholding. During this notice period, Sarepta will refrain from making such payment until BioMarin instructs Sarepta that (a) BioMarin intends to take actions (satisfactory to both Parties) that will obviate the need for such withholding, in which case Sarepta will make such payment only after it is instructed to do so by BioMarin or (b) Sarepta should make such payment and withhold the required amount and pay it to the appropriate

governmental authority. In such case, Sarepta will promptly provide BioMarin with copies of receipts or other evidence reasonably required and sufficient to allow BioMarin to document such tax withholdings adequately for purposes of claiming foreign tax credits and similar benefits. The Parties will cooperate reasonably in completing and filing documents required under the provisions of any applicable tax laws or under any other Applicable Law, in connection with the making of any required tax payment or withholding payment, or in connection with any claim to a refund of or credit for any such payment. The Parties will cooperate to minimize such taxes in accordance with Applicable Laws, including using reasonable efforts to access the benefits of any applicable treaties. Notwithstanding the foregoing, if, as a result of (y) the assignment of this Agreement by Sarepta to an Affiliate or a Third Party outside of the United States or (z) the exercise by Sarepta of its rights under this Agreement through an Affiliate or Third Party outside of the United States (or the direct exercise of such rights by an Affiliate of Sarepta outside of the United States), foreign withholding tax in excess of the foreign withholding tax amount that would have been payable in the absence of such assignment or exercise of rights becomes payable with respect to amounts due to BioMarin hereunder, then such amount due to BioMarin will be increased so that the amount actually paid to BioMarin equals the amount that would have been payable to BioMarin in the absence of such excess withholding (after withholding of the excess withholding tax and any additional withholding tax on such increased amount).

4.7. Royalty Monetization. **[**]**.

4.8. Leiden Agreement Renegotiation. **[**]**.

5. RECORDS; AUDIT RIGHTS

5.1. Relevant Records.

5.1.1. Relevant Records. Sarepta will keep, and will cause each of its Affiliates and Sublicensees, as applicable, to keep, accurate books and records of accounting for the purpose of calculating all payments due to BioMarin under Section 4 (Payment Terms) (such books and records, collectively the "**Relevant Records**"). For the three years following the end of the Calendar Year to which each will pertain ("**Record Retention Period**"), such Relevant Records will be kept by Sarepta or such Affiliate or Sublicensee at each of their principal place of business.

5.1.2. Audit of Sarepta and its Affiliates. During the Record Retention Period, BioMarin will have the right, at its expense, to cause an independent, certified public accountant chosen by BioMarin and reasonably acceptable to Sarepta to inspect such records of Sarepta and its Affiliates during normal business hours for the purposes of verifying the accuracy of any reports and payments delivered under this Agreement and Sarepta compliance with the terms hereof. Such accountant or other auditor, as applicable, will not

disclose to BioMarin any information other than information relating to the accuracy of reports and payments delivered under this Agreement. The Parties will reconcile any underpayment or overpayment within 30 days after the accountant delivers the results of the audit. If any audit performed under this Section 5.1.2 (Audit of Sarepta and its Affiliates) reveals an underpayment in excess of **[**]** percent (**[**]**%) in any Calendar Year, Sarepta will reimburse BioMarin for all amounts incurred in connection with such audit. BioMarin may exercise its rights under this Section 5.1.2 (Audit of Sarepta and its Affiliates) only once per Calendar Year per audited entity, only once with respect to any Calendar Year and only with reasonable prior written notice, and in no event with fewer than seven days prior notice, to the audited entity.

5.1.3. **Audit of Sublicensees**. During the Record Retention Period, BioMarin will have the right, at its expense, to require Sarepta to make available to an independent, certified public accountant chosen by BioMarin and reasonably acceptable to Sarepta, during normal business hours, such information as Sarepta has in its possession with respect to reports and payments from Sublicensees for the purposes of verifying the accuracy of any reports and payments delivered under this Agreement. If such information as Sarepta has in its possession is not sufficient for such purposes, BioMarin will have the right, at its expense, to cause Sarepta to exercise its right under a Sublicense to cause an independent, certified public accountant (or, in the event of a non-financial audit, other appropriate auditor) chosen by BioMarin and reasonably acceptable to Sarepta to inspect such records of Sublicensee during normal business hours for the purposes of verifying the accuracy of any reports and payments delivered under this Agreement. Such accountant or other auditor, as applicable, will not disclose to BioMarin any information other than information relating to the accuracy of reports and payments delivered under this Agreement and then only to the extent such accountant or other auditor may disclose such information to Sarepta under the terms of the relevant Sublicense. If Sarepta does not have the right to conduct an audit of such Sublicensee for the relevant Calendar Year, Sarepta and BioMarin will meet and use reasonable efforts to agree on an appropriate course of action. The Parties will reconcile any underpayment or overpayment within 30 days after the accountant delivers the results of the audit. If any audit performed under this Section 5.1.3 (Audit of Sublicensees) reveals an underpayment to BioMarin in excess of **[**]** percent (**[**]**%) in any Calendar Year, Sarepta will reimburse BioMarin for all amounts incurred in connection with such audit. BioMarin may exercise its rights under this Section 5.1.3 (Audit of Sublicensees) only once per Calendar Year per Sublicensee, only once with respect to any Calendar Quarter and only with reasonable prior written notice, and in no event with fewer than seven days prior notice, to Sarepta and any audited Sublicensee.

5.1.4. **Confidential Treatment**. All information subject to review under Section 5 (Records; Audit Rights) will be deemed Sarepta's Confidential Information and will be treated in accordance with the confidentiality provisions of Section 8 (Confidentiality). BioMarin will cause its applicable auditors and accountants to enter into a reasonably acceptable confidentiality agreement with Sarepta and its Affiliates or Sublicensees, as applicable, prior to any review under Section 5 (Records; Audit Rights), which confidentiality agreement will obligate such auditor or accountant to retain all such information in confidence pursuant to terms that are at least as restrictive as the confidentiality and non-use obligations under this Agreement.

6. INTELLECTUAL PROPERTY OWNERSHIP AND PROSECUTION

6.1. Patent Prosecution and Maintenance of Licensed Patents.

6.1.1. **Patent Prosecution Committee**. The Parties will establish a patent prosecution committee ("**PPC**") comprised of at least two representatives from Sarepta and at least two representatives from BioMarin. The PPC will oversee, review and inform decisions relating to the preparation, filing, prosecution and maintenance of the Licensed Patents. Each Party may replace its representatives to the PPC at any time upon written notice to the other Party. Unless otherwise agreed to by the Parties, the PPC will meet each Calendar Quarter during the Term to discuss patent strategy for Licensed Patents, and to review and discuss upcoming substantive communications, responses or proposed filings with patent offices and other government authorities related to the Licensed Patents and the content and positions to be taken in such communications, responses or proposed filings. The PPC will meet in-person or by teleconference. Each Party has the right, but not the obligation, to invite outside patent counsel to attend a PPC meeting upon providing prior written notice to the other Party. Each Party will be responsible for all of its own expenses of participating in PPC meetings, including travel costs. **[**]**. The Parties will agree on the minutes of each meeting promptly, but in no event later than the next meeting of the PPC. Without limiting BioMarin's obligations under Section 8 (Confidentiality), BioMarin will not, and will ensure that its representatives on the PPC and its outside patent counsel do not, disclose any Sarepta Confidential Information that Sarepta provides to the PPC to any Person other than a Sarepta or BioMarin representative on the PPC, including to any employees, agents, contractors, representatives, directors and advisors of BioMarin and AZL who are not BioMarin representatives on the PPC, without the prior written consent of Sarepta. BioMarin will use all reasonable measures to protect such Sarepta Confidential Information from such unauthorized disclosure, including by securing paper and electronic files that include such Sarepta Confidential Information in a manner that

makes such Sarepta Confidential Information inaccessible to Persons not authorized to access such information.

6.1.2. **Patent Prosecution**. BioMarin will, taking into consideration the recommendations of the PPC and Section 6.1.3 (Prosecution Dispute Escalation), prepare, file, prosecute (including in connection with any post-grant proceedings, such as reissues, reexaminations and the like) and maintain (or abandon) the Licensed Patents at BioMarin's cost, using counsel that is reasonably acceptable to Sarepta. BioMarin will consult and reasonably cooperate with Sarepta or the PPC (as appropriate) with respect to the preparation, filing, prosecution and maintenance of its Licensed Patents, including: (a) allowing Sarepta through its representatives on the PPC a reasonable opportunity and reasonable time to review and comment regarding drafts of substantive communications, responses or proposed filings by BioMarin before any such communications, responses or filings are submitted to any relevant patent office or governmental authority, (b) taking into consideration the comments offered by Sarepta through its representatives on the PPC in any such communications, responses or filings submitted by BioMarin to any relevant patent office or governmental authority, (c) promptly informing Sarepta and the PPC in writing of BioMarin's disagreement with any such Sarepta comment, if applicable, prior to submitting any such communication, response or filing to any relevant patent office or governmental authority, and (d) resolving any such disagreement in the manner set forth in Section 6.1.3 (Prosecution Dispute Escalation) prior to submitting any such communication, response or filing to any relevant patent office or governmental authority. BioMarin shall notify Sarepta in writing at least 10 Business Days prior to the deadline for submitting any filing with respect to any Licensed Patent to the relevant patent office or governmental authority if BioMarin intends to not implement any recommendation of Sarepta or its representatives on the PPC into the relevant filing. If BioMarin informs Sarepta or its representatives on the PPC that it intends not to implement any recommendation of Sarepta or its representatives on the PPC or if BioMarin does not promptly respond to any Sarepta comment on any draft communication, response or filing reasonably in advance of the relevant submission deadline, then, in either case, Sarepta may refer the matter for resolution in accordance with Section 6.1.3 (Prosecution Dispute Escalation), in which case the Parties will pursue the dispute resolution process set forth in Section 6.1.3 (Prosecution Dispute Escalation) prior to the submission of the applicable communication, response or filing to the relevant patent office or governmental authority.

6.1.3. **Prosecution Dispute Escalation**. In the event that the Parties through the PPC disagree with respect to any comment offered in good faith by Sarepta regarding a draft material substantive communication, response or proposed filing by BioMarin under Section 6.1.2 (Patent Prosecution) with respect to

a Licensed Patent, then, before any such communication, response or filing is submitted to any relevant patent office or governmental authority, the Parties will refer the matter to the General Counsels of both Parties for resolution prior to the deadline for the relevant communication, response or proposed filing. If the matter is not resolved by the General Counsels prior to such deadline, then:

(a) BioMarin will have the right to make the final decision regarding such communication, response or filing after considering Sarepta's comments in good faith, and

(b) if such communication, response or filing does not reflect such Sarepta comments then, notwithstanding anything to the contrary in this Agreement or in the Settlement Agreement, if Sarepta brings a Patent Challenge (as defined in the Settlement Agreement) with respect to such Licensed Patent in the country to which such comments pertain, then BioMarin may terminate this Agreement and the Settlement Agreement only with respect to such Licensed Patent in such country (or the entire European Union for a challenge in any country in the European Union) and only with respect to the Follow-On Products (and not any Lead Product).

6.1.4. **Step-in Right.** If BioMarin elects to cease prosecution of the Licensed Patents in a country in the Territory in a manner that would prevent the opportunity to obtain an issued Licensed Patent or additional issued Licensed Patents, as the case may be, in such country, then BioMarin will provide Sarepta with written notice as soon as reasonably practicable, but not less than 30 days before any action is required, upon the decision to cease prosecution of such Patent, in which case BioMarin or its Affiliates will permit Sarepta, in Sarepta's sole discretion, to file or continue prosecution of any such Licensed Patent in such country at Sarepta's sole expense. If BioMarin elects not to maintain any issued Patent within the Licensed Patents, then BioMarin or its Affiliates will permit Sarepta, in Sarepta's sole discretion, to maintain any such issued Patent within the Licensed Patents in such country at Sarepta's sole expense.

6.2. **EU Unitary Patent System**. Sarepta and its Affiliates will have the exclusive right to remain in or opt-out of the EU Unitary Patent System for the Licensed Patents, and BioMarin will take no actions inconsistent with such determination and cooperate with Sarepta in support of it exercising its rights hereunder. Without limiting the generality of the foregoing, if Sarepta or its Affiliates opt out of the EU Unitary Patent System with respect to a Licensed Patent prior to the final due date for doing so, then BioMarin will not initiate any action under the EU Unitary Patent System without Sarepta's prior written approval, in Sarepta's sole discretion.

6.3. **Regulatory Filings; Orange Book Listings**. Sarepta will have the sole discretion to determine whether to list or de-list a Licensed Patent in the FDA's Orange Book or its foreign equivalents with respect to a Product, as required or allowed under Applicable Law. To the extent that Sarepta elects to list a Licensed Patent in the Orange Book and foreign equivalents with respect to a Product, it will have the sole right make all filings with Regulatory Authorities in the Territory with respect to the Licensed Patents. At Sarepta's expense, BioMarin will cooperate with Sarepta's reasonable requests in connection therewith, to the extent required or permitted under Applicable Law. Upon Sarepta listing a Licensed Patent in the Orange Book or foreign equivalent with respect to a Product pursuant to this Section 6.3 (Regulatory Filings; Orange Book Listings), BioMarin agrees to notify AZL of its notification obligations pursuant to Section 7.7 (Generic Challenge) and request AZL to cooperate with it in fulfilling its obligations.

6.4. **Patent Coverage Disputes**. The Parties will first attempt to resolve any and all disputes between the Parties relating to whether or not a Product of Sarepta (other than a Lead Product in the United States or in the European Union prior to BioMarin's exercise of the BioMarin Co-Exclusive License Option) is a Royalty Bearing Product (a "**Patent Coverage Dispute**") informally through good faith negotiation between the Parties following either Party's provision of written notice that such Patent Coverage Dispute exists. In the event that Christopher Verni, Vice President, Chief Intellectual Property Counsel, on behalf of Sarepta, and Luisa Bigornia, Vice President, Intellectual Property, on behalf of BioMarin, or their respective successors are unable to resolve such Patent Coverage Dispute within 60 days following the provision of such notice, such Patent Coverage Dispute will be resolved through binding arbitration as set forth in this Section 6.4 (Patent Coverage Disputes). The arbitration will be initiated and conducted according to the Commercial Arbitration Rules of the American Arbitration Association and the Supplementary Procedures for Large, Complex Disputes (the "**Arbitration Rules**"). The arbitration will be conducted in Boston, Massachusetts before a panel of three arbiters selected as follows: each Party would appoint one arbiter and the two Party-appointed arbiters would mutually select a third arbiter. All arbiters will be experienced United States patent lawyers practicing in the bio-pharmaceutical industry with significant arbitration experience and experience with patent matters involving RNA-targeted therapeutics. The arbitrators will follow Massachusetts law in adjudicating such dispute. The Parties agree that the arbitrators' authority will extend solely to resolving such Patent Coverage Dispute, and not to any other matter. The arbitrators will provide a detailed written statement of decision, which may be enforced in any court of competent jurisdiction. The cost of such arbitration will be borne by the unsuccessful Party in such arbitration, including without limitation the costs and expenses of the prevailing Party (including reasonable attorney's fees). Such arbitration and such results will be the Confidential Information of both Parties. The Parties agree that the Licensed Patents may not be asserted or defended, or their validity challenged in a court of law unless and until the arbitrators provide the written statement of the decision.

6.5. **Bankruptcy**. All rights and licenses granted to Sarepta pursuant to this Agreement are licenses of rights to "intellectual property" (as defined in Section 101(35A) of title 11 of the United States Code (the "**Bankruptcy Code**")). Each Party will retain and may fully exercise all of its rights and elections under the Bankruptcy Code. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against BioMarin or any of its Affiliates (collectively, the "**Bankrupt Party**") under the Bankruptcy Code or analogous provisions of Applicable Law outside the United States, Sarepta, as a licensee under the Bankrupt Party's intellectual property, will be entitled to a complete duplicate of (or complete access to, as appropriate) such intellectual property and all embodiments of such intellectual property, which, if not already in Sarepta's possession, will be promptly delivered to it upon Sarepta's request therefor.

7. ENFORCEMENT AND DEFENSE OF THE LICENSED PATENTS

7.1. **Notification**. BioMarin will promptly notify Sarepta in writing of its becoming aware of any actual, perceived, or threatened (a) act of direct, contributory or induced infringement or misappropriation of the Licensed Patents and Licensed Know-How, whether or not defendable, or other violation of the Licensed Patents or Licensed Know-How for which a Claim could be brought, a suit could be filed or other legal action could be taken (collectively, "**Third Party Infringement Action**"); or (b) challenge to the validity, scope, ownership or enforceability of any Licensed Patent or Licensed Know-How, including any declaratory judgment action, revocation action, opposition proceeding, nullity action, interference, derivation action, *inter partes* review, post-grant review and the like, by a Third Party against or with respect to any Licensed Patents or Licensed Know-How (collectively, "**Challenge Action**").

7.2. **Right to Enforce and Defend**. Except as otherwise provided in this Section 7 (Enforcement and Defense of the Licensed Patents), as between the Parties, Sarepta will have the first right, but not the obligation, to institute a Third Party Infringement Action or Challenge Action, and any such Third Party Infringement Action or Challenge Action initiated by Sarepta will be at Sarepta's expense, subject to Section 7.3 (Defense Cost Sharing). Subject to Section 7.7 (Generic Challenge), if Sarepta fails to institute such Third Party Infringement Action or defend a Challenge Action within **[**]** of its receipt of notice thereof, then BioMarin will have the right, but not the obligation, upon **[**]** prior notice to Sarepta, to institute any such Third Party Infringement Action or defend any such Challenge Action at its own expense. The Party that undertakes to institute a Third Party Infringement Action or Challenge Action in accordance with this Section 7 (Enforcement and Defense of the Licensed Patents) is referred to in this Agreement as the "**Enforcing Party**." For clarity, Sarepta is not obligated to lead or continue any Third Party Infringement Action or Challenge Action initiated or defended by BioMarin with respect to the Licensed Patents prior to the Effective Date, including the Actions, except as otherwise expressly provided in the Settlement Agreement.

7.3. **Defense Cost Sharing**. If (a) a Third Party asserts a Third Party Claim and (b) such Third Party (or its Affiliates or licensees) **[**]**, then Sarepta may, in its sole discretion, request BioMarin to license the Licensed Patents to such Third Party under the terms set forth in Section 4.4.3(b) (BioMarin Cross-License) as part of a cross-license arrangement. If, within **[**]** following the applicable Sarepta request under this Section 7.3 (Defense Cost Sharing), BioMarin does not offer to license the Licensed Patents to such Third Party under the terms set forth in Section 4.4.3(b) (BioMarin Cross-License) and subsequently negotiate in good faith a license agreement with such Third Party in accordance with Section 4.4.3(b) (BioMarin Cross-License) for at least **[**]** following such offer to license or such shorter period as Sarepta may direct, as applicable, then (A) Sarepta may deduct **[**]**% of the amount of Third Party Royalties actually paid by Sarepta or its Affiliates to such Third Party with respect to any Royalty Bearing Product from amounts payable to BioMarin under Section 4.4 (Royalties) of this Agreement with respect to such Royalty Bearing Product, and (B) Sarepta may deduct **[**]**% of its reasonable expenses (including attorney's fees) incurred in defending such Third Party Claim as well as **[**]**% of the amount of any settlement amounts or damages actually paid by Sarepta or its Affiliates to such Third Party as a result of such Third Party Claim from amounts payable to BioMarin under Section 4.4 (Royalties); provided that, in no event will payments to BioMarin be reduced pursuant to this Section 7.3 (Defense Cost Sharing) by more than **[**]**% of the payments that would otherwise be payable pursuant to Section 4.4 (Royalties).

7.4. **Cooperation**. The Enforcing Party will have the right to control the Third Party Infringement Action or Challenge Action instituted or defended by it, as applicable, at its own expense. At the Enforcing Party's request and expense, the other Party will timely commence or join in any such Third Party Infringement Action or the defense of any such Challenge Action whether to establish standing or otherwise, and in any event will cooperate with the Enforcing Party in such Third Party Infringement Action or Challenge Action at the Enforcing Party's expense. The other Party also will have the right to consult with the Enforcing Party about such Third Party Infringement Action or Challenge Action and to join such Third Party Infringement Action or Challenge Action as a party and to participate in and be represented by independent counsel in such Third Party Infringement Action or Challenge Action at such other Party's own expense. If BioMarin exercises the BioMarin Co-Exclusive License Option, it will provide Sarepta with reasonable prior written notice of its desire to initiate a Third Party Infringement Action or defend a Challenge Action, such Third Party Infringement Action or such defense of a Challenge Action will be at its sole expense, and BioMarin agrees to cooperate with Sarepta and keep Sarepta reasonably informed of any such Third Party Infringement Action or Challenge Action in the manner provided in this Section 7.4 (Cooperation).

7.5. **Settlement**. The Enforcing Party will have the right to settle any Third Party Infringement Action or Challenge Action, subject to this Section 7.5 (Settlement). The Enforcing Party will give the other Party timely notice of any proposed

settlement of any such Third Party Infringement Action or Challenge Action that such Enforcing Party controls and will not settle, stipulate to any facts or make any admission with respect to any such Third Party Infringement Action or Challenge Action without the other Party's prior written consent (not to be unreasonably withheld or delayed) if such settlement, stipulation or admission would: (a) adversely affect the validity, enforceability or scope, or admit non-infringement, of any of the Licensed Patents; (b) give rise to liability of the other Party or its Affiliates; (c) grant to a Third Party a license, sublicense or covenant not to sue under, or with respect to, any Licensed Patent beyond the scope of the Enforcing Party's right to do so under this Agreement; or (d) otherwise impair the other Party's rights in any Licensed Patents or the other Party's rights under this Agreement.

7.6. **Recoveries**. Any and all recoveries resulting from a Third Party Infringement Action or Challenge Action as provided in this Section 7 (Enforcement and Defense of the Licensed Patents) will first be applied to reimburse each Party's costs and expenses in connection with such Third Party Infringement Action or Challenge Action (such recoveries to be applied pro rata in accordance with the costs and expenses incurred by each Party, in the event that the amount of such recoveries is less than the total amount of all such costs and expenses). Any remaining recoveries (the "**Remaining Recoveries**") will be allocated between Parties as follows:

(a) The Enforcing Party will receive **[**]** percent (**[**]**%) of the Remaining Recoveries; and

(b) The other Party will receive **[**]** percent (**[**]**%) of the Remaining Recoveries.

7.7. **Generic Challenge**. Notwithstanding anything to the contrary in this Agreement, if BioMarin (a) reasonably believes that a Third Party may be filing or preparing or seeking to file an abbreviated new drug application, abridged new drug application or the like that refers to or relies on Regulatory Documentation submitted by Sarepta to any Regulatory Authority with respect to a Product, whether or not such preparation for filing may infringe the Licensed Patents; (b) receives any notice of certification regarding the Licensed Patents pursuant to the U.S. "Drug Price Competition and Patent Term Restoration Act" of 1984 (21 United States Code §355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV)) ("**ANDA Act**") claiming that any such Patents are invalid or unenforceable or claiming that any such Patents will not be infringed by the manufacture, use, marketing or sale of a product for which an application under the ANDA Act is filed; or (c) receives any equivalent or similar certification or notice in any jurisdiction outside of the United States, it will (i) notify Sarepta identifying the alleged Third Party applicant or potential Third Party applicant and furnishing the information upon which determination is based and (ii) provide Sarepta with a copy of any such notice of certification within 10 days of the date of receipt and the Parties' rights and obligations with respect to any

Third Party Infringement Action as a result of such certification will be as set forth in Section 7 (Enforcement and Defense of the Licensed Patents); provided that if Sarepta elects not to initiate a Third Party Infringement Action against the Third Party providing notice of such certification within **[**]** of receipt of such notice, then BioMarin, upon discussing the facts and circumstances with Sarepta, will have the right, but will not be obligated, to initiate the Third Party Infringement Action against such Third Party at its expense and to join Sarepta as a party plaintiff if necessary to bring such a suit, in which event BioMarin will hold Sarepta and its Affiliates harmless from and against any and all costs and expenses of such litigation, including reasonable attorneys' fees and expenses.

8. CONFIDENTIALITY

8.1. **Definition**. "**Confidential Information**" means (a) the terms and provisions of this Agreement, (b) information disclosed in a Royalty Report or in connection with an audit thereof, (c) technical information regarding a Party's Products, (d) information disclosed in connection with the prosecution, maintenance, or enforcement of the Licensed Patents, (e) information disclosed in connection with an arbitration hereunder, including the results thereof, and (f) the Licensed Know-How other than the BioMarin Know-How. Notwithstanding anything to the contrary herein, (i) the terms and provisions of this Agreement will be deemed the Confidential Information of both Parties and (ii) as between the Parties, all BioMarin Know-How **[**]** will be deemed the Confidential Information of both Parties for a period of **[**]** from the Effective Date and thereafter shall be the Confidential Information of BioMarin, provided that Sarepta will retain the right to exploit such Licensed Know-How pursuant to the license grant under Section 2.1 (License Grant to Sarepta).

8.2. **Obligations**. During the term of this Agreement and for 10 years thereafter, the receiving Party will (a) protect all Confidential Information of the disclosing Party against unauthorized disclosure to Third Parties and (b) not use or disclose the Confidential Information of the disclosing Party, except as permitted by or in furtherance of exercising rights or carrying out obligations hereunder or for internal legal, accounting or finance purposes. The receiving Party will treat all Confidential Information provided by the disclosing Party with the same degree of care as the receiving Party uses for its own similar information, but in no event less than a reasonable degree of care. The receiving Party may disclose the Confidential Information to its Affiliates, and their respective directors, officers, employees, subcontractors, sublicensees, consultants, attorneys, accountants, banks and investors (collectively, "**Recipients**") who have a need-to-know such information for purposes related to this Agreement, provided that the receiving Party will hold such Recipients to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement. Notwithstanding anything to the contrary herein, (i) the confidentiality obligations under this Agreement will not apply to Sarepta or BioMarin with respect to **[**]** and (ii) BioMarin may provide any and all BioMarin Know-How to **[**]**.

8.3. **Exceptions to Confidentiality**. The obligations under this Section 8 (Confidentiality) will not apply to any information to the extent the receiving Party can demonstrate by competent evidence that such information:

(a) is (at the time of disclosure) or becomes (after the time of disclosure) known to the public or part of the public domain through no breach of this Agreement by the receiving Party or any Recipients to whom it disclosed such information;

(b) was known to, or was otherwise in the possession of, the receiving Party prior to the time of disclosure by the disclosing Party;

(c) is disclosed to the receiving Party on a non-confidential basis by a Third Party who is entitled to disclose it without breaching any confidentiality obligation to the disclosing Party; or

(d) is independently developed by or on behalf of the receiving Party or any of its Affiliates, as evidenced by its written records, without use or access to the Confidential Information.

8.4. **Permitted Disclosures**.

8.4.1. **Compliance with Law**. The restrictions set forth in this Section 8 (Confidentiality) will not apply to any Confidential Information that the receiving Party is required to disclose under Applicable Law or a court order or other governmental order (including regulations of the Securities Exchange Commission and the rules of any securities exchange or market) or to enforce or defend any Licensed Patents under Section 7 (Enforcement and Defense of the Licensed Patents), provided that the receiving Party: (a) provides the disclosing Party with prompt notice of such disclosure requirement if legally permitted; (b) affords the disclosing Party an opportunity to oppose or limit, or secure confidential treatment for such required disclosure; and (c) if the disclosing Party is unsuccessful in its efforts pursuant to subsection (b), discloses only that portion of the Confidential Information that the receiving Party is legally required to disclose as advised by the receiving Party's legal counsel.

8.4.2. **Permitted Disclosures**. Notwithstanding the restrictions set forth in this Section 8 (Confidentiality), in the event that a Party wishes to enter into a sublicense in accordance with Section 2.2 (Right to Sublicense), such Party may disclose to a Third Party Confidential Information of the other Party directly relating to the Products of such Party in connection with any such proposed sublicense, provided that such Party will hold such Third Parties to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement.

8.4.3. **Disclosure of Agreement Terms**. Notwithstanding the restrictions set forth in this Section 8 (Confidentiality), (A) BioMarin may disclose the terms and provisions of this Agreement to AZL under the terms and conditions of the Leiden Agreement, provided that AZL is subject to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement, and (B) a Party may, without the prior consent of the other Party, disclose the terms and provisions of this Agreement to any Third Party that (a) is performing diligence in connection with any permitted Change of Control or similar transaction, or in a transaction relating to a sale of all or substantially all of the assets to which this Agreement relates, (b) is an underwriter or placement agent or its counsel in connection with any offering by such Party, or (c) is a permitted Sublicensee under this Agreement or a permitted assignee of this Agreement, provided that such Party will hold such Third Party to written obligations of confidentiality with terms and conditions at least as restrictive as those set forth in this Agreement.

8.5. **Residuals**. Notwithstanding anything to the contrary herein, each Party and its Affiliates may use Residuals for any purpose, including for use in the development, manufacture, promotion, sale and maintenance of their products and services; provided that this right to Residuals does not represent a license under any patents, copyrights or other intellectual property rights of the other Party. As used herein, the term "**Residuals**" means any information retained in the unaided memories of a Party's or its Affiliates' employees who have had access to the other Party's Confidential Information pursuant to the terms of this Agreement. For clarity, an employee's memory is unaided if the employee recalls the information at issue without the aid of documents, and the employee has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it contrary to this Agreement.

8.6. **Right to Injunctive Relief**. Each Party agrees that breaches of this Section 8 (Confidentiality) may cause irreparable harm to the other Party and will entitle such other Party, in addition to any other remedies available to it (subject to the terms of this Agreement), the right to seek injunctive relief enjoining such action in any jurisdiction appropriate for such relief.

8.7. **Ongoing Obligation for Confidentiality**. Upon expiration or termination of this Agreement, the receiving Party will, and will cause its Recipients to, destroy, delete or return (as requested by the disclosing Party) any Confidential Information of the disclosing Party, except for one copy which may be retained in its confidential files solely for the purpose of confirming compliance with its obligations herein. Notwithstanding the foregoing, this Section 8.7 (Ongoing Obligation for Confidentiality) does not require (a) the alteration, modification, deletion or destruction of backup tapes or other backup media made in the ordinary course of business, or (b) the destruction or return of copies of this Agreement, provided that,

in each case ((a) and (b)), any retained copies be maintained as Confidential Information in accordance with this Section 8 (Confidentiality).

9. REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1. Representations and Warranties by Each Party. Subject to Section 9.3 (BioMarin Disclosed Know-How), each Party represents and warrants, and covenants, as applicable, to the other Party as of the Effective Date that:

(a) *Organization; Power and Authority*. Such Party (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and (ii) has the power, authority and legal right, and is free to enter into this Agreement and, in so doing, will not violate any other agreement to which such Party is a party as of the Effective Date, or conflict with the rights granted to any Third Party;

(b) *Due Execution*. This Agreement has been duly executed and delivered on behalf of such Party and constitutes a legal, valid, and binding obligation of such Party and is enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity;

(c) *Authorization*. Such Party has taken all action necessary to authorize the execution and delivery of this Agreement;

(d) *Consents*. Such Party has obtained all necessary consents, approvals, and authorizations of all regulatory authorities and other Third Parties required to be obtained by such Party in connection with the execution and delivery of this Agreement and the performance of its obligations hereunder;

(e) *No Litigation.* Except as identified in the Settlement Agreement, there is no action or proceeding pending or, to the knowledge of such Party, threatened that could reasonably be expected to impair or delay the ability of such Party to perform its obligations under this Agreement; and

(f) *No Conflicts*. The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not and will not conflict with or violate any requirement of Applicable Law or any provision of the articles of incorporation, bylaws, limited partnership agreement, or any similar instrument of such Party, as applicable, in any material way, and (ii) do not and will not conflict

with, violate or breach, or constitute a default or require any consent under, any contractual obligation or court or administrative order by which such Party is or will be bound.

9.2. **Representations and Warranties by BioMarin**. Subject to Section 9.3 (BioMarin Disclosed Know-How), BioMarin represents and warrants, and covenants, as applicable, to Sarepta as of the Effective Date that:

(a) *Ownership of Licensed Patents*. BioMarin, or its Affiliates, are, and throughout the Term will remain, the sole and exclusive owners of all rights, title and interests in and to the Licensed Patents set forth on Schedule 1.57 (Licensed Patents), free and clear of all encumbrances, except to the extent such Schedule indicates that a Third Party owns one or more of such Patents, in which case the Schedule identifies the license agreement pursuant to which such Patents are licensed to by such Third Party to BioMarin or its Affiliates.

(b) *Control of Licensed IP*. BioMarin Controls, and throughout the Term will Control, the Licensed IP, including the Know-How described on Schedule 1.56 (Licensed Know-How), and has, and will have, sufficient rights to grant the licenses specified herein.

(c) *No Encumbrance*. Neither BioMarin nor any of its Affiliates has previously entered into any agreement, whether written or oral, with respect to, or otherwise assigned, transferred, licensed, conveyed or otherwise encumbered, its rights, title or interests in or to (i) the Licensed Patents or Licensed Know-How or (ii) any Patents or Know-How that would be Licensed Patents or Licensed Know-How but for such agreement, assignment, transfer, license, conveyance or encumbrance. Neither BioMarin nor any of its Affiliates will enter into any such agreements or grant any such right, title or interest to any Person that is inconsistent with or otherwise diminishes the rights and licenses granted to Sarepta under this Agreement.

(d) *No Ownership or Inventorship Claim.* After the initial determination of inventorship of the Licensed Patents, BioMarin has not received any written claim of ownership or inventorship of any Third Party (including by current or former officers, directors, employees, consultants or personnel of BioMarin or any predecessor or Affiliate of BioMarin) with respect to the Licensed Patents, and to BioMarin's knowledge, there is neither such a claim, nor a reasonable basis for any such claim. Each person who has or has had any rights in or to any Licensed Patent has assigned and has executed an agreement assigning to BioMarin or its Affiliate its entire right, title and interest in and to such Patent.

(e) *No Claims*. There are no claims, judgments or settlements against or amounts with respect thereto owed by BioMarin or any of its Affiliates relating to the Licensed Patents. There are no pending oppositions, interferences, reissue proceedings, re-examinations or other proceedings regarding any of the Licensed Patents.

(f) *Infringement*. There is (i) no claim, action or proceeding pending, (ii) no written communication and (iii) to BioMarin's knowledge, no existing threatened claim, action or proceeding alleging that the practice or use of the Licensed Patents or Licensed Know-How infringes or misappropriates any Patents or other intellectual property of any Third Party. To BioMarin's knowledge, no Person is infringing or misappropriating, or threatening to infringe or misappropriate, the Licensed IP.

(g) *Copies of License Agreements.* BioMarin has provided Sarepta with true and correct (but redacted) copies of all agreements (or, with respect to an oral agreement, an accurate written summary of such agreement) pursuant to which BioMarin has received any license or other grant of rights with respect to the Licensed Patents or Licensed Know-How.

(h) *Use of Licensed IP.* BioMarin and its Affiliates will not use or exploit any of the Licensed Patents or Licensed Know-How in any manner that is inconsistent with or otherwise diminishes the licenses granted to Sarepta hereunder or diminishes the value of any Licensed Patent or Licensed Know-How.

(i) *Unexpired Patents*. The patents set forth in Schedule 9.2 are unexpired and, except as provided in Schedule 9.2, no maintenance fee or annuity fee with respect to any such patent is due or will become due within 90 days following the Effective Date.

9.3. **BioMarin Disclosed Know-How.** Notwithstanding anything else in this Agreement, Section 9.1(d), Section 9.1(f), Section 9.2(b), Section 9.2(c), Section 9.2(f), Section 9.2(g) and Section 9.2(h) shall not apply to any BioMarin Disclosed Know-How.

9.4. **No Other Warranties**. EXCEPT AS EXPRESSLY STATED IN THIS SECTION 9 (REPRESENTATIONS, WARRANTIES AND COVENANTS), NEITHER PARTY MAKES ANY REPRESENTATIONS OR EXTENDS ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, VALIDITY, ENFORCEABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY INFORMATION PROVIDED BY A PARTY

OR ITS AFFILIATES IS MADE AVAILABLE ON AN "AS IS" BASIS WITHOUT WARRANTY WITH RESPECT TO COMPLETENESS, COMPLIANCE WITH REGULATORY STANDARDS OR REGULATIONS OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER KIND OF WARRANTY WHETHER EXPRESS OR IMPLIED.

9.5. **Disclaimer**. Notwithstanding anything to the contrary herein, the Parties agree that Sarepta's entry into this Agreement and its payment obligations hereunder do not represent an admission or acknowledgement that the making, using or selling of any Lead Product would, absent a license, infringe any claim of any Licensed Patent. Sarepta hereby disclaims any such admission or acknowledgement.

10. INDEMNIFICATION; LIMITATION OF LIABILITY

10.1. **Indemnification**. Each Party together with its Affiliates (the "**Indemnifying Party**") agrees to indemnify, hold harmless and defend the other Party and its Affiliates, and their respective officers, directors and employees (collectively, "**Indemnitees**"), from and against any Claims brought by a Third Party arising or resulting from: (a) the practice of the Licensed Patents of the Indemnifying Party or its Affiliates (as it would apply to BioMarin in the event that BioMarin exercises the BioMarin Co-Exclusive License Option; (b) the gross negligence or wrongful intentional acts or omissions of the Indemnifying Party or its Affiliates in connection with this Agreement; or (c) breach of this Agreement by the Indemnifying Party. Notwithstanding the foregoing, BioMarin agrees to indemnify, hold harmless and defend Sarepta Indemnitees from and against any Claims brought by AZL or an affiliate thereof arising or resulting from (i) Sarepta's entry into this Agreement, (ii) the exploitation of the rights granted to Sarepta under this Agreement.

10.2. **Indemnification Procedure**. In connection with any Claim brought by a Third Party for which an Indemnitee seeks indemnification from the Indemnifying Party pursuant to this Agreement, the Indemnitee will: (a) give the Indemnifying Party prompt written notice of the Claim; provided, however, that failure to provide such notice will not relieve the Indemnifying Party from its liability or obligation hereunder, except to the extent of any material prejudice as a direct result of such failure; (b) cooperate with the Indemnifying Party, at the Indemnifying Party's expense, in connection with the defense and settlement of the Claim; and (c) permit the Indemnifying Party to control the defense and settlement of the Claim; provided, however, that the Indemnifying Party may not settle the Claim without the Indemnitee's prior written consent, which will not be unreasonably withheld or delayed, in the event such settlement materially adversely impacts the Indemnitee's rights or obligations. Further, the Indemnitee will have the right to participate (but not control) and be represented in any suit or action by advisory counsel of its selection and at its own expense.

10.3. **Limitation of Liability**. EXCEPT (A) FOR A BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 8 (CONFIDENTIALITY) AND (B) WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 10.1 (INDEMNIFICATION), NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY, ANY AFFILIATE THEREOF OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES, OR ANY LOST OR ANTICIPATED REVENUES OR PROFITS RELATING TO THE SAME, ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT, OR THE SUBJECT MATTER HEREOF, WHETHER SUCH CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SAME.

11. TERM; TERMINATION

11.1. **Term**. The term of this Agreement will commence as of the Effective Date and, unless earlier terminated as expressly provided herein, will expire upon the last-to-expire Royalty Term ("**Term**"). Upon expiration of the Royalty Term in a country, the Sarepta License will become royalty-free and fully paid in such country.

11.2. **Termination for Cause**. Each Party will have the right to terminate this Agreement in the event the other Party materially breaches this Agreement and fails to cure such breach within **[**]** of receiving notice thereof; provided, however, that if such breach is capable of being cured, but cannot be cured within such **[**]** period, and the breaching Party initiates actions to cure such breach within such period and thereafter diligently pursues such actions, the breaching Party will have such additional period as is reasonable to cure such breach. If either Party initiates a dispute in accordance with Section 6.4 (Patent Coverage Disputes) or Section 13.3 (Governing Law; Exclusive Jurisdiction) to resolve a dispute or controversy in connection with the material breach for which termination is being sought and is diligently pursuing such procedure, then the cure period set forth in this Section 11.2 (Termination for Cause) will be tolled during the pendency of such dispute resolution procedure. Any termination by a Party under this Section 11.2 (Termination for Cause) will be without prejudice to any damages or other legal or equitable remedies to which it may be entitled from the other Party.

11.3. **Termination for Patent Challenge.** Subject to Section 6.1.3 (Prosecution Dispute Escalation), on a Licensed Patent-by-Licensed Patent basis, BioMarin may terminate this Agreement with respect to any Licensed Patent that is the subject of a Patent Challenge (as defined in the Settlement Agreement) brought by Sarepta. For clarity, in such event the Agreement will otherwise remain in full force and effect.

11.4. **Effect of Termination**.

11.4.1. **Accrued Obligations**. Termination or expiration of this Agreement will not affect the rights and obligations of the Parties accrued prior to termination or expiration hereof.

11.4.2. **Breach by Sarepta**. Upon any termination of this Agreement by BioMarin pursuant to Section 11.2 (Termination for Cause), the licenses granted by BioMarin to Sarepta under this Agreement will immediately terminate.

11.4.3. **Breach by BioMarin**. Upon any termination of this Agreement by Sarepta pursuant to Section 11.2 (Termination for Cause), the licenses granted by BioMarin to Sarepta under this Agreement will survive such termination, provided that Sarepta complies with any financial obligations under this Agreement that accrued prior to the date of such termination.

11.4.4. **Effect of Termination on Sublicensees**. Upon any termination of this Agreement pursuant to Section 11 (Term; Termination), where (i) such termination has not been caused by any action or inaction on the part of any Sublicensee that is a collaboration partner or regional licensee of Sarepta, (ii) such Sublicensee is in good standing under the terms of its Sublicense agreement, and (iii) such Sublicensee has (together with its Affiliates) a market capitalization of at least **[**]** as of the date of termination of this Agreement, such termination of this Agreement will be without prejudice to the rights of each such Sublicensee of Sarepta, and BioMarin will enter into a license agreement directly with each such Sublicensee (the "**New License Agreement**") on substantially the same terms and conditions as those set forth in this Agreement; provided, however, that (a) the New License Agreement will provide that in no event will such Sublicensee be liable to BioMarin for any actual or alleged default by Sarepta of this Agreement, (b) the scope and territory of the license grant under the New License Agreement will be the same as that granted by Sarepta to such Sublicensee pursuant to the Sublicense between Sarepta and such Sublicensee, (c) the financial terms of any New License Agreement will be such that BioMarin will receive the same consideration with respect to such Sublicensee that it would have received under this Agreement had it not been terminated, (d) BioMarin will not have any obligations under the New License Agreement that are greater than or inconsistent with the obligations of BioMarin under this Agreement, and (e) the following Sections of this Agreement and their terms and conditions will not be included in the New License Agreement: Section 2.6 (Diligence Disclaimer), Section 4.4.3 (Third Party License Offset), Section 4.7 (Royalty Monetization), Section 4.8 (Leiden Agreement Renegotiation), Section 6.1.1 (Patent Prosecution Committee), Section 6.1.2 (Patent Prosecution), Section 6.1.3 (Patent Prosecution Dispute Escalation), Section 6.1.4 (Step-in Right), Section 6.2 (EU Unitary Patent System), Section 6.4 (Patent Coverage Disputes), Section 7.3 (Defense Cost Sharing), and Section 11.4.4 (Effect of Termination on Sublicensees) Each such Sublicensee will be deemed a third

party beneficiary of this Section 11.4 (Effect of Termination) with the right to enforce it directly against BioMarin.

11.5. **Survival**. Without limiting the foregoing Section 11.4.1 (Accrued Obligations) the provisions of Section 1 (Definitions), Section 2.5 (No Additional Rights), Section 4.4.6 (Late Payments) Section 4.5 (Payment Method), as applied to accrued obligations as of the date of expiration or termination, Section 5.1.4 (Confidential Treatment), Section 5 (Records, Audit Rights) to the extent applied to records for payment accrued as of the date of expiration or termination, Section 8 (Confidentiality), Section 9.4 (No Other Warranties), Section 9.5 (Disclaimer), Section 10 (Indemnification; Limitation of Liability), Section 11.4 (Effect of Termination), Section 11.5 (Survival), Section 12.1.1 (Use of Names) and Section 13 (General Provisions) will survive expiration or termination of this Agreement.

12. PUBLICITY

12.1. **Publicity**.

12.1.1. **Use of Names**. Neither Party (nor any of its Affiliates or agents) will use the name or trademarks of the other Party or its Affiliates in any press release, publication or other form of promotional disclosure without the prior written consent of the other Party in each instance.

12.1.2. **Public Statements**. Following the execution of this Agreement, the Parties will issue a joint press release in the form set forth in Schedule 12.1.2 (Joint Press Release). After such initial press release, neither Party will issue press releases or make public disclosures relating to this Agreement or the terms hereof; provided, however, that neither Party will be prevented from (a) later referring to the joint press release, or (b) complying with any duty of disclosure it may have pursuant to Applicable Law or the rules of any recognized stock exchange, including disclosure of the terms of this Agreement, so long as the disclosing Party provides the other Party at least 10 Business Days prior written notice to the extent practicable and only discloses information to the extent required by Applicable Law or the rules of any recognized stock exchange.

13. GENERAL PROVISIONS

13.1. **Assignment**. Neither Party may assign its rights and obligations under this Agreement without the other Party's prior written consent, except that: (a) either Party may assign its rights and obligations under this Agreement in whole or in part to one or more of its Affiliates without the consent of the other Party; and (b) either Party may assign this Agreement in connection with a Change of Control transaction or sale of substantially all the assets to which this Agreement relates; provided, that any such permitted assignee assumes all obligations of its assignor

under this Agreement. The assigning Party will provide the other Party with prompt written notice of any such assignment. No permitted assignment will relieve the assignor of liability for its obligations hereunder. Any attempted assignment in contravention of the foregoing will be void.

13.2. **Severability**. Should one or more of the provisions of this Agreement become void or unenforceable as a matter of law, then such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement, and the Parties agree to substitute a valid and enforceable provision therefor which, as nearly as possible, achieves the desired economic effect and mutual understanding of the Parties under this Agreement.

13.3. **Governing Law; Exclusive Jurisdiction**.

13.3.1. **Governing Law**. This Agreement will be governed by and construed under the laws in effect in the State of New York, United States of America, without giving effect to any conflicts of laws provision thereof or of any other jurisdiction that would produce a contrary result.

13.3.2. **Jurisdiction**. Each Party, by its execution hereof, (a) hereby irrevocably submits to the exclusive jurisdiction of the state courts of the State of New York or the United States District Court for the Southern District of New York for the purpose of any and all actions, suits or proceedings arising in whole or in part out of, related to, based upon or in connection with this Agreement or the subject matter hereof, (b) hereby waives to the extent not prohibited by Applicable Law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such action brought in one of the above-named courts should be dismissed on grounds of *forum non conveniens*, should be transferred to any court other than one of the above-named courts, or should be stayed by reason of the pendency of some other proceeding in any other court other than one of the above-named courts, or that this Agreement or the subject matter hereof may not be enforced in or by such court, and (c) hereby agrees not to commence any such action other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, application may be made to any court of competent jurisdiction with respect to the enforcement of any judgment or award.

13.4. **Waivers and Amendments**. The failure of any Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement will not constitute a waiver of that right or excuse a similar subsequent failure to perform

any such term or condition by the other Party. No waiver will be effective unless it has been given in writing and signed by the Party giving such waiver. No provision of this Agreement may be amended or modified other than by a written document signed by authorized representatives of each Party.

13.5. **Relationship of the Parties**. Nothing contained in this Agreement will be deemed to constitute a partnership, joint venture, or legal entity of any type between Sarepta and BioMarin, or to constitute one Party as the agent of the other. Moreover, each Party agrees not to construe this Agreement, or any of the transactions contemplated hereby, as a partnership for any tax purposes. Each Party will act solely as an independent contractor, and nothing in this Agreement will be construed to give any Party the power or authority to act for, bind, or commit the other Party.

13.6. **Successors and Assigns**. This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

13.7. **Notices**. All notices, consents, waivers, and other communications under this Agreement must be in writing and will be deemed to have been duly given when: (a) delivered by hand (with written confirmation of receipt); (b) sent by fax (with written confirmation of receipt), provided that a copy is sent by an internationally recognized overnight delivery service (receipt requested); or (c) when received by the addressee, if sent by an internationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and fax numbers set forth below (or to such other addresses and fax numbers as a Party may designate by written notice):

If to Sarepta:

Sarepta Therapeutics, Inc.
215 First Street, Suite 415
Cambridge, MA 02142
Attention: General Counsel
Ty Howton
Email: thowton@sarepta.com

With a copy (which will not constitute notice) to:

Ropes & Gray LLP
Prudential Tower
800 Boylston Street
Boston, MA 02199
Attention: David M. McIntosh
Email: David.McIntosh@ropesgray.com

If to BioMarin:

BioMarin Pharmaceutical, Inc.
105 Digital Drive
Novato, Ca 94949

Attention: General Counsel
G. Eric Davis, Esq.
Email: EDavis@bmrn.com

With a copy (which will not constitute notice) to:

Jones Day
4655 Executive Drive, Suite 1500
San Diego, Ca 92121
Attention: John E. Wehrli, Esq.
Email: jwehrli@jonesday.com

13.8. **No Third Party Beneficiary Rights**. Except as expressly provided in this Agreement, this Agreement is not intended to and will not be construed to give any Third Party any interest or rights (including, without limitation, any third Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

13.9. **Entire Agreement**. This Agreement, together with its Schedules, and the Settlement Agreement and the CDA together set forth the entire agreement and understanding of the Parties as to the subject matter hereof and supersede all proposals, oral or written, and all other prior communications between the Parties with respect to such subject matter. In the event of any conflict between a material provision of this Agreement and any Exhibit or Schedule hereto, the Agreement will control.

13.10. **Headings**. The headings to the Sections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the several Sections hereof.

13.11. **Interpretation**. Except where the context expressly requires otherwise, (a) the use of any gender herein will be deemed to encompass references to either or both genders, and the use of the singular will be deemed to include the plural (and vice versa), (b) the words “include”, “includes” and “including” will be deemed to be followed by the phrase “without limitation”, (c) the word “will” will be construed to have the same meaning and effect as the word “shall,” (d) any definition of or reference to any agreement, instrument or other document herein will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (e) any reference herein to any Person will be construed to include the Person’s successors and permitted assigns, (f) the words “herein”, “hereof” and “hereunder,” and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Sections, Exhibits or

Schedules will be construed to refer to Sections, Exhibits or Schedules of this Agreement, and references to this Agreement include all Exhibits and Schedules hereto, (h) the word "notice" means notice in writing (whether or not specifically stated) and will include notices, consents, approvals and other written communications contemplated under this Agreement, (i) provisions that require that a Party, the Parties or any committee hereunder "agree," "consent" or "approve" or the like will require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise (but excluding e-mail and instant messaging), (j) references to any specific law, rule or regulation, or article, section or other division thereof, will be deemed to include the then-current amendments thereto or any replacement or successor law, rule or regulation thereof and (k) the term "or" will be interpreted in the inclusive sense commonly associated with the term "and/or."

13.12. **Cumulative Remedies**. No remedy referred to in this Agreement is intended to be exclusive, but each will be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

13.13. **Waiver of Rule of Construction**. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, any rule of construction that any ambiguity in this Agreement will be construed against the drafting Party will not apply.

13.14. **Counterparts**. The Agreement may be executed in two or more counterparts, including by facsimile or PDF signature pages, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

13.15. **Effective Date**. This Agreement will not be effective (and will be null and void) unless and until AZL (i) executes the Settlement Agreement within seven days of the Execution Date, and (ii) simultaneously therewith consents in writing to BioMarin's execution of this Agreement (such date if and when (i) and (ii) are satisfied, the "**Effective Date**").

[*Signatures on next page*]

IN WITNESS WHEREOF, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Sarepta International C.V.

By: /s/ Joseph Bratica
Name: Joseph Bratica
Title: VP and Assistant Treasurer

Sarepta Therapeutics, Inc.

By: /s/ Douglas S. Ingram
Name: Douglas S. Ingram
Title: President and CEO

Date

BioMarin Leiden Holdings BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

BioMarin Nederlands BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

BioMarin Technologies BV

By: /s/ G. Eric Davis
Name: G. Eric Davis
Title: Director

Schedule 1.1
Actions
[**]

Schedule 1.9
BioMarin Know-How
[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 1.57

Licensed Patents
[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 2.2
Third Parties for Settlement Purposes
[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 3.1
Transferred Know-How

[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 9.2
Royalty Bearing Product Patents

Schedule 9.2 (A)
[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 9.2 (B)
[**]

[**] = Portions of this exhibit have been omitted pursuant to a confidential treatment request. An unredacted version of this exhibit has been filed separately with the Securities and Exchange Commission.

Schedule 9.2 (C)
[**]

Schedule 12.1.2

Sarepta Therapeutics and BioMarin Pharmaceutical Inc. Announce Execution of a Global Settlement and a License Agreement Resolving Exon Skipping Patent Litigation

-- Agreement terms resolve global patent proceedings regarding Sarepta's sale of EXONDYS 51® (eteplirsen) and future Duchenne muscular dystrophy (DMD) exon-skipping products --

CAMBRIDGE, Mass. and SAN RAFAEL, Calif., July 18, 2017 (GLOBE NEWSWIRE) -- Sarepta Therapeutics, Inc. (NASDAQ:SRPT), a U.S. commercial-stage biopharmaceutical company focused on the discovery and development of unique RNA-targeted therapeutics for the treatment of rare neuromuscular diseases, and BioMarin Pharmaceutical Inc. (NASDAQ:BMRN), a leading biotechnology company in therapies for rare genetic diseases, announced today that Sarepta and BioMarin executed a license agreement that provides Sarepta Therapeutics with global exclusive rights to BioMarin's DMD patent estate for EXONDYS 51 and all future exon-skipping products. BioMarin retains the right to convert the license to a co-exclusive right in the event it decides to proceed with an exon-skipping therapy for DMD. In addition, Sarepta and BioMarin executed a settlement agreement, resolving the ongoing worldwide patent proceedings related to the use of EXONDYS 51 and all future exon-skipping products for the treatment of DMD. The effectiveness of the agreements is subject to closing conditions including execution of necessary approvals by Academisch Ziekenhuis Leiden (AZL) by July 24, 2017.

Under the terms of the license and settlement agreements, Sarepta will make a one-time payment of $35 million to BioMarin and certain additional regulatory and commercial milestone payments for exons 51, 45, 53 and possibly on future exon-skipping products.

In addition, Sarepta will pay royalties to BioMarin as follows:

- Exon-skipping compounds 51, 45, and 53 and possibly on future exon-skipping products: Sarepta will pay BioMarin 5 percent of net sales through the end of 2023 in the United States; and

- Exon-skipping compounds 51, 45, and 53 and possibly on future exon-skipping products: Sarepta will pay BioMarin 8 percent of net sales through September 30, 2024 in the European Union and in other countries where certain BioMarin / AZL patents exist.

“Upon their effectiveness, these global license and settlement agreements provide Sarepta worldwide freedom to operate for EXONDYS 51 and our future exon-skipping products,” said Douglas Ingram, Sarepta’s President and Chief Executive Officer. “The resolution of these legal matters provides us with more certainty to fully focus our resources and energy on our crucial mission of developing innovative medicines to improve the lives of those impacted by DMD around the world."

“We are pleased to reach a global settlement and license agreement with Sarepta that fairly recognizes the important innovation by the Leiden University Medical Center and allows patients certainty that this issue will not create a barrier to access,” said G. Eric Davis, BioMarin’s Executive Vice President and General Counsel.

About EXONDYS 51

EXONDYS 51 uses Sarepta’s proprietary phosphorodiamidate morpholino oligomer (PMO) chemistry and exon-skipping technology to skip exon 51 of the dystrophin gene. EXONDYS 51 is designed to bind to exon 51 of dystrophin pre-mRNA, resulting in exclusion of this exon during mRNA processing in patients with genetic mutations that are amenable to exon 51 skipping. Exon skipping is intended to allow for production of an internally truncated dystrophin protein. Data from clinical studies of EXONDYS 51 in a small number of DMD patients have demonstrated a consistent safety and tolerability profile. The pivotal trials were not designed to evaluate long-term safety and a clinical benefit of EXONDYS 51 has not been established.

Important Safety Information

Adverse reactions in DMD patients (N=8) treated with EXONDYS 51 30 or 50 mg/kg/week by intravenous (IV) infusion with an incidence of at least 25% more than placebo (N=4) (Study 1, 24 weeks) were (EXONDYS 51, placebo): balance disorder (38%, 0%), vomiting (38%, 0%) and contact dermatitis (25%, 0%). The most common adverse reactions were balance disorder and vomiting. Because of the small numbers of patients, these represent crude frequencies that may not reflect the frequencies observed in practice. The 50 mg/kg once weekly dosing regimen of EXONDYS 51 is not recommended.

In the 88 patients who received ≥30 mg/kg/week of EXONDYS 51 for up to 208 weeks in clinical studies, the following events were reported in ≥10% of patients and occurred more frequently than on the same dose in Study 1: vomiting, contusion, excoriation, arthralgia, rash, catheter site pain, and upper respiratory tract infection.

There have been reports of transient erythema, facial flushing, and elevated temperature occurring on the day of EXONDYS 51 infusion.

About Sarepta Therapeutics

Sarepta Therapeutics is a U.S. commercial-stage biopharmaceutical company focused on the discovery and development of unique RNA-targeted therapeutics for the treatment of rare neuromuscular diseases. The company is primarily focused on rapidly advancing the development of its potentially disease-modifying Duchenne muscular dystrophy (DMD) drug candidates. For more information, please visit www.sarepta.com.

About BioMarin Pharmaceutical Inc.
BioMarin is a global biotechnology company that develops and commercializes innovative therapies for people with serious and life-threatening rare disorders. The company's portfolio consists of six commercialized products and multiple clinical and pre-clinical product candidates. For additional information, please visit www.biomarin.com. Information on BioMarin's website is not incorporated by reference into this press release.

Forward-Looking Statements
This press release contains statements that are forward-looking. Any statements contained in this press release that are not statements of historical fact may be deemed to be forward-looking statements. Words such as "believes," "anticipates," "plans," "expects," "will," "intends," "potential," "possible" and similar expressions are intended to identify forward-looking statements. These forward-looking statements include statements about the license agreement providing Sarepta with global exclusive rights to BioMarin's DMD patent estate for EXONDYS 51 and all future exon-skipping products; the settlement agreement resolving the ongoing worldwide patent proceedings related to the use of EXONDYS 51 and all future exon-skipping products for the treatment of DMD; the payments and royalties

that Sarepta will be making as part of the settlement and license agreements; the settlement and license agreements providing for Sarepta's worldwide freedom to operate for EXONDYS 51 and Sarepta's future exon-skipping products; the settlement providing Sarepta with the certainty to fully focus its resources and energy on its crucial mission of developing innovative medicines to improve the lives of those impacted by DMD around the world; and the statement that the patent proceedings between the parties will not create for patients a barrier to access to the innovation by the Leiden University Medical Center.

These forward-looking statements involve risks and uncertainties, many of which are beyond Sarepta's control. Known risk factors include, among others: the settlement and license agreements may not become effective if their conditions to effectiveness are not met within the required deadline; the parties may not be able to fulfill their commitments and obligations under the settlement and license agreements; any future claims of infringement by other third parties; the expected benefits and opportunities related to the settlement and license agreements between the parties may not be realized or may take longer to realize than expected due to challenges and uncertainties regarding the sales of EXONDYS 51 and the research and development of future exon-skipping products; Sarepta may experience significant fluctuations in sales of EXONDYS 51 from period to period and, ultimately, Sarepta may never generate sufficient revenues from EXONDYS 51 to reach or maintain profitability or sustain its anticipated levels of operations; Sarepta may never receive regulatory approval to its future exon-skipping products due to a variety of reasons including that the results of additional research may not be consistent with past results or may not be positive or may otherwise fail to meet regulatory approval requirements for the safety and efficacy of product candidates; and even if Sarepta obtains regulatory approvals, it may not achieve any significant revenues from the sale of such products; Sarepta may not have worldwide freedom to operate for EXONDYS 51 and Sarepta's future exon-skipping products due to future proceedings brought by other parties.

Any of the foregoing risks could adversely affect Sarepta's business, results of operations and the trading price of Sarepta's common stock. For a detailed description of risks and uncertainties Sarepta faces, you are encouraged to review Sarepta's 2016 Annual Report on Form 10-K and most recent Quarterly Report on Form 10-Q for the quarter ended March 31, 2017 filed with the Securities and Exchange Commission (SEC) as well as other SEC filings made by Sarepta. We caution investors not to place considerable reliance on the forward-looking statements contained in this press release. Sarepta does not undertake

any obligation to publicly update its forward-looking statements based on events or circumstances after the date hereof.

Internet Posting of Information

We routinely post information that may be important to investors in the 'For Investors' section of our website at www.sarepta.com. We encourage investors and potential investors to consult our website regularly for important information about us.

Source: Sarepta Therapeutics, Inc.

Media and Investors:
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or
W2O Group
Brian Reid, 212-257-6725
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or
Investors:
BioMarin Pharmaceutical Inc.
Traci McCarty, 415-455-7558
Media:
BioMarin Pharmaceutical Inc.
Debra Charlesworth, 415-455-7451

AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT

THIS AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT (this "**Agreement**"), dated as of July 18, 2017 (the "**Closing Date**") by and among **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust ("**MidCap**"), as administrative agent ("**Agent**"), the Lenders listed on the Credit Facility Schedule attached hereto and otherwise party hereto from time to time (each a "**Lender**", and collectively the "**Lenders**"), and **SAREPTA THERAPEUTICS, INC.**, a Delaware corporation ("**Sarepta**"), and the other entities shown as signatories hereto as a Borrower (collectively in the singular, "**Borrower**"), provides the terms on which Lenders agree to lend to Borrower and Borrower shall repay Lenders.

A. MidCap, Borrower, and the Lenders party thereto (the "**Existing Lenders**") are party to that certain Credit and Security Agreement, dated as of June 26, 2015 (the "**Original Closing Date**") by and among MidCap, as administrative agent (in such capacity, the "**Existing Agent**"), Borrower and the Existing Lenders (as amended, restated, supplemented or otherwise modified from time to time, the "**Existing Credit Agreement**").

B. Existing Agent, Borrower and certain Existing Lenders wish to amend and restate the Existing Credit Agreement in its entirety with this Agreement, it being their intention that this Agreement and the execution and the delivery of the other documents or agreements executed in connection herewith shall not be a novation of the 'Credit Extensions' (as such term is defined in the Existing Credit Agreement, the "**Existing Loan**") and 'Obligations' (as defined in the Existing Credit Agreement and as used herein, the "**Existing Obligations**") of the Borrower or any Credit Party pursuant to the Existing Credit Agreement and the 'Financing Documents' (as such term is defined in the Existing Credit Agreement and as used herein, the "**Existing Financing Documents**"), but shall merely restate, and where applicable, amend or modify the terms of such Existing Obligations, so that the Obligations (as hereinafter defined) represent, among other things, the amendment, restatement, renewal, extension and modification of the Existing Obligations and the Financing Documents (as hereinafter defined) shall restructure, restate, renew, extend, amend and modify the Existing Credit Agreement and the other Existing Financing Documents executed in connection therewith.

The parties agree as follows:

1 ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed in accordance with GAAP. Calculations and determinations must be made in accordance with GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 15. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein. All headings numbered without a decimal point are herein referred to as "Articles," and all paragraphs numbered with a decimal point (and all subparagraphs or subsections thereof) are herein referred to as "Sections."

2 CREDIT FACILITIES AND TERMS

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay to each Lender in accordance with each Lender's respective Pro Rata Share of each Credit Facility, the outstanding principal amount of all Credit Extensions made by the Lenders under such Credit Facility and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

2.2 Credit Facilities. Subject to the terms and conditions hereof, each Lender, severally, but not jointly, agrees to make available to Borrower Credit Extensions in respect of each Credit Facility set forth opposite such Lender's name on the Credit Facility Schedule, in each case not to exceed such Lender's commitment as identified on the Credit Facility Schedule (such commitment of each Lender, as it may be amended to reflect assignments made in accordance with this Agreement or terminated or reduced in accordance with this Agreement, its "**Applicable Commitment**", and the aggregate of all such commitments of all Lenders, the "**Applicable Commitments**").

2.3 Term Credit Facilities.

(a) Nature of Credit Facility; Credit Extension Requests. For any Credit Facility identified on the Credit Facility Schedule as a term facility (a "**Term Credit Facility**"), Credit Extensions in respect of a Term Credit Facility may be requested by Borrower during the Draw Period for such Term Credit Facility. For any Credit Extension requested under a Term Credit Facility (other than a Credit Extension on the Initial Funding Date), Agent must receive the completed Credit Extension Form by 12:00 noon (New York time) ten (10) Business Days prior to the date the Credit Extension is to be funded. As of the Closing Date, the Existing Loan (in the outstanding principal amount of $9,166,666.71 made pursuant to the Credit Facilities under (and as defined in) the Existing Credit Agreement, shall constitute a portion of the principal balance of the Credit Extension for Credit Facility #1 hereunder funded pursuant to this Agreement and shall constitute a portion of the Obligations under, and subject to the terms of, this Agreement (including the revised Credit Facility Schedule and Amortization Schedule attached hereto). On the Closing Date, the Existing Loan shall be deemed assigned by the Existing Lenders as of the Closing Date to the Lenders for Credit Facility #1 hereunder as of the Closing Date in accordance with (i) the allocations set forth on the Credit Facility Schedule for Credit Facility #1 and (ii) Article 9. To the extent any Term Credit Facility proceeds are repaid for any reason, whether voluntarily or involuntarily (including repayments from insurance or condemnation proceeds), Agent and Lenders shall have no obligation to re-advance such sums to Borrower.

(b) Principal Payments. Principal payable on account of a Term Credit Facility shall be payable by Borrower to Lenders immediately upon the earliest of (i) the date(s) set forth in the Amortization Schedule for such Term Credit Facility, or (ii) the Maturity Date. Except as this Agreement may specifically provide otherwise, all prepayments of Credit Extensions under Term Credit Facilities shall be applied by Lenders pro rata among the Term Credit Facilities and pro rata to the remaining principal payment installments of the applicable Term Credit Facility, and the monthly payments required under the Amortization Schedule shall be adjusted to account for any such prepayments.

(c) Mandatory Prepayment. If a Term Credit Facility is accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Agent, for payment to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of: (i) all outstanding principal of the Term Credit Facility and all other Obligations, plus accrued and unpaid interest thereon, (ii) any fees payable under the Fee Letters by reason of such prepayment, (iii) the Applicable Prepayment Fee as specified in the Credit Facility Schedule for the Credit Facility being prepaid, and (iv) all other sums that shall have become due and payable, including Protective Advances. Additionally, at the election of Agent, Borrower shall prepay the Term Credit Facilities (to be allocated pro rata among the outstanding Credit Extensions under all Term Credit Facilities) in the following amounts: (A) on the first Business Day after the date on which Borrower or any Secured Guarantor (or Agent as loss payee or assignee) receives any casualty proceeds in excess of One Million Dollars ($1,000,000) in respect of assets upon which Agent maintained a Lien, an amount equal to one hundred percent (100%) of such proceeds (net of out-of-pocket expenses and, in the case of personal property, repayment of any permitted purchase money debt encumbering the personal property that suffered such casualty), or such lesser portion of such proceeds as Agent shall elect to apply to the Obligations; and (B) upon receipt by any Borrower or Secured Guarantor of the proceeds of any asset disposition of personal property not made in the Ordinary Course of Business (other than Transfers permitted by Section 7.1) an amount equal to one hundred percent (100%) of the net cash proceeds in excess of $1,000,000 per fiscal year from such asset disposition (net of out-of-pocket expenses and repayment of any permitted purchase money debt encumbering such asset and taxes actually incurred and paid or reasonably estimated to be payable as a result of such disposition), or such lesser portion as Agent shall elect to apply to the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower and such Secured Guarantor shall have the option of applying such proceeds toward the replacement or repair of such property; provided that any such replaced or repaired property (x) shall be of greater, equal, or like value as the replaced or repaired Collateral and (y) shall be deemed Collateral in which Agent and Lenders have been granted a first priority security interest (subject to the Intercreditor Agreement), and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Agent, be payable to Agent, for the ratable benefit of the Lenders, on account of the Obligations.

(d) Permitted Prepayment. Except as provided below, Borrower shall have no right to prepay the Credit Extensions made in respect of a Term Credit Facility. After the Closed Period, if any, for the applicable Term Credit Facility as specified in the Credit Facility Schedule, Borrower shall have the option to prepay the Prepayable Amount (as defined below) of a Term Credit Facility advanced by the Lenders under this Agreement, provided Borrower (i) provides written notice to Agent and each Lender of its election to prepay the Prepayable Amount at least five (5) Business Days prior to such prepayment, (ii) pays to each Lender in accordance with its respective Pro Rata Share, on the date of such prepayment, an amount equal to the sum of (A) the Prepayable Amount, plus accrued interest thereon, (B) any fees payable under the Fee Letters by reason of such prepayment, (C) the Applicable Prepayment Fee as specified in the Credit Facility Schedule for the Credit Facility being prepaid, and (D) all Protective Advances and (iii) causes the Revolving Credit Obligations Termination to occur prior to (or substantially simultaneously with) the payment of the Prepayable Amount and all other amounts payable pursuant to this **Section 2.3(d)**. The term "Prepayable Amount" means all, but not less than all, of the Credit Extensions and all other Obligations under all Term Credit Facilities.

2.4 Reserved.

2.5 Reserved.

2.6 Interest and Payments; Administration.

(a) Interest; Computation of Interest. Each Credit Extension shall bear interest on the outstanding principal amount thereof from the date when made until paid in full at a rate per annum equal to the Applicable Interest Rate. Each Lender may, upon the failure of Borrower to pay any fees or interest as required herein, capitalize such interest and fees and begin to accrue interest thereon until paid in full, which such interest shall be at a rate per annum equal to the Applicable Interest Rate unless and until the Default Rate shall otherwise apply. All other Obligations shall bear interest on the outstanding amount thereof from the date they first become payable by Borrower under the Financing Documents until paid in full at a rate per annum equal to the Applicable Interest Rate unless and until the Default Rate shall otherwise apply. Interest on the Credit Extensions and all fees payable under the Financing Documents shall be computed on the basis of a 360-day year and the actual number of days elapsed in the period during which such interest accrues. In computing interest on any Credit Extension or other advance, the date of the making of such Credit Extension or advance shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension or advance is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension or advance. As of each Applicable Interest Rate Determination Date, Agent shall determine (which determination shall, absent manifest error in calculation, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Credit Extensions.

(b) Default Rate. Upon the election of Agent following the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is three hundred basis points (3.00%) above the rate that is otherwise applicable thereto (the "**Default Rate**"). Payment or acceptance of the increased interest rate provided in this subsection is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Agent or Lenders.

(c) Payments Generally. Except as otherwise provided in this Agreement, including pursuant to Section 2.6(c), or as otherwise directed by Agent, all payments in respect of the Obligations shall be made to Agent for the account of the applicable Lenders in accordance with their Pro Rata Share. Payments of principal and interest in respect of any Credit Facility identified on the Credit Facility Schedule as "Term" shall be made to each applicable Lender. All Obligations are payable upon demand of Agent in the absence of any other due date specified herein. All fees payable under the Financing Documents shall be deemed non-refundable as of the date paid. Any payment required to be made to Agent or a Lender under this Agreement may be made by debit or automated clearing house payment initiated by Agent or such Lender from any of Borrower's deposit accounts, including the Designated Funding Account, and Borrower hereby authorizes Agent and each Lender to debit any such accounts for any amounts Borrower owes hereunder when due. Prior to any such debit or automated clearing house payment initiated by Agent or a Lender, such Agent or Lender, as applicable, shall provide an invoice to Borrower stating the amount that shall be subject to such debit or automated clearing house payment. Without limiting the foregoing, Borrower shall tender

to Agent and Lenders any authorization forms as Agent or any Lender may require to implement such debit or automated clearing house payment. These debits or automated clearing house payments shall not constitute a set-off. Payments of principal and/or interest received after 12:00 noon New York time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment is due the next Business Day and additional fees or interest, as applicable, shall continue to accrue until paid. All payments to be made by Borrower under any Financing Document shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds. The balance of the Obligations, as recorded in Agent's books and records at any time, shall be conclusive and binding evidence of the amounts due and owing to Agent and Lenders by each Borrower absent manifest error; provided, however, that any failure to so record or any error in so recording shall not limit or otherwise affect any Borrower's duty to pay all amounts owing hereunder or under any Financing Document. Agent shall endeavor to provide Borrower with a monthly statement regarding the Credit Extensions (but neither Agent nor any Lender shall have any liability if Agent shall fail to provide any such statement). Unless Borrower notifies Agent of any objection to any such statement (specifically describing the basis for such objection) within ninety (90) days after the date of receipt thereof, it shall be deemed final, binding and conclusive upon Borrower in all respects as to all matters reflected therein.

(d) Interest Payments; Maturity Date. Commencing on the first (1st) Payment Date following the funding of a Credit Extension, and continuing on the Payment Date of each successive month thereafter through and including the Maturity Date, Borrower shall make monthly payments of interest, in arrears, calculated as set forth in this Section 2.6. All unpaid principal and accrued interest is due and payable in full on the Maturity Date or any earlier date specified herein. If the Obligations are not paid in full on or before the Maturity Date, all interest thereafter accruing shall be payable immediately upon accrual.

(e) Fees. Borrower shall pay, as and when due and payable under the terms of the Fee Letters, to Agent and each Lender, as applicable, for their own accounts and not for the benefit of any other Lenders, the fees set forth in the Fee Letters.

(f) Protective Advances. Borrower shall pay to Agent for the account of Lenders all Protective Advances (including reasonable attorneys' fees and expenses for documentation and negotiation of this Agreement and the other Financing Documents) when due under any Financing Document (and in the absence of any other due date specified herein, such Protective Advances shall be due upon demand).

(g) Maximum Lawful Rate. In no event shall the interest charged hereunder with respect to the Obligations exceed the maximum amount permitted under the Laws of the State of New York. Notwithstanding anything to the contrary in any Financing Document, if at any time the rate of interest payable hereunder (the "**Stated Rate**") would exceed the highest rate of interest permitted under any applicable Law to be charged (the "**Maximum Lawful Rate**"), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable shall be equal to the Maximum Lawful Rate; *provided, however*, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, Borrower shall, to the extent permitted by Law, continue to pay interest at the Maximum Lawful Rate until such time as the total interest received is equal to the total interest which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable. Thereafter, the interest rate payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest received by any Lender exceed the amount which it could lawfully have received, had the interest been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, any Lender has received interest hereunder in excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of such Lender's Credit Extensions or to other amounts (other than interest) payable hereunder, and if no such Credit Extensions or other amounts are then outstanding, such excess or part thereof remaining shall be paid to Borrower. In computing interest payable with reference to the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate *divided by* the number of days in the year in which such calculation is made.

(h) Taxes; Additional Costs.

(i) Any and all payments by or on account of any obligation of Borrower hereunder shall be made without deduction or withholding for any Taxes, except as required by applicable law. For purposes of this Section 2.6(h), the term "applicable law" shall include FATCA. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then Borrower shall make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.6(h)) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made. If Borrower fails to make any such required deduction or withholding, then Agent may make any such deduction or withholding and payment to the relevant Governmental Authority.

(ii) Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Agent timely reimburse it for the payment of, any Other Taxes.

(iii) Borrower shall indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.6(h)) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the calculation of the amount of such payment or liability delivered to Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(iv) Each Lender shall severally indemnify the Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that Borrower has not already indemnified the Agent for such Indemnified Taxes and without limiting the obligation of Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 13.1(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Agent in connection with this Agreement or any Obligation, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. 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 pursuant to this Agreement or otherwise payable by the Agent to the Lender from any other source against any amount due to the Agent under this paragraph (iv).

(v) As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to this Section 2.6(h), Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

(vi) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made in connection with this Agreement or any Obligation shall deliver to Borrower and the Agent, at the time or times reasonably requested by Borrower or the Agent, such properly completed and executed documentation reasonably requested by Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or the Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by Borrower or the Agent as will enable Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.6(h)(vii)(A), (vii)(B) and (vii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(vii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to Borrower and the Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and the Agent (in such number of copies 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 reasonable request of Borrower or the Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under this Agreement or any Financing Document, executed copies of IRS Form W-8BEN-E or W-8BEN, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under this Agreement or any other Financing Document, IRS Form W-8BEN-E or W-8BEN, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the IRC, (x) executed copies of IRS Form W-8BEN-E or W-8BEN, as applicable and (y) a certification to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the IRC, a "10 percent shareholder" of Borrower within the meaning of Section 881(c)(3)(B) of the IRC, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the IRC, together with such Other Tax Certification as Borrower or the Agent may reasonably request from time to time; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E or W-8BEN, as applicable, IRS Form W-9, and/or such Other Tax Certification from each beneficial owner as Borrower or the Agent may reasonably request, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide such Other Tax Certification as may be reasonably required by Borrower or the Agent on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Agent (in such number of copies 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 reasonable request of Borrower or the Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such Other Tax Certification as may be prescribed by applicable law to permit Borrower or the Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any this Agreement 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 (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such Other Tax Certification reasonably requested by Borrower or the Agent as may be necessary for Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 2.6(h)(vi) or (vii) expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and the Agent in writing of its legal inability to do so.

(viii) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.6(h) (including by the payment of additional amounts pursuant to this Section 2.6(h)), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(ix) If any Lender shall determine in its commercially reasonable judgment that the adoption or taking effect of, or any change in, any applicable Law regarding capital adequacy, in each instance, after the Closing Date, or any change after the Closing Date in the interpretation, administration or application thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation, administration or application thereof, or the compliance by any Lender or any Person controlling such Lender with any request, guideline or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency adopted or otherwise taking effect after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder to a level below that which such Lender or such controlling Person could have achieved but for such adoption, taking effect, change, interpretation, administration, application or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) then from time to time, upon written demand by such Lender (which demand shall be accompanied by a statement setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to Agent), Borrower shall promptly pay to such Lender such additional amount as will compensate such Lender or such controlling Person for such reduction; provided, however, that notwithstanding anything in this Agreement to the contrary, (A) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (B) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "change in applicable Law", regardless of the date enacted, adopted or issued.

(x) If any Lender requires compensation under this subsection (h), or if Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to this subsection (h), then, upon the written request of Borrower, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Credit Extensions hereunder or to assign its rights and obligations hereunder (subject to the terms of this Agreement) to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (A) would eliminate or materially reduce amounts payable pursuant to any such subsection, as the case may be, in the future, and (B) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender (as determined in its sole discretion). Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(xi) If any Lender requires compensation under this subsection (h) or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or Governmental Authority for the account of any Lender pursuant to this subsection (h), and such Lender has declined or is unable to designate a different lending office or assign its rights and obligations in accordance with Section 2.6(h)(x), then the Borrower may, at its sole expense and effort, upon written notice to such Lender and the Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the Section 13.1), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.6(h)) and obligations under this Agreement and the Financing Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (1) such Lender shall

have received payment of an amount equal to the outstanding principal of its Credit Extensions, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Financing Documents from the assignee, (2) in the case of any such proposed assignment resulting from a claim for compensation under Section 2.6(h), such proposed assignment will result in a reduction in or elimination of such compensation or payments required to be made by Borrower thereafter, (3) such assignment does not conflict with applicable Laws; and (4) a Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

(xii) Each party's obligations under this Section 2.6(h) shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all Obligations hereunder.

(i) Administrative Fees and Charges.

(i) Borrower shall pay to Agent, for its own account and not for the benefit of any other Lenders, all reasonable fees and expenses in connection with audits and inspections of the books and records of the Credit Parties, audits, valuations or appraisals of the Collateral, audits of Borrower's compliance with applicable Laws and such other matters as Agent shall reasonably deem appropriate, which shall be due and payable on the first Business Day of the month following the date of issuance by Agent of a written request for payment thereof to any Borrower; provided, that, as long as no Default has occurred and is continuing, Agent shall be entitled to such reimbursement for no more than one audit and inspection per calendar year; provided that if Agent, upon the occurrence of a Default or Event of Default, is in the process of performing, or has incurred any costs or expenses in connection with, such reimbursable audit or inspection when such Default or Event of Default is no longer continuing, such partially performed audit or inspection shall not be subject to, and shall not count against, any limitations set forth herein.

(ii) If payments of principal or interest due on the Obligations, or any other amounts due hereunder or under the other Financing Documents, are not timely made and remain overdue for a period of five (5) days, Borrower, without notice or demand by Agent, promptly shall pay to Agent, for its own account and not for the benefit of any other Lenders, as additional compensation to Agent in administering the Obligations, an amount equal to five percent (5.0%) of each delinquent payment.

2.7 Secured Promissory Notes. At the election of any Lender made as to each Credit Facility for which it has made Credit Extensions, each Credit Facility shall be evidenced by one or more secured promissory notes in the form attached hereto as **Exhibit A** or with changes reasonably acceptable to Borrower, Agent and such Lender (each a "**Secured Promissory Note**"). Upon receipt of an affidavit of an officer of a Lender as to the loss, theft, destruction, or mutilation of its Secured Promissory Note, Borrower shall issue, in lieu thereof, a replacement Secured Promissory Note in the same principal amount thereof and of like tenor.

3 CONDITIONS OF CREDIT EXTENSIONS

3.1 Conditions Precedent to Credit Extension to be made on the Initial Funding Date. Each Lender's obligation to make the advance in respect of Credit Facility #1 on the Initial Funding Date is subject to the condition precedent that Agent shall consent to or shall have received, in form and substance satisfactory to Agent, such documents, and completion of such other matters, as Agent may reasonably deem necessary or appropriate, including, without limitation, all items listed on the Closing Deliveries Schedule attached hereto.

3.2 Conditions Precedent to all Credit Extensions. The obligation of each Lender to make each Credit Extension, including the initial Credit Extension on the Initial Funding Date, is subject to the following conditions precedent:

(a) satisfaction of all Applicable Funding Conditions for the applicable Credit Extension as set forth in the Credit Facility Schedule, if any, in each case each in form and substance reasonably satisfactory to Agent and each Lender;

(b) timely receipt by the Agent and each Lender of an executed Credit Extension Form in the form attached hereto (other than the Credit Extension on the Initial Funding Date);

(c) (i) for Credit Extensions made on the Initial Funding Date, the representations and warranties in Article 5 and elsewhere in the Financing Documents shall be true, correct and complete in all respects on the Initial Funding Date; provided, however, that those representations and warranties expressly referring to a specific date shall be true, correct and complete in all respects as of such date; and

(ii)for Credit Extensions made after the Initial Funding Date, if any, the representations and warranties in Article 5 and elsewhere in the Financing Documents shall be true, correct and complete in all material respects on the date of the Credit Extension Form and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in Article 5 and elsewhere in the Financing Documents remain true, accurate and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date;

(d) no Default or Event of Default shall have occurred and be continuing or result from the Credit Extension;

(e) Agent shall be satisfied with the results of any searches conducted under Section 3.5;

(f) receipt by Agent of such evidence as Agent shall reasonably request to confirm that the deliveries made in Section 3.1 remain current, accurate and in full force and effect, or if not, updates thereto, each in form and substance reasonably satisfactory to Agent; and

(g) there has not been any Material Adverse Change.

3.3 Method of Borrowing. Each Credit Extension in respect of each Credit Facility shall be in an amount at least equal to the applicable Minimum Credit Extension Amount for such Credit Facility as set forth in the Credit Facility Schedule or such lesser amount as shall remain undisbursed under the Applicable Commitments for such Credit Facility. The date of funding for any requested Credit Extension shall be a Business Day. To obtain a Credit Extension (other than the Credit Extension on the Initial Funding Date), Borrower shall deliver to Agent a completed Credit Extension Form executed by a Responsible Officer. Agent may rely on any notice given by a person whom Agent reasonably believes is a Responsible Officer or designee thereof. Agent and Lenders shall have no duty to verify the authenticity of any such notice.

3.4 Funding of Credit Facilities. In Agent's discretion, Credit Extensions may be funded by Agent on behalf of the Lenders or by the Lenders directly. If Agent elects to fund any Credit Extension on behalf of the Lenders, upon the terms and subject to the conditions set forth in this Agreement, each Lender, severally and not jointly, shall make available to Agent its Pro Rata Share of the requested Credit Extension, in lawful money of the United States of America in immediately available funds, prior to 11:00 a.m. (New York time) on the specified date for the Credit Extension. Agent (or if Agent elects to have each Lender fund its Credit Extensions to Borrower directly, each Lender) shall, unless it shall have determined that one of the conditions set forth in Section 3.1 or 3.2, as applicable, has not been satisfied, by 2:00 p.m. (New York time) on the specified date for the Credit Extension, credit the amounts received by it in like funds to Borrower by wire transfer to the Designated Funding Account (or to the account of Borrower in respect of the Obligations, if the Credit Extension is being made to pay an Obligation of Borrower). A Credit Extension made prior to the satisfaction of any conditions set forth in Section 3.1 or 3.2 shall not constitute a waiver by Agent or Lenders of Borrower's obligation to satisfy such conditions, and any such Credit Extension made in the absence of such satisfaction shall be made in each Lender's discretion.

3.5 Searches. Before the Closing Date, and thereafter (as and when determined by Agent in its reasonable discretion, it being understood that during the existence of a Default or an Event of Default, Agent's discretion shall be deemed

reasonable), Agent shall have the right to perform, all at Borrower's expense, the searches described in clauses (a), (b), and (c) below against Borrower and any other Credit Party, the results of which are to be consistent with Borrower's representations and warranties under this Agreement and the reasonably satisfactory results of which shall be a condition precedent to all Credit Extensions requested by Borrower: (a) title investigations, UCC searches and fixture filings searches; (b) judgment, pending litigation, federal tax lien, personal property tax lien, and corporate and partnership tax lien searches, in each jurisdiction searched under clause (a) above; and (c) searches of applicable corporate, limited liability company, partnership and related records to confirm the continued existence, organization and good standing of the applicable Person and the exact legal name under which such Person is organized.

4 CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest. Borrower hereby reaffirms its grant of the security interests, pledges and other Liens granted to the Existing Agent and Existing Lenders under the Existing Credit Agreement, as more fully described in Article 9 of this Agreement, and hereby further grants to Agent, for the ratable benefit of the Lenders, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Agent, for the ratable benefit of the Lenders, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral, subject only to Permitted Liens that may have priority by operation of applicable Law or by the terms of a written intercreditor or subordination agreement entered into by Agent and subject to the Intercreditor Agreement.

4.2 Representations and Covenants.

(a) As of the Closing Date , Borrower has no ownership interest in any Chattel Paper, letter of credit rights, commercial tort claims, Instruments, Documents or Investment Property (other than as disclosed on the **Disclosure Schedule** attached hereto).

(b) Borrower shall promptly (and in any event within 10 days of acquiring any of the following) deliver to Agent all tangible Chattel Paper and all Instruments and Documents in excess of $500,000 in the aggregate for all such tangible Chattel Paper and all Instruments and Documents owned at any time by any Borrower and constituting part of the Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to Agent. Borrower shall provide Agent with "control" (as in the Code) of all electronic Chattel Paper in excess of $500,000 in the aggregate for all such electronic Chattel Paper owned by any Borrower and constituting part of the Collateral by having Agent identified as the assignee on the records pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of control set forth in the Code. Borrower also shall deliver to Agent all security agreements securing any such Chattel Paper and securing any such Instruments. Borrower will mark conspicuously all such Chattel Paper and all such Instruments and Documents with a legend, in form and substance reasonably satisfactory to Agent, indicating that such Chattel Paper and such Instruments and Documents are subject to the security interests and Liens in favor of Agent created pursuant to this Agreement and the Financing Documents.

(c) Borrower shall promptly (and in any event within 10 days of acquiring any of the following) deliver to Agent all letters of credit on which any Borrower is the beneficiary and which give rise to letter of credit rights in excess of $500,000 in the aggregate for all such letters of credit owned by such Borrower which constitute part of the Collateral in each case duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to Agent. Borrower shall take any and all actions as may be necessary or desirable, or that Agent may reasonably request, from time to time, to cause Agent to obtain exclusive "control" (as defined in the Code) of any such letter of credit rights in a manner reasonably acceptable to Agent.

(d) Borrower shall promptly (and in any event within 10 days) advise Agent upon any Borrower becoming aware that it has any interests in any commercial tort claim in excess of $500,000 in the aggregate for all such commercial tort claims that constitutes part of the Collateral, which such notice shall include descriptions of the events and circumstances giving rise to such commercial tort claim and the dates such events and circumstances

occurred, the potential defendants with respect such commercial tort claim and any court proceedings that have been instituted with respect to such commercial tort claims, and Borrower shall, with respect to any such commercial tort claim, execute and deliver to Agent such documents as Agent shall reasonably request to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to any such commercial tort claim.

(e) Except for Inventory constituting Collateral in an aggregate amount of Ten Million Dollars ($10,000,000) and other Collateral (other than Borrower's or a Secured Guarantor's Books) in an aggregate amount of $2,000,000 at a particular location, and subject to Section 6.13, no Inventory or other Collateral shall at any time be in the possession or control of any warehouse, consignee, bailee or any of Borrower's agents or processors without prior written notice to Agent and the receipt by Agent, if Agent has so requested, of warehouse receipts, consignment agreements or bailee lien waivers (as applicable) reasonably satisfactory to Agent prior to the commencement of such possession or control. Borrower shall, upon the request of Agent, notify any such warehouse, consignee, bailee, agent or processor of the security interests and Liens in favor of Agent created pursuant to this Agreement and the Financing Documents, instruct such Person to hold all such Collateral for Agent's account subject to Agent's instructions and shall, in Agent's discretion, obtain (or in the case of locations where no Borrower's or Secured Guarantor's Books are located, use commercially reasonable efforts to obtain) an Access Agreement or other acknowledgement from such Person that such Person holds the Collateral for Agent's benefit.

(f) Upon request of Agent, Borrower shall promptly deliver to Agent any and all certificates of title, applications for title or similar evidence of ownership of all such tangible personal property having a fair market value exceeding $500,000 in the aggregate, and shall cause Agent to be named as lienholder on any such certificate of title or other evidence of ownership. Borrower shall not permit any such tangible personal property to become fixtures to real estate unless such real estate is subject to a Lien in favor of Agent.

(g) As of the Closing Date and each subsequent date that the representations and warranties under this Agreement are remade, all Deposit Accounts, Securities Accounts, Commodity Accounts or other bank accounts or investment accounts owned by Borrower, together with the purpose of such accounts and the financial institutions at which such accounts reside, are listed on the **Disclosure Schedule**.

(h) Each Borrower hereby authorizes Agent to file without the signature of such Borrower one or more UCC financing statements relating to its Liens on all or any part of the Collateral, which financing statements may list Agent as the "secured party" and such Borrower as the "debtor" and which describe and indicate the collateral covered thereby as all or any part of the Collateral under the Financing Documents, in such jurisdictions as Agent from time to time reasonably determines are appropriate, and to file without the signature of such Borrower any continuations of or corrective amendments to any such financing statements, in any such case in order for Agent to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to the Collateral. Each Borrower also ratifies its authorization for Agent to have filed in any jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof. Any financing statement may include a notice that any disposition of the Collateral in contravention of this Agreement, by either Borrower or any other Person, shall be deemed to violate the rights of Agent and the Lenders under the Code.

(i) As of the Closing Date, no Borrower holds, and after the Closing Date, Borrower shall promptly notify Agent in writing upon creation or acquisition by any Borrower of, any Collateral which constitutes a claim or claims in excess of $500,000 in the aggregate against any Governmental Authority, including, without limitation, the federal government of the United States or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the federal Assignment of Claims Act and any other comparable Law. Upon the request of Agent, Borrower shall take such steps as may be necessary or desirable, or that Agent may reasonably request, to comply with any such applicable Law.

(j) In the event Borrower or any Secured Guarantor acquires real property in fee simple with a fair market value in excess of $7,500,000, individually or in the aggregate for all real property in fee simple acquired after the Closing Date ("**Material Real Property**"), within ninety (90) days after such acquisition (or such later date as may be agreed by Agent in its sole discretion), Borrower or such Secured Guarantor, as applicable, shall execute and/or deliver, or cause to be executed and/or delivered, to Agent, (x) a fully executed Mortgage, in form and substance

reasonably satisfactory to Agent together with a lender's title insurance policy issued by a title insurer reasonably satisfactory to Agent, in form and substance and in an amount reasonably satisfactory to Agent insuring that the Mortgage is a valid and enforceable first priority Lien (subject to the Intercreditor Agreement) on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, and (y) such other documents reasonably requested by Agent with respect to such acquired Material Real Property, including, without limitation, appraisals, flood zone certifications, evidence of flood insurance, surveys, an environmental site assessment (prepared by a qualified firm reasonably acceptable to Agent, in form and substance reasonably satisfactory to Agent) and a customary legal opinion with respect to any such Mortgages.

(k) Borrower shall furnish to Agent from time to time any statements and schedules further identifying or describing the Collateral and any other information, reports or evidence concerning the Collateral as Agent may reasonably request from time to time.

5 REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows on the Closing Date, on the date of each Credit Extension, and on such other dates when such representations and warranties under this Agreement are made or deemed to be made:

5.1 Due Organization, Authorization; Power and Authority.

(a) Each Credit Party is duly existing and in good standing, as a Registered Organization in its respective jurisdiction of formation. Each Credit Party is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Change. The Financing Documents have been duly authorized, executed and delivered by each Credit Party and constitute legal, valid and binding agreements enforceable in accordance with their terms, subject to bankruptcy, moratorium and other laws affecting secured creditors generally and equitable principles related to enforceability. The execution, delivery and performance by each Credit Party of each Financing Document executed or to be executed by it is in each case within such Credit Party's powers.

(b) The execution, delivery and performance by each Credit Party of the Financing Documents to which it is a party do not (i) conflict with any of such Credit Party's organizational documents; (ii) contravene, conflict with, constitute a default under or violate any Law; (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which such Credit Party or any of its property or assets may be bound or affected; (iv) require any action by, filing, registration, or qualification with, or Required Permit from, any Governmental Authority (except such Required Permits which have already been obtained and are in full force and effect); or (v) constitute a default under or conflict with any Material Agreement. No Credit Party is in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a Material Adverse Change.

5.2 Litigation. Except as disclosed on the **Disclosure Schedule** or, after the Closing Date, pursuant to Section 6.7, there are no actions, suits, proceedings or investigations pending or, to the knowledge of the Responsible Officers, threatened in writing by or against any Credit Party that could reasonably be expected to result in a Material Adverse Change, or which questions the validity of the Financing Documents, or the other documents required thereby or any action to be taken pursuant to any of the foregoing.

5.3 No Material Deterioration in Financial Condition; Financial Statements. All financial statements for the Credit Parties delivered to Agent or any Lender fairly present, in conformity with GAAP, in all material respects the consolidated financial condition and consolidated results of operations of such Credit Party. There has been no occurrence of any fact, event or circumstance that could reasonably be expected to result in a Material Adverse Change since the date of the most recent financial statements and projections submitted to Agent or any Lender. There has been no material adverse deviation from the most recent annual operating plan of Borrower delivered to Agent and Lenders

5.4 Solvency. The fair salable value of each Credit Party's assets (including goodwill *minus* disposition costs) exceeds the fair value of its liabilities. After giving effect to the transactions described in this Agreement, (a) no Credit Party is left with unreasonably small capital in relation to its business as presently conducted, and (b) each Credit Party is able to pay its debts (including trade debts) as they mature.

5.5 Subsidiaries; Investments; Margin Stock. Borrower and its Subsidiaries do not own any stock, partnership interest or other equity securities, except for Permitted Investments and any Subsidiaries created after the Closing Date that have satisfied the applicable requirements of Section 6.8. Without limiting the foregoing, Borrower and its Subsidiaries do not own or hold any Margin Stock other than as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

5.6 Tax Returns and Payments; Pension Contributions. Each Credit Party has timely filed all U.S. federal income, state income and other material tax returns and reports, and, except for those Taxes that are subject to a Permitted Contest or are not material, each Credit Party has timely paid all Taxes owed by such Credit Party. Other than as disclosed to Agent in accordance with Section 6.2, Borrower is unaware of any claims or adjustments proposed in writing for any prior tax years of any such Credit Party which could result in additional material Taxes becoming due and payable by such Credit Party. For purposes of the foregoing, "material" shall mean in excess of $500,000. No Credit Party nor any trade or business (whether or not incorporated) that is under common control with any Credit Party within the meaning of Section 414(b) or (c) of the IRC (and Sections 414(m) and (o) of the IRC for purposes of the provisions relating to Section 412 of the IRC) or Section 4001 of ERISA (an "**ERISA Affiliate**") (i) has failed to satisfy the "minimum funding standards" (as defined in Section 412 of or Section 302 of ERISA), whether or not waived, with respect to any Pension Plan, (ii) has incurred liability with respect to the withdrawal or partial withdrawal of any Credit Party or ERISA Affiliate from any Pension Plan or incurred a cessation of operations that is treated as a withdrawal, (iii) has incurred any liability under Title IV of ERISA (other than for PBGC premiums due but not delinquent under Section 4007 of ERISA), (iv) has had any "reportable event" as defined in Section 4043(c) of ERISA (or the regulations issued thereunder) (other than an event for which the 30-day notice requirement is waived) occur with respect to any Pension Plan or (v) failed to maintain (1) each "plan" (as defined by Section 3(3) of ERISA) in all material respects with the applicable provisions of ERISA, the IRC and other federal or state laws, and (2) the tax qualified status of each plan (as defined above) intended to be so qualified.

5.7 Intellectual Property and License Agreements. A list of all Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) of each Credit Party and, to the extent material or entered into on or after January 1, 2013, all in-bound license or sublicense agreements, exclusive out-bound license or sublicense agreements, or other rights of any Credit Party to use Intellectual Property (but excluding in-bound licenses of over-the-counter software that is commercially available to the public), as of the Closing Date and, to the extent material, as updated pursuant to Section 6.14, is set forth on the **Intangible Assets Schedule**. Such **Intangible Assets Schedule** shall be prepared by Borrower in the form provided by Agent and contain all information required in such form. Except for Permitted Licenses, each Credit Party is the sole owner of its Intellectual Property free and clear of any Liens. Except as set forth in the Disclosure Schedule, each patent within the Registered Intellectual Property (registered with the United States Patent and Trademark Office) is valid and enforceable and no part of the Material Intangible Assets has been judged invalid or unenforceable, in whole or in part, and to the best of Borrower's knowledge, no written claim has been made that any part of the Intellectual Property violates the rights of any third party. As of the Closing Date, all Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) of any predecessor-in-interest of Borrower (including, without limitation, AVI Biopharma, Inc.) constituting Material Intangible Assets has been assigned to Borrower in the records of the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

5.8 Regulatory Status. All of Borrower's Products and Regulatory Required Permits are listed on the **Products Schedule** and **Required Permits Schedule**, respectively (as updated from time to time pursuant to Section 6.16), and Borrower has delivered to Agent a copy of all Regulatory Required Permits requested by Agent as of the date hereof or to the extent requested by Agent pursuant to Section 6.16. With respect to any Product, (i) Borrower and its Subsidiaries have received, and such Product is the subject of, all Regulatory Required Permits needed in connection with the testing, manufacture, marketing or sale of such Product as currently being conducted by or on behalf of Borrower, and have provided Agent and each Lender with all notices and other information required by Section 6.16, (ii) such Product is being tested, manufactured, marketed or

sold, as the case may be, in material compliance with all applicable Laws and Regulatory Required Permits. As of the Closing Date, there have been no Regulatory Reporting Events.

5.9 Accuracy of Schedules and Perfection Certificate. All information set forth in the **Disclosure Schedule**, **Intangible Assets Schedule**, the **Required Permits Schedule** and the **Products Schedule** is true, accurate and complete as of the Closing Date, the date of delivery of the last Compliance Certificate and any other subsequent date on which Borrower is requested to update such certificate. All information set forth in the Perfection Certificate is true, accurate and complete as of the Closing Date and any other subsequent date on which Borrower is requested to update such certificate.

6 AFFIRMATIVE COVENANTS

Borrower covenants and agrees as follows:

6.1 Organization and Existence; Government Compliance.

(a) Each Credit Party shall maintain its legal existence and good standing in its respective jurisdiction of formation and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Change. If a Credit Party is not now a Registered Organization but later becomes one, Borrower shall promptly notify Agent of such occurrence and provide Agent with such Credit Party's organizational identification number.

(b) Each Credit Party shall comply with all Laws, ordinances and regulations to which it or its business locations is subject, the noncompliance with which could reasonably be expected to result in a Material Adverse Change. Each Credit Party shall obtain and keep in full force and effect and comply with all of the Required Permits, except where failure to have or maintain compliance with or effectiveness of such Required Permit could not reasonably be expected to result in a Material Adverse Change. Upon request of Agent or any Lender, each Credit Party shall promptly (and in any event within three (3) Business Days of such request) provide copies of any such obtained Required Permits to Agent. Borrower shall notify Agent within three (3) Business Days (but in any event prior to Borrower submitting any requests for Credit Extensions or release of any reserves) of the occurrence of any facts, events or circumstances known to a Borrower, whether threatened, existing or pending, that could cause any Required Permit to become limited, suspended or revoked. Notwithstanding the foregoing, each Credit Party shall comply with Section 6.16 as it relates to Regulatory Required Permits and to the extent that there is a conflict between this Section and Section 6.16 as it relates to Regulatory Required Permits, Section 6.16 shall govern.

6.2 Financial Statements, Reports, Certificates.

(a) Each Credit Party shall deliver to Agent and each Lender: (i) as soon as available, but no later than fifty-five (55) days after the last day of each fiscal quarter, a company prepared consolidated (and, at the reasonable request of Agent, consolidating) balance sheet, income statement and cash flow statement covering such Credit Party's consolidated operations for such fiscal quarter certified by a Responsible Officer and in a form reasonably acceptable to Agent and each Lender; (ii) as soon as available, but no later than one hundred twenty (120) days after the last day of a Credit Party's fiscal year, audited consolidated (and, at the reasonable request of Agent, consolidating) financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Agent and each Lender in its reasonable discretion; (iii) as soon as available after approval thereof by such Credit Party's governing board, but no later than thirty (30) days after the last day of such Credit Party's fiscal year, and as amended and/or updated, such Credit Party's operating plan (including financial projections) for current fiscal year; (iv) within five (5) days of delivery, copies of all statements, reports and notices made available to all of such Credit Party's security holders or to any holders of Subordinated Debt; (v) within five (5) days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission ("**SEC**") or a link thereto on such Credit Party's or another website on the Internet; (vi) as soon as available, but no later than ten (10) days after the last day of each month, copies of the month-end account statements for each Collateral Account maintained by Borrower, each Secured Guarantor and the Securities Subsidiary, which statements may be provided to Agent and each Lender by Borrower or directly from the applicable institution(s); (vii) promptly (and in any event within ten (10) days of any request therefor) such readily

available budgets, sales projections, operating plans, financial information and other information, reports or statements regarding the Credit Parties or their respective businesses, contractors and subcontractors reasonably requested by Agent or any Lender; and (viii) within ten (10) days after any Credit Party becomes aware of any claim or adjustment proposed for any prior tax years of any Credit Party or any of their Subsidiaries which could result in additional material Taxes becoming due and payable by such Credit Party or Subsidiary, notice of such claim or adjustment, which purposes of the foregoing clause (viii), "material" shall mean in excess of $500,000. Delivery of the foregoing financial statements and other items as set forth in clauses (i), (ii) (iv), and (v) of this Section 6.2(a) may be satisfied by written notice that such financial statements or other items have been filed with the SEC or posted on the Borrower's website, which written notice shall include an electronic link to such financial statements or other items.

(b) Borrower shall deliver to Agent and each Lender with the quarterly financial statements described above, a duly completed Compliance Certificate signed by a Responsible Officer.

(c) Borrower shall and shall cause each Credit Party to keep proper books of record and account in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities. Upon prior written notice and during business hours (which such limitations shall not apply if an Event of Default has occurred), Borrower shall allow, and cause each Credit Party to allow, Agent and Lenders to visit and inspect any properties of a Credit Party, to examine and make abstracts or copies from any Credit Party's books, to conduct a collateral audit and analysis of its operations and the Collateral to verify the amount and age of the accounts, the identity and credit of the respective account debtors, to review the billing practices of the Credit Party and to discuss its respective affairs, finances and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired. Borrower shall reimburse Agent and each Lender for all reasonable costs and expenses associated with such visits and inspections; provided, however, that Borrower shall be required to reimburse Agent and each Lender for such costs and expenses for no more than one (1) such visit and inspection per twelve (12) month period unless a Default or Event of Default has occurred and is continuing during such period; provided that if Agent or Lender, upon the occurrence of a Default of Event of Default, is in the process of performing, or has incurred any costs or expenses in connection with, such reimbursable visit or inspection when such Default or Event of Default is no longer continuing, such partially performed visit or inspection shall not be subject to, and shall not count against, any limitations set forth herein.

(d) Borrower shall, and shall cause each Credit Party to, deliver to Agent and each Lender, within five (5) days after the same are sent or received, copies of all material correspondence, reports, documents and other filings with any Governmental Authority that could reasonably be expected to have a material effect on any of the Required Permits material to Borrower's business or otherwise on the operations of Borrower or any of its Subsidiaries (except that reporting related to Regulatory Required Permits and/or Regulatory Reporting Events shall be governed by Section 6.16).

6.3 Maintenance of Property. Borrower and each Secured Guarantor shall cause all equipment and other tangible personal property other than Inventory to be maintained and preserved in the same condition, repair and in working order as of the date hereof, ordinary wear and tear excepted, and shall promptly make or cause to be made all repairs, replacements and other improvements in connection therewith that are necessary or desirable to such end. Borrower and each Secured Guarantor shall keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between Borrower (or a Secured Guarantor) and its Account Debtors shall follow Borrower's (or such Secured Guarantor's, as applicable) customary practices as they existed at the Original Closing Date. Borrower shall promptly notify Agent of all returns, recoveries, disputes and claims that involve more than Five Hundred Thousand Dollars ($500,000) of Inventory collectively among Borrower and the Secured Guarantors.

6.4 Taxes; Pensions. Borrower shall timely file and cause each Credit Party to timely file, all U.S. federal income, state income and other material tax returns and reports and timely pay, and cause each such Credit Party to timely pay, all Taxes owed, and shall deliver to Agent, upon written demand, appropriate certificates attesting to such payments; provided, however, that any such Credit Party may defer payment of any Taxes that are not material or contested Taxes, and, in the case of contested Taxes, so long as such Credit Party (a) in good faith contests its obligation to pay the Taxes by appropriate proceedings promptly and diligently instituted and conducted, and (b) adequate reserves for such Taxes are maintained on the Books of such Credit Party in accordance with GAAP (such contest, a "**Permitted Contest**"). For purposes of the foregoing,

"material" shall mean in excess of $500,000. Borrower shall pay, and cause each Credit Party to pay, all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms. Each Credit Party and their ERISA Affiliates shall timely make all required contributions to each Pension Plan and shall maintain each "plan" (as defined by Section 3(3) of ERISA) in material compliance with the applicable provisions of ERISA, the IRC and other federal and state laws. Borrower shall give written notice to Agent and each Lender promptly (and in any event within three (3) Business Days) upon Borrower becoming aware of any (i) Credit Party's or any ERISA Affiliate's failure to make any contribution required to be made with respect to any Pension Plan not having been timely made, (ii) notice of the PBGC's, any Credit Party's or any ERISA Affiliate's intention to terminate or to have a trustee appointed to administer any such Pension Plan, or (iii) complete or partial withdrawal by any Credit Party or any ERISA Affiliate from any Pension Plan.

6.5 Insurance. Borrower shall, and shall cause each Secured Guarantor to, keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Agent may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to Agent. All property policies shall have a lender's loss payable endorsement showing Agent as sole lender's loss payee and waive subrogation against Agent, and all liability policies shall show, or have endorsements showing, Agent as an additional insured. No other loss payees may be shown on the policies unless Agent shall otherwise consent in writing. If required by Agent, all policies (or the loss payable and additional insured endorsements) shall provide that the insurer shall endeavor to give Agent at least thirty (30) days' (ten (10) days' for non-payment of premium) notice before canceling, amending, or declining to renew its policy. At Agent's request, Borrower shall deliver certified copies of all Borrower's and the Secured Guarantors' insurance policies and evidence of all premium payments. If Borrower or any Secured Guarantor fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons and Agent, Agent may make all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Agent deems prudent. Borrower and each Secured Guarantor hereby waives any rights against Agent and Lenders for any property damages or claims to the extent the same is insured or required to be insured hereunder.

6.6 Collateral Accounts.

(a) Borrower shall, and shall cause each Secured Guarantor to, provide Agent five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution. In addition, for each Collateral Account that any Borrower or Secured Guarantor at any time maintains (and in connection with any such Collateral Account established after the Closing Date, prior to opening such Collateral Account), Borrower shall, and shall cause each Secured Guarantor to, cause the applicable bank or financial institution at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Agent's Lien in such Collateral Account in accordance with the terms hereunder, which Control Agreement may not be terminated without prior written consent of Agent. The provisions of the previous sentence shall not apply to (a) Deposit Accounts exclusively used for payroll, payroll taxes, other trust fund taxes and, in Agent's reasonable discretion, other employee wage and benefit payments to or for the benefit of Borrower's or a Secured Guarantor's employees, (b) Deposit Accounts owned by the Securities Subsidiary, (c) the Subject Cash Collateral Accounts or (d) Collateral Accounts in which the daily balances do not exceed $250,000 in the aggregate for all such Collateral Accounts and, in each case, identified to Agent by Borrower as such; provided, however, that at all times Borrower and each Secured Guarantor shall maintain one or more separate Deposit Accounts to hold any and all amounts to be used for payroll, payroll taxes and other employee wage and benefit payments, and shall not commingle any monies allocated for such purposes with funds in any other Deposit Account. The provisions of this Section 6.6(a) shall not apply to any Deposit Accounts, Securities Accounts or Commodity Accounts established and/or maintained by any CFC, any CFC Holdco or any Subsidiary of a CFC.

(b) Borrower shall at all times maintain in a Collateral Account subject to a Control Agreement an amount of cash and/or cash equivalents equal to not less than 75% of the sum of (i) the aggregate outstanding principal amount of the Credit Extensions plus (ii) the aggregate outstanding principal amount of Loans (as defined in the Revolving Credit Documents) (the "**Minimum Cash Amount**")

(c) Borrower shall, and shall cause the Secured Guarantors and the Securities Subsidiary to, maintain securities/asset management accounts with Silicon Valley Bank or its Affiliates which shall have balances

at all times equal to the lesser of (i) all balances in all securities/asset management accounts of Borrower, the Secured Guarantors and the Securities Subsidiary or (ii) Five Hundred Million Dollars ($500,000,000).

6.7 Notices of Material Agreements, Litigation and Defaults; Cooperation in Litigation.

(a) Borrower shall promptly (and in any event within the time periods specified below) provide written notice to Agent and each Lender of the following:

(i) Within three (3) Business Days of Borrower becoming aware of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default;

(ii) Within three (3) Business Days of Borrower becoming aware of (or having reason to believe any of the following are pending or threatened in writing) any action, suit, proceeding or investigation by or against Borrower or any Credit Party that could reasonably be expected to result in a Material Adverse Change, or which questions the validity of any of the Financing Documents, or the other documents required thereby or any action to be taken pursuant to any of the foregoing;

(iii) (A) Within three (3) Business Days of Borrower (1) executing and delivering any amendment, consent, waiver or other modification to any Material Agreement that is materially adverse to Borrower or any Secured Guarantor, Agent or any Lender (it being acknowledged that amendments, modifications and waivers with respect to any DMD Agreements among Borrower and its Subsidiaries will be deemed not to be materially adverse to Borrower, Agent or any Lender so long as such amendment, modification or waiver could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 6.15(e)) or (2) receiving or delivering any notice of termination or default or similar notice in connection with any Material Agreement and (B) together with delivery of the next annual Compliance Certificate (included as an update to the **Disclosure Schedule** delivered therewith) the execution of any new Material Agreement and/or any new material amendment, consent, waiver or other modification to any Material Agreement not previously disclosed.

(b) Borrower shall, and shall cause each Credit Party, to provide such further information (including copies of such documentation) as Agent or any Lender shall reasonably request with respect to any of the events or notices described in clause (a). From the date hereof and continuing through the termination of this Agreement, Borrower shall, and shall cause each Credit Party to, make available to Agent and each Lender, without expense to Agent or any Lender, each Credit Party's officers, employees and agents and books, to the extent that Agent or any Lender may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Agent or any Lender with respect to any Collateral or relating to a Credit Party.

6.8 Creation/Acquisition of Subsidiaries. Borrower shall provide Agent with at least ten (10) Business Days (or such shorter period as Agent may accept in its sole discretion) prior written notice of its intention to create or, to the extent permitted pursuant to this Agreement, acquire a new Subsidiary. Subject to the further provisions of this Section 6.8, upon such creation or, to the extent permitted hereunder, acquisition of any Subsidiary, Borrower and such Subsidiary shall promptly (and in any event within five (5) Business Days of such creation or acquisition) take all such action as may be reasonably required by Agent or the Required Lenders to cause each such Subsidiary to either, in the discretion of Agent, become a co-Borrower hereunder or to guarantee the Obligations of Borrower under the Financing Documents and, in each case, grant a continuing pledge and security interest in and to the assets of such Subsidiary as soon as reasonably practicable but in any event, within 30 days after the creation or acquisition of such Subsidiary (substantially as described on **Exhibit B** hereto); and Borrower shall grant and pledge to Agent, for the ratable benefit of the Lenders, a perfected security interest (subject to the Intercreditor Agreement) in the stock, units or other evidence of ownership of each Subsidiary (the foregoing collectively, the "**Joinder Requirements**"); provided, that Borrower shall not be permitted to make any Investment in such Subsidiary until such time as Borrower has satisfied the Joinder Requirements and, for the avoidance of doubt, thereafter only such Investments as are permitted to be made pursuant to this Agreement, including, without limitation, Section 7.7 and the definition of "Permitted Investments". Notwithstanding the foregoing:

(a) so long as the Securities Subsidiary continues to qualify as a "Security Corporation" as defined in 830 Code of Mass. Regulations 63.38B.1, such Securities Subsidiary shall not be subject to the Joinder Requirements; provided, that, for the avoidance of doubt, (i) Borrower shall not be permitted to make any Investment in such Securities Subsidiary other than pursuant to clause (j) of the definition of Permitted Investments and (ii) the Securities Subsidiary shall be subject to a pledge by Borrower of 100% of the Securities Subsidiary's equity interests;

(b) with respect to any CFC Holdco, such CFC Holdco shall not be subject to the Joinder Requirements other than, in the case of a first-tier CFC Holdco, a pledge by Borrower or Secured Guarantor, as applicable, of 65% of the equity interests of such CFC Holdco which are entitled to vote and 100% of the equity interests of such CFC Holdco which are not entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2));

(c) so long as any Foreign Subsidiary (including, without limitation, Sarepta International and AVI) remains wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) by ST International, STIH or another CFC Holdco, another Foreign Subsidiary, Borrower or Secured Guarantor, such Foreign Subsidiary (or any Subsidiary thereof) shall not be subject to the Joinder Requirements; provided, however, that in the event such Foreign Subsidiary is directly owned by Borrower (or any Secured Guarantor), such Foreign Subsidiary shall be subject to a pledge by Borrower (or such Secured Guarantor) of 65% of such Foreign Subsidiary's equity interests of which are entitled to vote and 100% of such Foreign Subsidiary's equity interests of which are not entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2)); and

(d) all Foreign Subsidiaries shall be directly or indirectly wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) either by a CFC Holdco whose equity has been pledged to the extent required by paragraph (b) above or by Borrower or a Secured Guarantor, who shall have pledged the equity of such Foreign Subsidiary to the extent required by paragraph (c) above.

The limitations set forth in clauses (b) and (c) above shall not apply and such Persons shall be required to satisfy the Joinder Requirements, if the formation or purpose of such Foreign Subsidiary adversely affects, or could reasonably be expected to adversely affect, the Credit Parties' obligations to comply with Section 6.15(e).

6.9 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely for (a) transaction fees incurred in connection with the Financing Documents, (b) for working capital needs of Borrower and its Subsidiaries, and (c) any other Permitted Purpose specified in the Credit Facility Schedule for such Credit Facility. No portion of the proceeds of the Credit Extensions will be used for family, personal, agricultural or household use or to purchase Margin Stock other than, with respect to the purchase of Margin Stock, as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

6.10 Hazardous Materials; Remediation.

(a) If any release or disposal of Hazardous Materials shall occur or shall have occurred on any real property of any Borrower or any Secured Guarantor, such Borrower will cause, or direct the applicable Secured Guarantor to cause, the prompt containment and removal of such Hazardous Materials and the remediation of such real property as is necessary to comply with all Environmental Laws in a manner that does not materially reduce the value of such real property. Without limiting the generality of the foregoing, each Borrower shall, and shall cause each Secured Guarantor to, comply with each Environmental Law requiring the performance at any real property by any Borrower or any Secured Guarantor of activities in response to the release or threatened release of a Hazardous Material.

(b) In the event of a release or disposal of Hazardous Materials, as described in Section 6.10(a), Borrower will provide Agent, within thirty (30) days after written demand therefor, with a bond, letter of credit or similar financial assurance evidencing to the reasonable satisfaction of Agent that sufficient funds are available to pay the cost of removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging any assessment which may be established by any Governmental Authority or applicable Law on any real property as a result thereof, such demand to be made, if at all, upon Agent's determination that the failure to remove, treat or dispose of such Hazardous Materials or Hazardous Materials Contamination, or the failure to discharge any such assessment could reasonably be expected to have a Material Adverse Change.

(c) If there is any conflict between this Section 6.10 and any environmental indemnity agreement which is a Financing Document, the environmental indemnity agreement shall govern and control.

6.11 Power of Attorney. Each of the officers of Agent is hereby irrevocably made, constituted and appointed the true and lawful attorney for each Borrower (and each Secured Guarantor) (without requiring any of them to act as such) with full power of substitution, and upon the occurrence and during the continuance of an Event of Default, Agent may do the following: (a) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; (b) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower (or such Secured Guarantor, as applicable) to perform the same and Borrower (or such Secured Guarantor, as applicable) has failed to take such action, (i) execute in the name of any Person comprising Borrower (or such Secured Guarantor, as applicable) any schedules, assignments, instruments, documents, and statements that Borrower (or such Secured Guarantor, as applicable) is obligated to give Agent under this Agreement or that Agent or any Lender deems necessary to perfect or better perfect Agent's security interest or Lien in any Collateral, (ii) do such other and further acts and deeds in the name of Borrower (or such Secured Guarantor, as applicable) that Agent may deem necessary or desirable to enforce, protect or preserve any Collateral or its rights therein, including, but not limited to, to sign Borrower's (or such Secured Guarantor's, as applicable) name on any invoice or bill of lading for any Account or drafts against Account Debtors; and (iii)(A) endorse the name of any Borrower (or such Secured Guarantor, as applicable) upon any and all checks, drafts, money orders, and other instruments for the payment of money that are payable to Borrower (or such Secured Guarantor, as applicable); (B) make, settle, and adjust all claims under Borrower's (or such Secured Guarantor's, as applicable) insurance policies; (C) take any action Borrower (or such Secured Guarantor, as applicable) is required to take under this Agreement or any other Financing Document; (D) transfer the Collateral into the name of Agent or a third party as the Code permits; (E) exercise any rights and remedies described in this Agreement or the other Financing Documents; and (F) do such other and further acts and deeds in the name of Borrower (or such Secured Guarantor, as applicable) that Agent may deem necessary or desirable to enforce its rights with regard to any Collateral.

6.12 Further Assurances. Borrower shall, and shall cause each Secured Guarantor to, promptly execute any further instruments and take further action as Agent reasonably requests to perfect or better perfect or continue Agent's Lien in the Collateral or to effect the purposes of this Agreement or any other Financing Document.

6.13 Post-Closing Obligations. Borrower shall, and shall cause each Secured Guarantor to, complete each of the post-closing obligations and/or deliver to Agent each of the documents, instruments, agreements and information listed on the **Post-Closing Obligations Schedule** attached hereto, on or before the date set forth for each such item thereon (as the same may be extended by Agent in writing in its sole discretion), each of which shall be completed or provided in accordance with the **Post-Closing Obligations Schedule**.

6.14 Disclosure Schedule Updates. Borrower shall (and shall cause each Secured Guarantor), in the event of any information in the **Disclosure Schedule** becoming outdated, inaccurate, incomplete or misleading, deliver to Agent, together with the next Compliance Certificate required to be delivered under this Agreement after such event, a proposed update to the **Disclosure Schedule** correcting all outdated, inaccurate, incomplete or misleading information; provided, however, (i) with respect to any proposed updates to the **Disclosure Schedule** involving Permitted Liens, Permitted Indebtedness or Permitted Investments, Agent will replace the **Disclosure Schedule** attached hereto with such proposed update only if such updated information is consistent with the definitions of and limitations herein pertaining to Permitted Liens, Permitted Indebtedness or Permitted Investments, (ii) updates to the **Disclosure Schedule** involving Registered Intellectual Property or Material Agreements relating to Intellectual Property shall be provided only annually, (iii) updates to the **Disclosure Schedule** involving Registered Intellectual Property shall only be required to the extent relating to Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) and (iv) with respect to any proposed updates to the **Disclosure Schedule** involving other matters, Agent will replace the applicable portion of the **Disclosure Schedule** attached hereto with such proposed update upon Agent's approval thereof.

6.15 Intellectual Property and Licensing.

(a) Together with each Compliance Certificate required to be delivered with the annual financial statements pursuant to Section 6.2(b), to the extent (A) Borrower acquires and/or develops any material new Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States

Copyright Office), or (B) Borrower enters into or becomes bound by any additional material in-bound license or sublicense agreement, any additional exclusive material out-bound license or sublicense agreement or other material agreement with respect to rights in Intellectual Property (other than over-the-counter software that is commercially available to the public), or (C) there occurs any other material change in Borrower's Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office), in-bound licenses or sublicenses or exclusive out-bound licenses or sublicenses from that listed on the **Intangible Assets Schedule** (other than a change in counterparty from a Subsidiary that is not a Secured Guarantor to another Subsidiary that is not a Secured Guarantor), together with such Compliance Certificate, Borrower will deliver to Agent an updated **Intangible Assets Schedule** reflecting such updated information. With respect to any updates to the Intangible Assets Schedule involving exclusive out-bound licenses or sublicenses, such licenses shall be consistent with the definitions of and limitations herein pertaining to Permitted Licenses.

(b) If Borrower obtains after the Closing Date any Registered Intellectual Property (other than copyrights, mask works and related applications, which are addressed below), Borrower shall promptly execute such documents and provide such other information (including, without limitation, copies of applications) and take such other actions as Agent shall request in its good faith business judgment to perfect and maintain a first priority perfected security interest (subject to the Intercreditor Agreement) in favor of Agent, for the ratable benefit of Lenders, in the IP Proceeds (as defined in **Exhibit B**) pertaining thereto.

(c) Borrower shall take such commercially reasonable steps as Agent requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (x) all such licenses or agreements to be deemed "Collateral" and for Agent to have a security interest in it that might otherwise be restricted or prohibited by Law or by the terms of any such license or agreement, whether now existing or entered into in the future, and (y) Agent to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Agent's rights and remedies under this Agreement and the other Financing Documents.

(d) Borrower shall own, or be licensed to use or otherwise have the right to use, all Material Intangible Assets. Borrower shall cause all Registered Intellectual Property to be duly and properly registered, filed or issued in the appropriate office and jurisdictions for such registrations, filings or issuances, except where the failure to do so would not reasonably be expected to result in a Material Adverse Change. Borrower shall at all times conduct its business without intentional infringement of any Intellectual Property rights of others. Borrower shall (i) protect, defend and maintain the validity and enforceability of its Material Intangible Assets (ii) promptly advise Agent in writing of material infringements of its Material Intangible Assets by a third party, or of a written notice sent by a third party of a material claim of infringement by Borrower on the Intellectual Property rights of others; and (iii) not allow any of Borrower's Material Intangible Assets to be abandoned, invalidated, forfeited or dedicated to the public or to become unenforceable unless ordered by a court or administrative agency of competent jurisdiction. Borrower shall not become a party to, nor become bound by, any material license or other agreement with respect to which Borrower is the licensee that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or other property, other than a restriction invalidated under sections 9-406, 9-407 or 9-408 of the Code.

(e) (i) With respect to any Product for the treatment of Duchenne Muscular Dystrophy that has been marketed, distributed or sold in the US Territory on or prior to the Closing Date, Borrower or a Secured Guarantor has been granted from a direct or indirect Subsidiary of Borrower, and Borrower or a Secured Guarantor, as applicable, shall maintain, the exclusive distributorship with the rights (to the exclusion of any other Person) to market, distribute and sell such Product in the US Territory pursuant to agreements and documentation that comply with Section 7.8(a) (collectively, the "Existing DMD Agreements") and (ii) with respect to any Product for the treatment of Duchenne Muscular Dystrophy that has not been marketed, distributed or sold in the US Territory on or prior to the Closing Date, by the time of (x) the filing of a new drug application with the FDA with respect to such Product or (y) the filing of a biologics license application with the FDA with respect to such Product, Borrower or a Secured Guarantor shall be granted from a direct or indirect Subsidiary of Borrower (and Borrower shall cause any applicable Credit Party to so grant), and thereafter Borrower or a Secured Guarantor, as applicable, shall maintain, the exclusive distributorship with the rights (to the exclusion of any other Person) to market, distribute and sell such Product in the US Territory pursuant to agreements and documentation that comply with Section 7.8(a) (together with the Existing DMD

Agreements, the "DMD Agreements"). For the avoidance of doubt, with respect to the foregoing clauses (i) and (ii), no Person (other than Borrower or a Secured Guarantor) shall have the right to market, distribute or sell such Products in the US Territory.

6.16 Regulatory Reporting and Covenants.

(a) Borrower shall notify Agent and each Lender promptly (and in any event within 3 Business Days of receiving, becoming aware of or determining that (each, a "Regulatory Reporting Event" and collectively, the "Regulatory Reporting Events")): (i) any Governmental Authority, specifically including the FDA is conducting or has conducted (A) if applicable, any investigation of Borrower's or its Subsidiaries' manufacturing facilities and processes for any Product (or any investigation of the facility of a contract manufacturer engaged by Borrower or its Subsidiaries in respect of a Product of which Borrower and/or its Subsidiaries are aware), which has disclosed any material deficiencies or violations of Laws and/or the Regulatory Required Permits related thereto or (B) an investigation or review of any Regulatory Required Permit (other than routine reviews in the Ordinary Course of Business associated with the renewal of a Regulatory Required Permit and which could not reasonably be expected to result in a Material Adverse Change), (ii) development, testing, and/or manufacturing of any Product should cease, (iii) if a Product has been approved for marketing and sale, any marketing or sales of such Product should cease or such Product should be withdrawn from the marketplace, (iv) any Regulatory Required Permit has been revoked or withdrawn, (v) adverse clinical test results have occurred with respect to any Product to the extent that such results have or could reasonably be expected to result in a Material Adverse Change or (vi) any Product recalls or voluntary Product withdrawals from any market (other than with respect to discrete batches or lots that are not material in quantity or amount and are not made in conjunction with a larger recall) have occurred. Borrower shall provide to Agent or any Lender such further information (including copies of such documentation) as Agent or any Lender shall reasonably request with respect to any such Regulatory Reporting Event.

(b) Borrower shall, and shall cause each Credit Party to, obtain and, to the extent applicable, use commercially reasonable efforts to cause all third parties to obtain, all Regulatory Required Permits necessary for compliance in all material respects with Laws with respect to testing, manufacturing, developing, selling or marketing of Products and shall, and shall cause each Credit Party to, maintain and comply fully and completely in all respects with all such Regulatory Required Permits, the noncompliance with which could have a Material Adverse Change. In the event Borrower or any Credit Party obtains any new Regulatory Required Permit or any information on the **Required Permits Schedule** becomes outdated, inaccurate, incomplete or misleading, Borrower shall, together with the next Compliance Certificate required to be delivered under this Agreement after such event, provide Agent with an updated **Required Permits Schedule** including such updated information.

7 NEGATIVE COVENANTS

Borrower shall not do, nor shall it permit any Secured Guarantor or the Securities Subsidiary to do, any of the following without the prior written consent of Agent:

7.1 Dispositions. Convey, sell, abandon, lease, license, transfer, assign or otherwise dispose of (collectively, "**Transfer**") all or any part of its business or property, except (a) sales, transfers or dispositions of Inventory in the Ordinary Course of Business; (b) sales or abandonment of (i) worn-out or obsolete Equipment or (ii) other Equipment that is no longer used or useful in the business of Borrower; (c) to the extent they may constitute a Transfer, Permitted Liens; (d) to the extent they may constitute a Transfer, Permitted Investments; (e) Permitted Licenses to the extent such licenses could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 6.15(e); (f) assignments of manufacturing, supply, services, distribution, research, collaboration and similar contracts among Borrower and its Subsidiaries to the extent not prohibited by this Agreement and such assignments could not reasonably be expected to result in an adverse effect upon the ability of the Borrower or any Secured Guarantor to comply with Section 6.15(e); and (g) dispositions of other assets from Borrower (or a Secured Guarantor) to a Secured Guarantor (or Borrower).

7.2 Changes in Business, Management, Ownership or Business Locations. (a) Engage in any business other than the businesses currently engaged in by Borrower and its Subsidiaries, as applicable, or reasonably related thereto; (b) liquidate or dissolve (other than the liquidation of (1) a Credit Party that is not a Secured Guarantor (or Borrower) where all assets of

such liquidating Credit Party shall be contributed to its parent or (2) a Secured Guarantor only if its parent is a Secured Guarantor or Borrower and only if all assets of such Secured Guarantor are contributed to such parent, in each case so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower's tangible net worth is not thereby reduced, (iii) no Event of Default has occurred and is continuing prior thereto or arises as a result therefrom, and (iv) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction); (c) enter into any transaction or series of related transactions which would result in a Change in Control unless the agreements with respect to such transactions provide for, as a condition precedent to the consummation thereof, either (i) the indefeasible payment in full of the Obligations and the occurrence of the Revolving Credit Obligations Termination or (ii) the consent of the Agent and Lenders; (d) enter into any new leases with respect to existing offices or business locations without first delivering a fully-executed Access Agreement to Agent (except as otherwise provided below); (e) change its jurisdiction of organization; (f) change its organizational structure or type; (g) change its legal name; or (h) change any organizational number (if any) assigned by its jurisdiction of organization. Notwithstanding the foregoing, in the case of subpart (d) preceding, subpart (d) shall not restrict leases for such new or existing offices or business locations containing less than Two Million Dollars ($2,000,000) in Borrower's assets or property and not containing Borrower's Books.

7.3 Mergers or Acquisitions. Merge or consolidate with any other Person, or acquire all or substantially all of the capital stock or property of another Person; *provided*, *however*, (a) that a Subsidiary of Borrower or a Secured Guarantor may merge or consolidate into such Borrower or a Secured Guarantor so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower or a Secured Guarantor, as applicable, shall be the surviving legal entity (or in the case of a merger or consolidation involving a Secured Guarantor and Borrower, Borrower shall be the surviving legal entity), (iii) Borrower's tangible net worth is not thereby reduced, (iv) no Event of Default has occurred and is continuing prior thereto or arises as a result therefrom, and (v) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction, (b) that a Subsidiary of Borrower that is not a Secured Guarantor may merge or consolidate into its parent or another Subsidiary so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower's tangible net worth is not thereby reduced, (iii) if such other Subsidiary is a Borrower or a Secured Guarantor, such Borrower or such Secured Guarantor, as applicable, shall be the surviving legal entity, (iv) no Event of Default has occurred and is continuing prior thereto or arises as a result therefrom, and (v) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction or (c) Borrower and the Secured Guarantors may make Permitted Acquisitions.

7.4 Indebtedness. (a) Create (as obligor), incur, assume, or be liable for any Indebtedness, other than Permitted Indebtedness, or (b) repurchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness (other than with respect to the Obligations as described in Section 2.3) prior to its scheduled maturity.

7.5 Encumbrance. (a) Create, incur, allow, or suffer any Lien on any of its property, except for Permitted Liens, (b) permit any Collateral to fail to be subject to the first priority security interest (subject to the Intercreditor Agreement) granted herein except for Permitted Liens that may have priority by operation of applicable Law or by the terms of a written intercreditor or subordination agreement entered into by Agent (including the Intercreditor Agreement), or (c) enter into any agreement, document, instrument or other arrangement (except with or in favor of Agent) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Collateral or Intellectual Property, except as is otherwise permitted in the definition of "Permitted Liens" herein.

7.6 Maintenance of Collateral Accounts. In the case of Borrower and the Secured Guarantors, maintain any Collateral Account, except pursuant to the terms of Section 6.6 hereof.

7.7 Distributions; Investments; Margin Stock. (a) Pay any dividends (other than (i) dividends payable solely in common stock or (ii) dividends paid by any Person (other than Borrower) to such Person's direct parent) or make any distribution or payment with respect to or redeem, retire or purchase or repurchase any of its equity interests (other than repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements or similar plans), or (b) make, in any form or manner, any Investment (including, without limitation, any additional Investment in any Subsidiary) other than Permitted Investments. Without limiting the foregoing, Borrower shall not, and shall not permit any of its

Subsidiaries to, purchase or carry Margin Stock other than as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

7.8 Transactions with Affiliates. Enter into or permit to exist any material transaction with any Affiliate of any Credit Party, except for (a) transactions that are in the Ordinary Course of Business, upon fair and reasonable terms that are no less favorable to Borrower and the Secured Guarantors than would be obtained in an arm's length transaction with a non-affiliated Person, (b) transactions with Subsidiaries that are designated as a Borrower or a Secured Guarantor hereunder and that are not otherwise prohibited by Article 7 of this Agreement, (c) transactions permitted by Section 7.7 of this Agreement, and (d) transactions by Subsidiaries that are not Secured Guarantors with other Subsidiaries that are not Secured Guarantors that are not otherwise prohibited by Article 7 of this Agreement.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt, except to the extent expressly permitted to be made pursuant to the terms of the Subordination Agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt other than as may be expressly permitted pursuant to the terms of any applicable Subordination Agreement to which such Subordinated Debt is subject.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended or undertake as one of its important activities extending credit to purchase or carry Margin Stock, or use the proceeds of any Credit Extension for that purpose; (i) fail, or permit any ERISA Affiliate to fail, to meet "minimum funding standards" (as defined in Section 412 of the IRC or Section 302 of ERISA), whether or not waived, (ii) permit (with respect to any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof) a "reportable event" as defined in Section 4043(c) of ERISA (or the regulations issued thereunder) (other than an event for which the 30-day notice requirement is waived) to occur, (iii) engage in any "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the IRC that could result in liability in excess of $500,000 in the aggregate or that could reasonably be expected to result in a Material Adverse Change; (iv) fail to comply with the Federal Fair Labor Standards Act that could result in liability in excess of $500,000 in the aggregate or that could reasonably be expected to result in a Material Adverse Change; (v) permit (with respect to any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof) the withdrawal from participation in any Pension Plan, or (vi) incur, or permit any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof to incur, any liability under Title IV of ERISA (other than for PBGC premiums due but not delinquent under Section 4007 of ERISA).

7.11 Amendments to Organization Documents and Material Agreements. Amend, modify or waive any provision of (a) any Material Agreement in a manner that (i) is materially adverse to Borrower, Agent or any Lender (it being acknowledged that amendments, modifications and waivers with respect to any DMD Agreements among Borrower and its Subsidiaries will be deemed not to be materially adverse to Borrower, Agent or any Lender so long as such amendment, modification or waiver could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 6.15(e)), (ii) restricts or prohibits rights to assign or grant a security interest in such Material Agreement (iii) that could reasonably be expected to result in a Material Adverse Change or (iv) could reasonably be expected to adversely affect Borrower's or any Secured Guarantor's ability to comply with Section 6.15(e), (b) any of its organizational documents (other than a change in registered agents, or a change that could not adversely affect the rights of Agent or Lenders hereunder in any material respect, but, for the avoidance of doubt, under no circumstances a change of its name, type of organization or jurisdiction of organization) or (c) the Revolving Credit Documents, in each case of (a), (b) and (c), without the prior written consent of Agent. Borrower shall provide to Agent copies of all amendments, waivers and modifications of any Material Agreement or organizational documents, and in the case of amendments, waivers and modifications of Material Agreements, at Agent's request.

7.12 Compliance with Anti-Terrorism Laws. Directly or indirectly, knowingly enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Borrower shall immediately notify Agent if Borrower has knowledge that Borrower or any Subsidiary or Affiliate is listed on the OFAC Lists or (a) is convicted on, (b) pleads *nolo contendere* to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Borrower will not, nor will Borrower permit any Subsidiary or Affiliate to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to

Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire 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 Executive Order No. 13224 or other Anti-Terrorism Law. Agent hereby notifies Borrower that pursuant to the requirements of Anti-Terrorism Laws, and Agent's policies and practices, Agent is required to obtain, verify and record certain information and documentation that identifies Borrower and its principals, which information includes the name and address of Borrower and its principals and such other information that will allow Agent to identify such party in accordance with Anti-Terrorism Laws.

8 CFC HOLDCO AND CFC NEGATIVE COVENANTS

Borrower shall not permit any of its direct or indirect Subsidiaries that constitutes a CFC Holdco or Foreign Subsidiary to do, any of the following without the prior written consent of Agent:

8.1 Dispositions. Transfer all or any part of its business or property, except dispositions of assets so long as a Change in Control does not occur and such disposition could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 6.15(e).

8.2 Indebtedness. (a) Create (as obligor), incur, assume, or be liable for any Indebtedness, other than (i) intercompany indebtedness permitted pursuant to the definition of Permitted Indebtedness, (ii) trade payables incurred in the Ordinary Course of Business, (iii) equipment financing in the Ordinary Course of Business, (iv) hedging and letter of credit obligations in the Ordinary Course of Business, (v) non-compete obligations and deferred compensation in the Ordinary Course of Business and (vi) unsecured Indebtedness not to exceed $5,000,000 in the aggregate for all such Subsidiaries at any time outstanding.

8.3 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, except for Permitted Liens, purchase money liens and capital leases with respect to Equipment and cash collateral for hedging and letter of credit obligations.

8.4 Mergers. Merge or consolidate into any other Person other than (a) Borrower, (b) a direct or indirect wholly-owned Subsidiary of Borrower (other than the Securities Subsidiary) that is not a Foreign Subsidiary or (c) a direct or indirect wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) Foreign Subsidiary of Borrower.

9 AMENDMENT AND RESTATEMENT; NO NOVATION

9.1 On the Closing Date upon the satisfaction of the conditions precedent in **Section 3.1** and **Section 3.2**, the Existing Credit Agreement shall be amended and restated in its entirety as set forth herein. The Existing Loan outstanding on the Closing Date shall be reallocated in accordance with the terms set forth in **Section 2.3** and this **Article 9**.

9.2 The parties hereto acknowledge and agree that (i) this Agreement and the other Financing Documents, whether executed and delivered in connection herewith or otherwise, do not constitute a novation or termination of the Existing Obligations under the Existing Credit Agreement as in effect prior to the Closing Date and which remain outstanding and are in all respects continuing (on the terms as amended and restated hereby), (ii) the Liens and security interests as granted under the Existing Credit Agreement and other Existing Financing Documents securing payment of such Existing Obligations are in all respects continuing and in full force and effect after giving effect to this Agreement and the transactions contemplated hereby and all such Liens granted to the Existing Agent shall be deemed to constitute Liens granted to the Agent on behalf of the Lenders under this Agreement, (iii) references in the Existing Financing Documents or the Financing Documents to the "Credit Agreement" shall be deemed to be references to this Agreement (as the same may be amended, restated, supplemented or otherwise modified from time to time), and to the extent necessary to effect the foregoing, each such Financing Document is hereby deemed amended accordingly, (iv) all of the terms and provisions of the Existing Credit Agreement shall continue to apply for the period prior to the Closing Date, including any determinations of payment dates, interest rates, Events of Default or any amount that may be payable to the Agent or the Lenders (or their assignees or replacements hereunder), (v) the Existing Obligations under the Existing Credit Agreement shall continue to be paid or prepaid on or prior to the Closing Date on the terms set forth in the Existing Credit Agreement, and shall from and after the Closing Date continue to be owing and be subject

to the terms of this Agreement, (vi) all references in the Financing Documents to the "Lenders" or a "Lender" shall be deemed to refer to such terms as defined in this Agreement, and to the extent necessary to effect the foregoing, each such Financing Document is hereby deemed amended accordingly and (vii) any Defaults or Events of Default that are continuing under the Existing Credit Agreement shall constitute Defaults or Events of Default under this Agreement unless the same shall have been specifically waived in writing in accordance with this Agreement, and to the extent necessary to effect the foregoing, each such Financing Document is hereby deemed amended accordingly.

9.3 The Borrower, Credit Parties, Agent and Lenders acknowledge and agree that all principal, interest, fees, costs, reimbursable expenses and indemnification obligations accruing or arising under or in connection with the Existing Credit Agreement which remain unpaid and outstanding as of the Closing Date shall be and remain outstanding and payable as an Obligation under the terms of this Agreement and the other Financing Documents.

9.4 The parties hereto agree that as of the Closing Date, (i) the Lenders signatory hereto shall become "Lenders" under this Agreement and the other Financing Documents and (ii) each Lender shall have the Applicable Commitment set forth on the Credit Facility Schedule. Borrower hereby directs Agent to apply the proceeds of the Credit Extension made on the Initial Funding Date to the reallocation in accordance with **Section 2.3** on the Closing Date of certain outstanding obligations of the Borrower owing to the Existing Lenders and the payment of certain fees and expenses relating thereto, as more specifically set forth in the disbursement letter referred to in the Closing Deliveries Schedule.

9.5 Each Credit Party hereby ratifies the Existing Financing Documents (as amended hereby and in connection herewith) and acknowledges and reaffirms (i) that it is bound by all terms thereunder applicable to it and (ii) that it is responsible for the observance and full performance of its respective obligations thereunder.

9.6 Notwithstanding anything to the contrary contained in the Existing Credit Agreement or this Article 9, each Existing Lender hereby waives any Applicable Prepayment Fee (under and as defined in the Existing Credit Agreement) payable to such Existing Lender under Section 2.3(d) of the Existing Credit Agreement solely as a result of the amendment and restatement of the Existing Credit Agreement.

10 EVENTS OF DEFAULT

10.1 Events of Default. The occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an "**Event of Default**" and Credit Parties shall thereupon be in default under this Agreement and each of the other Financing Documents:

(a) Borrower fails to (i) make any payment of principal or interest on any Credit Extension on its due date, or (ii) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Maturity Date or the date of acceleration pursuant to Section 10.2 hereof);

(b) Any Credit Party defaults in the performance of or compliance with any term contained in this Agreement or in any other Financing Document (other than occurrences described in other provisions of this Section 10.1 for which a different grace or cure period is specified or for which no grace or cure period is specified and thereby constitute immediate Events of Default) and such default is not remedied by the Credit Party or waived by Agent within ten (10) days after the earlier of (i) the date of receipt by any Borrower of notice from Agent or Required Lenders of such default, or (ii) the date an officer of such Credit Party becomes aware, or through the exercise of reasonable diligence should have become aware, of such default; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by such Credit Party be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then such Credit Party shall have an additional period (which shall not in any case exceed twenty (20) days) to attempt to cure such default, and within such additional time period the failure to cure the default shall not be deemed an Event of Default;

(c) Any Credit Party defaults in the performance of or compliance with any term contained in Section 6.2, 6.4, 6.5, 6.6, 6.7(a), 6.8, 6.9, 6.10, 6.13, 6.15 or 6.16 or Article 7 or Article 8;

(d) Any representation, warranty, certification or statement made by any Credit Party or any other Person acting for or on behalf of a Credit Party (i) in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document, or (ii) to induce Agent and/or Lenders to enter into this Agreement or any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(e) (i) any Credit Party defaults under or breaches any Material Agreement (after any applicable grace period contained therein), or a Material Agreement shall be terminated by a third party or parties party thereto prior to the expiration thereof, or there is a loss of a material right of a Credit Party under any Material Agreement to which it is a party, in each case which could reasonably be expected to result in a Material Adverse Change, (ii) (A) any Credit Party fails to make (after any applicable grace period) any payment when due (whether due because of scheduled maturity, required prepayment provisions, acceleration, demand or otherwise) on any Indebtedness (other than the Obligations) of such Credit Party or such Subsidiary having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than Five Hundred Thousand Dollars ($500,000) ("**Material Indebtedness**"), (B) any other event shall occur or condition shall exist under any contractual obligation relating to any such Material Indebtedness, if the effect of such event or condition is to accelerate, or to permit the acceleration of (without regard to any subordination terms with respect thereto), the maturity of such Material Indebtedness or (C) any such Material Indebtedness shall become or be declared to be due and payable, or be required to be prepaid, redeemed, defeased or repurchased (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof, (iii) any Credit Party defaults (beyond any applicable grace period) under any obligation for payments due or otherwise under any lease agreement for such Credit Party's principal place of business or any place of business that meets the criteria for the requirement of an Access Agreement under Section 4.2(e) or Section 7.2, (iv) the occurrence of any breach or default under any terms or provisions of any Subordinated Debt Document or under any agreement subordinating the Subordinated Debt to all or any portion of the Obligations, or the occurrence of any event requiring the prepayment of any Subordinated Debt, or the delivery of any notice with respect to any Subordinated Debt or pursuant to any Subordination Agreement that triggers the start of any standstill or similar period under any Subordination Agreement, (v) any Borrower makes any payment on account of any Indebtedness that has been subordinated to any of the Obligations, other than payments specifically permitted by the terms of such subordination or (vi) there shall occur any event of default under the Revolving Credit Documents;

(f) (i) any Credit Party shall generally not pay its debts as such debts become due, shall admit in writing its inability to pay its debts generally, shall make a general assignment for the benefit of creditors, or shall cease doing business as a going concern, (ii) any proceeding shall be instituted by or against any Credit Party seeking to adjudicate it a bankrupt or insolvent or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, composition of it or its debts or any similar order, in each case under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking the entry of an order for relief or the appointment of a custodian, receiver, trustee, conservator, liquidating agent, liquidator, other similar official or other official with similar powers, in each case for it or for any substantial part of its property and, in the case of any such proceedings instituted against (but not by or with the consent of) such Credit Party, either such proceedings shall remain undismissed or unstayed for a period of thirty (30) days or more or any action sought in such proceedings shall occur or (iii) any Credit Party shall take any corporate or similar action or any other action to authorize any action described in clause (i) or (ii) above;

(g) (i) The service of process seeking to attach, execute or levy upon, seize or confiscate any Collateral Account, any Intellectual Property, or any funds of any Credit Party on deposit with Agent, any Lender or any Affiliate of Agent or any Lender, or (ii) a notice of lien, levy, or assessment is filed against any assets of a Credit Party by any government agency, and the same under subclauses (i) and (ii) hereof are not discharged or stayed (whether through the posting of a bond or otherwise) prior to the earlier to occur of ten (10) days after the occurrence thereof or such action becoming effective;

(h) (i) any court order enjoins, restrains, or prevents Borrower from conducting any material part of its business, (ii) the institution by any Governmental Authority of criminal proceedings against any Credit

Party, or (iii) one or more judgments or orders for the payment of money (to the extent not paid or fully covered by insurance and as to which the relevant insurance company has not disputed coverage in writing) aggregating in excess of $500,000 shall be rendered against any or all Credit Parties and either (A) enforcement proceedings shall have been commenced by any creditor upon any such judgments or orders, or (B) there shall be any period of ten (10) consecutive days during which a stay of enforcement of any such judgments or orders, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) any Lien created by any of the Financing Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be encumbered thereby, subject to no prior or equal Lien except Permitted Liens (subject to the Intercreditor Agreement), or any Credit Party shall so assert; any provision of any Financing Document shall fail to be valid and binding on, or enforceable against, a Credit Party, or any Credit Party shall so assert;

(j) (i) A Change in Control occurs or (ii) any Credit Party or direct or indirect equity owner in a Credit Party shall enter into an agreement which contemplates a Change in Control (unless such agreement is either (A) non-binding on such Credit Party or (B) provides for, as a condition precedent to the consummation of such agreement, either (x) the indefeasible payment in full in cash of all Obligations and the occurrence of the Revolving Credit Obligations Termination or (y) the consent of Agent and Lenders);

(k) Any Required Permit shall have been (i) revoked, rescinded, suspended, modified in a materially adverse manner or not renewed in the Ordinary Course of Business for a full term, or (ii) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Required Permit or that could result in the Governmental Authority taking any of the actions described in clause (i) above, and such decision or such revocation, rescission, suspension, modification or non-renewal has, or could reasonably be expected to have, a Material Adverse Change;

(l) (i) the voluntary withdrawal or institution of any action or proceeding by the FDA or similar Governmental Authority to order the withdrawal of any Product or Product category from the market or to enjoin Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries from manufacturing, marketing, selling or distributing any Product or Product category, any of which has or could reasonably be expected to result in a Material Adverse Change, (ii) the institution of any action or proceeding by any DEA, FDA, or any other Governmental Authority to revoke, suspend, reject, withdraw, limit, or restrict any Regulatory Required Permit held by Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries, which, in each case, has or could reasonably be expected to result in Material Adverse Change, (iii) the commencement of any enforcement action against Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries (with respect to the business of Borrower or its Subsidiaries) by DEA, FDA, or any other Governmental Authority which has or could reasonably be expected to result in a Material Adverse Change, or (iv) the occurrence of adverse test results in connection with a Product which could reasonably be expected to result in Material Adverse Change;

(m) If any Borrower is or becomes an entity whose equity is registered with the SEC, and/or is publicly traded on and/or registered with a public securities exchange, such Borrower's equity fails to remain registered with the SEC in good standing, and/or such equity fails to remain publicly traded on and registered with a public securities exchange; or

(n) The occurrence of any fact, event or circumstance that results in a Material Adverse Change with respect to Borrower, individually, or the Borrower and the Secured Guarantors, taken as a whole.

All cure periods provided for in this Section 10.1 shall run concurrently with any cure period provided for in any applicable Financing Documents under which the default occurred.

10.2 Rights and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default, Agent may, and at the written direction of Required Lenders shall, without notice or demand, do any or all of the following: (i) deliver notice of the

Event of Default to Borrower, (ii) by notice to any Borrower declare all Obligations immediately due and payable (but if an Event of Default described in Section 10.1(f) occurs all Obligations shall be immediately due and payable without any action by Agent or the Lenders), or (iii) by notice to any Borrower suspend or terminate the obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between any Credit Party and Agent and/or the Lenders (but if an Event of Default described in Section 10.1(f) occurs all obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Agent and/or the Lenders shall be immediately terminated without any action by Agent or the Lenders).

(b) Without limiting the rights of Agent and Lenders set forth in Section 10.2(a) above, upon the occurrence and during the continuance of an Event of Default, Agent shall have the right, without notice or demand, to do any or all of the following:

(i) with or without legal process, enter any premises where the Collateral may be and take possession of and remove the Collateral from the premises or store it on the premises, and foreclose upon and/or sell, lease or liquidate, the Collateral, in whole or in part;

(ii) apply to the Obligations (A) any balances and deposits of any Credit Party that Agent or any Lender or any Affiliate of Agent or a Lender holds or controls, or (B) any amount held or controlled by Agent or any Lender or any Affiliate of Agent or a Lender owing to or for the credit or the account of any Credit Party;

(iii) settle, compromise or adjust and grant releases with respect to disputes and claims directly with Account Debtors for amounts on terms and in any order that Agent considers advisable, notify any Person owing any Credit Party money of Agent's security interest in such funds, and verify the amount of such Account;

(iv) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Agent requests and make it available as Agent designates. Agent may also render any or all of the Collateral unusable at a Credit Party's premises and may dispose of such Collateral on such premises without liability for rent or costs. Borrower grants Agent a license to enter and occupy any of its premises, without charge, to exercise any of Agent's rights or remedies;

(v) pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred;

(vi) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, and/or advertise for sale, the Collateral. Agent is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral (and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof); provided that Agent shall only use such license or other right to use as described in this sentence solely in connection with Agent's exercise of its rights and remedies under this Article 10 and, in connection with Agent's exercise of its rights under this Article 10, Borrower's rights under all licenses and all franchise agreements shall be deemed to inure to Agent for the benefit of the Lenders;

(vii) place a "hold" on any account maintained with Agent or the Lenders or any Affiliate of Agent or a Lender and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(viii) demand and receive possession of the Books of Borrower and the other Credit Parties; and

(ix) exercise all other rights and remedies available to Agent under the Financing Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

10.3 Notices. Any notice that Agent is required to give to a Credit Party under the UCC of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall be deemed to constitute reasonable notice if such notice is given in accordance with this Agreement at least five (5) days prior to such action.

10.4 Protective Payments. If any Credit Party fails to pay or perform any covenant or obligation under this Agreement or any other Financing Document, Agent may pay or perform such covenant or obligation, and all amounts so paid by Agent are Protective Advances and immediately due and payable, bearing interest at the then highest applicable rate for the Credit Facilities hereunder, and secured by the Collateral. No such payments or performance by Agent shall be construed as an agreement to make similar payments or performance in the future or constitute Agent's waiver of any Event of Default.

10.5 Liability for Collateral No Waiver; Remedies Cumulative. So long as Agent and the Lenders comply with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Agent and the Lenders, Agent and the Lenders shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral. Agent's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Financing Document shall not waive, affect, or diminish any right of Agent thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by Agent and then is only effective for the specific instance and purpose for which it is given. Agent's rights and remedies under this Agreement and the other Financing Documents are cumulative. Agent has all rights and remedies provided under the Code, by Law, or in equity. Agent's exercise of one right or remedy is not an election, and Agent's waiver of any Event of Default is not a continuing waiver. Agent's delay in exercising any remedy is not a waiver, election, or acquiescence.

10.6 Application of Payments and Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (i) Borrower, for itself and the other Credit Parties, irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of Borrower or such Credit Party of all or any part of the Obligations, and, as between Borrower and the Credit Parties on the one hand and Agent and Lenders on the other, Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent, and (ii) unless the Agent and the Lenders shall agree otherwise, the proceeds of any sale of, or other realization upon all or any part of the Collateral shall be applied: *first*, to the Protective Advances; *second*, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of the United States Bankruptcy Code, would have accrued on such amounts); *third*, to the principal amount of the Obligations outstanding; *fourth*, to any other indebtedness or obligations of the Borrower and Secured Guarantors owing to Agent or any Lender under the Financing Documents; and *fifth*, to Silicon Valley Bank for payment of outstanding Bank Services Indebtedness in an aggregate amount not to exceed $250,000 and not cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts. Borrower shall remain fully liable for any deficiency. Any balance remaining shall be delivered to Borrower or to whoever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. Unless the Agent and the Lenders shall agree otherwise, in carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (y) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its pro rata share of amounts available to be applied pursuant thereto for such category.

10.7 Waivers.

(a) Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, each Borrower waives: (i) presentment, demand and protest, and notice of presentment, dishonor, intent to accelerate, acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all Financing Documents and hereby ratifies and confirms whatever Agent or Lenders may do in this regard; (ii) all rights to notice and a hearing prior to Agent's or any Lender's entry upon the premises of a Borrower, the taking possession or control of, or to Agent's or any Lender's replevy, attachment or levy upon, any Collateral or any bond or security which might be required by any court prior to allowing Agent or any Lender to exercise any of its remedies; and (iii) the benefit of all valuation, appraisal and exemption Laws. Each Borrower acknowledges that

it has been advised by counsel of its choices and decisions with respect to this Agreement, the other Financing Documents and the transactions evidenced hereby and thereby.

(b) Each Borrower for itself and all its successors and assigns, (i) agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; (ii) consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Agent or any Lender with respect to the payment or other provisions of the Financing Documents, and to any substitution, exchange or release of the Collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any Borrower, endorsers, guarantors, or sureties, or whether primarily or secondarily liable, without notice to any other Borrower and without affecting its liability hereunder; (iii) agrees that its liability shall be unconditional and without regard to the liability of any other Borrower, Agent or any Lender for any tax on the indebtedness; and (iv) to the fullest extent permitted by law, expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

(c) To the extent that Agent or any Lender may have acquiesced in any noncompliance with any requirements or conditions precedent to the closing of the Credit Facilities or to any subsequent disbursement of Credit Extensions, such acquiescence shall not be deemed to constitute a waiver by Agent or any Lender of such requirements with respect to any future Credit Extensions and Agent may at any time after such acquiescence require Borrower to comply with all such requirements. Any forbearance by Agent or a Lender in exercising any right or remedy under any of the Financing Documents, or otherwise afforded by applicable law, including any failure to accelerate the maturity date of the Credit Facilities, shall not be a waiver of or preclude the exercise of any right or remedy nor shall it serve as a novation of the Financing Documents or as a reinstatement of the Obligations or a waiver of such right of acceleration or the right to insist upon strict compliance of the terms of the Financing Documents. Agent's or any Lender's acceptance of payment of any sum secured by any of the Financing Documents after the due date of such payment shall not be a waiver of Agent's and such Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Agent as the result of an Event of Default shall not be a waiver of Agent's right to accelerate the maturity of the Obligations, nor shall Agent's receipt of any condemnation awards, insurance proceeds, or damages under this Agreement operate to cure or waive any Credit Party's default in payment of sums secured by any of the Financing Documents.

(d) Without limiting the generality of anything contained in this Agreement or the other Financing Documents, each Borrower agrees that if an Event of Default is continuing (i) Agent and Lenders shall not be subject to any "one action" or "election of remedies" law or rule, and (ii) all Liens and other rights, remedies or privileges provided to Agent or Lenders shall remain in full force and effect until Agent or Lenders have exhausted all remedies against the Collateral and any other properties owned by Borrower and the Financing Documents and other security instruments or agreements securing the Obligations have been foreclosed, sold and/or otherwise realized upon in satisfaction of Borrower's obligations under the Financing Documents.

(e) Neither Agent nor any Lender shall be under any obligation to marshal any assets in payment of any or all of the Obligations. Nothing contained herein or in any other Financing Document shall be construed as requiring Agent or any Lender to resort to any part of the Collateral for the satisfaction of any of Borrower's obligations under the Financing Documents in preference or priority to any other Collateral, and Agent may seek satisfaction out of all of the Collateral or any part thereof, in its absolute discretion in respect of Borrower's obligations under the Financing Documents. To the fullest extent permitted by law, each Borrower, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Collateral any equitable right otherwise available to any Credit Party which would require the separate sale of any of the Collateral or require Agent or Lenders to exhaust their remedies against any part of the Collateral before proceeding against any other part of the Collateral; and further in the event of such foreclosure each Borrower does hereby expressly consent to and authorize, at the option of Agent, the foreclosure and sale either separately or together of each part of the Collateral.

10.8 Injunctive Relief. The parties acknowledge and agree that, in the event of a breach or threatened breach of any Credit Party’s obligations under any Financing Documents, Agent and Lenders may have no adequate remedy in money

damages and, accordingly, shall be entitled to an injunction (including, without limitation, a temporary restraining order, preliminary injunction, writ of attachment, or order compelling an audit) against such breach or threatened breach, including, without limitation, maintaining any cash management and collection procedure described herein. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach or threatened breach of any provision of this Agreement. Each Credit Party waives, to the fullest extent permitted by law, the requirement of the posting of any bond in connection with such injunctive relief. By joining in the Financing Documents as a Credit Party, each Credit Party specifically joins in this Section 10.8 as if this Section 10.8 were a part of each Financing Document executed by such Credit Party.

11 NOTICES

All notices, consents, requests, approvals, demands, or other communication (collectively, "**Communication**") by any party to this Agreement or any other Financing Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail (if an email address is specified herein) or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Any of Agent, Lender or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Article 11.

If to Borrower:

Sarepta Therapeutics, Inc.
215 First Street
Cambridge, MA 02142
Attention: Sandy Mahatme, Chief Financial Officer
Facsimile: (617) 812-5811
E-Mail: smahatme@sarepta.com

If to Agent or to MidCap (or any of its Affiliates or Approved Funds) as a Lender:

MidCap Financial Trust (or specify name of such Lender)
c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Ave, Suite 200
Bethesda, MD 20814
Attn: Account Manager for Sarepta Therapeutics transaction
Facsimile: 301-941-1450
Email: notices@midcapfinancial.com

With a copy to:

MidCap Financial Trust (or specify name of such Lender)
c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Ave, Suite 200
Bethesda, MD 20814
Attn: Legal
Facsimile: 301-941-1450
Email: legalnotices@midcapfinancial.com

If to Silicon Valley Bank

Silicon Valley Bank
275 Grove Street, Suite 2-200

Newton, MA 02466
Attention: Ryan Roller
Facsimile: 617-969-5965
Email: rroller@svb.com

If to any Lender (other than MidCap or an Affiliate or Approved Fund of MidCap): at the address for such Lender set forth in the signature pages to this Agreement or provided as a notice address for such in connection with any assignment hereunder.

12 CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER

12.1 THIS AGREEMENT, EACH SECURED PROMISSORY NOTE AND EACH OTHER FINANCING DOCUMENT, AND THE RIGHTS, REMEDIES AND OBLIGATIONS OF THE PARTIES HERETO AND THERETO, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT OR SUCH FINANCING DOCUMENT, THE RELATIONSHIP OF THE PARTIES, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES AND ALL OTHER MATTERS RELATING HERETO, THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS. NOTWITHSTANDING THE FOREGOING, AGENT AND LENDERS SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION WHICH AGENT AND LENDERS (IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12.1) DEEM NECESSARY OR APPROPRIATE TO REALIZE ON THE COLLATERAL OR TO OTHERWISE ENFORCE AGENT'S AND LENDERS' RIGHTS AGAINST BORROWER OR ITS PROPERTY. BORROWER EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN THE STATE OF NEW YORK AND ANY SUCH OTHER JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND BORROWER HEREBY WAIVES ANY OBJECTION THAT IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. BORROWER HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINTS, AND OTHER PROCESS ISSUED IN SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS, AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO BORROWER AT THE ADDRESS SET FORTH IN ARTICLE 11 OF THIS AGREEMENT AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER TO OCCUR OF BORROWER'S ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE U.S. MAIL, PROPER POSTAGE PREPAID.

12.2 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER, AGENT AND LENDERS EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE FINANCING DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

12.3 Borrower, Agent and each Lender agree that each Credit Extension (including those made on the Initial Funding Date) shall be deemed to be made in, and the transactions contemplated hereunder and in any other Financing Document shall be deemed to have been performed in, the State of Maryland.

13 GENERAL PROVISIONS

13.1 Successors and Assigns.

(a) This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Agent's prior written

consent (which may be granted or withheld in Agent's discretion). Any Lender may at any time assign to one or more Eligible Assignees all or any portion of such Lender's Applicable Commitment and/or Credit Extensions, together with all related obligations of such Lender hereunder. Borrower and Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned until Agent shall have received and accepted an effective assignment agreement in form and substance acceptable to Agent, executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee as Agent reasonably shall require. Notwithstanding anything set forth in this Agreement to the contrary, 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; *provided*, *however*, that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. If requested by Agent, Borrower agrees to (i) execute any documents reasonably required to effectuate and acknowledge each assignment of an Applicable Commitment or Credit Extension to an assignee hereunder, (ii) make Borrower's management available to meet with Agent and prospective participants and assignees of Applicable Commitments or Credit Extensions and (iii) assist Agent or the Lenders in the preparation of information relating to the financial affairs of Borrower as any prospective participant or assignee of an Applicable Commitment or Credit Extension reasonably may request.

(b) From and after the date on which the conditions described above have been met, (i) such Eligible Assignee shall be deemed automatically to have become a party hereto and, to the extent of the interests assigned to such Eligible Assignee pursuant to such assignment agreement, shall have the rights and obligations of a Lender hereunder, and (ii) the assigning Lender, to the extent that rights and obligations hereunder have been assigned by it pursuant to such assignment agreement, shall be released from its rights and obligations hereunder (other than those that survive termination). Upon the request of the Eligible Assignee (and, as applicable, the assigning Lender) pursuant to an effective assignment agreement, each Borrower shall execute and deliver to Agent for delivery to the Eligible Assignee (and, as applicable, the assigning Lender) secured notes in the aggregate principal amount of the Eligible Assignee's Credit Extensions or Applicable Commitments (and, as applicable, secured promissory notes in the principal amount of that portion of the principal amount of the Credit Extensions or Applicable Commitments retained by the assigning Lender).

(c) Agent, through its servicer, acting solely for this purpose as an agent of Borrower, shall maintain at its servicer's offices located in Bethesda, Maryland a copy of each assignment agreement delivered to it and a Register for the recordation of the names and addresses of each Lender, and the commitments of, and principal amount (and stated interest) of the Credit Extensions owing to, such Lender pursuant to the terms hereof (the "**Register**"). The entries in such Register shall be conclusive, absent manifest error, and Borrower, Agent and Lenders shall treat each Person whose name is recorded therein pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such Register shall be available for inspection by Borrower and any Lender, at any reasonable time upon reasonable prior notice to Agent. Each Lender that sells a participation shall, acting solely for this purpose as an agent of Borrower maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant's interest in the Obligations (each, a "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error. Each Participant Register shall be available for inspection by Borrower and the Agent at any reasonable time upon reasonable prior notice to the applicable Lender; provided, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Financing Document) to any Person (including Borrower) except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. For the avoidance of doubt, the Agent (in its capacity as Agent) shall have no responsibility for maintaining a participant register.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Credit Extensions (including any Secured Promissory Notes evidencing such Credit Extensions) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Credit Extensions shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein.

This Agreement shall be construed so that the Credit Extensions are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the IRC and Section 5f.103-1(c) of the United States Treasury Regulations.

(e) Borrower agrees that each participant shall be entitled to the benefits of Section 2.6(h) (subject to the requirements and limitations therein, including the requirements under Section 2.6(h)(vi) and (vii) (it being understood that the documentation required under Section 2.6(h)(vi) and (vii) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.1; provided that such participant (i) agrees to be subject to the provisions of Sections 2.6(h)(x) and (xi) as if it were an assignee; and (ii) shall not be entitled to receive any greater payment under Section 2.6(h), with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in law that occurs after the participant acquired the applicable participation.

13.2 Indemnification.

(a) Borrower hereby agrees to promptly pay (i) (A) all reasonable costs and expenses of Agent (including, without limitation, the reasonable costs, expenses and reasonable fees of counsel to, and independent appraisers and consultants retained by, Agent) in connection with the examination, review, due diligence investigation, documentation, negotiation, closing and syndication of the transactions contemplated by the Financing Documents, and in connection with the continued administration of the Financing Documents including (1) any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, and (2) any periodic public record searches conducted by or at the reasonable request of Agent (including, without limitation, title investigations, UCC searches, fixture filing searches, judgment, pending litigation and tax lien searches and searches of applicable corporate, limited liability, partnership and related records concerning the continued existence, organization and good standing of certain Persons), and (B) costs and expenses of Agent in connection with the performance by Agent of its rights and remedies under the Financing Documents; (ii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents; (iii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with (A) protecting, storing, insuring, handling, maintaining or selling any Collateral, (B) any litigation, dispute, suit or proceeding relating to any Financing Document, and (C) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents; (iv) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with Agent's reservation of funds in anticipation of the funding of the Credit Extensions to be made hereunder; and (v) all costs and expenses incurred by Agent or Lenders in connection with any litigation, dispute, suit or proceeding relating to any Financing Document and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, whether or not Agent or Lenders are a party thereto; provided, however, that to the extent that the costs and expenses referred to in this clause (v) consist of fees, costs and expenses of counsel, Borrower shall be obligated to pay such fees, costs and expenses for counsel to Agent and for only one counsel acting for all Lenders (other than Agent).

(b) Borrower hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the Related Parties of Agent and Lenders (collectively called the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable disbursements and reasonable fees of counsel for such Indemnitee) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnitee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Agent or Lenders) asserting any right to payment for the transactions contemplated hereby, which may be imposed on, incurred by or asserted against such Indemnitee as a result of or in connection with the transactions contemplated hereby and the use or intended use of the proceeds of the Credit Facilities, except that Borrower shall have no obligation hereunder to an Indemnitee with respect to any liability resulting from the gross negligence or willful misconduct of such Indemnitee or such Indemnitee's Related Party, as determined by a final non-appealable

judgment of a court of competent jurisdiction. To the extent that the undertaking set forth in the immediately preceding sentence may be unenforceable, Borrower shall contribute the maximum portion which it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all such Indemnified Liabilities incurred by the Indemnitees or any of them. 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 Financing Documents or the transactions contemplated hereby or thereby. For the avoidance of doubt, this Section 13.2(b) shall not apply with respect to Taxes, which are addressed in Section 2.6(h).

(c) Notwithstanding any contrary provision in this Agreement, the obligations of Borrower under this Section 13.2 shall survive the payment in full of the Obligations and the termination of this Agreement. NO INDEMNITEE SHALL BE RESPONSIBLE OR LIABLE TO ANY CREDIT PARTY OR TO ANY OTHER PARTY TO ANY FINANCING DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

13.3 Time of Essence. Time is of the essence for the payment and performance of the Obligations in this Agreement.

13.4 Severability of Provisions. Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

13.5 Correction of Financing Documents. Agent and the Lenders may correct patent errors and fill in any blanks in this Agreement and the other Financing Documents consistent with the agreement of the parties.

13.6 Integration. This Agreement and the Financing Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Financing Documents merge into this Agreement and the Financing Documents.

13.7 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic transmission shall be as effective as delivery of a manually executed counterpart hereof.

13.8 Survival. All covenants, representations and warranties made in this Agreement continue in full force until (a) this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations for which no claim has yet been made and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied and (b) the occurrence of the Revolving Credit Obligations Termination. The obligation of Borrower in Section 13.2 to indemnify each Lender and Agent shall survive until the statute of limitations with respect to such claim or cause of action shall have run. All powers of attorney and appointments of Agent or any Lender as Borrower's attorney in fact hereunder, and all of Agent's and Lenders' rights and powers in respect thereof, are coupled with an interest, are irrevocable until (a) all Obligations (other than inchoate indemnity obligations for which no claim has yet been made and any other obligations which, by their terms, are to survive the termination of this Agreement) have been fully repaid and performed and Agent's and the Lenders' obligation to provide Credit Extensions terminates and (b) the occurrence of the Revolving Credit Obligations Termination.

13.9 Confidentiality. In handling any confidential information of Borrower, each of the Lenders and Agent shall use all reasonable efforts to maintain, in accordance with its customary practices, the confidentiality of information obtained by it pursuant to any Financing Document but disclosure of information may be made: (a) to the Lenders' and Agent's Subsidiaries or Affiliates; (b) to prospective transferees or purchasers of any interest in the Credit Extensions; (c) as required

by Law, regulation, subpoena, order or other legal, administrative, governmental or regulatory request; (d) to regulators or as otherwise required in connection with an examination or audit, or to any nationally recognized rating agency; (e) as Agent or any Lender considers appropriate in exercising remedies under the Financing Documents; (f) to financing sources that are advised of the confidential nature of such information and are instructed to keep such information confidential; (g) to third party service providers of the Lenders and/or Agent so long as such service providers are bound to such Lender or Agent by obligations of confidentiality; (h) to the extent necessary or customary for inclusion in league table measurements; and (i) in connection with any litigation or other proceeding to which such Lender or Agent or any of their Affiliates is a party or bound, or to the extent necessary to respond to public statements or disclosures by Credit Parties or their Affiliates referring to a Lender or Agent or any of their Affiliates. Confidential information does not include information that either: (i) is in the public domain or in the Lenders' and/or Agent's possession when disclosed to the Lenders and/or Agent, or becomes part of the public domain after disclosure to the Lenders and/or Agent; or (ii) is disclosed to the Lenders and/or Agent by a third party, if the Lenders and/or Agent does not know that the third party is prohibited from disclosing the information. Agent and/or Lenders may use confidential information for the development of client databases, reporting purposes, and market analysis, so long as Agent and/or Lenders, as applicable, do not disclose Borrower's identity or the identity of any Person associated with Borrower unless otherwise permitted by this Agreement. The provisions of the immediately preceding sentence shall survive the termination of this Agreement. The agreements provided under this Section 13.9 supersede all prior agreements, understanding, representations, warranties, and negotiations between the parties about the subject matter of this Section 13.9.

13.10 Right of Set-off. Borrower hereby grants to Agent and to each Lender, a lien, security interest and right of set-off as security for all Obligations to Agent and each Lender hereunder, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Agent or the Lenders or any entity under the control of Agent or the Lenders (including an Agent or Lender Affiliate) or in transit to any of them (other than any deposits, credits, collateral, and property belonging to any CFC or CFC Holdco and any amount of the voting equity interests of any CFC or CFC Holdco, including ST International, in excess of 65%). At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Agent or the Lenders may set-off the same or any part thereof and apply the same to any liability or obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE AGENT TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SET-OFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

13.11 Publicity. Borrower will not directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of Agent or any Lender or any of their Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except as required by applicable Law (including SEC disclosure rules), subpoena or judicial or similar order, in which case Borrower shall endeavor to give Agent prior written notice of such publication or other disclosure. Each Lender and Borrower hereby authorizes each Lender to publish the name of such Lender and Borrower, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone", comparable advertisement or press release which such Lender elects to submit for publication. In addition, each Lender and Borrower agrees that each Lender may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, such authorization shall be subject to such Lender providing Borrower and the other Lenders with an opportunity to review and confer with such Lender regarding, and approve, the contents of any such tombstone, advertisement or information, as applicable, prior to its initial submission for publication, but subsequent publications of the same tombstone, advertisement or information shall not require Borrower's approval.

13.12 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly 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 provisions of this Agreement.

13.13 Approvals. Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Agent or Lenders with respect to any matter that is the subject of this Agreement or the other Financing Documents may be granted or withheld by Agent and Lenders in their sole and absolute discretion and credit judgment.

13.14 Amendments; Required Lenders; Inter-Lender Matters.

(a) No amendment, modification, termination or waiver of any provision of this Agreement or any other Financing Document, no approval or consent thereunder, or any consent to any departure by Borrower therefrom (in each case, other than amendments, waivers, approvals or consents deemed ministerial by Agent), shall in any event be effective unless the same shall be in writing and signed by Borrower, Agent and Required Lenders. Except as set forth in clause (b) below, all such amendments, modifications, terminations or waivers requiring the consent of the "Lenders" shall require the written consent of Required Lenders.

(b) No amendment, modification, termination or waiver of any provision of this Agreement or any other Financing Document shall, unless in writing and signed by Agent and by each Lender directly affected thereby: (i) increase or decrease the Applicable Commitment of any Lender (which shall be deemed to affect all Lenders), (ii) reduce the principal of or rate of interest on any Obligation or the amount of any fees payable hereunder, (iii) postpone the date fixed for or waive any payment of principal of or interest on any Credit Extension, or any fees or reimbursement obligation hereunder, (iv) release all or substantially all of the Collateral, or consent to a transfer of any of the Intellectual Property, in each case, except as otherwise expressly permitted in the Financing Documents (which shall be deemed to affect all Lenders), (v) subordinate the lien granted in favor of Agent securing the Obligations (which shall be deemed to affect all Lenders, except as otherwise provided below), (vi) release a Credit Party from, or consent to a Credit Party's assignment or delegation of, such Credit Party's obligations hereunder and under the other Financing Documents or any Guarantor from its guaranty of the Obligations (which shall be deemed to affect all Lenders) or (vii) amend, modify, terminate or waive this Section 13.14(b) or the definition of "Required Lenders" or "Pro Rata Share" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the consent of each Lender. For purposes of the foregoing, no Lender shall be deemed affected by (i) waiver of the imposition of the Default Rate or imposition of the Default Rate to only a portion of the Obligations, (ii) waiver of the accrual of late charges, (iii) waiver of any fee solely payable to Agent under the Financing Documents, (iv) subordination of a lien granted in favor of Agent provided such subordination is limited to equipment being financed by a third party providing Permitted Indebtedness. Notwithstanding any provision in this Section 13.14 to the contrary, no amendment, modification, termination or waiver affecting or modifying the rights or obligations of Agent hereunder shall be effective unless signed by Agent and Required Lenders

(c) Agent shall not grant its written consent to any deviation or departure by Borrower or any Credit Party from the provisions of Article 7 without the prior written consent of the Required Lenders. Required Lenders shall have the right to direct Agent to take any action described in Section 10.2(b). Upon the occurrence of any Event of Default, Agent shall have the right to exercise any and all remedies referenced in Section 10.2 without the written consent of Required Lenders following the occurrence of an "Exigent Circumstance" (as defined below). All matters requiring the satisfaction or acceptance of Agent in the definition of Subordinated Debt shall further require the satisfaction and acceptance of each Required Lender. Any reference in this Agreement to an allocation between or sharing by the Lenders of any right, interest or obligation "ratably," "proportionally" or in similar terms shall refer to Pro Rata Share unless expressly provided otherwise. As used in this Section, "**Exigent Circumstance**" means any event or circumstance that, in the reasonable judgment of Agent, imminently threatens the ability of Agent to realize upon all or any material portion of the Collateral, such as, without limitation, fraudulent removal, concealment, or abscondment thereof, destruction or material waste thereof, or failure of Borrower after reasonable demand to maintain or reinstate adequate casualty insurance coverage, or which, in the judgment of Agent, could result in a material diminution in value of the Collateral.

13.15 Borrower Liability. If there is more than one entity comprising Borrower, then (a) any Borrower may, acting singly, request Credit Extensions hereunder, (b) each Borrower hereby appoints the other as agent for the other for all purposes hereunder, including with respect to requesting Credit Extensions hereunder, (c) each Borrower shall be jointly and severally obligated to pay and perform all obligations under the Financing Documents, including, but not limited to, the obligation to repay all Credit Extensions made hereunder and all other Obligations, regardless of which Borrower actually receives said Credit Extensions, as if each Borrower directly received all Credit Extensions, and (d) each Borrower waives (1) any suretyship

defenses available to it under the Code or any other applicable law, and (2) any right to require the Lenders or Agent to: (A) proceed against any Borrower or any other person; (B) proceed against or exhaust any security; or (C) pursue any other remedy. The Lenders or Agent may exercise or not exercise any right or remedy they have against any Credit Party or any security (including the right to foreclose by judicial or non-judicial sale) without affecting any other Credit Party's liability or any Lien against any other Credit Party's assets. Notwithstanding any other provision of this Agreement or other related document, until the indefeasible payment in cash in full of the Obligations (other than inchoate indemnity obligations for which no claim has yet been made) and termination of the Applicable Commitments, each Borrower irrevocably waives all rights that it may have at law or in equity (including, without limitation, any law subrogating Borrower to the rights of the Lenders and Agent under this Agreement) to seek contribution, indemnification or any other form of reimbursement from any other Credit Party, or any other Person now or hereafter primarily or secondarily liable for any of the Obligations, for any payment made by any Credit Party with respect to the Obligations in connection with this Agreement or otherwise and all rights that it might have to benefit from, or to participate in, any security for the Obligations as a result of any payment made by a Credit Party with respect to the Obligations in connection with this Agreement or otherwise. Any agreement providing for indemnification, reimbursement or any other arrangement prohibited under this Section shall be null and void. If any payment is made to a Credit Party in contravention of this Section, such Credit Party shall hold such payment in trust for the Lenders and Agent and such payment shall be promptly delivered to Agent for application to the Obligations, whether matured or unmatured.

13.16 Reinstatement. This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against any Credit Party for liquidation or reorganization, should any Credit Party become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager or trustee be appointed for all or any significant part of any Credit Party's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

13.17. USA PATRIOT Act Notification. Agent (for itself and not on behalf of any Lender) and each Lender hereby notifies each Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Agent or such Lender, as applicable, to identify Borrower in accordance with the USA PATRIOT Act.

14 AGENT

14.1 Appointment and Authorization of Agent. Each Lender hereby irrevocably appoints, designates and authorizes Agent to take such action on its behalf under the provisions of this Agreement and each other Financing Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Financing Document, together with such powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of Agent and Lenders and none of Credit Parties nor any other Person shall have any rights as a third party beneficiary of any of the provisions hereof. The duties of Agent shall be mechanical and administrative in nature. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Financing Document, Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Financing Document or otherwise exist against Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the other Financing Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Without limiting the generality of the foregoing, Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (a) act as collateral agent for Agent and each Lender for purposes of the perfection of all liens created by the Financing Documents and all other purposes stated therein, (b) manage, supervise and otherwise deal with the Collateral, (c) take such other action as is necessary or desirable to maintain the perfection and priority of the liens created or purported to be

created by the Financing Documents, (d) except as may be otherwise specified in any Financing Document, exercise all remedies given to Agent and the other Lenders with respect to the Collateral, whether under the Financing Documents, applicable law or otherwise and (e) execute any amendment, consent or waiver under the Financing Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and cash equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such liens or otherwise to transfer the Collateral subject thereto to Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

14.2 Successor Agent.

(a) Agent may at any time assign its rights, powers, privileges and duties hereunder to (i) a Lender or an Affiliate of Agent or any Lender or any Approved Fund, or (ii) any Person to whom Agent or any of its Affiliates, in their capacity as a Lender, has assigned (or will assign, in conjunction with such assignment of agency rights hereunder) fifty percent (50%) or more of the Credit Extensions or Applicable Commitments then held by Agent or such Affiliate (in its capacity as a Lender), in each case without the consent of the Lenders or Borrower. Following any such assignment, Agent shall give notice to the Lenders and Borrower. An assignment by Agent pursuant to this subsection (a) shall not be deemed a resignation by Agent for purposes of subsection (b) below.

(b) Without limiting the rights of Agent to designate an assignee pursuant to subsection (a) above, Agent may at any time give notice of its resignation to the Lenders and Borrower. Upon receipt of any such notice of resignation, Required Lenders shall have the right to appoint a successor Agent with consultation with Borrower except that consultation with Borrower shall not be required if such successor Agent is an Affiliate or Approved Fund of MidCap. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within ten (10) Business Days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent; *provided, however,* that if Agent shall notify Borrower and the Lenders that no Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice from Agent that no Person has accepted such appointment and, from and following delivery of such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Financing Documents, and (ii) all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Agent as provided for above in this subsection (b).

(c) Upon (i) an assignment permitted by subsection (a) above, or (ii) the acceptance of a successor's appointment as Agent pursuant to subsection (b) above, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder and under the other Financing Documents (if not already discharged therefrom as provided above in this subsection (c)). The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Financing Documents, the provisions of this Article shall continue in effect for the benefit of such retiring Agent and its sub-agents in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting or was continuing to act as Agent.

14.3 Delegation of Duties. Agent may execute any of its duties under this Agreement or any other Financing Document by or through its, or its Affiliates', agents, employees or attorneys-in-fact and shall be entitled to obtain and rely upon the advice of counsel and other consultants or experts concerning all matters pertaining to such duties. Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct. Any such Person to whom Agent delegates a duty shall benefit from this Article 14 to the extent provided by Agent.

14.4 Liability of Agent. Except as otherwise provided herein, no "Agent-Related Person" (as defined below) shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Financing Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct in

connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Credit Party or any officer thereof, contained herein or in any other Financing Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other Financing Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Financing Document, or for any failure of any Credit Party or any other party to any Financing Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant 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 Financing Document, or to inspect the Collateral, other properties or books or records of any Credit Party or any Affiliate thereof. The term "**Agent-Related Person**" means the Agent, together with its Affiliates, and the officers, directors, employees, agents, advisors, auditors and attorneys-in-fact of such Persons; provided, however, that no Agent-Related Person shall be an Affiliate of Borrower.

14.5 Reliance by Agent. Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement 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 Borrower), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under any Financing Document (a) if such action would, in the opinion of Agent, be contrary to law or any Financing Document, (b) if such action would, in the opinion of Agent, expose Agent to any potential liability under any law, statute or regulation or (c) if Agent shall not first have received such advice or concurrence of all Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Financing Document in accordance with a request or consent of all Lenders (or Required Lenders where authorized herein) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

14.6 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default and/or Event of Default, unless Agent shall have received written notice from a Lender or Borrower, describing such default or Event of Default. Agent will notify the Lenders of its receipt of any such notice. While an Event of Default has occurred and is continuing, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as Agent shall deem advisable or in the best interest of the Lenders, including without limitation, satisfaction of other security interests, liens or encumbrances on the Collateral not permitted under the Financing Documents, payment of taxes on behalf of Borrower or any other Credit Party, payments to landlords, warehouseman, bailees and other Persons in possession of the Collateral and other actions to protect and safeguard the Collateral, and actions with respect to insurance claims for casualty events affecting a Credit Party and/or the Collateral.

14.7 Credit Decision; Disclosure of Information by Agent. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Credit Parties, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person 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 Financing Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower. Except for notices, reports and other documents expressly required to be furnished to the Lenders by Agent herein, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Credit Party which may come into the possession of any Agent-Related Person.

14.8 Indemnification of Agent. Whether or not the transactions contemplated hereby are consummated, each Lender shall, severally and pro rata based on its respective Pro Rata Share, indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of Borrower and without limiting the obligation of Borrower to do so), and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities (which shall not include legal expenses of Agent incurred in connection with the closing of the transactions contemplated by this Agreement) incurred by it; *provided*, *however*, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities to the extent determined in a judgment by a court of competent jurisdiction to have resulted from such Agent-Related Person's own gross negligence or willful misconduct; *provided*, *however*, that no action taken in accordance with the directions of the Required Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, each Lender shall, severally and pro rata based on its respective Pro Rata Share, reimburse Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Protective Advances incurred after the closing of the transactions contemplated by this Agreement) incurred by Agent (in its capacity as Agent, and not as a Lender) in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Financing Document, or any document contemplated by or referred to herein, to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrower. The undertaking in this Section shall survive the payment in full of the Obligations, the termination of this Agreement and the resignation of Agent. The term "Indemnified Liabilities" means those liabilities described in Section 13.2(a) and Section 13.2(b).

14.9 Agent in its Individual Capacity. With respect to its Credit Extensions, MidCap shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not Agent, and the terms "Lender" and "Lenders" include MidCap in its individual capacity. MidCap and its Affiliates may lend money to, invest in, and generally engage in any kind of business with, any Credit Party and any of their Affiliates and any person who may do business with or own securities of any Credit Party or any of their Affiliates, all as if MidCap were not Agent and without any duty to account therefor to Lenders. MidCap and its Affiliates may accept fees and other consideration from a Credit Party for services in connection with this Agreement or otherwise without having to account for the same to Lenders. Each Lender acknowledges the potential conflict of interest between MidCap as a Lender holding disproportionate interests in the Credit Extensions and MidCap as Agent, and expressly consents to, and waives, any claim based upon, such conflict of interest.

14.10 Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Credit Party, Agent (irrespective of whether the principal of any Credit Extension, shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Agent shall have made any demand on such Credit Party) 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 Credit Extensions and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and Agent and their respective agents and counsel and all other amounts due the Lenders and Agent allowed in such judicial proceeding); and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to Agent and, in the event that Agent shall consent to the making of such payments directly to the Lenders, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, including Protective Advances. To the extent that Agent fails timely to do so, each Lender may file a claim relating to such Lender's claim.

14.11 Collateral and Guaranty Matters. The Lenders irrevocably authorize Agent, at its option and in its discretion, to release (a) any Credit Party and any Lien on any Collateral granted to or held by Agent under any Financing Document upon the date that all Obligations (other than inchoate indemnity obligations for which no claim has yet been made and any other

obligations which, by their terms, are to survive the termination of this Agreement) due hereunder have been fully and indefeasibly paid in full and no Applicable Commitments or other obligations of any Lender to provide funds to Borrower under this Agreement remain outstanding; provided that, Agent shall have no obligation to release any such Lien on any Collateral until the Revolving Credit Obligations Termination has occurred, (b) any Lien on any Collateral that is transferred or to be transferred as part of or in connection with any disposition or transfer permitted hereunder or under any other Financing Document and (c) without limiting clause (b) above, enter into the Intercreditor Agreement or any Subordination Agreement. Each Lender agrees to comply with and be bound by the terms and conditions of any subordination agreement or intercreditor agreement (including the Intercreditor Agreement) which Agent has entered into in accordance with clause (c) above. Upon request by Agent at any time, all Lenders will confirm in writing Agent's authority to release its interest in particular types or items of Collateral pursuant to this Section 14.11.

14.12 Advances; Payments; Non-Funding Lenders.

(a) Advances; Payments. If Agent receives any payment for the account of Lenders on or prior to 11:00 a.m. (New York time) on any Business Day, Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on such Business Day. If Agent receives any payment for the account of Lenders after 11:00 a.m. (New York time) on any Business Day, Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on the next Business Day. To the extent that any Lender has failed to fund any Credit Extension (a "**Non-Funding Lender**"), Agent shall be entitled to set-off the funding short-fall against that Non-Funding Lender's Pro Rata Share of all payments received from Borrower.

(b) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Credit Party and such related payment is not received by Agent, then Agent will be entitled to recover such amount (including interest accruing on such amount at the Federal Funds Rate for the first Business Day and thereafter, at the rate otherwise applicable to such Obligation) from such Lender on demand without set-off, counterclaim or deduction of any kind.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to a Credit Party or paid to any other person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to a Credit Party or such other person, without set-off, counterclaim or deduction of any kind.

14.13 Miscellaneous.

(a) Neither Agent nor any Lender shall be responsible for the failure of any Non-Funding Lender to make a Credit Extension or make any other advance required hereunder. The failure of any Non-Funding Lender to make any Credit Extension or any payment required by it hereunder shall not relieve any other Lender (each such other Lender, an "**Other Lender**") of its obligations to make the Credit Extension or payment required by it, but neither any Other Lender nor Agent shall be responsible for the failure of any Non-Funding Lender to make a Credit Extension or make any other payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Non-Funding Lender shall not have any voting or consent rights under or with respect to any Financing Document or constitute a "Lender" (or be included in the calculation of "Required Lender" hereunder) for any voting or consent rights under or with respect to any Financing Document. At Borrower's request, Agent or a person reasonably acceptable to Agent shall have the right with Agent's consent and in Agent's sole discretion (but shall have no obligation) to purchase from any Non-Funding Lender, and each Non-Funding Lender agrees that it shall, at Agent's request, sell and assign to Agent or such person, all of the Applicable Commitments and all of the outstanding Credit Extensions of that Non-Funding Lender for an amount equal to the principal balance of the Credit Extensions held by such Non-Funding Lender 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 agreement reasonably acceptable to Agent.

(b) Each Lender shall promptly remit to the other Lenders such sums as may be necessary to ensure the ratable repayment of each Lender's portion of any Credit Extension and the ratable distribution of interest, fees and reimbursements paid or made by any Credit Party. Notwithstanding the foregoing, if this Agreement requires payments of principal and interest to be made directly to the Lenders, a Lender receiving a scheduled payment shall not be responsible for determining whether the other Lenders also received their scheduled payment on such date; *provided*, *however*, if it is determined that a Lender received more than its ratable share of scheduled payments made on any date or dates, then such Lender shall remit to the Agent (for Agent to redistribute to itself and the Lenders in a manner to ensure the payment to Agent of any sums due Agent hereunder and the ratable repayment of each Lender's portion of any Credit Extension and the ratable distribution of interest, fees and reimbursements) such sums as may be necessary to ensure the ratable payment of such scheduled payments, as instructed by Agent. If any payment or distribution of any kind or character, whether in cash, properties or securities and whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise, shall be received by a Lender in excess of its ratable share, then (i) the portion of such payment or distribution in excess of such Lender's ratable share shall be received by such Lender in trust for application to the payments of amounts due on the other Lender's claims, or, in the case of Collateral, shall hold such Collateral for itself and as agent and bailee for the Agent and other Lenders and (ii) such Lender shall promptly advise the Agent of the receipt of such payment, and, within five (5) Business Days of such receipt and, in the case of payments and distributions, such Lender shall purchase (for cash at face value) from the other Lenders (through the Agent), without recourse, such participations in the Credit Extension made by the other Lenders as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them in accordance with the respective Pro Rata Shares of the Lenders; *provided*, *however*, that if all or any portion of such excess payment is thereafter recovered by or on behalf of a Credit Party from such purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest; *provided*, *further*, that the provisions of this Section shall not be construed to apply to (x) any payment made by a Credit Party pursuant to and in accordance with the express terms of this Agreement or the other Financing Documents, or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Applicable Commitment pursuant to Section 13.1. Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section may exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of Borrower in the amount of such participation. No documentation other than notices and the like shall be required to implement the terms of this Section. The Agent shall keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased pursuant to this Section and shall in each case notify the Lenders following any such purchases.

14.14 OID LEGEND. THE CREDIT EXTENSIONS ARE ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 ET SEQ. OF THE IRC. THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, ISSUE DATE AND YIELD TO MATURITY FOR SUCH CREDIT EXTENSIONS MAY BE OBTAINED BY SUBMITTING A WRITTEN REQUEST FOR SUCH INFORMATION TO THE BORROWER AT THE ADDRESS SET FORTH IN SECTION 11.

15 DEFINITIONS

In addition to any terms defined elsewhere in this Agreement, or in any schedule or exhibit attached hereto, as used in this Agreement, the following terms have the following meanings:

"**Access Agreement**" means a landlord consent, bailee letter or warehouseman's letter, in form and substance reasonably satisfactory to Agent, in favor of Agent executed by such landlord, bailee or warehouseman, as applicable, for any third party location.

"**Account**" means any "account", as defined in the Code, with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

"**Account Debtor**" means any "account debtor", as defined in the Code, with such additions to such term as may hereafter be made.

"**Affiliate**" means, with respect to any Person, a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members.

"**Agent**" means, MidCap, not in its individual capacity, but solely in its capacity as agent on behalf of and for the benefit of the Lenders, together with its successors and assigns.

"**Agreement**" has the meaning given it in the preamble of this Agreement.

"**Anti-Terrorism Laws**" means any Laws relating to terrorism or money laundering, including Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by OFAC.

"**Applicable Commitment**" has the meaning given it in Section 2.2

"**Applicable Floor**" means for each Credit Facility the per annum rate of interest specified on the Credit Facility Schedule; provided, however, that for the Applicable Prime Rate, the Applicable Floor is a per annum rate that is three hundred (300) basis points above the Applicable Floor for the Applicable Libor Rate.

"**Applicable Index Rate**" means, for any Applicable Interest Period, the rate per annum determined by Agent equal to the Applicable Libor Rate; provided, however, that in the event that any change in market conditions or any law, regulation, treaty, or directive, or any change therein or in the interpretation of application thereof, shall at any time after the date hereof, in the reasonable opinion of Agent or any Lender, make it unlawful or impractical for Agent or such Lender to fund or maintain Obligations bearing interest based upon the Applicable Libor Rate, Agent or such Lender shall give notice of such changed circumstances to Agent and Borrower and the Applicable Index Rate for Obligations outstanding or thereafter extended or made by Agent or such Lender shall thereafter be the Applicable Prime Rate until Agent or such Lender determines (as to the portion of the Credit Extensions or Obligations owed to it) that it would no longer be unlawful or impractical to fund or maintain such Obligations or Credit Extensions at the Applicable Libor Rate. In the event that Agent shall have determined (which determination shall be final and conclusive and binding upon all parties hereto), as of any Applicable Interest Rate Determination Date, that adequate and fair means do not exist for ascertaining the interest rate applicable to any Credit Facility on the basis provided for herein, then Agent may select a comparable replacement index and corresponding margin.

"**Applicable Interest Period**" for each Credit Facility has the meaning specified for that Credit Facility in the Credit Facility Schedule; provided, however, that at any time that the Applicable Prime Rate is the Applicable Index Rate, Applicable Interest Period shall mean the period commencing as of the most recent Applicable Interest Rate Determination Date and continuing until the next Applicable Interest Rate Determination Date or such earlier date as the Applicable Prime Rate shall no longer be the Applicable Index Rate; and provided, further, that at any time the Libor Rate Index is adjusted as set forth in the definition thereof, or re-implemented following invocation of the Applicable Prime Rate as permitted herein, the Applicable Interest Period shall mean the period commencing as of such adjustment or re-implementation and continuing until the next Applicable Interest Rate Determination Date, if any.

"Applicable Interest Rate" means a per annum rate of interest equal to the Applicable Index Rate plus the Applicable Margin.

"**Applicable Interest Rate Determination Date**" means the second (2nd) Business Day prior to the first (1st) day of the related Applicable Interest Period; provided, however, that at any time that the Applicable Prime Rate is the Applicable Index Rate, Applicable Interest Rate Determination Date means the date of any change in the Base Rate Index; and provided, further, that at any time the Libor Rate Index is adjusted as set forth in the definition thereof, the Applicable Interest Rate Determination Date shall mean the date of such adjustment or the second (2nd) Business Day prior to the first (1st) day of the related Applicable Interest Period, as elected by Agent.

"**Applicable Libor Rate**" means, for any Applicable Interest Period, the rate per annum, determined by Agent (rounded upwards, if necessary, to the next 1/100th%), equal to the greater of (a) the Applicable Floor and (b) the Libor Rate Index.

"**Applicable Margin**" for each Credit Facility has the meaning specified for that Credit Facility in the Credit Facility Schedule.

"**Applicable Prepayment Fee**", for each Credit Facility, has the meaning given it in the Credit Facility Schedule for such Credit Facility.

"**Applicable Prime Rate**" means, for any Applicable Interest Period, the rate per annum, determined by Agent (rounded upwards, if necessary, to the next 1/100th%), equal to the greater of (a) the Applicable Floor and (b) the Base Rate Index.

"**Approved Fund**" means any (a) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business, or (b) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (a) and that, with respect to each of the preceding clauses (a) and (b), is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender or (iii) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

"AVI" shall mean AVI BioPharma International Limited organized under the laws of England and Wales.

"**Banking Services**" means commercial banking services, including, without limitation, to (a) commercial credit cards, other commercial cards and purchase cards, (b) excess cash, investments, foreign exchange and merchant services, (c) cash management services (including, without limitation, maintenance of Collateral Accounts) and (d) other payment services (including, without limitation, electronic payment service, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

"**Banking Services Indebtedness**" means Indebtedness incurred by Sarepta under Banking Services in aggregate amount not to exceed $1,000,000 of which $750,000 shall be cash collateralized pursuant to clause (c) of the definition of Subject Cash Collaterl Accounts.

"**Base Rate Index**" means, for any Applicable Interest Period, the rate per annum, determined by Agent (rounded upwards, if necessary, to the next 1/100th%) as being the rate of interest announced, from time to time, within Wells Fargo Bank, N.A. ("**Wells Fargo**") at its principal office in San Francisco as its "prime rate," with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate; provided, however, that Agent may, upon prior written notice to any Borrower, choose a reasonably comparable index or source to use as the basis for the Base Rate Index.

"**Blocked Person**" means: (a) any Person listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) 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, (c) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, or (e) a Person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list.

"**Books**" means all of books and records of a Person, including ledgers, federal and state tax returns, records regarding the Person's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrower**" mean the entity(ies) described in the first paragraph of this Agreement and each of their successors and permitted assigns. The term "each Borrower" shall refer to each Person comprising the Borrower if there is more than one such Person, or the sole Borrower if there is only one such Person. The term "any Borrower" shall refer to any Person comprising the Borrower if there is more than one such Person, or the sole Borrower if there is only one such Person.

"**Borrower Resolutions**" means, with respect to any Person, those resolutions, in form and substance reasonably satisfactory to Agent, adopted by such Person's Board of Directors or other appropriate governing body and delivered by such Person to Agent approving the Financing Documents to which such Person is a party and the transactions contemplated thereby, as well as any other approvals as may be necessary or desired to approve the entering into the Financing Documents or the consummation of the transactions contemplated thereby or in connection therewith.

"**Business Day**" means any day that is not (a) a Saturday or Sunday or (b) a day on which Agent is closed.

"CFC" means a Person that is a controlled foreign corporation under Section 957 of the IRC and any of such Person's Subsidiaries.

"CFC Holdco" means any Subsidiary of Borrower or a Secured Guarantor substantially all the assets of which consist of equity interests in, or intercompany loans permitted pursuant to this Agreement and owed by, CFCs or other CFC Holdcos.

"**Change in Control**" means any event, transaction, or occurrence as a result of which (a) any "person" (as such term is defined in Sections 3(a)(9) and 13(d)(3) of the Exchange Act), other than a trustee or other fiduciary holding securities under an employee benefit plan of Borrower, is or becomes a beneficial owner (within the meaning Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Borrower, representing thirty-five percent (35%) or more of the combined voting power of Borrower's then outstanding securities; (b) during any period of twelve consecutive calendar months, individuals who at the beginning of such period constituted the board of directors or board of managers or similar governing Person(s) of Borrower (together with any new directors or managers whose election by the board of directors or board of managers or similar governing Person(s) of Borrower was approved by a vote of not less than a majority of the directors or managers then still in office who either were directors or managers at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason other than death or disability to constitute a majority of the directors or managers then in office; (c) Borrower or any of its direct or indirect Subsidiaries ceases to own and control, directly or indirectly, all of the economic and voting rights associated with the outstanding securities of each of its Subsidiaries; or (d) the occurrence of any "change in control" or any term or provision of similar effect under any Subordinated Debt Document, the Revolving Credit Documents or Borrower's Operating Documents.

"**Closed Period"** for each Credit Facility has the meaning specified for that Credit Facility in the Credit Facility Schedule.

"**Closing Date**" has the meaning given it in the preamble of this Agreement.

"**Code**" means the Uniform Commercial Code in effect on the date hereof, as the same may, from time to time, be enacted and in effect in the State of New York; *provided*, *however*, that to the extent that the Code is used to define any term herein or in any Financing Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; and *provided*, *further*, that in the event that, by reason of mandatory provisions of Law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Agent's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term "**Code**" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" means all property, now existing or hereafter acquired, mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the other Financing Documents, including, without limitation, all of the property described in **Exhibit B** hereto. For the avoidance of doubt, Collateral shall not include (a) the real property owned in fee simple by Borrower located at 1749 SW Airport Way, Corvallis, Oregon or 100 Federal Street, Andover, Massachusetts, (b) any real property owned in fee simple by Borrower or any Secured Guarantor that does not constitute Material Real Property or (c)or any leasehold interests of Borrower, as lessee.

"**Collateral Account**" means any Deposit Account, Securities Account or Commodity Account.

"**Commitment Commencement Date**" has the meaning given it in the Credit Facility Schedule.

"**Commitment Termination Date**" has the meaning given it in the Credit Facility Schedule.

"**Commodity Account**" means any "commodity account", as defined in the Code, with such additions to such term as may hereafter be made.

"**Communication**" has the meaning given it in Article 11.

"**Compliance Certificate**" means a certificate, duly executed by an authorized officer of Borrower, appropriately completed and substantially in the form of **Exhibit C**.

"**Contingent Obligation**" means, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other monetary obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the Ordinary Course of Business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" means any control agreement, each of which shall be in form and substance satisfactory to Agent, entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Agent pursuant to which Agent obtains control (within the meaning of the Code) for the benefit of the Lenders over such Deposit Account, Securities Account or Commodity Account.

"**Credit Extension**" means an advance or disbursement of proceeds to or for the account of Borrower in respect of a Credit Facility.

"**Credit Extension Form**" means that certain form attached hereto as **Exhibit D**, as the same may be from time to time revised by Agent.

"**Credit Facility**" means a credit facility specified on the Credit Facility Schedule.

"**Credit Party**" means any Borrower, any Guarantor under a guarantee of the Obligations or any part thereof (including, without limitation, a Secured Guarantor) and any other Person (other than Agent, a Lender or a participant of a Lender), whether now existing or hereafter acquired or formed, that becomes expressly obligated as a borrower, guarantor, surety, pledgor or other similar obligor under any Financing Document, and any Person whose equity interests or portion thereof have been pledged or hypothecated to Agent under any Financing Document; and "**Credit Parties**" means all such Persons, collectively.

"**DEA**" means the Drug Enforcement Administration of the United States of America, any comparable state or local Government Authority, any comparable Government Authority in any non-United States jurisdiction, and any successor agency of any of the foregoing.

"**Default**" means any fact, event or circumstance which with notice or passage of time or both, could constitute an Event of Default.

"**Default Rate**" has the meaning given it in Section 2.6(b).

"**Deposit Account**" means any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"Designated Funding Account" is Borrower's Deposit Account, account number 00464043350, maintained with Bank of America, N.A. and over which Agent has been granted control for the ratable benefit of all Lenders.

"**Disqualified Stock**" means any equity interests which, by its terms (or by the terms of any security or other equity interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the Maturity Date (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event results in the payment in full of the Obligations and the occurrence of the Revolving Credit Obligations Termination), (b) is convertible into or exchangeable for (i) debt securities or (ii) any equity interests referred to in (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the Maturity Date at the time such equity interests were issued and (c) is entitled to receive scheduled dividends or distributions in cash prior to the date that is ninety-one (91) days following the Maturity Date (except for dividends or distributions permitted by the terms of this Agreement).

"**DMD Agreements**" has the meaning given it in Section 6.15(e).

"DMD Assets" means all property and assets of any Credit Party, including, without limitation, all Intellectual Property and license agreements, relating to the treatment of Duchenne Muscular Dystrophy.

"**Dollars**," "**dollars**" and "**$**" each means lawful money of the United States.

"**Draw Period**" means, for each Credit Facility, the period commencing on the Commitment Commencement Date and ending on the Commitment Termination Date.

"**Drug Application**" means a new drug application, an abbreviated drug application, or a product license application for any Product, as appropriate, as those terms are defined in the FDCA.

"**Eligible Assignee**" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by Agent; *provided*, *however*, that notwithstanding the foregoing, "Eligible Assignee" shall not include any (i) Credit Party or any Subsidiary of a Credit Party, (ii) so long as no Event of Default has occurred and is continuing (A) any operating company that is a direct competitor of Borrower or (B) any vulture or distressed debt fund, in the cases of (A) and (B), as reasonably determined by Agent. Notwithstanding the foregoing, in connection with assignments by a Lender due to a forced divestiture at the request of any regulatory agency, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party becoming an assignee incident to such forced divestiture.

"Environmental Indemnity Agreement" means that certain Environmental Indemnity Agreement dated as of the Original Closing Date executed by Borrower in favor of Agent.

"**Environmental Law**" means each present and future law (statutory or common), ordinance, treaty, rule, regulation, order, policy, other legal requirement or determination of an arbitrator or of a Governmental Authority and/or Required Permits imposing liability or standards of conduct for or relating to the regulation and protection of the environment and natural resources, and related environmental risks to human health, safety and the workplace, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

"**Equipment**" means all "equipment", as defined in the Code, with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, and all regulations promulgated thereunder.

"**ERISA Affiliate**" has the meaning given it in Section 5.6.

"**Event of Default**" has the meaning given it in Section 10.1.

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Credit Extension or Applicable Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Credit Extension or Applicable Commitment or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.6(h)(i) or 2.6(h)(iii), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.6(h)(vi) and (vii) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"**Exigent Circumstance**" has the meaning given it in Section 13.14.

"**Existing Bank of America Collateral Account**" is Borrower's Deposit Account, account number 00464043350, maintained with Bank of America, N.A. and over which Agent has been granted control for the ratable benefit of all Lenders.

"**Existing DMD Agreements**" has the meaning given it in Section 6.15(e).

"**FATCA**" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the IRC.

"**FDA**" means the Food and Drug Administration of the United States of America, any comparable state or local Government Authority, any comparable Government Authority in any non-United States jurisdiction, and any successor agency of any of the foregoing.

"**FDCA**" means the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. Section 301 et seq., and all regulations promulgated thereunder.

"**Federal Funds Rate**" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if 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 Agent on such day on such transactions as determined by Agent in a commercially reasonable manner.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"**Fee Letters**" means, collectively, the fee letter agreements among Borrower and Agent and Borrower and each Lender.

"**Financing Documents**" means, collectively, this Agreement, the Perfection Certificate, the Fee Letter(s), the Control Agreements, the Secured Promissory Notes, the Intercreditor Agreement, any Mortgages, the Environmental Indemnity Agreement, the Pledge Agreement, any Subordination Agreement, each landlord consent, each bailee letter, each note and guarantee executed by one or more Credit Parties in connection with the indebtedness governed by this Agreement, and each other present or future agreement executed by one or more Credit Parties and, or for the benefit of, the Lenders and/or Agent in connection with this Agreement, all as amended, restated, or otherwise modified from time to time.

"**Foreign Lender**" means a Lender that is not a U.S. Person.

"Foreign Subsidiary" means any Subsidiary organized under the laws of any jurisdiction other than a political subdivision of the United States.

"**Funding Date**" means any date on which a Credit Extension is made to or on account of Borrower which shall be a Business Day.

"**GAAP**" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

"**General Intangibles**" means all "general intangibles", as defined in the Code, with such additions to such term as may hereafter be made, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable Law, any applications therefor, whether registered or not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including, without limitation, key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, 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, any securities exchange and any self-regulatory organization.

"**Guarantor**" means any present or future guarantor of the Obligations.

"**Hazardous Materials**" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which is prohibited by any Environmental Laws; toxic mold; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," "pollutant" or other words of similar import within the meaning of any Environmental Law, including: (a) any "hazardous substance" defined as such in (or for purposes of) CERCLA, or any so-called "superfund" or "superlien" Law, including the judicial interpretation thereof; (b) any "pollutant or contaminant" as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as "hazardous waste" pursuant to 40 C.F.R. Part 260; (d) any petroleum or petroleum by-products, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any "hazardous chemical" as defined pursuant to 29 C.F.R. Part 1910; (g) any toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls ("PCB's"), flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents); and (h) any other toxic substance or contaminant that is subject to any Environmental Laws or other past or present requirement of any Governmental Authority.

"**Hazardous Materials Contamination**" means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

"**Indebtedness**" means (a) indebtedness for borrowed money (including the Obligations) or the deferred price of, or payment for, property or services, such as reimbursement and other obligations for surety bonds and letters of credit (but not including trade payables entered into in the Ordinary Course of Business), (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, (d) non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker's acceptance or similar instrument, (e) equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (f) obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (g) when

determinable under GAAP, "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts (but not including trade payables entered into in the Ordinary Course of Business) and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (h) all Indebtedness of others guaranteed by such Person, (i) off-balance sheet liabilities and/or pension plan or multiemployer plan liabilities of such Person, (j) when determinable under GAAP, obligations arising under non-compete agreements, (k) when determinable under GAAP, obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business, and (l) Contingent Obligations.

"**Indemnified Liabilities**" has the meaning given it in Section 14.8.

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under this Agreement and (b) to the extent not otherwise described in (a), Other Taxes.

"**Indemnitee**" has the meaning given it in Section 13.2.

"**Initial Funding Date**" means July 19, 2017.

"**Insolvency Proceeding**" means any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency Law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"**Intellectual Property**" means all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, patent applications and like protections, including improvements, divisions, continuations, renewals, reissues, extensions, and continuations-in-part of the same, trademarks, trade names, service marks, mask works, rights of use of any name, domain names, or any other similar rights, any applications therefor, whether registered or not, know-how, operating manuals, trade secret rights, clinical and non-clinical data, rights to unpatented inventions, and any claims for damage by way of any past, present, or future infringement of any of the foregoing.

"**Inventory**" means all "inventory", as defined in the Code, with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

"**Investment**" means, with respect to any Person, directly or indirectly, (a) to purchase or acquire any stock or stock equivalents, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Subsidiary, (b) to make or commit to make any acquisition (including through licensing) of (i) of all or substantially all of the assets of another Person, or (ii) any business, Product, business line or product line, division or other unit operation of any Person or (c) make or purchase any advance, loan, extension of credit or capital contribution to, or any other similar investment in, any Person.

"**Intercreditor Agreement**" means that certain Intercreditor Agreement dated as of the date hereof, by and between Agent and the Revolving Credit Agent, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"**IRC**" means the Internal Revenue Code of 1986, as amended.

"**IRS**" means the United States Internal Revenue Service.

"**Joinder Requirements**" has the meaning set forth in Section 6.8.

"**Laws**" means any and all federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, guidance, guidelines, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, governmental agreements and governmental restrictions, whether now or hereafter in effect, which are applicable to any Credit Party in any particular circumstance.

"**Lender**" means any one of the Lenders.

"**Lenders**" means the Persons identified on the Credit Facility Schedule as amended from time to time to reflect assignments made in accordance with this Agreement.

"**Libor Rate Index**" means, for any Applicable Interest Period, the rate per annum, determined by Agent (rounded upwards, if necessary, to the next 1/100th%) by dividing (a) the rate per annum, determined by Agent in accordance with its customary procedures, and utilizing such electronic or other quotation sources as it considers appropriate (rounded upwards, if necessary, to the next 1/100%), to be the rate at which Dollar deposits (for delivery on the first day of such Applicable Interest Period or, if such day is not a Business Day, on the preceding Business Day) in the amount of One Million Dollars ($1,000,000) are offered to major banks in the London interbank market on or about 11:00 a.m. (New York time) on the Applicable Interest Rate Determination Date, for a period of thirty (30) days, which determination shall be conclusive in the absence of manifest error, by (b) 100% minus the Reserve Percentage; provided, however, that Agent may, upon prior written notice to any Borrower, choose a reasonably comparable index or source to use as the basis for the Libor Rate Index. The Libor Rate Index may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable Law occurring subsequent to the commencement of the then Applicable Interest Period, including changes in tax laws (except changes of general applicability in corporate income tax laws) and changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest based upon the Libor Rate Index; provided, however, that notwithstanding anything in this Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "change in applicable Law", regardless of the date enacted, adopted or issued. In any such event, the affected Lender shall give Borrower and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrower may, by notice to such affected Lender require such Lender to furnish to Borrower a statement setting forth the basis for adjusting such Libor Rate Index and the method for determining the amount of such adjustment.

"**Lien**" means a claim, mortgage, deed of trust, lien, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of Law or otherwise against any property.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U, or X of the Board of Governors of the Federal Reserve System.

"**Material Adverse Change**" means (a) a material impairment in the perfection or priority of the Agent's Lien (or any Lender's Lien therein to the extent provided for in the Financing Documents) in the Collateral; (b) a material impairment in the value of the Collateral; (c) a material and continuing adverse change in the business, operations, or financial condition of the Credit Parties, taken as a whole; or (d) a material impairment of the prospect of repayment of the Obligations.

"**Material Agreement**" means any agreement or contract to which such Credit Party or its Subsidiaries is a party the termination of which could reasonably be expected to result in a Material Adverse Change, including those Material Agreements set forth on the Disclosure Schedule and the DMD Agreements.

"**Material Indebtedness**" has the meaning given it in Section 10.1.

"**Material Intangible Assets**" means (i) all of Borrower's and Secured Guarantor's Intellectual Property and (ii) each license or sublicense agreements or other agreements with respect to Borrower's or any Secured Guarantor's rights in

Intellectual Property, that, in the case of each of clauses (i) and (ii), is material to the condition (financial or other), business or operations of Borrower or such Secured Guarantor.

"**Material Real Property**" has the meaning set forth in Section 4.2(j).

"**Maturity Date**" means the earliest to occur of (a) June 1, 2021, (b) the date of the Revolving Credit Obligations Termination or (c) the date the Revolving Credit Obligations are declared due and payable under the Revolving Credit Documents.

"**Maximum Lawful Rate**" has the meaning given it in Section 2.6(g).

"**MidCap**" has the meaning given it in the preamble of this Agreement.

"**Minimum Cash Amount**" has the meaning given it in Section 6.6(b).

"**Monthly Cash Burn Amount**" means, with respect to Borrower, an amount equal to Borrower's change in cash and cash equivalents, without giving effect to any increase resulting from contributions or proceeds of financings, for either (a) the immediately preceding eighteen (18) month period as determined as of the last day of the month immediately preceding the proposed consummation of the Permitted Acquisition and based upon the financial statements delivered to Agent in accordance with this Agreement for such period or (b) the immediately succeeding eighteen (18) month period based upon the Transaction Projections, using whichever calculation as between clause (a) and clause (b) demonstrates a higher burn rate (or, in other words, more cash used), in either case, divided by eighteen (18).

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on real property made by Borrower or a Secured Guarantor in favor of Agent to secure the Obligations.

"**Multiemployer Plan**" means any employee benefit plan of the type described in Section 4001(a)(3) or ERISA, to which any Credit Party or any ERISA Affiliate has at any time (whether presently or in the past) sponsored, maintained, contributed to, or had an obligation to make contributions to or to which any Credit Party or any ERISA Affiliate has any liability, contingent or otherwise.

"**Net Sales Revenue**" means gross sales revenue generated in the Ordinary Course of Business from the commercial sales of Products of Borrower to unaffiliated third Persons, less any returns, chargebacks, setoffs, upfront payments or other sale adjustments of Borrower in accordance with GAAP.

"**Obligations**" means (a) all of Borrower's obligations to pay when due any debts, principal, interest, Protective Advances, fees, indemnities and other amounts Borrower owes the Agent or Lenders now or later, under this Agreement or the other Financing Documents, including, without limitation, interest accruing after Insolvency Proceedings begin (whether or not allowed) and the payment and performance of each other Credit Party's covenants and obligations under the Financing Documents and (b) Banking Services Indebtedness in an amount not to exceed $250,000 that does not constitute Banking Services Indebtedness cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts. "Obligations" does not include obligations under any warrants issued to Agent or a Lender.

"**OFAC**" means the U.S. Department of Treasury Office of Foreign Assets Control.

"**OFAC Lists**" means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

"**Operating Documents**" means, for any Person, such Person's formation documents, as certified with the Secretary of State of such Person's state of formation on a date that is no earlier than thirty (30) days prior to the Closing Date, and (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability

company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Credit Party, the ordinary course of business of such Credit Party, as conducted by such Credit Party in accordance with past practices or then current business practices set forth or reflected in the most recent operating plan of Borrower, which shall in any event be at arms-length (including as arm's length capital contributions and other Permitted Investments in Subsidiaries).

"**Original Closing Date**" has the meaning given it in the recitals of this Agreement.

"**Other Connection Taxes**" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement, or sold or assigned an interest in any Obligation hereunder).

"**Other Tax Certification**" means such certification or evidence, in each case in form and substance satisfactory to Borrower and Agent, that any Lender or prospective Lender is exempt from U.S. federal withholding tax or backup withholding tax, including evidence supporting the basis for such exemption.

"**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"**Participant Register**" has the meaning given it in Section 13.1(c).

"**Payment Date**" means the first calendar day of each calendar month.

"**PBGC**" means the Pension Benefit Guaranty Corporation, or any successor entity thereto.

"**Pension Plan**" means any employee benefit pension plan that is subject to the minimum funding standards under Section 412 of the Code or is covered by Title IV of ERISA (including a Multiemployer Plan) that any Credit Party or any ERISA Affiliate has, at any time (whether presently or in the past) sponsored, maintained, contributed to, or had an obligation to make contributions to or to which any Credit Party or any ERISA Affiliate has any liability (contingent or otherwise).

"**Perfection Certificate**" means the Perfection Certificate delivered to Agent as of the Closing Date, together with any amendments thereto required under this Agreement.

"**Permitted Acquisition**" means any acquisition by the Borrower or a Secured Guarantor of all of the stock or other ownership interests and stock equivalents of another Person, all or substantially all of the assets of another Person or any business, Product, business line or product line, division or other unit operation of any other Person (such Person or its assets, in this context, a "**Target**"), in each case for the primary purpose of acquiring businesses related to the business of the Borrower and to the extent that each of the following conditions shall have been satisfied:

(a) the Borrower shall have delivered to Agent and each Lender at least fifteen (15) days prior written notice (or such shorter period as Agent may determine in its sole discretion) before the execution of any documents (other than a non-binding summary of terms, letter of intent or similar agreement) related to such proposed acquisition, including a reasonably detailed description of the terms and conditions of such acquisition (which may be included in the notice provided);

(b) the Borrower shall have delivered to Agent as soon as available (and, in any case, prior to the consummation of such acquisition):

(i) such financial information and such other information, agreements, instruments and other documents relating to the pro forma business of the Target and Borrower as Agent shall reasonably request;

(ii) draft of the final or substantially final respective agreements, documents or instruments being entered into in connection with, or reasonably related to, the acquisition (including all exhibits, schedules, annexes, appendices or similar counterparts thereto); and

(iii) all consents and approvals from applicable Governmental Authorities and other Persons required under, or in order to consummate, the acquisition documents;

(c) Borrower shall and shall cause any other Credit Parties (including any new Subsidiary as required by Section 6.8) to execute and deliver the agreements, instruments and other documents required by Section 6.8 and as otherwise necessary or desirable by Agent to perfect Agent's Liens in respect of any new Collateral resulting from the acquisition;

(d) the total consideration paid or payable for all such acquisitions (including all transaction costs, stock or other ownership interests and stock equivalents of Borrower used as consideration for such acquisition, Indebtedness or other liabilities incurred, assumed and/or reflected on the consolidated balance sheet of the Borrower and its Subsidiaries after giving effect to such acquisition and the maximum amount of all deferred payments, including earnouts, milestone payments and other contingent obligations associated with such acquisition, in each case, to the extent required to be carried as a liability on Borrower's balance sheet in accordance with GAAP) shall not exceed $15,000,000 in the aggregate for all such acquisitions (provided, that, for the avoidance of doubt, any Indebtedness or other liabilities assumed must be otherwise expressly permitted pursuant to this Agreement); *provided*, *however*, that, in the case of each acquisition, Agent has received prior to the consummation of such acquisition updated financial projections, in form and substance reasonably satisfactory to Agent, for the immediately succeeding eighteen (18) months following the proposed consummation of the acquisition beginning with the month during which the acquisition is to be consummated (the "**Transaction Projections**") and evidence satisfactory to Agent that Borrower has, immediately before and immediately after giving effect to the consummation of such acquisition, unrestricted cash and/or cash equivalents in one or more Collateral Accounts subject to a Control Agreement in an aggregate amount equal to or greater than the sum of (A) the positive value of the product of (x) eighteen (18) *multiplied by* (y) the Monthly Cash Burn Amount, as determined as of the last day of the month immediately preceding such acquisition *plus* (B) the Minimum Cash Amount;

(e) such acquisition shall not be hostile and shall have been approved by the board of directors (or other similar body) and/or the stockholders or other equityholders of the Person being acquired, in each case as required by such Person's Organizational Documents;

(f) no Default or Event of Default shall have occurred, be continuing or would exist after giving effect to such acquisition;

(g) the acquisition would not result in a Change in Control;

(h) the Borrower or any Secured Guarantor shall be the surviving entity of such acquisition and the Target being acquired shall be a Person (but not a natural Person) organized and domiciled in the United States;

(i) the Target so acquired or the assets of the Target so acquired, as the case may be, shall be in or reasonably related or ancillary to the business of Borrower; and

(j) immediately prior to the consummation of the acquisition, the Borrower shall deliver a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Agent, certifying as to the foregoing conditions and providing true, correct and complete copies of the documents and instruments described in paragraph (b) of this definition of Permitted Acquisition, provided that for the documents delivered pursuant to (b)(ii), such documents shall be in final form when attached to such certificate.

"**Permitted Contest**" has the meaning given it in Section 6.4.

"**Permitted Contingent Obligations**" means (a) Contingent Obligations resulting from endorsements for collection or deposit in the Ordinary Course of Business; (b) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (c) Contingent Obligations arising under indemnity agreements with title insurers; (d) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with dispositions of personal property assets permitted under Article 7; (e) Contingent Obligations arising under the Financing Documents; (f) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Contingent Obligations existing or arising under any swap contract, provided, however, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; (g) Contingent Obligations existing or arising in connection with any security deposit or letter of credit obtained for the purpose of securing a lease of real property, or in connection with ancillary bank services such as a corporate credit card facility, or to support worker's compensation obligations provided that the aggregate face amount of all such security deposits, letters of credit and ancillary bank services does not at any time exceed $2,000,000; and (h) other Contingent Obligations not permitted by clauses (a) through (g) above, not to exceed $1,000,000 in the aggregate at any time outstanding.

"**Permitted Convertible Indebtedness**" means Indebtedness of the Borrower that is convertible into common stock of the Borrower in an aggregate amount not to exceed $300,000,000 during the term of this Agreement which has been subordinated and made junior to the payment in full of the Obligations, and evidenced by a Subordination Agreement or otherwise made subordinated and junior to the payment in full of the Obligations in a manner reasonably satisfactory to the Agent; provided that (a) at the time such Permitted Convertible Indebtedness is incurred, no Default or Event of Default has occurred or would occur as a result of such incurrence, (b) all necessary corporate, company, shareholder or similar actions shall be taken and consents obtained in connection with the issuance of such Permitted Convertible Indebtedness, (c) the issuance of such Permitted Convertible Indebtedness shall be consummated in compliance with all applicable Laws, (d) only one issuance of Permitted Convertible Indebtedness shall be permitted during the term of this Agreement and (e) the documentation evidencing such Permitted Convertible Indebtedness shall have been delivered to the Agent and shall contain all of the following characteristics: (i) it shall be (and shall remain) unsecured, (ii) it shall bear cash interest at a rate not to exceed the market rate as determined in good faith by the Borrower, and Borrower shall not make any cash interest payments in excess of such interest rate, (iii) it shall not have a maturity (and shall not require any principal repayments or mandatory redemption thereof) prior to the date that is 91 days after the Maturity Date, (iv) if it has any covenants, such covenants (including covenants relating to incurrence of indebtedness) shall be less restrictive than those set forth herein, (v) it shall have no restrictions on the Borrowers' ability to grant liens securing indebtedness ranking senior to such Permitted Convertible Indebtedness, (vi) it shall permit the incurrence of senior indebtedness under this Agreement and the Revolving Credit Documents, (vii) it may be cross-accelerated with the Obligations and other senior indebtedness of the Borrowers (but shall not be cross-defaulted except for payment defaults which the senior lenders have not waived) and may be accelerated upon bankruptcy, and (viii) after the conversion of such Permitted Convertible Indebtedness into common stock of the Borrower, such common stock shall not constitute Disqualified Stock.

"**Permitted Indebtedness**" means: (a) Borrower's Indebtedness to the Lenders and Agent under this Agreement and the other Financing Documents; (b) Indebtedness existing on the Closing Date and described on the **Disclosure Schedule**; (c) Indebtedness secured by Permitted Liens; (d) Subordinated Debt; (e) unsecured Indebtedness to trade creditors incurred in the Ordinary Course of Business; (f) Permitted Contingent Obligations; (g) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness set forth in (b) and (c) above, *provided*, *however*, that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon the obligors thereunder; (h) Indebtedness consisting of intercompany loans and advances in the form of accounts payable on arm's length terms; (i) Indebtedness with respect to other intercompany loans and advances made by (i) any Subsidiary that is not a Secured Guarantor to another Subsidiary that is not a Secured Guarantor, (ii) Borrower or any Secured Guarantor to any other Secured Guarantor or Borrower or (iii) Borrower or any Secured Guarantor to any Subsidiaries that are not Secured Guarantors in an aggregate amount not to exceed during the term of this Agreement the sum of $10,000,000 (with any amounts being repaid in cash to the maker not counting against such basket) plus the amount which constitutes immediately due accounts payable associated with research and development, services, manufacturing, inventory and licenses of Intellectual Property, in each case owing to Borrower or the Secured Guarantors and where such amount has been paid to Borrower or the Secured Guarantors

by the incurrence of such intercompany loan or advance (provided, that for the avoidance of doubt, no such Indebtedness shall be permitted pursuant to this clause (i) until the Joinder Requirements with respect to such Subsidiary have been satisfied as set forth in Section 6.8, if applicable to such Subsidiary), provided that, in cases of subclauses (ii) and (iii), (1) any obligations owing by Borrower or a Secured Guarantor under such intercompany loans shall be subordinated at all times to the Obligations hereunder or under the other Financing Documents in a manner reasonably satisfactory to Agent and (2) to the extent that such Indebtedness is evidenced by a promissory note or other written instrument, Borrower or such Secured Guarantor shall pledge and deliver to Agent, for the benefit of itself and the Lenders, the original promissory note or instrument, as applicable, along with an endorsement in blank in form and substance reasonably satisfactory to Agent; (j) performance guaranties (that do not constitute monetary obligations) of operating agreements of Subsidiaries in the Ordinary Course of Business; (k) Indebtedness consisting of items listed in clauses (g), (i), (j) and (k) of the definition of Indebtedness in an amount not to exceed $1,000,000; *provided that* any earnouts, milestone payments and other contingent obligations shall be permitted to the extent complying with clause (d) of the definition of "Permitted Acquisition"; (l) Indebtedness under the Revolving Credit Documents; (m) Permitted Convertible Indebtedness; and (n) Banking Services Indebtedness.

"**Permitted Investments**" means: (a) Investments existing on the Closing Date and described on the **Disclosure Schedule**; (b) Investments consisting of cash equivalents; (c) any Investments in liquid assets permitted by Borrower's investment policy, as amended from time to time, provided that such investment policy (and any such amendment thereto) has been approved in writing by Agent, which approval shall not be unreasonably withheld; (d) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the Ordinary Course of Business; (e) Investments consisting of deposit accounts or securities accounts in which the Agent has a first priority perfected security interest (subject to the Intercreditor Agreement) except as otherwise provided by Section 6.6; (f) Investments made (i) in Borrower by a Secured Guarantor or in a Secured Guarantor by Borrower or another Secured Guarantor or (ii) in the Ordinary Course of Business in Subsidiaries that are not Secured Guarantors (provided, that for the avoidance of doubt, no such Investments shall be permitted pursuant to this clause (f)(ii) until the Joinder Requirements with respect to such Subsidiary have been satisfied as set forth in Section 6.8, if applicable to such Subsidiary); (g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's board of directors; (h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the Ordinary Course of Business; (i) Investments consisting of intercompany Indebtedness in accordance with and to the extent permitted by clause (h) and (i) of the definition of "Permitted Indebtedness"; (j) Investments constituting cash and cash equivalents in the Securities Subsidiary so long as Borrower at all times remains in compliance with Section 6.6(b); (k) Permitted Acquisitions; (l) Margin Stock not in violation of Regulation U, in an aggregate amount not to exceed than $2,000,000 for all such Margin Stock acquired in connection with other transactions permitted by this Agreement; and (m) other Investments up to $1,000,000 at any one time outstanding.

"**Permitted License**" means (a) any non-exclusive license of rights in Intellectual Property of Borrower or its Subsidiaries so long as all such Permitted Licenses are granted to third parties in the Ordinary Course of Business, do not result in a legal transfer of title to the licensed property and have been granted in exchange for fair consideration, (b) any exclusive license or sublicense of rights of Intellectual Property of Borrower or its Subsidiaries to third parties constituting DMD Assets so long as such Permitted Licenses do not result in a legal transfer of title to the licensed property, are exclusive solely as to discrete geographical areas outside of the US Territory, and have been granted in exchange for fair consideration, (c) any exclusive license of rights of Intellectual Property of Borrower or its Subsidiaries to third parties (other than with respect to Intellectual Property constituting DMD Assets) so long as such Permitted Licenses do not result in a legal transfer of title to the licensed property and have been granted in exchange for fair consideration, (d) licenses of rights in Intellectual Property among Borrower and its Subsidiaries so long as (i) such Permitted Licenses comply with Section 7.8(a) and (ii) any such Permitted Licenses of rights of Intellectual Property of Borrower or Secured Guarantors to any Subsidiaries that are not Secured Guarantors do not result in legal transfer of title to the licensed property and (e) licenses in effect on, and provided to the Agent prior to, the Closing Date.

"**Permitted Liens**" means: (a) Liens existing on the Closing Date and shown on the **Disclosure Schedule** or arising under this Agreement and the other Financing Documents; (b) purchase money Liens or capital leases securing no more than one million dollars ($1,000,000.00) in the aggregate amount outstanding (i) on Equipment acquired or held by a Credit Party

incurred for financing the acquisition of the Equipment, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment; (c) Liens for Taxes, either not delinquent or being contested in good faith and for which adequate reserves are maintained in accordance with GAAP on the Books of the Credit Party against whose asset such Lien exists; (d) statutory Liens securing claims or demands of materialmen, mechanics, carriers, warehousemen, landlords and other Persons imposed without action of such parties, *provided* that they have no priority over any of Agent's Lien and the aggregate amount of such Liens for all Credit Parties does not any time exceed Five Hundred Thousand Dollars ($500,000); (e) leases or subleases of real property granted in the Ordinary Course of Business, and leases, subleases, non-exclusive licenses or sublicenses of property (other than real property or Intellectual Property) granted in the Ordinary Course of Business, if the leases, subleases, licenses and sublicenses do not prohibit granting Agent a security interest; (f) banker's liens, rights of set-off and Liens in favor of financial institutions incurred made in the Ordinary Course of Business arising in connection with a Credit Party's Collateral Accounts provided that such Collateral Accounts are subject to a Control Agreement to the extent required hereunder; (g) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the Ordinary Course of Business (other than Liens imposed by ERISA); (h) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default; (i) easements, reservations, rights-of-way, restrictions, zoning and land use regulations, minor defects or irregularities in title and similar charges or encumbrances affecting real property not constituting a Material Adverse Change; (j) [intentionally omitted]; (k) mortgages on real property owned by the Borrower and its Subsidiaries; (l) Liens in the form of the Subject Letters of Credit and on the Subject Cash Collateral Accounts, in each case, in accordance with the terms set forth in such defined terms; (m) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) and (b) above, but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness may not increase; (n) Permitted Licenses to the extent complying with Section 7.1(e); (o) Liens securing Bank Services Indebtedness to the extent not cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts and (p) Liens arising under the Revolving Credit Documents.

"**Person**" means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Pledge Agreement**" means that certain Pledge Agreement dated as of the Original Closing Date executed by each Borrower in favor of Agent.

"**Pro Rata Share**" means, as determined by Agent, with respect to each Credit Facility and Lender holding an Applicable Commitment or Credit Extensions in respect of such Credit Facility, a percentage (expressed as a decimal, rounded to the ninth decimal place) determined by *dividing* (a) in the case of fully-funded Credit Facilities, the amount of Credit Extensions held by such Lender in such Credit Facility *by* the aggregate amount of all outstanding Credit Extensions for such Credit Facility, and (b) in the case of Credit Facilities that are not fully-funded, the amount of Credit Extensions and unfunded Applicable Commitments held by such Lender in such Credit Facility *by* the aggregate amount of all outstanding Credit Extensions and unfunded Applicable Commitments for such Credit Facility.

"**Protective Advances**" means all audit fees and expenses, costs, and expenses (including reasonable attorneys' fees and expenses) of Agent and Lenders for preparing, amending, negotiating, administering, defending and enforcing the Financing Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred by Agent or the Lenders in connection with the Financing Documents.

"**Products**" means any products manufactured, distributed, sold, developed, tested or marketed by any Borrower or any of its Subsidiaries, including without limitation, those products set forth on the **Products Schedule**; *provided*, that, for the avoidance of doubt, any new Product not disclosed on the **Products Schedule** shall still constitute a "Product" as herein defined.

"**Recipient**" means the Agent and any Lender, as applicable.

"**Register**" has the meaning given it in Section 13.1(d).

"**Registered Intellectual Property**" means any patent, registered trademark or servicemark, registered copyright, registered mask work, or any pending application for any of the foregoing within the Intellectual Property.

"**Registered Organization**" means any "registered organization" as defined in the Code, with such additions to such term as may hereafter be made.

"**Regulatory Required Permit**" means any and all licenses, approvals and permits issued by the FDA, DEA or any other applicable Governmental Authority, including without limitation Drug Applications, necessary for the testing, manufacture, marketing or sale of any Product by any applicable Borrower(s) and its Subsidiaries as such activities are being conducted by such Borrower and its Subsidiaries with respect to such Product at such time and any drug listings and drug establishment registrations under 21 U.S.C. Section 510, registrations issued by DEA under 21 U.S.C. Section 823 (if applicable to any Product), and those issued by State governments for the conduct of Borrower's or any Subsidiary's business, the absence of which could reasonably be expected to result in a Material Adverse Change.

"Related Party" means the officers, directors, employees, trustees, agents, investment advisors, collateral managers, servicers, and counsel of such Person.

"**Required Lenders**" means, unless all of the Lenders and Agent agree otherwise in writing, Lenders having (a) more than fifty-five percent (55%) of the Applicable Commitments of all Lenders, or (b) if such Applicable Commitments have expired or been terminated, more than fifty-five percent (55%) of the aggregate outstanding principal amount of the Credit Extensions.

"**Required Permit**" means all licenses, certificates, accreditations, product clearances or approvals, provider numbers or provider authorizations, supplier numbers, provider numbers, marketing authorizations, other authorizations, registrations, permits, consents and approvals of a Credit Party issued or required under Laws applicable to the business of Borrower or any of its Subsidiaries or necessary in the manufacturing, importing, exporting, possession, ownership, warehousing, marketing, promoting, sale, labeling, furnishing, distribution or delivery of goods or services under Laws applicable to the business of Borrower or any of its Subsidiaries, the absence of which could reasonably be expected to result in a Material Adverse Change. Without limiting the generality of the foregoing, "**Required Permits**" includes any Regulatory Required Permit.

"**Reserve Percentage**" means, on any day, for any Lender, the maximum percentage prescribed by the Board of Governors of the Federal Reserve System (or any successor Governmental Authority) for determining the reserve requirements (including any basic, supplemental, marginal, or emergency reserves) that are in effect on such date with respect to eurocurrency funding (currently referred to as "eurocurrency liabilities") of that Lender, but so long as such Lender is not required or directed under applicable regulations to maintain such reserves, the Reserve Percentage shall be zero.

"**Responsible Officer**" means any of the President and Chief Executive Officer or Chief Financial Officer of Borrower.

"**Revolving Credit Agent**" means the "Agent" under and as defined in the Revolving Credit Documents.

"**Revolving Credit Documents**" means the Credit and Security Agreement dated as of the date hereof, by and among the Borrower and MidCap Financial Trust or an Affiliate thereof designated by MidCap Financial Trust, as Agent thereunder (together with its successors or assigns), and all the "Financing Documents" (as such term is defined in such Credit and Security Agreement), as each of the foregoing may be amended, restated, supplemented or otherwise modified from time to time.

"Revolving Credit Obligations" means all "Obligations" under and as defined in the Revolving Credit Documents.

"**Revolving Credit Obligations Termination**" means the payment in full of the Revolving Credit Obligations (other than inchoate indemnity obligations for which no claim has yet been made and any other obligations which, by their terms, are to survive the termination of the Revolving Credit Documents), the termination of all revolving loan commitments under the Revolving Credit Documents and the Revolving Credit Documents have been terminated pursuant to a payoff letter in form and substance satisfactory to Agent and the Revolving Credit Agent.

"**Sarepta**" has the meaning given it in the preamble of this Agreement.

"Sarepta International" shall mean Sarepta International CV, a partnership organized under the laws of the Netherlands**.**

"**SEC**" has the meaning given it in Section 6.2(a).

"**Secretary's Certificate**" means, with respect to any Person, a certificate, in form and substance reasonably satisfactory to Agent, executed by such Person's secretary (or other appropriate officer acceptable to Agent in its sole but reasonable discretion) on behalf of such Person certifying (a) that attached to such certificate is a true, correct, and complete copy of Borrower Resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Financing Documents to which it is a party, (b) the name(s) of the Person(s) authorized to execute the Financing Documents on behalf of such Person, together with a sample of the true signature(s) of such Person(s), (c) that attached to such certificate are true, correct, and complete copies of the Operating Documents of Borrower certified by the Secretary of State of the state(s) of organization of Borrower, and good standing certificates to the effect that Borrower is qualified to transact business in all states in which the nature of Borrower's business so requires of Borrower, in each case as of the Closing Date or within thirty (30) days prior to the Closing Date and (d) that Agent and the Lenders may conclusively rely on such certificate unless and until such Person shall have delivered to Agent a further certificate canceling or amending such prior certificate.

"**Secured Guarantor**" means any Subsidiary of Borrower organized under the laws of the United States, a state thereof, or the District of Columbia, which Subsidiary is a Borrower or has provided a guarantee of the Obligations of the Borrower which guarantee is secured by a Lien granted by such Subsidiary to Agent in all or substantially all of its property of the type described in Exhibit B hereto.

"**Secured Promissory Note**" has the meaning given it in Section 2.7.

"**Securities Account**" means any "securities account", as defined in the Code, with such additions to such term as may hereafter be made.

"**Securities Subsidiary**" shall mean Sarepta Securities Corp., a Massachusetts corporation.

"ST International" shall mean ST International, Holdings, Inc., a Delaware corporation.

"**Stated Rate**" has the meaning given it in Section 2.6(g).

"STIH" shall mean STIH Two, Inc., a Delaware corporation.

"**Subject Cash Collateral Accounts**" means, collectively, (a) the Deposit Account of Sarepta with account number 15001407 maintained at Pacific West Bank in an amount not to exceed $165,000 to secure Indebtedness, (b) the Certificate of Deposit of Sarepta numbered 420139 maintained at Bank of America, N.A. in an amount not to exceed $700,000 to secure the Subject Letters of Credit issued by Bank of America, N.A. and (c) Deposit Accounts of Sarepta maintained at Silicon Valley Bank in an amount not to exceed $750,000 to secure Banking Services Indebtedness, together with any replacement Deposit Accounts or certificates of deposit so long as the aggregate amounts of such Subject Cash Collateral Accounts do not exceed the amounts specified above for clauses (a), (b) and (c).

"**Subject Letters of Credit**" means, collectively, (a) that certain Letter of Credit numbered 68100338, dated November 21, 2013 and in the amount of $90,462.00, issued by Bank of America, N.A. on behalf of Sarepta and in favor of ARE-MA Region No. 38, LLC, (b) that certain Letter of Credit numbered 68097187, dated June 25, 2013 and in the amount of $556,512, issued by Bank of America, N.A. on behalf of Sarepta and in favor of ARE-MA Region No. 38, LLC and (c) letters of credit (including replacement letters of credit for the letters of credit described in the foregoing clauses (a) and (b)), in each case, together with any additional or replacement letters of credit so long as the aggregate amounts of such Subject Letters of Credit do not exceed the amounts specified above for clauses (a) and (b) plus $500,000.

"**Subordinated Debt**" means indebtedness (including, without limitation, Permitted Convertible Indebtedness) incurred by Borrower which shall be (a) in an amount satisfactory to Agent, (b) made pursuant to documents in form and

substance reasonably satisfactory to Agent (the "Subordinated Debt Documents"), and (c) subordinated to all of Borrower's now or hereafter indebtedness to the Agent and Lenders pursuant to a Subordination Agreement.

"**Subordination Agreement**" means with respect to Subordinated Debt, a subordination, intercreditor, or other similar agreement in form and substance, and on terms, approved by Agent in writing.

"**Subsidiary**" means, with respect to any Person, any Person of which more than fifty percent (50.0%) of the voting stock or other equity interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Transaction Projections**" has the meaning given to it in the definition of "Permitted Acquisition."

"**Transfer**" has the meaning given it in Section 7.1.

"**U.S. Person**" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Territory" means the United States and its territories and possessions.

"**Withholding Agent**" means Borrower and Agent.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, intending that this instrument constitute an instrument executed and delivered under seal, the parties hereto have caused this Agreement to be executed as of the Closing Date.

BORROWER:

SAREPTA THERAPEUTICS, INC.

By: /s/ Sandesh Mahatme (SEAL)
Name: Sandesh Mahatme
Title: Executive Vice President, Chief Financial Officer and Chief Business Officer

AGENT:

MIDCAP FINANCIAL TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

LENDERS:

MIDCAP FINANCIAL TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

MIDCAP FUNDING III TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

MIDCAP FUNDING XIII TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

ELM 2016-1 TRUST

By: MidCap Financial Services Capital Management, LLC,
as Servicer

By: /s/ John O'Dea (SEAL)
Name: John O'Dea
Title: Authorized Signatory

Elm 2016-1 Trust
c/o MidCap Financial Services Capital Management, LLC, as
Servicer
7255 Woodmont Avenue, Suite 200
Bethesda, MD 20814
Attn: Portfolio Management
Phone: (301) 760-7600
Fax: (301) 941-1450
Email: notices@midcapfinancial.com

FLEXPOINT MCLS SPV LLC

By: /s/ Daniel Edelmon (SEAL)
Name: Daniel Edelmon
Title: Vice President

Flexpoint MCLS SPV, LLC
c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Ave, Suite 200
Bethesda, MD 20814
Attn: Account Manager for Sarepta transaction
Facsimile: 301-941-1450
Email: notices@midcapfinancial.com

SILICON VALLEY BANK

By: /s/ Ryan Roller (SEAL)
Name: Ryan Roller
Title: Vice President

Silicon Valley Bank
275 Grove Street, Suite 2-200
Newton, MA 02466
Attention: Ryan Roller
Facsimile: 617-969-5965
Email: rroller@svb.com

EXHIBITS

Exhibit A	Secured Promissory Note
Exhibit B	Collateral
Exhibit C	Form of Compliance Certificate
Exhibit D	Credit Extension Form

SCHEDULES

Credit Facility Schedule
- Amortization Schedule (for each Credit Facility)
- Post-Closing Obligations Schedule
- Closing Deliveries Schedule
- Disclosure Schedule
- Intangible Assets Schedule
- Products Schedule
- Required Permits Schedule

EXHIBIT B

COLLATERAL

The Collateral consists of all assets of Borrower, including all of Borrower's right, title and interest in and to the following personal property:

(a) all goods, Accounts (including health-care insurance receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, investment accounts, commodity accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

(b) all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Pursuant to the terms of a certain negative pledge arrangement with Agent and Lenders, Borrower has agreed not to encumber any of its Intellectual Property without Agent's and Lenders' prior written consent.

Notwithstanding the foregoing, except as provided below, the Collateral shall not include (1) any Intellectual Property of any Credit Party, whether now owned or hereafter acquired, except to the extent that it is necessary under applicable law to have a Lien and security interest in any such Intellectual Property in order to have a perfected Lien and security interest in and to IP Proceeds (defined below), and for the avoidance of any doubt, the Collateral shall include, and Agent shall have a Lien and security interest in, (i) all IP Proceeds, and (ii) all payments with respect to IP Proceeds that are received after the commencement of a bankruptcy or insolvency proceeding or (2) Excluded Property.

The term "**IP Proceeds**" means, collectively, all cash, Accounts, license and royalty fees, claims, products, awards, judgments, insurance claims, and other revenues, proceeds or income, arising out of, derived from or relating to any Intellectual Property of any Credit Party, and any claims for damage by way of any past, present or future infringement of any Intellectual Property of any Credit Party (including, without limitation, all cash, royalty fees, other proceeds, Accounts and General Intangibles that consist of rights of payment to or on behalf of a Credit Party and the proceeds from the sale, licensing or other disposition of all or any part of, or rights in, any Intellectual Property by or on behalf of a Credit Party).

The term "**Excluded Property**" means, collectively, (a) any license, lease or contract to the extent and only to the extent that the granting of a security interest in such license, lease or contract would be prohibited by law or constitute a default under or a breach of such license, lease or contract, as applicable, but only to the extent that such prohibition or default is enforceable under applicable law (including without limitation Sections 9-406, 9-407 and 9-408 of the UCC), provided that upon the termination or expiration of any such prohibition, such license, lease or contract, as applicable, shall automatically be subject to the security interest granted in favor of Agent hereunder and become part of the "Collateral", (b) more than 65% of equity interests of any CFC Holdco or CFC which are entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2)) so long as the conditions of Section 6.8 of this Agreement are satisfied and (c) Margin Stock (within the meaning of Regulation U); provided, however, that "Collateral" shall include all proceeds, substitutions or replacements of any and all of the foregoing (unless such proceeds, substitutions or replacements would constitute Excluded Property).

EXHIBIT C

COMPLIANCE CERTIFICATE

[TO BE ATTACHED]

EXHIBIT D

CREDIT EXTENSION FORM

DEADLINE IS NOON NEW YORK TIME

Date: _____, 201__

LOAN ADVANCE:

Complete *Outgoing Wire Request* section below if all or a portion of the funds from this loan advance are for an outgoing wire.

From Account #_____ To Account #_____
(Loan Account #) (Deposit Account #)

Amount of Advance $_____

Requested Date of Advance (subject to requirements of Credit Agreement): _____

All Borrower's representations and warranties in the Amended and Restated Credit and Security Agreement are true, correct and complete in all material respects on the date of the request for an advance; *provided*, *however*, that such
ifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and *provided*, *further*, that those representations and warranties expressly referring to a specific dat
and complete in all material respects as of such date:

Authorized Signature: Phone Number:

Print Name/Title:

OUTGOING WIRE REQUEST:

Complete only if all or a portion of funds from the loan advance above is to be wired.

Beneficiary Name: _____ Amount of Wire:

Beneficiary Lender: _____ Account Number:
City and State:

Beneficiary Lender Transit (ABA) #: Beneficiary Lender Code (Swift, Sort, Chip, etc.):
(For International Wire Only)
Intermediary Lender: Transit (ABA) #:

For Further Credit to:
Special Instruction:

*By signing below, I (we) acknowledge and agree that my (our) funds transfer request shall be processed in accordance with and subject to the terms and conditions set forth in the agreements(s) covering funds transfer service(s), whi
ere previously received and executed by me.*

Authorized Signature: _____ 2nd Signature (if required): _____
Print Name/Title: _____ Print Name/Title: _____
Telephone #: Telephone #:

CREDIT FACILITY SCHEDULE

The following Credit Facilities are specified on this Credit Facility Schedule:

Credit Facility #1:

Credit Facility and Type: Term, Tranche 1

Lenders for and their respective Applicable Commitments to this Credit Facility:

	Applicable Commitment
st	$5,729,166.71
g III Trust	$4,635,416.66
g XIII Trust	$4,635,416.67
S SPV LLC	$1,499,999.96
ank	$13,500,000.00

The following defined terms apply to this Credit Facility:

Applicable Interest Period: means the one-month period starting on the first (1st) day of each month and ending on the last day of such month; *provided*, *however*, that the first (1st) Applicable Interest Period for each Credit Extension under this Facility shall commence on the date that the applicable Credit Extension is made and end on the last day of such month.

Applicable Floor: means one percent (1.00%) per annum for the Applicable Libor Rate.

Applicable Margin: a rate of interest equal to six and one-quarter percent (6.25%) per annum.

Applicable Prepayment Fee: means the following amount, calculated as of the date (the "**Accrual Date**") that the Applicable Prepayment Fee becomes payable in the case of prepayments required under the Financing Documents or the date any voluntary prepayment is made: (a) for an Accrual Date on or after the Closing Date through and including the date which is twelve (12) months after the Closing Date, three percent (3.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater), (b) for an Accrual Date after the date which is twelve (12) months after the Closing Date through and including the date which is twenty-four (24) months after the Closing Date, two percent (2.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater) and (c) for an Accrual Date after the date which is twenty-four (24) months after the Closing Date through and including the date immediately preceding the Maturity Date, one percent (1.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater).

Closed Period: Not applicable.

Commitment Commencement Date: Closing Date.

Commitment Termination Date: the earlier to occur of (a) the close of the Business Day following the Initial Funding Date or (b) the date that the Revolving Credit Obligations Termination has occurred.

Minimum Credit Extension Amount: $30,000,000.

Permitted Purpose: refinance the Existing Loan and general working capital

Credit Facility #2:

Credit Facility and Type: Term, Tranche 2

Lenders for and their respective Applicable Commitments to this Credit Facility:

	Applicable Commitment
al Trust	$10,000,000.03
S SPV LLC	$999,999.97
ank	$9,000,000.00

The following defined terms apply to this Credit Facility:

Applicable Interest Period: means the one-month period starting on the first (1st) day of each month and ending on the last day of such month; *provided, however*, that the first (1st) Applicable Interest Period for each Credit Extension under this Facility shall commence on the date that the applicable Credit Extension is made and end on the last day of such month.

Applicable Floor: means one percent (1.00%) per annum for the Applicable Libor Rate.

Applicable Margin: a rate of interest equal to six and one-quarter percent (6.25%) per annum.

Applicable Funding Conditions: means that (a) Borrower has delivered evidence to Agent, reasonably satisfactory to Agent, that Net Sales Revenue has exceeded $30,000,000 in the aggregate during the most recently ended trailing six month period in 2017, and (b) Agent has received a completed Credit Extension Form, in accordance with **Section 2.3(a)**.

Applicable Prepayment Fee: means the following amount, calculated as of the date (the "**Accrual Date**") that the Applicable Prepayment Fee becomes payable in the case of prepayments required under the Financing Documents or the date any voluntary prepayment is made: (a) for an Accrual Date on or after the Closing Date through and including the date which is twelve (12) months after the Closing Date, three percent (3.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater), (b) for an Accrual Date after the date which is twelve (12) months after the Closing Date through and including the date which is twenty-four (24) months after the Closing Date, two percent (2.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater) and (c) for an Accrual Date after the date which is twenty-four (24) months after the Closing Date through and including the date immediately preceding the Maturity Date, one percent (1.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater).

Closed Period: Not applicable.

Commitment Commencement Date: The later to occur of (a) the Closing Date, or (b) satisfaction of the Applicable Funding Conditions for this Credit Facility.

Commitment Termination Date: the earliest to occur of (a) December 31, 2017, (b) an Event of Default, (c) the existence of any Default or (d) the date that the Revolving Credit Obligations Termination has occurred.

Minimum Credit Extension Amount: $20,000,000.

Permitted Purpose: Not applicable.

Credit Facility #3:

Credit Facility and Type: Term, Tranche 3

Lenders for and their respective Applicable Commitments to this Credit Facility:

	Applicable Commitment
al Trust	$5,000,000.01
S SPV LLC	$499,999.99
ank	$4,500,000.00

The following defined terms apply to this Credit Facility:

Applicable Interest Period: means the one-month period starting on the first (1st) day of each month and ending on the last day of such month; *provided, however*, that the first (1st) Applicable Interest Period for each Credit Extension under this Facility shall commence on the date that the applicable Credit Extension is made and end on the last day of such month.

Applicable Floor: means one percent (1.00%) per annum for the Applicable Libor Rate.

Applicable Margin: a rate of interest equal to six and one-quarter percent (6.25%) per annum.

Applicable Funding Conditions: means that (a) Borrower has borrowed Credit Facility #2, (b) Borrower has delivered evidence to Agent, reasonably satisfactory to Agent, that Net Sales Revenue has exceeded $50,000,000 in the aggregate during the most recently ended trailing six month period in 2017, and (c) Agent has received a completed Credit Extension Form, in accordance with **Section 2.3(a)**.

Applicable Prepayment Fee: means the following amount, calculated as of the date (the "**Accrual Date**") that the Applicable Prepayment Fee becomes payable in the case of prepayments required under the Financing Documents or the date any voluntary prepayment is made: (a) for an Accrual Date on or after the Closing Date through and including the date which is twelve (12) months after the Closing Date, three percent (3.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater), (b) for an Accrual Date after the date which is twelve (12) months after the Closing Date through and including the date which is twenty-four (24) months after the Closing Date, two percent (2.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater) and (c) for an Accrual Date after the date which is twenty-four (24) months after the Closing Date through and including the date immediately preceding the Maturity Date, one percent (1.00%) multiplied by the amount of the outstanding principal of the Credit Extension prepaid or required to be prepaid (whichever is greater).

Closed Period: Not applicable.

Commitment Commencement Date: The later to occur of (a) the Closing Date, or (b) satisfaction of the Applicable Funding Conditions for this Credit Facility.

Commitment Termination Date: the earliest to occur of (a) December 31, 2017, (b) an Event of Default, (c) the existence of any Default or (d) the date that the Revolving Credit Obligations Termination has occurred.

Minimum Credit Extension Amount: $10,000,000.

Permitted Purpose: Not applicable.

AMORTIZATION SCHEDULE

Commencing on July 1, 2018, and continuing on the first day of each calendar month thereafter, an amount per month equal to the total amount of Credit Extensions made under all Credit Facilities divided by thirty-six (36) months (as may be adjusted from time to time after giving effect to any prepayments of the outstanding principal amount of such Credit Facility pursuant to Section 2.3(b)).

POST CLOSING OBLIGATIONS SCHEDULE

Borrower shall satisfy and complete each of the following obligations, or provide Agent each of the items listed below, as applicable, on or before the date indicated below, all to the satisfaction of Agent as more specifically described below:

1. on or before August 18, 2017, to the extent not delivered on the Closing Date, Borrower shall deliver all original counterparts of Borrower's signature pages to the Financing Documents;

2. on or before September 18, 2017, Borrower shall deliver or cause to be delivered a duly executed Control Agreement for each of the following Collateral Accounts as required pursuant to Section 6.6 of the Credit Agreement:

   (a) Bank of America Merrill Lynch, Operating Account, 004640433350

3. on or before September 18, 2017, Borrower shall deliver of cause to be delivered such insurance endorsements in order for Borrower and each Secured Guarantor to be in compliance with Section 6.5 of the Credit Agreement; and

4. on or before October 18, 2017, Borrower shall use commercially reasonable efforts to obtain and deliver, or cause to be delivered, to Agent an Access Agreement with respect to each location required pursuant to Section 7.2 or 4.2(e) of the Credit Agreement.

Borrower's failure to complete and satisfy any of the above obligations on or before the date indicated above, or Borrower's failure to deliver any of the above listed items on or before the date indicated above, shall constitute an immediate and automatic Event of Default.

CLOSING DELIVERIES SCHEDULE

1. duly executed original signature pages to the Secured Promissory Notes and duly executed original or .pdf signatures to the other Financing Documents to which Borrower is a party.
2. duly executed original Secured Promissory Notes in favor of each Lender with a face amount equal to such Lender's Applicable Commitment under each Credit Facility;
3. certified copies, dated as of a recent date, of financing statement searches, as Agent shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;
4. the Perfection Certificate executed by Borrower;
5. a legal opinion of Borrower's counsel dated as of the Closing Date together with the duly executed original or .pdf signatures thereto;
6. evidence satisfactory to Agent that the insurance policies required by Article 6 are in full force and effect, together with appropriate evidence showing loss payable and/or additional insured clauses or endorsements in favor of Agent, for the ratable benefit of the Lenders;
7. payment of the fees and expenses of Agent and Lenders then accrued, including pursuant to the Fee Letters;
8. a duly executed original or .pdf Secretary's Certificate dated as of the Closing Date;
9. timely receipt by the Agent of an executed disbursement letter;
10. a certificate executed by a Responsible Officer of Borrower, in form and substance reasonably satisfactory to Agent;
11. all possessory collateral required to be delivered to Agent with corresponding endorsements pursuant to Section 4.2(b);
12. duly executed copies of the Revolving Credit Documents; and
13. UCC-1 financing statements naming each Borrower, as debtor, and Agent, as secured party, to be filed against such Borrower in the Office of the Secretary of State of Delaware.

DISCLOSURE SCHEDULE

[To be completed by Borrower]

Scheduled Collateral Accounts

Bank Name	Account Type	Account Number

Scheduled Permitted Liens

Debtor	Secured Party	Collateral	State and Jurisdiction	Filing Date and Number (include original file date and continuations, amendments, etc.)

Scheduled Permitted Indebtedness

Debtor	Creditor	Amount of Indebtedness outstanding as of _____ __, ____	Maturity Date

Schedule Permitted Investments

Debtor	Type of Investment	Date	Amount Outstanding as of _____

Scheduled Material Agreements

1.

2.

3.

Scheduled Litigation

1.

2.

3.

Scheduled ownership interest in any Chattel Paper, letter of credit rights, commercial tort claims, Instruments, documents or investment property

1.

2.

3

INTANGIBLE ASSETS SCHEDULE

INTELLECTUAL PROPERTY (REGISTRATIONS AND APPLICATIONS)				
Borrower that is Owner of IP	**Name / Identifier of IP**	**Type of IP (e.g., patent, TM, ©, mask work)**	**Registration/Publication or Application Number**	**Filing Date/Expiration Date**

INTANGIBLE ASSETS SCHEDULE (*CONTINUED*)

LICENSE AND SIMILAR AGREEMENTS

INBOUND LICENSE # 1 [COMPLETE FOR EACH AGREEMENT]	
Name and Date of License Agreement:	
Borrower that is Licensee:	
Name and address of Licensor:	
Expiration Date of License	
Exclusive License [Y/N]?	

Restrictions on:	**Right to Grant a Lien [Y/N]?**	
	Right to Assign [Y/N]?	
	Right to Sublicense [Y/N]?	
Does Default or Termination Affect Agent's Ability to sell [Y/N]?		

Describe Licensed Intellectual Property For This License			
Name / Identifier of IP	**Type of IP (e.g., patent, TM, ©, mask work)**	**Registration/ Publication or Application Number**	**Filing Date/Expiration Date**

INBOUND LICENSE # 2 [COMPLETE FOR EACH AGREEMENT]		
Name and Date of License Agreement:		
Borrower that is Licensee:		
Name and address of Licensor:		
Expiration Date of License		
Exclusive License [Y/N]?		
Restrictions on:	**Right to Grant a Lien [Y/N]?**	
	Right to Assign [Y/N]?	
	Right to Sublicense [Y/N]?	
Does Default or Termination Affect Agent's Ability to sell [Y/N]?		

Describe Licensed Intellectual Property For This License			
Name / Identifier of IP	**Type of IP (e.g., patent, TM, ©, mask work)**	**Registration/ Publication or Application Number**	**Filing Date/Expiration Date**

[REPEAT ABOVE FOR EACH INBOUND LICENSE AGREEMENT]

OUTBOUND LICENSE # 1 [COMPLETE FOR EACH AGREEMENT]			
Name and Date of License Agreement:			
Borrower that is Licensor:			
Name and address of Licensee:			
Expiration Date of License			
Exclusive License [Y/N]?			
Restrictions on:	**Right to Grant a Lien [Y/N]?**		
	Right to Assign [Y/N]?		
	Right to Sublicense [Y/N]?		
Does Default or Termination Affect Agent's Ability to sell [Y/N]?			
Describe Licensed Intellectual Property For This License			
Name / Identifier of IP	**Type of IP (e.g., patent, TM, ©, mask work)**	**Registration/ Publication or Application Number**	**Filing Date/Expiration Date**

[REPEAT ABOVE FOR EACH OUTBOUND LICENSE AGREEMENT]

PRODUCTS SCHEDULE

REQUIRED PERMITS SCHEDULE

CREDIT AND SECURITY AGREEMENT

THIS CREDIT AND SECURITY AGREEMENT (as the same may be amended, supplemented, restated or otherwise modified from time to time, the "**Agreement**") is dated as of July 18, 2017 by and among **SAREPTA THERAPEUTICS, INC.**, a Delaware corporation ("**Sarepta**"), and any additional borrower that may hereafter be added to this Agreement (each individually as a "**Borrower**", and collectively as "**Borrowers**"), **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust, individually as a Lender, and as Agent, and the financial institutions or other entities from time to time parties hereto, each as a Lender.

RECITALS

Borrowers have requested that Lenders make available to Borrowers the financing facilities as described herein. Lenders are willing to extend such credit to Borrowers under the terms and conditions herein set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, Borrowers, Lenders and Agent agree as follows:

ARTICLE 1 - DEFINITIONS

Certain Defined Terms

. The following terms have the following meanings:

"**Acceleration Event**" means the occurrence of an Event of Default (a) in respect of which Agent has declared all or any portion of the Obligations to be immediately due and payable pursuant to Section 10.2, (b) pursuant to Section 10.1(a), and in respect of which Agent has suspended or terminated the Revolving Loan Commitment pursuant to Section 10.2, and/or (c) pursuant to Section 10.1(f).

"**Access Agreement**" means a landlord consent, bailee letter or warehouseman's letter, in form and substance reasonably satisfactory to Agent, in favor of Agent executed by such landlord, bailee or warehouseman, as applicable, for any third party location.

"**Account Debtor**" means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

"**Accounts**" means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), Intellectual Property, rights, remedies, Guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under the Financing Documents in respect of the foregoing, (d) all information and data compiled or derived by any Borrower or to which any Borrower is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

"**Additional Tranche**" means an additional amount of Revolving Loan Commitment equal to $20,000,000 (it being acknowledged that multiple Additional Tranches are permitted pursuant to Section 2.1(f) in minimum amounts of $1,000,000 each for a total of up to $20,000,000).

"**Affected Lender**" has the meaning set forth in Section 11.17(c).

"**Affiliate**" means, with respect to any Person, (a) any Person that directly or indirectly controls such Person, (b) any Person which is controlled by or is under common control with such controlling Person, and (c) each of such Person's (other than, with respect to any Lender, any Lender's) officers or directors (or Persons functioning in substantially similar roles) and the spouses, parents, descendants and siblings of such officers, directors or other Persons.

"**Agent**" means MCF, in its capacity as administrative agent for itself and for Lenders hereunder, as such capacity is established in, and subject to the provisions of, Article 11, and the successors and assigns of MCF in such capacity.

"**Anti-Terrorism Laws**" means any Laws relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by OFAC.

"**Applicable Margin**" means with respect to Revolving Loans and all other Obligations three and 95/100 percent (3.95%).

"**Banking Services**" means commercial banking services, including, without limitation, to (a) commercial credit cards, other commercial cards and purchase cards, (b) excess cash, investments, foreign exchange and merchant services, (c) cash management services (including, without limitation, maintenance of Collateral Accounts) and (d) other payment services (including, without limitation, electronic payment service, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

"**Banking Services Indebtedness**" means Debt incurred by Sarepta under Banking Services in aggregate amount not to exceed $1,000,000 of which $750,000 shall be cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts.

"**Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy", as the same may be amended, modified or supplemented from time to time, and any successor statute thereto.

"**Base LIBOR Rate**" means, for each Interest Period, the rate per annum, determined by Agent in accordance with its customary procedures, and utilizing such electronic or other quotation sources as it considers appropriate (rounded upwards, if necessary, to the next 1/100%), to be the rate at which Dollar deposits (for delivery on the first day of such Interest Period or, if such day is not a Business Day on the preceding Business Day) in the amount of $1,000,000 are offered to major banks in the London interbank market on or about 11:00 a.m. (Eastern time) two (2) Business Days prior to the commencement of such Interest Period, for a term comparable to such Interest Period, which determination shall be conclusive in the absence of manifest error.

"**Base Rate**" means the per annum rate of interest announced, from time to time, within Wells Fargo at its principal office in San Francisco as its "prime rate," with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate; *provided, however,* that Agent may, upon prior written notice to Borrower, choose a reasonably comparable index or source to use as the basis for the Base Rate.

"**Blocked Person**" means any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) 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, (c) with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, or (e) that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list or is named as a "listed person" or "listed entity" on other lists made under any Anti-Terrorism Law.

"**Books**" means all of books and records of a Person, including ledgers, federal and state tax returns, records regarding the Person's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrower**" and "**Borrowers**" mean the entity(ies) described in the first paragraph of this Agreement and each of their successors and permitted assigns.

"**Borrower Representative**" means Sarepta Therapeutics, Inc., in its capacity as Borrower Representative pursuant to the provisions of Section 2.9, or any successor Borrower Representative selected by Borrowers and approved by Agent.

"**Borrowing Base**" means:

(a) with respect to borrowings of the Revolving Loans, during the Initial Borrowing Period:

(i) the product of eighty-five percent (85%) multiplied by the aggregate amount of Borrower's gross accounts receivable (as defined in accordance with GAAP), which, in all cases, (x) were generated by Borrower in the Ordinary Course of Business, (y) are owed by an Account Debtor with its principal place of business inside the United States, (z) are payable in U.S. dollars, and (aa) are not either unbilled or unpaid more than 45 days past the invoice due date; *plus*

(ii) the product of five percent (5%) multiplied by the aggregate amount of Borrower's total Inventory (as defined in accordance with GAAP), which, in all cases is located in the continental United States; *minus*

(iii) the amount of any reserves and/or adjustments provided for in this Agreement.

(b) with respect to borrowings of the Revolving Loans, on and after the Borrowing Base Audit Completion Date:

(i) the product of (i) eighty-five percent (85%) *multiplied by* (ii) the aggregate net amount at such time of the Eligible Accounts; *plus*

(ii) subject to the proviso contained below as part of this definition, the lesser of (i) forty percent (40%) *multiplied by* the Orderly Liquidation Value of the Eligible Inventory, or (ii) forty percent (40%) *multiplied by* the value of the Eligible Inventory, valued at the lower of first-in-first-out cost or market cost, and after factoring in all rebates, discounts and other incentives or rewards associated with the purchase of the applicable Inventory; *minus*

(iii) the amount of any reserves and/or adjustments provided for in this Agreement.

Provided, that (x) the Eligible Inventory component set forth in (b)(ii) shall not at any time exceed the lesser of 20% of the Borrowing Base and $8,000,000 and (y) the Borrowing Base calculated on any date on or after the Borrowing Base Audit Completion Date will be adjusted down in any manner (including, without limitation, adjusting the criteria for Eligible Accounts and Eligible Inventory) if necessary in Agent's good faith credit judgment and discretion based on the audits, valuations and/or appraisals of the Collateral provided to Agent on the Borrowing Base Audit Completion Date.

"**Borrowing Base Audit Completion Date**" means the date on which the audits, valuations and/or appraisals of the Collateral are first completed by or at the direction of Agent following the Closing Date.

"**Borrowing Base Certificate**" means, during the Initial Borrowing Period, each certificate, duly executed by a Responsible Officer of Borrower Representative, in the form attached hereto as Exhibit C. On and after the Borrowing Base Audit Completion Date, a form of Borrowing Base Certificate reasonably agreed between Agent and

Borrower Representative shall be attached to this Agreement as Exhibit C as a replacement thereof and shall be used for each borrowing of the Revolving Loans occurring thereafter.

"**Business Day**" means any day that is not (a) a Saturday or Sunday or (b) a day on which Agent is closed.

"**CERCLA**" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. § 9601 *et seq*., as the same may be amended from time to time.

"CFC" means a Person that is a controlled foreign corporation under Section 957 of the Code and any of such Person's Subsidiaries.

"CFC Holdco" means any Subsidiary of Borrower or a Secured Guarantor substantially all the assets of which consist of equity interests in, or intercompany loans permitted pursuant to this Agreement and owed by, CFCs or other CFC Holdcos.

"**Change in Control**" means any event, transaction, or occurrence as a result of which (a) any "person" (as such term is defined in Sections 3(a)(9) and 13(d)(3) of the Exchange Act), other than a trustee or other fiduciary holding securities under an employee benefit plan of Borrower, is or becomes a beneficial owner (within the meaning Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Borrower, representing thirty-five percent (35%) or more of the combined voting power of Borrower's then outstanding securities; (b) during any period of twelve consecutive calendar months, individuals who at the beginning of such period constituted the board of directors or board of managers or similar governing Person(s) of Borrower (together with any new directors or managers whose election by the board of directors or board of managers or similar governing Person(s) of Borrower was approved by a vote of not less than a majority of the directors or managers then still in office who either were directors or managers at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason other than death or disability to constitute a majority of the directors or managers then in office; (c) Borrower or any of its direct or indirect Subsidiaries ceases to own and control, directly or indirectly, all of the economic and voting rights associated with the outstanding securities of each of its Subsidiaries; or (d) the occurrence of any "change in control" or any term or provision of similar effect under any Subordinated Debt Document, the Term Credit Documents or Borrower's Organizational Documents.

"**Closing Date**" means the date of this Agreement.

"**CMS**" means the federal Centers for Medicare and Medicaid Services (formerly the federal Health Care Financing Administration), and any successor Governmental Authority.

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

"**Collateral**" means all property, now existing or hereafter acquired, mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto. For the avoidance of doubt, Collateral shall not include (a) the real property owned in fee simple by Borrower located at 1749 SW Airport Way, Corvallis, Oregon or 100 Federal Street, Andover, Massachusetts, (b) any real property owned in fee simple by Borrower or any Secured Guarantor that does not constitute Material Real Property or (c) any leasehold interests of Borrower or any Secured Guarantor, as lessee.

"**Collateral Account**" means any Deposit Account, Securities Account or Commodity Account.

"**Commitment Annex**" means Annex A to this Agreement.

"**Commitment Expiry Date**" means the earlier of (i) the date that all of the Term Credit Obligations are either paid in full or declared due and payable or (ii) June 1, 2021.

"**Commodity Account**" means a "commodity account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of any Borrower.

"**Compliance Certificate**" means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit B hereto.

"**Consolidated Subsidiary**" means, at any date, any Subsidiary the accounts of which would be consolidated with those of Borrower (or any other Person, as the context may require hereunder) in its consolidated financial statements if such statements were prepared as of such date.

"**Contingent Obligation**" means, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other monetary obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the Ordinary Course of Business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" means a Securities Account Control Agreement or Deposit Account Control Agreement, as applicable.

"**Credit Exposure**" means, at any time, any portion of the Revolving Loan Commitment, and of any other Obligations that remains outstanding; *provided*, *however*, that no Credit Exposure shall be deemed to exist solely due to the existence of contingent indemnification liability, absent the assertion of a claim, or the known existence of a claim reasonably likely to be asserted, with respect thereto.

"**Credit Party**" means any Borrower, any Guarantor under a guarantee of the Obligations or any part thereof (including, without limitation, a Secured Guarantor) and any other Person (other than Agent, a Lender or a participant of a Lender), whether now existing or hereafter acquired or formed, that becomes expressly obligated as a borrower, guarantor, surety, pledgor or other similar obligor under any Financing Document, and any Person whose equity interests or portion thereof have been pledged or hypothecated to Agent under any Financing Document; and "**Credit Parties**" means all such Persons, collectively.

"**DEA**" means the Drug Enforcement Administration of the United States of America, and any successor agency thereof.

"**Debt**" of a Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business, (d) all capital leases of such Person, (e) all non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker's acceptance or similar instrument, (f) all equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (g) all obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (h) when determinable under GAAP, "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (i) all Debt of others guaranteed by such Person, (j) off-balance sheet liabilities and/or Pension Plan or Multiemployer Plan liabilities of such Person, (k) when determinable under GAAP, obligations arising under non-compete agreements, (l) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business and (m) all Contingent Obligations. Without duplication of any of the foregoing, Debt of Borrowers shall include any and all Loans.

"**Default**" means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"**Defaulted Lender**" has the meaning set forth in Section 11.20.

"**Deficiency Amount**" has the meaning set forth in Section 2.10(e).

"**Deposit Account**" means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of any Borrower.

"**Deposit Account Control Agreement**" means an agreement, in form and substance satisfactory to Agent, among Agent, any Borrower and each financial institution in which such Borrower maintains a Deposit Account, which agreement provides that (a) such financial institution shall comply with instructions originated by Agent directing disposition of the funds in such Deposit Account without further consent by the applicable Borrower, and (b) such financial institution shall agree that it shall have no Lien on, or right of setoff or recoupment against, such Deposit Account or the contents thereof, other than in respect of usual and customary service fees and returned items for which Agent has been given value, in each such case expressly consented to by Agent, and containing such other terms and conditions as Agent may require, including as to any such agreement pertaining to any Lockbox Account, providing that such financial institution shall wire, or otherwise transfer, in immediately available funds, on a daily basis to the Payment Account all funds received or deposited into such Lockbox or Lockbox Account.

"**Deposit Account Restriction Agreement**" means an agreement, in form and substance reasonably satisfactory to Agent, among Agent, Borrower and each bank in which the Borrower maintains a Deposit Account and into which Deposit Account proceeds of Accounts from Governmental Account Debtors are paid directly by the Governmental Account Debtor, and which agreement provides that such bank shall not enter into an agreement with respect to such Deposit Account pursuant to which the bank agrees to comply with instructions originated by any Person, other than the Borrower that owns the Deposit Account, directing disposition of the funds in such Deposit Account, and containing such other terms and conditions as Agent may reasonably require, including as to any such agreement pertaining to any Lockbox Account, providing that such bank shall wire, or otherwise transfer, in immediately available funds, on a daily basis to the Payment Account and/or a Lockbox Account subject to a Deposit Account Control Agreement (as Agent shall elect and direct at the time such agreement is signed) all funds received or deposited into such Lockbox Account and associated Lockbox unless the Borrower shall otherwise instruct the bank in writing, subject to the limitations set forth in the Deposit Account Restriction Agreement and the other Financing Documents.

"**Disclosure Schedules**" has the meaning set forth in Section 3.9.

"**Disqualified Stock**" means any equity interests which, by its terms (or by the terms of any security or other equity interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the Termination Date (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event results in the payment in full of the Obligations and the occurrence of the Revolving Credit Obligations Termination), (b) is convertible into or exchangeable for (i) debt securities or (ii) any equity interests referred to in (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the Termination Date at the time such equity interests were issued and (c) is entitled to receive scheduled dividends or distributions in cash prior to the date that is ninety-one (91) days following the Termination Date (except for dividends or distributions permitted by the terms of this Agreement).

"**Distribution**" means as to any Person (a) any dividend or other distribution (whether in cash, securities or other property) on any equity interest in such Person (except those payable solely in its equity interests of the same class), (b) any payment by such Person on account of (i) the purchase, redemption, retirement, defeasance, surrender, cancellation, termination or acquisition of any equity interests in such Person or any claim respecting the purchase or sale of any equity interest in such Person, or (ii) any option, warrant or other right to acquire any equity interests in such Person, (c) any management fees, salaries or other fees or compensation to any Person holding an equity interest in a Borrower or a Subsidiary of a Borrower (other than reasonable and customary (i) payments of salaries to individuals, (ii) directors fees, and (iii) advances and reimbursements to employees or directors, all in the Ordinary Course of Business), an Affiliate of a Borrower or an Affiliate of any Subsidiary of a Borrower, (d) any lease or rental payments to an Affiliate or Subsidiary of a Borrower, or (e) repayments of or debt service on loans or other

indebtedness held by any Person holding an equity interest in a Borrower or a Subsidiary of a Borrower, an Affiliate of a Borrower or an Affiliate of any Subsidiary of a Borrower unless permitted under and made pursuant to a Subordination Agreement applicable to such loans or other indebtedness.

"**DMD Agreements**" has the meaning set forth in Section 4.15(e).

"**DMD Assets**" means all property and assets of any Credit Party, including, without limitation, all Intellectual Property and license agreements, relating to the treatment of Duchenne Muscular Dystrophy.

"**Dollars**" or "**$**" means the lawful currency of the United States of America.

"**Drug Application**" means a new drug application, an abbreviated drug application, or a product license application for any Product, as appropriate, as those terms are defined in the FDCA.

"**Eligible Account**" means, subject to the criteria below, an account receivable of a Borrower, which was generated in the Ordinary Course of Business, which was generated originally in the name of a Borrower and not acquired via assignment or otherwise, and which Agent, in its commercially reasonable credit judgment and discretion, deems to be an Eligible Account. The net amount of an Eligible Account at any time shall be (a) the face amount of such Eligible Account as originally billed *minus* all cash collections and other proceeds of such Account received from or on behalf of the Account Debtor thereunder as of such date and any and all returns, rebates, discounts (which may, at Agent's option, be calculated on shortest terms), credits, allowances or excise taxes of any nature at any time issued, owing, claimed by Account Debtors, granted, outstanding or payable in connection with such Accounts at such time, and (b) adjusted by applying percentages (known as "**liquidity factors**") by payor and/or payor class based upon the applicable Borrower's actual recent collection history for each such payor and/or payor class in a manner consistent with Agent's underwriting practices and procedures. Such liquidity factors may be adjusted by Agent from time to time as warranted by Agent's underwriting practices and procedures and using Agent's commercially reasonable credit judgment. Without limiting the generality of the foregoing, no Account shall be an Eligible Account if:

(a) the Account remains unpaid more than ninety (90) days past the claim or invoice date (but in no event more than one hundred and twenty (120) days after the applicable goods or services have been rendered or delivered)' provided that Agent may shorten the foregoing periods, in its commercially reasonable credit judgment, based upon audits conducted following the Closing Date;

(b) the Account is subject to any defense, set-off, recoupment, counterclaim, deduction, discount, credit, chargeback, freight claim, allowance, or adjustment of any kind (but only to the extent of such defense, set-off, recoupment, counterclaim, deduction, discount, credit, chargeback, freight claim, allowance, or adjustment), or the applicable Borrower is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process;

(c) if the Account arises from the sale of goods, any part of any goods the sale of which has given rise to the Account has been returned, rejected, lost, or damaged (but only to the extent that such goods have been so returned, rejected, lost or damaged);

(d) if the Account arises from the sale of goods, the sale was not an absolute, bona fide sale, or the sale was made on consignment or on approval or on a sale-or-return or bill-and-hold or progress billing basis, or the sale was made subject to any other repurchase or return agreement, or the goods have not been shipped to the Account Debtor or its designee or the sale was not made in compliance with applicable Laws;

(e) if the Account arises from the performance of services, the services have not actually been performed or the services were undertaken in violation of any Law or the Account represents a progress billing for which services have not been fully and completely rendered;

(f) the Account is subject to a Lien other than a Permitted Lien, or Agent does not have a first priority, perfected Lien on such Account;

(g) the Account is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment, unless such Chattel Paper or Instrument has been delivered to Agent;

(h) the Account Debtor is an Affiliate or Subsidiary of a Credit Party, or if the Account Debtor holds any Debt of a Credit Party;

(i) more than fifty percent (50%) of the aggregate balance of all Accounts owing from the Account Debtor obligated on the Account are ineligible under subclause (a) above (in which case all Accounts from such Account Debtor shall be ineligible);

(j) without limiting the provisions of clause (i) above, fifty percent (50%) or more of the aggregate unpaid Accounts from the Account Debtor obligated on the Account are not deemed Eligible Accounts under this Agreement for any reason;

(k) the total unpaid Accounts of the Account Debtor obligated on the Account exceed twenty percent (20%) of the net amount of all Eligible Accounts owing from all Account Debtors (but only the amount of the Accounts of such Account Debtor exceeding such twenty percent (20%) limitation shall be considered ineligible);

(l) any covenant, representation or warranty contained in the Financing Documents with respect to such Account has been breached in any respect;

(m) the Account is unbilled or has not been invoiced to the Account Debtor in accordance with the procedures and requirements of the applicable Account Debtor;

(n) the Account is an obligation of a Governmental Account Debtor, unless Agent has agreed to the contrary in writing and Agent has received from the Account Debtor the acknowledgement of Agent's notice of assignment of such obligation pursuant to this Agreement;

(o) the Account is an obligation of an Account Debtor that has suspended business, made a general assignment for the benefit of creditors, is unable to pay its debts as they become due or as to which a petition has been filed (voluntary or involuntary) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or the Account is an Account as to which any facts, events or occurrences exist which could reasonably be expected to impair the validity, enforceability or collectability of such Account or reduce the amount payable or delay payment thereunder;

(p) the Account Debtor has its principal place of business or executive office outside the United States;

(q) the Account is payable in a currency other than United States dollars;

(r) the Account Debtor is an individual;

(s) the Borrower owning such Account has not signed and delivered to Agent notices, in the form requested by Agent, directing the Account Debtors to make payment to the applicable Lockbox Account; provided however, that no Accounts shall be deemed ineligible solely for failure to satisfy the requirements of this clause (s) during the Lockbox Post-Closing Period;

(t) the Account includes late charges or finance charges (but only such portion of the Account shall be ineligible);

(u) the Account arises out of the sale of any Inventory upon which any other Person holds, claims or asserts a Lien (except for Liens granted to the Term Credit Agent pursuant to the Term Credit Documents or otherwise to secure the Term Credit Obligations); or

(v) the Account or Account Debtor fails to meet such other specifications and requirements which may from time to time be established by Agent in its commercially reasonable credit judgment and discretion.

"**Eligible Assignee**" has the meaning set forth in Section 11.20.

"**Eligible Inventory**" means Inventory owned by a Borrower and acquired and dispensed by such Borrower in the Ordinary Course of Business that Agent, in its commercially reasonable credit judgment and discretion, deems to be Eligible Inventory. Without limiting the generality of the foregoing, no Inventory shall be Eligible Inventory if:

(a) such Inventory is not owned by a Borrower free and clear of all Liens and rights of any other Person (including the rights of a purchaser that has made progress payments and the rights of a surety that has issued a bond to assure such Borrower's performance with respect to that Inventory);

(b) such Inventory is placed on consignment or is in transit;

(c) such Inventory is covered by a negotiable document of title, unless such document has been delivered to Agent with all necessary endorsements, free and clear of all Liens except those in favor of Agent;

(d) such Inventory is excess, obsolete, unsalable, shopworn, seconds, damaged, unfit for sale, unfit for further processing, is of substandard quality or is not of good and merchantable quality, free from any defects;

(e) such Inventory consists of marketing materials, display items or packing or shipping materials or manufacturing supplies or Work-In-Process;

(f) such Inventory is not subject to a first priority Lien in favor of Agent;

(g) such Inventory consists of goods that can be transported or sold only with licenses that are not readily available or of any substances defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic substance, or similar term, by any environmental law or any Governmental Authority applicable to Borrowers or their business, operations or assets;

(h) such Inventory is not covered by casualty insurance acceptable to Agent;

(i) any covenant, representation or warranty contained in the Financing Documents with respect to such Inventory has been breached in any material respect;

(j) such Inventory is located (i) outside of the continental United States or (ii) on premises where the aggregate amount of all Inventory (valued at cost) of Borrowers located thereon is less than $10,000;

(k) such Inventory is located on premises with respect to which Agent has not received an Access Agreement or mortgagee letter acceptable in form and substance to Agent;

(l) such Inventory consists of (A) discontinued items, (B) slow-moving or excess items held in inventory, or (C) used items held for resale;

(m) such Inventory does not consist of finished goods;

(n) such Inventory does not meet all standards imposed by any Governmental Authority, including with respect to its production, acquisition or importation (as the case may be);

(o) such Inventory has an expiration date within the next three (3) months;

(p) such Inventory consists of products for which Borrowers have a greater than six (6) month supply on hand;

(q) such Inventory is held for rental or lease by or on behalf of Borrowers;

(r) such Inventory is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third parties, which agreement restricts the ability of Agent or any Lender to sell or otherwise dispose of such Inventory; or

(s) such Inventory fails to meet such other specifications and requirements which may from time to time be established by Agent in its commercially reasonable credit judgment. Agent and Borrowers agree that Inventory shall be subject to periodic appraisal by Agent and that valuation of Inventory shall be subject to adjustment pursuant to the results of such appraisal. Notwithstanding the foregoing, the valuation of Inventory shall be subject to any legal limitations on sale and transfer of such Inventory.

"**Environmental Laws**" shall mean each present and future law (statutory or common), ordinance, treaty, rule, regulation, order, policy, other legal requirement or determination of an arbitrator or of a Governmental Authority and/or Required Permits imposing liability or standards of conduct for or relating to the regulation and protection of the environment and natural resources, and related environmental risks to human health, safety and the workplace, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

"**Equipment**" means all "equipment", as defined in Article 9 of the UCC, with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers) and any interest in any of the foregoing.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

"**ERISA Affiliate**" has the meaning set forth in Section 3.6.

"**Event of Default**" has the meaning set forth in Section 10.1.

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to the Agent or a Lender or required to be withheld or deducted from a payment to a the Agent or a Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Revolving Loan Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Revolving Loan Commitment or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.8(a), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, and (c) any Taxes imposed under FATCA.

"**Existing DMD Agreements**" has the meaning set forth in Section 4.15(e).

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"**FDA**" means the Food and Drug Administration of the United States of America, any comparable state or local Government Authority, any comparable Government Authority in any non-United States jurisdiction, and any successor agency of any of the foregoing.

"**FDCA**" means the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. Section 301 et seq., and all regulations promulgated thereunder.

"**Fee Letter**" means one or more letter agreements, if any, between Agent and Borrower relating to fees payable to Agent, for its own account, in connection with this Agreement.

"**Financing Documents**" means this Agreement, the Perfection Certificate, any Notes, the Security Documents, the Fee Letter, the Intercreditor Agreement, any Mortgages, any other subordination or intercreditor agreement pursuant to which any Debt and/or any Liens securing such Debt is subordinated to all or any portion of the Obligations and all other documents, instruments and agreements related to the Obligations and heretofore executed, executed concurrently herewith or executed at any time and from time to time hereafter, as any or all of the same may be amended, supplemented, restated or otherwise modified from time to time.

"**Foreign Subsidiary**" means any Subsidiary organized under the laws of any jurisdiction other than a political subdivision of the United States.

"**Fraudulent Conveyance**" has the meaning set forth in Section 2.10(b).

"**GAAP**" means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the United States accounting profession), which are applicable to the circumstances as of the date of determination.

"**General Intangible**" means all "general intangibles", as defined in the UCC, with such additions to such term as may hereafter be made, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable Law, any applications therefor, whether registered or not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including, without limitation, key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

"**Good Manufacturing Practices**" means current good manufacturing practices, as set forth in 21 C.F.R. Parts 210 and 211.

"**Governmental Account Debtor**" means any Account Debtor that is a Governmental Authority, including, without limitation, Medicare and Medicaid.

"**Governmental Authority**" means any nation or government, any state, local or other political subdivision thereof, and any agency, department or Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other Person owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing, whether domestic or foreign.

"**Guarantee**" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any monetary obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise), or (b) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided*, *however*, that the term Guarantee shall not include endorsements

for collection or deposit in the Ordinary Course of Business. The term "**Guarantee**" used as a verb has a corresponding meaning.

"**Guarantor**" means any Credit Party that has executed or delivered, or shall in the future execute or deliver, any Guarantee of any portion of the Obligations.

"**Hazardous Materials**" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which is prohibited by any Environmental Laws; toxic mold, any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," "pollutant" or other words of similar import within the meaning of any Environmental Law, including: (a) any "hazardous substance" defined as such in (or for purposes of) CERCLA, or any so-called "superfund" or "superlien" Law, including the judicial interpretation thereof; (b) any "pollutant or contaminant" as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as "hazardous waste" pursuant to 40 C.F.R. Part 260; (d) any petroleum or petroleum by-products, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any "hazardous chemical" as defined pursuant to 29 C.F.R. Part 1910; (g) any toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls ("**PCB's**"), flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents); and (h) any other toxic substance or contaminant that is subject to any Environmental Laws or other past or present requirement of any Governmental Authority.

"**Hazardous Materials Contamination**" means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

"**Healthcare Laws**" means all applicable Laws relating to the procurement, development, provision, clinical and non-clinical evaluation or investigation, product approval or clearance, manufacture, production, analysis, distribution, dispensing, importation, exportation, use, handling, quality, reimbursement, sale, labeling, advertising, promotion, or postmarket requirements of any drug, medical device, clinical laboratory service, food, dietary supplement, or other product (including, without limitation, any ingredient or component of, or accessory to, the foregoing products) subject to regulation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. et seq.), Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. §263a et seq) and its implementing regulations (42 C.F.R. Part 493) and similar state or foreign laws, controlled substances laws, pharmacy laws, consumer product safety laws, Medicare, Medicaid, and all laws, policies, procedures, requirements and regulations pursuant to which Permits are issued, in each case, as the same may be amended from time to time.

"**Healthcare Permit**" means a Permit (a) issued or required under Healthcare Laws applicable to the business of any Borrower or any of its Subsidiaries or necessary in the possession, ownership, warehousing, marketing, promoting, sale, labeling, furnishing, distribution or delivery of goods or services under Healthcare Laws applicable to the business of any Borrower or any of its Subsidiaries, (b) issued by any Person from which any Borrower has, as of the Closing Date, received an accreditation, and/or (c) issued or required under Healthcare Laws applicable to the ownership or operation of any business location of a Borrower.

"**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

"**HIPAA Compliant**" shall mean that the applicable Person is in compliance with each of the applicable requirements of the so-called "Administrative Simplification" provisions of HIPAA, and is not and could not reasonably be expected to become the subject of any civil or criminal penalty, process, claim, action or proceeding, or any administrative or other regulatory review, survey, process or proceeding (other than routine surveys or reviews

conducted by any government health plan or other accreditation entity) that could result in any of the foregoing or that could reasonably be expected to adversely affect such Person's business, operations, assets, properties or condition (financial or otherwise), in connection with any actual or potential violation by such Person of the provisions of HIPAA.

"**Indemnitees**" has the meaning set forth in Section 12.14(b).

"**Initial Borrowing Period**" means the period beginning on the Closing Date and ending on the earlier of (a) sixty (60) days after the Closing Date (or such later date as Agent may agree in writing in its sole discretion) and (b) the Borrowing Base Audit Completion Date.

"**Instrument**" means "instrument", as defined in Article 9 of the UCC.

"**Intellectual Property**" means all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, patent applications and like protections, including improvements, divisions, continuations, renewals, reissues, extensions, and continuations-in-part of the same, trademarks, trade names, service marks, mask works, rights of use of any name, domain names, or any other similar rights, any applications therefor, whether registered or not, know-how, operating manuals, trade secret rights, clinical and non-clinical data, rights to unpatented inventions, and any claims for damage by way of any past, present, or future infringement of any of the foregoing.

"**Intercompany Loans**" has the meaning set forth in Section 2.9.

"**Intercreditor Agreement**" means that certain Intercreditor Agreement dated as of the date hereof by and between the Agent and the administrative agent under the Term Credit Documents.

"**Interest Period**" means any period commencing on the first day of a calendar month and ending on the last day of such calendar month.

"**Inventory**" means all "inventory", as defined in the UCC, with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

"**Investment**" means, with respect to any Person, directly or indirectly, (a) to purchase or acquire any stock or stock equivalents, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Subsidiary, (b) to make or commit to make any acquisition (including through licensing) of (i) all or substantially all of the assets of another Person, or (ii) any business, Product, business line or product line, division or other unit operation of any Person or (c) make or purchase any advance, loan, extension of credit or capital contribution to, or any other similar investment in, any Person.

"**Joinder Requirements**" has the meaning set forth in Section 4.8.

"**Laws**" means any and all federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, which are applicable to any Credit Party in any particular circumstance. "**Laws**" includes, without limitation, Healthcare Laws and Environmental Laws.

"**Lender**" means each of (a) if applicable, MCF, in its capacity as a lender hereunder, (b) each other Person party hereto in its capacity as a lender hereunder, (c) each other Person that becomes a party hereto as Lender pursuant to Section 11.17, and (d) the respective successors of all of the foregoing, and "**Lenders**" means all of the foregoing.

"**LIBOR Rate**" means, for each Loan, a per annum rate of interest equal to the greater of (a) 1.00% and (b) the rate determined by Agent (rounded upwards, if necessary, to the next 1/100th%) by *dividing* (i) the Base LIBOR

Rate for the Interest Period, *by* (ii) the sum of one *minus* the daily average during such Interest Period of the aggregate maximum reserve requirement (expressed as a decimal) then imposed under Regulation D of the Board of Governors of the Federal Reserve System (or any successor thereto) for "Eurocurrency Liabilities" (as defined therein).

"**Lien**" means a claim, mortgage, deed of trust, lien, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of Law or otherwise against any property. For the purposes of this Agreement and the other Financing Documents, any Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"**Loan Account**" has the meaning set forth in Section 2.6(b).

"**Loan(s)**" means the Revolving Loans.

"**Lockbox**" has the meaning set forth in Section 2.11.

"**Lockbox Account**" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid, which account or accounts shall be, if requested by Agent, opened in the name of Agent (or a nominee of Agent).

"**Lockbox Bank**" has the meaning set forth in Section 2.11.

"**Lockbox Post-Closing Period**" means the period beginning on the Closing Date and ending on the earlier of (a) sixty (60) days after the Closing Date (or such later date as Agent may agree in writing in its sole discretion) and (b) the date on which Borrowers shall have established Lockboxes and related Lockbox Accounts into which all collections of Accounts shall be deposited and shall have executed with the Lockbox Bank a Deposit Account Control Agreement or Deposit Account Restriction Agreement (as applicable) or such other agreements related to such Lockboxes as required under Section 4.13.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U, or X of the Board of Governors of the Federal Reserve System.

"**Market Withdrawal**" means a Person's removal or Correction of a distributed product which involves a minor violation that would not be subject to legal action by the FDA or which involves no violation, e.g., normal stock rotation practices, routine equipment adjustments and repairs, etc.

"**Material Adverse Effect**" means (a) a material impairment in the perfection or priority of the Agent's Lien (or any Lender's Lien therein to the extent provided for in the Financing Documents) in the Collateral; (b) a material impairment in the value of the Collateral; (c) a material and continuing adverse change in the business, operations, or financial condition of the Credit Parties, taken as a whole; or (d) a material impairment of the prospect of repayment of the Obligations.

"**Material Agreement**" means any agreement or contract to which such Credit Party or its Subsidiaries is a party the termination of which could reasonably be expected to result in a Material Adverse Effect, including those agreements set forth on Schedule 1.1(a) and the DMD Agreements.

"**Material Indebtedness**" has the meaning set forth in Section 10.1(e).

"**Material Intangible Asset**s" means (i) all of Borrower's and Secured Guarantor's Intellectual Property and (ii) each license or sublicense agreements or other agreements with respect to Borrower's or any Secured Guarantor's rights in Intellectual Property, that, in the case of each of clauses (i) and (ii), is material to the condition (financial or other), business or operations of Borrower or such Secured Guarantor.

"**Material Real Property**" has the meaning set forth in Section 9.2(g).

"**Maximum Lawful Rate**" has the meaning set forth in Section 2.7.

"**MCF**" means MidCap Financial Trust, a Delaware statutory trust, and its successors and assigns.

"**Medicaid**" means the medical assistance programs administered by state agencies and approved by CMS pursuant to the terms of Title XIX of the Social Security Act, codified at 42 U.S.C. 1396 et seq.

"**Medicare**" means the program of health benefits for the aged and disabled administered by CMS pursuant to the terms of Title XVIII of the Social Security Act, codified at 42 U.S.C. 1395 et seq.

"**Minimum Balance**" shall mean, at any time, an amount that equals the product of: (i) the average Borrowing Base (or, if less on any given day, the Revolving Loan Commitment) during the immediately preceding month *multiplied by* (ii) the Minimum Balance Percentage for such month.

"**Minimum Balance Fee**" shall mean a fee equal to (a) the positive difference, if any, remaining after subtracting (i) the average end-of-day principal balance of Revolving Loan Outstandings during the immediately preceding month (without giving effect to the clearance day calculations referenced above or in Section 2.2(a)) from (ii) the Minimum Balance *multiplied by* (b) the average interest rate applicable to the Revolving Loans during such month (*plus*, during the existence of an Event of Default, an incremental 3% per annum, to the extent set forth in Section 10.5).

"**Minimum Balance Percentage**" means fifty percent (50%).

"**Minimum Cash Amount**" has the meaning given it in Section 4.6(b).

"**Monthly Cash Burn Amount**" means, with respect to Borrower, an amount equal to Borrower's change in cash and cash equivalents, without giving effect to any increase resulting from contributions or proceeds of financings, for either (a) the immediately preceding eighteen (18) month period as determined as of the last day of the month immediately preceding the proposed consummation of the Permitted Acquisition and based upon the financial statements delivered to Agent in accordance with this Agreement for such period or (b) the immediately succeeding eighteen (18) month period based upon the Transaction Projections, using whichever calculation as between clause (a) and clause (b) demonstrates a higher burn rate (or, in other words, more cash used), in either case, divided by eighteen (18).

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on real property made by Borrower or a Secured Guarantor in favor of Agent to secure the Obligations.

"**Multiemployer Plan**" means any employee benefit plan of the type described in Section 4001(a)(3) or ERISA, to which any Credit Party or any ERISA Affiliate has at any time (whether presently or in the past) sponsored, maintained, contributed to, or had an obligation to make contributions to or to which any Credit Party or any ERISA Affiliate has any liability, contingent or otherwise.

"**Notes**" has the meaning set forth in Section 2.3.

"**Notice of Borrowing**" means a notice of a Responsible Officer of the Borrower Representative, appropriately completed and substantially in the form of Exhibit D hereto.

"**Obligations**" means (a) all obligations, liabilities and indebtedness (monetary (including, without limitation, the payment of interest and other amounts arising after the commencement of any case with respect to any Credit Party under the Bankruptcy Code or any similar statute which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case) or otherwise) of each Credit Party under this Agreement or any other Financing Document, in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due and (b) Banking Services Indebtedness in an amount not to exceed $250,000 that does not constitute

Banking Services Indebtedness cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts.

"**OFAC**" means the U.S. Department of Treasury Office of Foreign Assets Control.

"**OFAC Lists**" means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable executive orders.

"**Operative Documents**" means the Financing Documents, Term Credit Documents, Subordinated Debt Documents, and any documents effecting any purchase or sale or other transaction that is closing contemporaneously with the closing of the financing under this Agreement.

"**Orderly Liquidation Value**" means the net amount (after all costs of sale), expressed in terms of money, which Agent, in its commercially reasonable discretion, estimates can be realized from a sale, as of a specific date, given a reasonable period to find a purchaser(s), with the seller being compelled to sell on an as-is/where-is basis.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Credit Party, the ordinary course of business of such Credit Party, as conducted by such Credit Party in accordance with past practices or then current business practices set forth or reflected in the most recent operating plan of Borrower, which shall in any event be at arms-length (including as arm's length capital contributions and other Permitted Investments in Subsidiaries).

"**Organizational Documents**" means, with respect to any Person other than a natural person, the documents by which such Person was organized (such as a certificate of incorporation, certificate of limited partnership or articles of organization, and including, without limitation, any certificates of designation for preferred stock or other forms of preferred equity) and which relate to the internal governance of such Person (such as by-laws, a partnership agreement or an operating, limited liability company or members agreement), including any and all shareholder agreements or voting agreements relating to the capital stock or other equity interests of such Person.

"**Other Connection Taxes**" means, with respect to any Agent or Lender, Taxes imposed as a result of a present or former connection between such Agent or Lender and the jurisdiction imposing such Tax (other than connections arising from such Agent or Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement, or sold or assigned an interest in any Obligation hereunder).

"**Participant**" has the meaning set forth in Section 11.17(b).

"**Payment Account**" means the account specified on the signature pages hereof into which all payments by or on behalf of each Borrower to Agent under the Financing Documents shall be made, or such other account as Agent shall from time to time specify by notice to Borrower Representative.

"**PBGC**" means the Pension Benefit Guaranty Corporation and any Person succeeding to any or all of its functions under ERISA.

"**Pension Plan**" means any employee benefit pension plan that is subject to the minimum funding standards under Section 412 of the Code or is covered by Title IV of ERISA (including a Multiemployer Plan) that any Credit Party or any ERISA Affiliate has, at any time (whether presently or in the past) sponsored, maintained, contributed to, or had an obligation to make contributions to or to which any Credit Party or any ERISA Affiliate has any liability (contingent or otherwise).

"**Perfection Certificate**" means the Perfection Certificate delivered to Agent by the Borrowers as of the Closing Date, together with any amendments thereto required under this Agreement.

"**Permits**" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of a Credit Party required under all applicable Laws and required for such Credit Party in order to carry on its business as now conducted, including, without limitation, Healthcare Permits.

"**Permitted Acquisition**" means any acquisition by the Borrower or a Secured Guarantor of all of the stock or other ownership interests and stock equivalents of another Person, all or substantially all of the assets of another Person or any business, Product, business line or product line, division or other unit operation of any other Person (such Person or its assets, in this context, a "**Target**"), in each case for the primary purpose of acquiring businesses related to the business of the Borrower and to the extent that each of the following conditions shall have been satisfied:

(a) the Borrower shall have delivered to Agent and each Lender at least fifteen (15) days prior written notice (or such shorter period as Agent may determine in its sole discretion) before the execution of any documents (other than a non-binding summary of terms, letter of intent or similar agreement) related to such proposed acquisition, including a reasonably detailed description of the terms and conditions of such acquisition (which may be included in the notice provided);

(b) the Borrower shall have delivered to Agent as soon as available (and, in any case, prior to the consummation of such acquisition):

(i) such financial information and such other information, agreements, instruments and other documents relating to the pro forma business of the Target and Borrower as Agent shall reasonably request;

(ii) draft of the final or substantially final respective agreements, documents or instruments being entered into in connection with, or reasonably related to, the acquisition (including all exhibits, schedules, annexes, appendices or similar counterparts thereto); and

(iii) all consents and approvals from applicable Governmental Authorities and other Persons required under, or in order to consummate, the acquisition documents;

(c) Borrower shall and shall cause any other Credit Parties (including any new Subsidiary as required by Section 4.8) to execute and deliver the agreements, instruments and other documents required by Section 4.8 and as otherwise necessary or desirable by Agent to perfect Agent's Liens in respect of any new Collateral resulting from the acquisition;

(d) the total consideration paid or payable for all such acquisitions (including all transaction costs, stock or other ownership interests and stock equivalents of Borrower used as consideration for such acquisition, Debt or other liabilities incurred, assumed and/or reflected on the consolidated balance sheet of the Borrower and its Subsidiaries after giving effect to such acquisition and the maximum amount of all deferred payments, including earnouts, milestone payments and other contingent obligations associated with such acquisition, in each case, to the extent required to be carried as a liability on Borrower's balance sheet in accordance with GAAP) shall not exceed $15,000,000 in the aggregate for all such acquisitions (provided, that, for the avoidance of doubt, any Debt or other liabilities assumed must be otherwise expressly permitted pursuant to this Agreement); *provided, however*, that, in the case of each acquisition, Agent has received prior to the consummation of such acquisition updated financial projections, in form and substance reasonably satisfactory to Agent, for the immediately succeeding eighteen (18) months following the proposed consummation of the acquisition beginning with the month during which the acquisition is to be consummated (the "**Transaction Projections**") and evidence satisfactory to Agent that Borrower has, immediately before and immediately after giving effect to the consummation of such acquisition, unrestricted cash and/or cash equivalents in one or more Collateral Accounts subject to a Control Agreement in an aggregate amount equal to or greater than the sum of (A) the positive value of the product of (x) eighteen (18) multiplied by (y) the Monthly Cash Burn Amount, as determined as of the last day of the month immediately preceding such acquisition plus (B) the Minimum Cash Amount;

(e) such acquisition shall not be hostile and shall have been approved by the board of directors (or other similar body) and/or the stockholders or other equityholders of the Person being acquired, in each case as required by such Person's Organizational Documents;

(f) no Default or Event of Default shall have occurred, be continuing or would exist after giving effect to such acquisition;

(g) the acquisition would not result in a Change in Control;

(h) the Borrower or any Secured Guarantor shall be the surviving entity of such acquisition and the Target being acquired shall be a Person (but not a natural Person) organized and domiciled in the United States;

(i) the Target so acquired or the assets of the Target so acquired, as the case may be, shall be in or reasonably related or ancillary to the business of Borrower; and

(j) immediately prior to the consummation of the acquisition, the Borrower shall deliver a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Agent, certifying as to the foregoing conditions and providing true, correct and complete copies of the documents and instruments described in paragraph (b) of this definition of Permitted Acquisition, provided that for the documents delivered pursuant to (b)(ii), such documents shall be in final form when attached to such certificate.

"**Permitted Contest**" has the meaning set forth in Section 4.4.

"**Permitted Contingent Obligations**" means (a) Contingent Obligations resulting from endorsements for collection or deposit in the Ordinary Course of Business; (b) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (c) Contingent Obligations arising under indemnity agreements with title insurers; (d) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with dispositions of personal property assets permitted under Article 7; (e) Contingent Obligations arising under the Financing Documents; (f) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Contingent Obligations existing or arising under any swap contract, provided, however, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; (g) Contingent Obligations existing or arising in connection with any security deposit or letter of credit obtained for the purpose of securing a lease of real property, or in connection with ancillary bank services such as a corporate credit card facility, or to support worker's compensation obligations provided that the aggregate face amount of all such security deposits, letters of credit and ancillary bank services does not at any time exceed $2,000,000; and (h) other Contingent Obligations not permitted by clauses (a) through (g) above, not to exceed $1,000,000 in the aggregate at any time outstanding.

"**Permitted Convertible Indebtedness**" means Debt of the Borrower that is convertible into common stock of the Borrower in an aggregate amount not to exceed $300,000,000 during the term of this Agreement which has been subordinated and made junior to the payment in full of the Obligations, and evidenced by a Subordination Agreement or otherwise made subordinated and junior to the payment in full of the Obligations in a manner reasonably satisfactory to the Agent; provided that (a) at the time such Permitted Convertible Indebtedness is incurred, no Default or Event of Default has occurred or would occur as a result of such incurrence, (b) all necessary corporate, company, shareholder or similar actions shall be taken and consents obtained in connection with the issuance of such Permitted Convertible Indebtedness, (c) the issuance of such Permitted Convertible Indebtedness shall be consummated in compliance with all applicable Laws, (d) only one issuance of Permitted Convertible Indebtedness shall be permitted during the term of this Agreement and (e) the documentation evidencing such Permitted Convertible Indebtedness shall have been delivered to the Agent and shall contain all of the following characteristics: (i) it shall be (and shall remain) unsecured, (ii) it shall bear cash interest at a rate not to exceed the market rate as determined in good faith by the Borrower, and Borrower shall not make any cash interest payments in excess of such interest rate, (iii) it shall not have a maturity (and shall not require any principal repayments or mandatory redemption thereof) prior to the date that is 91 days after the Termination Date, (iv) if it has any covenants, such covenants (including covenants relating to incurrence of indebtedness) shall be less restrictive than those set forth herein, (v) it shall have no restrictions on

the Borrowers' ability to grant liens securing indebtedness ranking senior to such Permitted Convertible Indebtedness, (vi) it shall permit the incurrence of senior indebtedness under this Agreement and the Term Credit Documents, (vii) it may be cross-accelerated with the Obligations and other senior indebtedness of the Borrowers (but shall not be cross-defaulted except for payment defaults which the senior lenders have not waived) and may be accelerated upon bankruptcy, and (viii) after the conversion of such Permitted Convertible Indebtedness into common stock of the Borrower, such common stock shall not constitute Disqualified Stock.

"**Permitted Debt**" means: (a) Borrower's Debt to the Lenders and Agent under this Agreement and the other Financing Documents; (b) Debt existing on the Closing Date and described on Schedule 5.4; (c) Debt secured by Permitted Liens; (d) Subordinated Debt; (e) unsecured Debt to trade creditors incurred in the Ordinary Course of Business; (f) Permitted Contingent Obligations; (g) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Debt set forth in (b) and (c) above, *provided*, *however*, that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon the obligors thereunder; (h) Debt consisting of intercompany loans and advances in the form of accounts payable on arm's length terms; (i) Debt with respect to other intercompany loans and advances made by (i) any Subsidiary that is not a Secured Guarantor to another Subsidiary that is not a Secured Guarantor, (ii) Borrower or any Secured Guarantor to any other Secured Guarantor or Borrower or (iii) Borrower or any Secured Guarantor to any Subsidiaries that are not Secured Guarantors in an aggregate amount not to exceed during the term of this Agreement the sum of $10,000,000 (with any amounts being repaid in cash to the maker not counting against such basket) plus the amount which constitutes immediately due accounts payable associated with research and development, services, manufacturing, inventory and licenses of Intellectual Property, in each case owing to Borrower or the Secured Guarantors and where such amount has been paid to Borrower or the Secured Guarantors by the incurrence of such intercompany loan or advance (provided, that for the avoidance of doubt, no such Debt shall be permitted pursuant to this clause (i) until the Joinder Requirements with respect to such Subsidiary have been satisfied as set forth in Section 4.8, if applicable to such Subsidiary), provided that, in cases of subclauses (ii) and (iii), (1) any obligations owing by Borrower or a Secured Guarantor under such intercompany loans shall be subordinated at all times to the Obligations hereunder or under the other Financing Documents in a manner reasonably satisfactory to Agent and (2) to the extent that such Debt is evidenced by a promissory note or other written instrument, Borrower or such Secured Guarantor shall pledge and deliver to Agent, for the benefit of itself and the Lenders, the original promissory note or instrument, as applicable, along with an endorsement in blank in form and substance reasonably satisfactory to Agent; (j) performance guaranties (that do not constitute monetary obligations) of operating agreements of Subsidiaries in the Ordinary Course of Business; (k) Debt consisting of items listed in clauses (g), (i), (j) and (k) of the definition of Debt in an amount not to exceed $1,000,000; *provided that* any earnouts, milestone payments and other contingent obligations shall be permitted to the extent complying with clause (d) of the definition of "Permitted Acquisition"; (l) Indebtedness under the Term Credit Documents; (m) Permitted Convertible Indebtedness; and (n) Banking Services Indebtedness.

"**Permitted Investments**" means: (a) Investments existing on the Closing Date and described on Schedule 5.7; (b) Investments consisting of cash equivalents; (c) any Investments in liquid assets permitted by Borrower's investment policy, as amended from time to time, provided that such investment policy (and any such amendment thereto) has been approved in writing by Agent, which approval shall not be unreasonably withheld; (d) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the Ordinary Course of Business; (e) Investments consisting of deposit accounts or securities accounts in which the Agent has a first priority perfected security interest (subject to the Intercreditor Agreement) except as otherwise provided by Section 4.6; (f) Investments made (i) in Borrower by a Secured Guarantor or in a Secured Guarantor by Borrower or another Secured Guarantor or (ii) in the Ordinary Course of Business in Subsidiaries that are not Secured Guarantors (provided, that for the avoidance of doubt, no such Investments shall be permitted pursuant to this clause (f)(ii) until the Joinder Requirements with respect to such Subsidiary have been satisfied as set forth in Section 4.8, if applicable to such Subsidiary); (g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's board of directors; (h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the Ordinary Course of Business; (i) Investments consisting of intercompany Debt in accordance with and to the extent permitted by clauses (h) and (i) of the definition of "Permitted Debts"; (j) Investments constituting cash and cash equivalents in the Securities Subsidiary so long as Borrower at all times remains in compliance with Section 4.6(b); (k) Permitted Acquisitions; (l) Margin Stock not in

violation of Regulation U, in an aggregate amount not to exceed than $2,000,000 for all such Margin Stock acquired in connection with other transactions permitted by this Agreement; and (m) other Investments up to $1,000,000 at any one time outstanding.

"**Permitted License**" means (a) any non-exclusive license of rights in Intellectual Property of Borrower or its Subsidiaries so long as all such Permitted Licenses are granted to third parties in the Ordinary Course of Business, do not result in a legal transfer of title to the licensed property and have been granted in exchange for fair consideration, (b) any exclusive license or sublicense of rights of Intellectual Property of Borrower or its Subsidiaries to third parties constituting DMD Assets so long as such Permitted Licenses do not result in a legal transfer of title to the licensed property, are exclusive solely as to discrete geographical areas outside of the US Territory, and have been granted in exchange for fair consideration, (c) any exclusive license of rights of Intellectual Property of Borrower or its Subsidiaries to third parties (other than with respect to Intellectual Property constituting DMD Assets) so long as such Permitted Licenses do not result in a legal transfer of title to the licensed property and have been granted in exchange for fair consideration, (d) licenses of rights in Intellectual Property among Borrower and its Subsidiaries so long as (i) such Permitted Licenses comply with Section 5.8(a) and (ii) any such Permitted Licenses of rights of Intellectual Property of Borrower or Secured Guarantors to any Subsidiaries that are not Secured Guarantors do not result in legal transfer of title to the licensed property, and (e) licenses in effect on, and provided to the Agent prior to, the Closing Date.

"**Permitted Liens**" means: (a) Liens existing on the Closing Date and shown on the Schedule 5.5 or arising under this Agreement and the other Financing Documents; (b) purchase money Liens or capital leases securing no more than one million dollars ($1,000,000.00) in the aggregate amount outstanding (i) on Equipment acquired or held by a Credit Party incurred for financing the acquisition of the Equipment, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment; (c) Liens for Taxes, either not delinquent or being contested in good faith and for which adequate reserves are maintained in accordance with GAAP on the Books of the Credit Party against whose asset such Lien exists; (d) statutory Liens securing claims or demands of materialmen, mechanics, carriers, warehousemen, landlords and other Persons imposed without action of such parties, *provided* that they have no priority over any of Agent's Lien and the aggregate amount of such Liens for all Credit Parties does not any time exceed Five Hundred Thousand Dollars ($500,000); (e) leases or subleases of real property granted in the Ordinary Course of Business, and leases, subleases, non-exclusive licenses or sublicenses of property (other than real property or Intellectual Property) granted in the Ordinary Course of Business, if the leases, subleases, licenses and sublicenses do not prohibit granting Agent a security interest; (f) banker's liens, rights of set-off and Liens in favor of financial institutions incurred made in the Ordinary Course of Business arising in connection with a Credit Party's Collateral Accounts provided that such Collateral Accounts are subject to a Control Agreement to the extent required hereunder; (g) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the Ordinary Course of Business (other than Liens imposed by ERISA); (h) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default; (i) easements, reservations, rights-of-way, restrictions, zoning and land use regulations, minor defects or irregularities in title and similar charges or encumbrances affecting real property not constituting a Material Adverse Effect; (j) [intentionally omitted]; (k) mortgages on real property owned by the Borrower and its Subsidiaries; (l) Liens in the form of the Subject Letters of Credit and on the Subject Cash Collateral Accounts, in each case, in accordance with the terms set forth in such defined terms; (m) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) and (b) above, but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the Debt may not increase; (n) Permitted Licenses to the extent complying with Section 5.1(e); (o) Liens securing Bank Services Indebtedness to the extent not cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts; and (p) Liens arising under the Term Credit Documents.

"**Person**" means any natural person, corporation, limited liability company, professional association, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.

"**Pledge Agreement**" means that certain Pledge Agreement, dated as of even date herewith, by and between each Borrower and Agent.

"**Pro Rata Share**" means (a) with respect to a Lender's obligation to make Revolving Loans, the Revolving Loan Commitment Percentage of such Lender, (b) with respect to a Lender's right to receive payments of principal and interest with respect to Revolving Loans, such Lender's Revolving Loan Exposure with respect thereto; and (c) for all other purposes (including, without limitation, the indemnification obligations arising under Section 11.6) with respect to any Lender, the percentage obtained by *dividing* (i) the sum of the Revolving Loan Commitment Amount of such Lender (or, in the event the Revolving Loan Commitment shall have been terminated, such Lender's then existing Revolving Loan Outstandings), *by* (ii) the sum of the Revolving Loan Commitment (or, in the event the Revolving Loan Commitment shall have been terminated, the then existing Revolving Loan Outstandings) of all Lenders.

"**Products**" means any products manufactured, distributed, sold or marketed by any Borrower or any of its Subsidiaries, including without limitation, those products set forth on the Schedule 3.8 (as updated from time to time in accordance with Section 4.16(b)); *provided*, that, for the avoidance of doubt, any new Product not disclosed on Schedule 3.8 shall still constitute a "Product" as herein defined.

"**Recall**" means a Person's removal or Correction of a marketed product that the FDA considers to be in violation of the laws it administers and against which the FDA would initiate legal action, e.g., seizure.

"**Recovery Amount**" has the meaning set forth in Section 2.10(e).

"**Registered Intellectual Property**" means any patent, registered trademark or service mark, registered copyright, registered mask work, or any pending application for any of the foregoing within the Intellectual Property.

"**Registered Organization**" means any "registered organization" as defined in the Code, with such additions to such term as may hereafter be made.

"**Regulatory Reporting Events**" has the meaning set forth in Section 4.16(a).

"**Regulatory Required Permit**" means any and all licenses, approvals and permits issued by the FDA, DEA or any other applicable Governmental Authority, including without limitation Drug Applications, necessary for the testing, manufacture, marketing or sale of any Product by any applicable Borrower(s) and its Subsidiaries as such activities are being conducted by such Borrower and its Subsidiaries with respect to such Product at such time and any drug listings and drug establishment registrations under 21 U.S.C. Section 510, registrations issued by DEA under 21 U.S.C. Section 823 (if applicable to any Product), and those issued by State governments for the conduct of Borrower's or any Subsidiary's business, the absence of which could reasonably be expected to result in a Material Adverse Effect.

"**Related Party"** means the officers, directors, employees, trustees, agents, investment advisors, collateral managers, servicers, and counsel of such Person.

"**Replacement Lender**" has the meaning set forth in Section 11.17(c).

"**Required Lenders**" means at any time Lenders holding (a) fifty percent (55%) or more of the Revolving Loan Commitment, or (b) if the Revolving Loan Commitment has been terminated, fifty-five percent (55%) or more of the then aggregate outstanding principal balance of the Loans.

"**Required Permit**" means all licenses, certificates, accreditations, product clearances or approvals, provider numbers or provider authorizations, supplier numbers, provider numbers, marketing authorizations, other authorizations, registrations, permits, consents and approvals of a Credit Party issued or required under Laws applicable to the business of Borrower or any of its Subsidiaries or necessary in the manufacturing, importing, exporting, possession, ownership, warehousing, marketing, promoting, sale, labeling, furnishing, distribution or delivery of goods or services under Laws applicable to the business of Borrower or any of its Subsidiaries, the absence of which could reasonably be expected to result in a Material Adverse Effect. Without limiting the generality of the foregoing, "**Required Permits**" includes any Regulatory Required Permit.

"**Responsible Officer**" means any of the Chief Executive Officer, Chief Financial Officer or any other officer of the applicable Borrower acceptable to Agent.

"**Revolving Lender**" means each Lender having a Revolving Loan Commitment Amount in excess of $0 (or, in the event the Revolving Loan Commitment shall have been terminated at any time, each Lender at such time having Revolving Loan Outstandings in excess of $0).

"**Revolving Loan"** has the meaning set forth in Section 2.1(a).

"**Revolving Loan Commitment**" means, as of any date of determination, the aggregate Revolving Loan Commitment Amounts of all Lenders as of such date.

"**Revolving Loan Commitment Amount**" means, as to any Lender, the dollar amount set forth opposite such Lender's name on the Commitment Annex under the column "Revolving Loan Commitment Amount" (if such Lender's name is not so set forth thereon, then the dollar amount on the Commitment Annex for the Revolving Loan Commitment Amount for such Lender shall be deemed to be $0), as such amount may be adjusted from time to time by (a) any amounts assigned (with respect to such Lender's portion of Revolving Loan Outstandings and its commitment to make Revolving Loans) pursuant to the terms of any and all effective assignment agreements to which such Lender is a party, and (b) any Additional Tranche(s) activated by Borrowers. For the avoidance of doubt, the aggregate Revolving Loan Commitment Amount of all Lenders on the Closing Date shall be $40,000,000 and if the Additional Tranche is activated by Borrowers pursuant to the terms of this Agreement such Revolving Loan Commitment Amount shall increase, dollar for dollar, by the amount of the Additional Tranche so activated, up to a total Revolving Loan Commitment Amount of $60,000,000 if the Additional Tranche is fully activated.

"**Revolving Loan Commitment Percentage**" means, as to any Lender, (a) on the Closing Date, the percentage set forth opposite such Lender's name on the Commitment Annex under the column "Revolving Loan Commitment Percentage" (if such Lender's name is not so set forth thereon, then, on the Closing Date, such percentage for such Lender shall be deemed to be zero), and (b) on any date following the Closing Date, the percentage equal to the Revolving Loan Commitment Amount of such Lender on such date *divided by* the Revolving Loan Commitment on such date.

"**Revolving Loan Exposure**" means, with respect to any Lender on any date of determination, the percentage equal to the amount of such Lender's Revolving Loan Outstandings on such date *divided by* the aggregate Revolving Loan Outstandings of all Lenders on such date.

"**Revolving Loan Limit**" means, at any time, the lesser of (a) the Revolving Loan Commitment and (b) the Borrowing Base; provided that during the Initial Borrowing Period the Revolving Loan Limit shall in no event exceed $15,000,000.

"**Revolving Loan Outstandings**" means, at any time of calculation, (a) the then existing aggregate outstanding principal amount of Revolving Loans, and (b) when used with reference to any single Lender, the then existing outstanding principal amount of Revolving Loans advanced by such Lender.

"**Sarepta**" has the meaning set forth in the first paragraph of this Agreement.

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

"**Secured Guarantor**" means any Subsidiary of Borrower organized under the laws of the United States, a state thereof, or the District of Columbia, which Subsidiary is a Borrower or has provided a guarantee of the Obligations of the Borrower which guarantee is secured by a Lien granted by such Subsidiary to Agent in all or substantially all of its property of the type described in Schedule 9.1 hereto.

"**Securities Account**" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of any Borrower.

"**Securities Account Control Agreement**" means an agreement, in form and substance satisfactory to Agent, among Agent, any applicable Borrower and each securities intermediary in which such Borrower maintains a Securities Account pursuant to which Agent shall obtain "control" (as defined in Article 9 of the UCC) over such Securities Account.

"**Securities Subsidiary**" shall mean Sarepta Securities Corp., a Massachusetts corporation.

"**Securitization**" has the meaning set forth in Section 12.6(b).

"**Security Document**" means this Agreement, the Pledge Agreement and any other agreement, document or instrument executed concurrently herewith or at any time hereafter pursuant to which one or more Credit Parties or any other Person either (a) Guarantees payment or performance of all or any portion of the Obligations, and/or (b) provides, as security for all or any portion of the Obligations, a Lien on any of its assets in favor of Agent for its own benefit and the benefit of the Lenders, as any or all of the same may be amended, supplemented, restated or otherwise modified from time to time.

"**Settlement Date**" has the meaning set forth in Section 11.13(a)(ii).

"**ST International**" shall mean ST International, Holdings, Inc., a Delaware corporation.

"**Stated Rate**" has the meaning set forth in Section 2.7.

"**Subject Cash Collateral Accounts**" means, collectively, (a) the Deposit Account of Sarepta with account number 15001407 maintained at Pacific West Bank in an amount not to exceed $165,000 to secure Debt, (b) the Certificate of Deposit of Sarepta numbered 420139 maintained at Bank of America, N.A. in an amount not to exceed $700,000 to secure the Subject Letters of Credit issued by Bank of America, N.A., and (c) Deposit Accounts of Sarepta maintained at Silicon Valley Bank in an amount not to exceed $750,000 to secure Banking Services Indebtedness, together with any replacement Deposit Accounts or certificates of deposit so long as the aggregate amounts of such Subject Cash Collateral Accounts do not exceed the amounts specified above for clauses (a), (b) and (c).

"**Subject Letters of Credit**" means, collectively, (a) that certain Letter of Credit numbered 68100338, dated November 21, 2013 and in the amount of $90,462.00, issued by Bank of America, N.A. on behalf of Sarepta and in favor of ARE-MA Region No. 38, LLC, (b) that certain Letter of Credit numbered 68097187, dated June 25, 2013 and in the amount of $556,512, issued by Bank of America, N.A. on behalf of Sarepta and in favor of ARE-MA Region No. 38, LLC and (c) letters of credit (including replacement letters of credit for the letters of credit described in the foregoing clauses (a) and (b)), in each case, together with any additional or replacement letters of credit so long as the aggregate amounts of such Subject Letters of Credit do not exceed the amounts specified above for clauses (a) and (b) plus $500,000.

"**Subordinated Debt**" means any Debt (including, without limitation, Permitted Convertible Indebtedness) of Borrowers incurred pursuant to the terms of the Subordinated Debt Documents and, except as expressly permitted herein, with the prior written consent of Agent, all of which documents must be in form and substance acceptable to Agent in its sole discretion, except as expressly set forth herein. As of the Closing Date, there is no Subordinated Debt.

"**Subordinated Debt Documents**" means any documents evidencing and/or securing Debt governed by a Subordination Agreement, all of which documents must be in form and substance acceptable to Agent in its sole discretion. As of the Closing Date, there are no Subordinated Debt Documents.

"**Subordination Agreement**" means any agreement between Agent and another creditor of Borrowers, as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof, pursuant to which the Debt owing from any Borrower(s) and/or the Liens securing such Debt granted by any Borrower(s) to such creditor are subordinated in any way to the Obligations and the Liens created under the Security Documents, the terms and provisions of such Subordination Agreements to have been agreed to by and be acceptable to Agent in the exercise of its sole discretion.

"**Subsidiary**" means, with respect to any Person, any other Person of which more than fifty percent (50.0%) of the voting stock or other equity interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Term Credit Agent**" means the "Agent" under and as defined in the Term Credit Documents, together with its successors and assigns. As of the Closing Date, the Term Credit Agent is MidCap Financial Trust.

"**Term Credit Documents**" means that certain Amended and Restated Credit and Security Agreement, dated as of the date hereof, entered into by and among the Borrower and the Term Credit Agent, as Agent thereunder, and all the "Financing Documents" (as such term is defined in such Amended and Restated Credit and Security Agreement), as each of the foregoing may be amended, restated, supplemented or otherwise modified from time to time.

"**Term Credit Obligations**" means all "Obligations" under and as defined in the Term Credit Documents.

"**Term Credit Obligations Termination**" means the payment in full of the Term Credit Obligations (other than inchoate indemnity obligations for which no claim has yet been made and any other obligations which, by their terms, are to survive the termination of the Term Credit Documents), the termination of all loan commitments under the Term Credit Documents and the Term Credit Documents have been terminated pursuant to a payoff letter in form and substance satisfactory to Agent and the Term Credit Agent.

"**Termination Date**" means the earlier to occur of (a) the Commitment Expiry Date, (b) any date on which Agent accelerates the maturity of the Loans pursuant to Section 10.2, or (c) the termination date stated in any notice of termination of this Agreement provided by Borrowers in accordance with Section 2.12.

"Third Party Payor" means Medicare, Medicaid, TRICARE, and other state or federal health care program, Blue Cross and/or Blue Shield, private insurers, managed care plans and any other Person or entity which presently or in the future maintains Third Party Payor Programs.

"**Third Party Payor Programs**" means all payment and reimbursement programs, sponsored by a Third Party Payor, in which a Borrower participates.

"**Transaction Projections**" has the meaning given to it in the definition of "Permitted Acquisition."

"**Transfer**" has the meaning set forth in Section 5.1.

"**TRICARE**" means the program administered pursuant to 10 U.S.C. Section 1071 et seq., Sections 1320a-7 and 1320a-7a of Title 42 of the United States Code and the regulations promulgated pursuant to such statutes.

"**UCC**" means the Uniform Commercial Code in effect on the date hereof, as the same may, from time to time, be enacted and in effect in the State of Maryland; provided, however, that to the extent that the UCC is used to define any term herein or in any Financing Document and such term is defined differently in different Articles or Divisions of the UCC, the definition of such term contained in Article or Division 9 shall govern; and provided, further, that in the event that, by reason of mandatory provisions of Law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Agent's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of Maryland the term "UCC" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**United States**" means the United States of America.

"**Work-In-Process**" means Inventory that is in the process of being produced by a Borrower in accordance with applicable Laws and such Borrower's normal business practices for release and delivery to customers, but has not yet been finished and approved in accordance with such practices; provided, that, for the avoidance of doubt, Work-In-Process does not include raw materials, marketing materials, display items or packing or shipping materials or manufacturing supplies.

Accounting Terms and Determinations

. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder (including, without limitation, determinations made pursuant to the exhibits hereto) shall be made, and all financial statements required to be delivered hereunder shall be prepared on a consolidated basis in accordance with GAAP applied on a basis consistent with the most recent audited consolidated financial statements of each Borrower and its Consolidated Subsidiaries delivered to Agent and each of the Lenders on or prior to the Closing Date. If at any time any change in GAAP would affect the computation of any financial ratio or financial requirement set forth in any Financing Document, and either Borrowers or the Required Lenders shall so request, the Agent, the Lenders and Borrowers shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); *provided, however*, that until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrowers shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement which include a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Debt or other liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value", as defined therein.

Other Definitional and Interpretive Provisions

. References in this Agreement to "Articles", "Sections", "Annexes", "Exhibits", or "Schedules" shall be to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement unless otherwise specifically provided. Any term defined herein may be used in the singular or plural. "Include", "includes" and "including" shall be deemed to be followed by "without limitation". Except as otherwise specified or limited herein, references to any Person include the successors and assigns of such Person. References "from" or "through" any date mean, unless otherwise specified, "from and including" or "through and including", respectively. Unless otherwise specified herein, the settlement of all payments and fundings hereunder between or among the parties hereto shall be made in lawful money of the United States and in immediately available funds. References to any statute or act shall include all related current regulations and all amendments and any successor statutes, acts and regulations. All amounts used for purposes of financial calculations required to be made herein shall be without duplication. References to any statute or act, without additional reference, shall be deemed to refer to federal statutes and acts of the United States. References to any agreement, instrument or document shall include all schedules, exhibits, annexes and other attachments thereto. As used in this Agreement, the meaning of the term "material" or the phrase "in all material respects" is intended to refer to an act, omission, violation or condition which reflects or could reasonably be expected to result in a Material Adverse Effect. References to capitalized terms that are not defined herein, but are defined in the UCC, shall have the meanings given them in the UCC. All references herein to times of day shall be references to daylight or standard time, as applicable.

Time is of the Essence

. Time is of the essence in Borrower's and each other Credit Party's performance under this Agreement and all other Financing Documents.

ARTICLE 2 - LOANS

Section 2.1 Revolving Loans.

(a) Revolving Loans and Borrowings. On the terms and subject to the conditions set forth herein, each Lender severally agrees to make loans to Borrowers from time to time as set forth herein (each a "**Revolving Loan**", and collectively, "**Revolving Loans**") equal to such Lender's Revolving Loan Commitment Percentage of Revolving Loans requested by Borrowers hereunder, *provided, however*, that after giving effect thereto, the Revolving Loan Outstandings shall not exceed the Revolving Loan Limit. Borrowers shall deliver to Agent a Notice of Borrowing with respect to each proposed borrowing of a Revolving Loan, such Notice of Borrowing to be

delivered before 1:00 p.m. (Eastern time) two (2) Business Days prior to the date of such proposed borrowing. Each Borrower and each Revolving Lender hereby authorizes Agent to make Revolving Loans on behalf of Revolving Lenders, at any time in its sole discretion, to pay principal owing in respect of the Loans and interest, fees, expenses and other charges payable by any Credit Party from time to time arising under this Agreement or any other Financing Document. The Borrowing Base shall be determined by Agent based on the most recent Borrowing Base Certificate delivered to Agent in accordance with this Agreement and such other information as may be available to Agent. Without limiting any other rights and remedies of Agent hereunder or under the other Financing Documents, the Revolving Loans shall be subject to Agent's continuing right to withhold from the Borrowing Base reserves, and to increase and decrease such reserves from time to time, if and to the extent that in Agent's commercially reasonable credit judgment and discretion, such reserves are necessary.

(b) Mandatory Revolving Loan Repayments and Prepayments.

(i) The Revolving Loan Commitment shall terminate on the Termination Date. On such Termination Date, there shall become due, and Borrowers shall pay, the entire outstanding principal amount of each Revolving Loan, together with accrued and unpaid Obligations pertaining thereto incurred to, but excluding the Termination Date; *provided*, *however,* that such payment is made not later than 12:00 noon (Eastern time) on the Termination Date.

(ii) If at any time the Revolving Loan Outstandings exceed the Revolving Loan Limit, then, on the next succeeding Business Day, Borrowers shall repay the Revolving Loans in an aggregate amount equal to such excess.

(iii) Principal payable on account of Revolving Loans shall be payable by Borrowers to Agent (I) immediately upon the receipt by any Borrower or Agent of any payments on or proceeds from any of the Accounts, to the extent of such payments or proceeds, as further described in Section 2.11 below, and (II) in full on the Termination Date.

(c) Optional Prepayments. Borrowers may from time to time prepay the Revolving Loans in whole or in part; *provided*, *however*, that any such partial prepayment shall be in an amount equal to $100,000 or a higher integral multiple of $25,000.

(d) LIBOR Rate.

(i) Except as provided in subsection (iii) below, Revolving Loans shall accrue interest at the LIBOR Rate *plus* the Applicable Margin.

(ii) The LIBOR Rate may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable Law occurring subsequent to the commencement of the then applicable Interest Period, including changes in tax laws (except changes of general applicability in corporate income tax laws) and changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest based upon the LIBOR Rate; *provided*, *however,* that notwithstanding anything in this Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "change in applicable Law", regardless of the date enacted, adopted or issued. In any such event, the affected Lender shall give Borrowers and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrowers may, by notice to such affected Lender (I) require such Lender to furnish to Borrowers a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment, or (II) repay the Loans bearing interest based upon the LIBOR Rate with respect to which such adjustment is made.

(iii) In the event that any change in market conditions or any law, regulation, treaty, or directive, or any change therein or in the interpretation of application thereof, shall at any time after the date hereof, in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain Loans bearing interest based upon the LIBOR Rate or to continue such funding or maintaining, or to determine or charge interest rates at the LIBOR Rate, such Lender shall give notice of such changed circumstances to Agent and Borrowers and Agent promptly shall transmit the notice to each other Lender and (I) in the case of any outstanding Loans of such Lender bearing interest based upon the LIBOR Rate, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such Loans, and interest upon such Lender's Loans thereafter shall accrue interest at Base Rate *plus* the Applicable Margin, and (II) such Loans shall continue to accrue interest at Base Rate *plus* the Applicable Margin until such Lender determines that it would no longer be unlawful or impractical to maintain such Loans at the LIBOR Rate.

(iv) Anything to the contrary contained herein notwithstanding, neither Agent nor any Lender is required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues based on the LIBOR Rate.

(e) Restriction on Termination. Notwithstanding any prepayment of the Revolving Loan Outstandings or any other termination of Lenders' Credit Exposure under this Agreement, Agents and Lenders shall have no obligation to release any of the Collateral securing the Obligations while any portion of the Term Credit Obligations shall remain outstanding.

(f) Additional Tranches. After the later to occur of (a) the end of the Lockbox Post-Closing Period or (b) the Borrowing Base Audit Completion Date, so long as no Default or Event of Default exists and subject to the terms of this Agreement, with the prior written consent of Agent and all Lenders in their sole discretion, the Revolving Loan Commitment may be increased upon the written request of Borrower Representative (which such request shall state the aggregate amount of the Additional Tranche requested and shall be made at least sixty (60) days prior to the proposed effective date of such Additional Tranche) to Agent to activate an Additional Tranche; *provided, however,* that Agent and Lenders shall have no obligation to consent to any requested activation of an Additional Tranche and the written consent of Agent and all Lenders shall be required in order to activate an Additional Tranche. Upon activating an Additional Tranche, each Lender's commitment shall increase by a proportionate amount so as to maintain the same Pro Rata Share of the Revolving Loan Commitment as such Lender held immediately prior to such activation.

Section 2.2 Interest, Interest Calculations and Certain Fees.

(a) Interest. From and following the Closing Date, except as expressly set forth in this Agreement, Loans and the other Obligations shall bear interest at the sum of the LIBOR Rate *plus* the Applicable Margin. Interest on the Loans shall be paid in arrears on the first (1st) day of each month and on the maturity of such Loans, whether by acceleration or otherwise. Interest on all other Obligations shall be payable upon demand. For purposes of calculating interest, all funds transferred to the Payment Account for application to any Revolving Loans shall be subject to a three (3) Business Day clearance period and all interest accruing on such funds during such clearance period shall accrue for the benefit of Agent, and not for the benefit of the Lenders.

(b) Unused Line Fee. On the first day of each month commencing on August 1, 2017 (for the month ending July 31, 2017), Borrowers shall pay Agent, for the benefit of all Lenders committed to make Revolving Loans, in accordance with their respective Pro Rata Shares, a fee in an amount equal to the product of (i) the Revolving Loan Commitment *minus* the greater of (A) the average daily balance of the sum of the Revolving Loan Outstandings during the immediately preceding month and (B) the Minimum Balance *multiplied by* (ii) 42/1000 of one percent (0.042%) per month. Such fee is to be paid monthly in arrears on the first day of each month.

(c) Fee Letter. In addition to the other fees set forth herein, the Borrowers agree to pay Agent the fees set forth in the Fee Letter, if any.

(d) Minimum Balance Fee. On the first day of each month commencing on August 1, 2017, the Borrowers agree to pay to Agent, for the ratable benefit of all Lenders, the sum of the Minimum Balance Fees due

for the prior month, if any, beginning with the month ending July 31, 2017. The Minimum Balance Fee shall be deemed fully earned when due and payable and, once paid, shall be non-refundable.

(e) Collateral Fee. On the first day of each month, commencing on August 1, 2017 (for the month ending July 31, 2017), Borrowers shall pay Agent, for its own account and not for the benefit of any other Lenders, a fee in an amount equal to the product obtained by *multiplying* (i) the greater of (A) the average end-of-day principal balance of Revolving Loan Outstandings during the immediately preceding month and (B) the Minimum Balance, *by* (ii) 42/1000 of one percent (0.042%) per month. For purposes of calculating the average end-of-day principal balance of Revolving Loan Outstandings, all funds paid into the Payment Account (or which were required to be paid into the Payment Account hereunder) or otherwise received by Agent for the account of Borrowers shall be subject to a three (3) Business Day clearance period. The collateral management fee shall be deemed fully earned when due and payable and, once paid, shall be non-refundable.

(f) Origination Fee. Borrowers shall pay Agent on the Closing Date, for the benefit of all Lenders committed to make Revolving Loans, in accordance with their respective Pro Rata Shares, a fee in an amount equal to (i) the Revolving Loan Commitment, multiplied by (ii) one half of one percent (0.50%). On the effective date of the activation of such Additional Tranche, Borrowers shall pay Agent, for the benefit of all Lenders committed to provide an Additional Tranche, in accordance with their respective Pro Rata Share, a fee in an amount equal to (i) such Additional Tranche, multiplied by (ii) one half of one percent (0.50%). Once paid, all such fees pursuant to this Section 2.2(f) shall be non-refundable.

(g) Deferred Revolving Loan Origination Fee. If Lenders' funding obligations in respect of the Revolving Loan Commitment under this Agreement terminate for any reason (whether by voluntary termination by Borrowers, by reason of the occurrence of an Event of Default or otherwise) prior to the Commitment Expiry Date, Borrowers shall pay to Agent, for the benefit of all Lenders committed to make Revolving Loans on the Closing Date, a fee as compensation for the costs of such Lenders being prepared to make funds available to Borrowers under this Agreement, equal to an amount determined by *multiplying* (x) the sum of the Revolving Loan Commitment *by* the following applicable percentage amount: three percent (3%) for the first year following the Closing Date, two percent (2%) for the second year following the Closing Date, and one percent (1%) thereafter. All fees payable pursuant to this paragraph shall be deemed fully earned and non-refundable as of the Closing Date.

(h) [Reserved].

(i) [Reserved].

(j) Audit Fees. Borrowers shall pay to Agent, for its own account and not for the benefit of any other Lenders, all reasonable fees and expenses in connection with audits and inspections of Borrowers' books and records, audits, valuations or appraisals of the Collateral, audits of Borrowers' compliance with applicable Laws and such other matters as Agent shall deem appropriate, which shall be due and payable on the first Business Day of the month following the date of issuance by Agent of a written request for payment thereof to Borrowers; *provided*, *that*, as long as no Event of Default has occurred within the preceding twelve (12) months, Agent shall be entitled to such reimbursement for no more than two audits/inspections per calendar year.

(k) Wire Fees. Borrowers shall pay to Agent, for its own account and not for the account of any other Lenders, on written demand, fees for incoming and outgoing wires made for the account of Borrowers, such fees to be based on Agent's then current wire fee schedule (available upon written request of the Borrowers).

(l) Late Charges. If payments of principal (other than a final installment of principal upon the Termination Date), interest due on the Obligations, or any other amounts due hereunder or under the other Financing Documents are not timely made and remain overdue for a period of five (5) Business Days, Borrowers, without notice or demand by Agent, promptly shall pay to Agent, for its own account and not for the benefit of any other Lenders, as additional compensation to Agent in administering the Obligations, an amount equal to five percent (5.0%) of each delinquent payment.

(m) Computation of Interest and Related Fees. All interest and fees under each Financing Document shall be calculated on the basis of a 360-day year for the actual number of days elapsed. The date of funding of a Loan shall be included in the calculation of interest. The date of payment of a Loan shall be excluded from the calculation of interest. If a Loan is repaid on the same day that it is made, one (1) day's interest shall be charged.

(n) Automated Clearing House Payments. If Agent so elects, monthly payments of principal, interest, fees, expenses or any other amounts due and owing from Borrower to Agent hereunder shall be paid to Agent by Automated Clearing House debit of immediately available funds from the financial institution account designated by Borrower Representative in the Automated Clearing House debit authorization executed by Borrowers or Borrower Representative in connection with this Agreement, and shall be effective upon receipt. Borrowers shall execute any and all forms and documentation necessary from time to time to effectuate such automatic debiting. In no event shall any such payments be refunded to Borrowers.

Notes

. The portion of the Loans made by each Lender shall be evidenced, if so requested by such Lender, by one or more promissory notes executed by Borrowers on a joint and several basis (each, a "**Note**") in an original principal amount equal to such Lender's Revolving Loan Commitment Amount. Upon activation of an Additional Tranche in accordance with Section 2.1(f) hereof, Borrowers shall deliver to each Lender to whom Borrowers previously delivered a Note, a restated Note evidencing such Lender's Revolving Loan Commitment Amount.

[Reserved]

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[Reserved]

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Section 2.6 General Provisions Regarding Payment; Loan Account.

(a) All payments to be made by each Borrower under any Financing Document, including payments of principal and interest made hereunder and pursuant to any other Financing Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension (it being understood and agreed that, solely for purposes of calculating financial covenants and computations contained herein and determining compliance therewith, if payment is made, in full, on any such extended due date, such payment shall be deemed to have been paid on the original due date without giving effect to any extension thereto). Any payments received in the Payment Account before 12:00 noon (Eastern time) on any date shall be deemed received by Agent on such date, and any payments received in the Payment Account at or after 12:00 noon (Eastern time) on any date shall be deemed received by Agent on the next succeeding Business Day.

(b) Agent shall maintain a loan account (the "**Loan Account**") on its books to record Loans and other extensions of credit made by the Lenders hereunder or under any other Financing Document, and all payments thereon made by each Borrower. All entries in the Loan Account shall be made in accordance with Agent's customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded in Agent's books and records at any time shall be conclusive and binding evidence of the amounts due and owing to Agent by each Borrower absent manifest error; *provided*, *however*, that any failure to so record or any error in so recording shall not limit or otherwise affect any Borrower's duty to pay all amounts owing hereunder or under any other Financing Document. Agent shall endeavor to provide Borrowers with a monthly statement regarding the Loan Account (but neither Agent nor any Lender shall have any liability if Agent shall fail to provide any such statement). Unless any Borrower notifies Agent of any objection to any such statement (specifically describing the basis for such objection) within ninety (90) days after the date of receipt thereof, it shall be deemed final, binding and conclusive upon Borrowers in all respects as to all matters reflected therein.

Maximum Interest

. In no event shall the interest charged with respect to the Loans or any other Obligations of any Borrower under any Financing Document exceed the maximum amount permitted under the laws of the State of Maryland or of any other applicable jurisdiction. Notwithstanding anything to the contrary herein or elsewhere, if at any time the rate of interest payable hereunder or under any Note or other Financing Document (the

"**Stated Rate**") would exceed the highest rate of interest permitted under any applicable law to be charged (the "**Maximum Lawful Rate**"), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable shall be equal to the Maximum Lawful Rate; *provided*, *however*, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, each Borrower shall, to the extent permitted by law, continue to pay interest at the Maximum Lawful Rate until such time as the total interest received is equal to the total interest which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable. Thereafter, the interest rate payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest received by any Lender exceed the amount which it could lawfully have received had the interest been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, any Lender has received interest hereunder in excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of the Loans or to other amounts (other than interest) payable hereunder, and if no such principal or other amounts are then outstanding, such excess or part thereof remaining shall be paid to Borrowers. In computing interest payable with reference to the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate *divided by* the number of days in the year in which such calculation is made.

Section 2.8 Taxes; Capital Adequacy.

(a) All payments of principal and interest on the Loans and all other amounts payable hereunder shall be made free and clear of and without deduction for any Taxes, except as required by applicable Law. If any withholding or deduction from any payment to be made by any Borrower hereunder is required in respect of any Taxes (other than Excluded Taxes) pursuant to any applicable Law, then Borrowers will: (i) pay directly to the relevant authority the full amount required to be so withheld or deducted; (ii) promptly forward to Agent a copy of a receipt or other documentation reasonably satisfactory to Agent evidencing such payment to such authority; and (iii) pay to Agent for the account of Agent and Lenders such additional amount or amounts as is necessary to ensure that the net amount actually received by Agent and each Lender will equal the full amount Agent and such Lender would have received had no such withholding or deduction been required. If any Taxes (other than Excluded Taxes) are directly asserted against Agent or any Lender with respect to any payment received by Agent or such Lender hereunder, Agent or such Lender may pay such Taxes and Borrowers, after written demand therefor, will promptly pay such additional amounts (including any penalty, interest or expense) as is necessary in order that the net amount received by such Person after the payment of such Taxes (including any Taxes (other than Excluded Taxes) on such additional amount) shall equal the amount such Person would have received had such Taxes not been asserted so long as such amounts have accrued on or after the day which is two hundred seventy (270) days prior to the date on which Agent or such Lender first made written demand therefor.

If any Borrower fails to pay any Taxes (other than Excluded Taxes) when due to the appropriate taxing authority or fails to promptly remit to Agent, for the account of Agent and the respective Lenders, after written demand therefor, the required receipts or other required documentary evidence, Borrowers shall indemnify Agent and Lenders for any incremental Taxes (other than Excluded Taxes), interest or penalties that may become payable by Agent or any Lender as a result of any such failure.

(b) Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Agent timely reimburse it for the payment of, any present or future stamp, court or documentary, intangible, recording, filing or similar taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement, except any such taxes that are Other Connection Taxes imposed with respect to an assignment.

(c) Each Lender that is a party hereto on the Closing Date or purports to become an assignee of an interest as a Lender under this Agreement after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) shall execute and deliver to each of Borrowers and Agent one or more (as Borrowers or Agent may reasonably request) United States Internal Revenue Service Forms W-9, W-8ECI, W-8BEN, W-8IMY (accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-9, and/or other certification documents prescribed by applicable Law or reasonably requested by Borrower or Agent from each beneficial owner, as applicable) or W-8BEN-E (as applicable) and other applicable forms, certificates or

documents prescribed by the United States Internal Revenue Service or reasonably requested by Borrower or Agent certifying as to such Lender's entitlement to a complete exemption from or reduction in withholding or deduction of Taxes. If a payment made to a Lender under any this Agreement 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 (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such other applicable forms, certificates or documents reasonably requested by Borrower or the Agent as may be necessary for Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of the immediately preceding sentence, "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Borrowers shall not be required to pay additional amounts to any Lender pursuant to this Section 2.8 with respect to United States withholding and income Taxes to the extent that the obligation to pay such additional amounts would not have arisen but for the failure of such Lender to comply with this paragraph other than as a result of a change in law. Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 2.8(c) expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and the Agent in writing of its legal inability to do so.

(d) If any Lender shall determine in its commercially reasonable judgment that the adoption or taking effect of, or any change in, any applicable Law regarding capital adequacy, in each instance, after the Closing Date, or any change after the Closing Date in the interpretation, administration or application thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation, administration or application thereof, or the compliance by any Lender or any Person controlling such Lender with any request, guideline or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency adopted or otherwise taking effect after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder to a level below that which such Lender or such controlling Person could have achieved but for such adoption, taking effect, change, interpretation, administration, application or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) then from time to time, upon written demand by such Lender (which demand shall be accompanied by a statement setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to Agent), Borrowers shall promptly pay to such Lender such additional amount as will compensate such Lender or such controlling Person for such reduction, so long as such amounts have accrued on or after the day which is two hundred seventy (270) days prior to the date on which such Lender first made demand therefor; provided, however, that notwithstanding anything in this Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "change in applicable Law", regardless of the date enacted, adopted or issued.

(e) If any Lender requires compensation under Section 2.8(d), or if Borrower is required to pay any Taxes (other than Excluded Taxes) or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8(a), then, upon the written request of Borrower Representative, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder (subject to the terms of this Agreement) to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or materially reduce amounts payable pursuant to any such subsection, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender (as determined in its sole discretion). Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(f) If Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.8 (including by the

payment of additional amounts pursuant to Section 2.8(a)), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 2.8(f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.8(f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.8(f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

Appointment of Borrower Representative

. Each Borrower hereby designates Borrower Representative as its representative and agent on its behalf for the purposes of issuing Notices of Borrowing, and Borrowing Base Certificates, and giving instructions with respect to the disbursement of the proceeds of the Loans, giving and receiving all other notices and consents hereunder or under any of the other Financing Documents and taking all other actions (including in respect of compliance with covenants) on behalf of any Borrower or Borrowers under the Financing Documents. Borrower Representative hereby accepts such appointment. Notwithstanding anything to the contrary contained in this Agreement, no Borrower other than Borrower Representative shall be entitled to take any of the foregoing actions. The proceeds of each Loan made hereunder shall be advanced to or at the direction of Borrower Representative and if not used by Borrower Representative in its business (for the purposes provided in this Agreement) shall be deemed to be immediately advanced by Borrower Representative to the appropriate other Borrower hereunder as an intercompany loan (collectively, "**Intercompany Loans**"). All collections of each Borrower in respect of Accounts and other proceeds of Collateral of such Borrower received by Agent and applied to the Obligations shall also be deemed to be repayments of the Intercompany Loans owing by such Borrower to Borrower Representative. Borrowers shall maintain accurate books and records with respect to all Intercompany Loans and all repayments thereof. Agent and each Lender may regard any notice or other communication pursuant to any Financing Document from Borrower Representative as a notice or communication from all Borrowers, and may give any notice or communication required or permitted to be given to any Borrower or all Borrowers hereunder to Borrower Representative on behalf of such Borrower or all Borrowers. Each Borrower agrees that each notice, election, representation and warranty, covenant, agreement and undertaking made on its behalf by Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

Section 2.10 Joint and Several Liability; Rights of Contribution; Subordination and Subrogation.

(a) Borrowers are defined collectively to include all Persons named as one of the Borrowers herein; *provided*, *however*, that any references herein to "any Borrower", "each Borrower" or similar references, shall be construed as a reference to each individual Person named as one of the Borrowers herein. Each Person so named shall be jointly and severally liable for all of the obligations of Borrowers under this Agreement. Each Borrower, individually, expressly understands, agrees and acknowledges, that the credit facilities would not be made available on the terms herein in the absence of the collective credit of all of the Persons named as the Borrowers herein, the joint and several liability of all such Persons, and the cross-collateralization of the collateral of all such Persons. Accordingly, each Borrower individually acknowledges that the benefit to each of the Persons named as one of the Borrowers as a whole constitutes reasonably equivalent value, regardless of the amount of the credit facilities actually borrowed by, advanced to, or the amount of collateral provided by, any individual Borrower. In addition, each entity named as one of the Borrowers herein hereby acknowledges and agrees that all of the representations, warranties, covenants, obligations, conditions, agreements and other terms contained in this Agreement shall be applicable to and shall be binding upon and measured and enforceable individually against each Person named as one of the Borrowers herein as well as all such Persons when taken together. By way of illustration, but without limiting the generality of the foregoing, the terms of Section 10.1 of this Agreement are to be applied to each individual Person named as one

of the Borrowers herein (as well as to all such Persons taken as a whole), such that the occurrence of any of the events described in Section 10.1 of this Agreement as to any Person named as one of the Borrowers herein shall constitute an Event of Default even if such event has not occurred as to any other Persons named as the Borrowers or as to all such Persons taken as a whole.

(b) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the liability of each Borrower for the Obligations and the Liens granted by Borrowers to secure the Obligations, not constitute a Fraudulent Conveyance (as defined below). Consequently, Agent, Lenders and each Borrower agree that if the liability of a Borrower for the Obligations, or any Liens granted by such Borrower securing the Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the liability of such Borrower and the Liens securing such liability shall be valid and enforceable only to the maximum extent that would not cause such liability or such Lien to constitute a Fraudulent Conveyance, and the liability of such Borrower and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, the term "**Fraudulent Conveyance**" means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the Bankruptcy Code or a fraudulent conveyance or fraudulent transfer under the applicable provisions of any fraudulent conveyance or fraudulent transfer law or similar law of any state, nation or other governmental unit, as in effect from time to time.

(c) Agent is hereby authorized, without notice or demand (except as otherwise specifically required under this Agreement) and without affecting the liability of any Borrower hereunder, at any time and from time to time, to (i) renew, extend or otherwise increase the time for payment of the Obligations; (ii) with the written agreement of any Borrower, change the terms relating to the Obligations or otherwise modify, amend or change the terms of any Note or other agreement, document or instrument now or hereafter executed by any Borrower and delivered to Agent for any Lender; (iii) accept partial payments of the Obligations; (iv) take and hold any Collateral for the payment of the Obligations or for the payment of any guaranties of the Obligations and exchange, enforce, waive and release any such Collateral; (v) apply any such Collateral and direct the order or manner of sale thereof as Agent, in its sole discretion, may determine; and (vi) settle, release, compromise, collect or otherwise liquidate the Obligations and any Collateral therefor in any manner, all guarantor and surety defenses being hereby waived by each Borrower. Without limitations of the foregoing, with respect to the Obligations, each Borrower hereby makes and adopts each of the agreements and waivers set forth in each Guarantee, the same being incorporated hereby by reference. Except as specifically provided in this Agreement or any of the other Financing Documents, Agent shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from any Borrower or any other source, and such determination shall be binding on all Borrowers. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of the Obligations that Agent shall determine, in its sole discretion, without affecting the validity or enforceability of the Obligations of the other Borrower.

(d) Each Borrower hereby agrees that, except as hereinafter provided, its obligations hereunder shall be unconditional, irrespective of (i) the absence of any attempt to collect the Obligations from any obligor or other action to enforce the same; (ii) the waiver or consent by Agent with respect to any provision of any instrument evidencing the Obligations, or any part thereof, or any other agreement heretofore, now or hereafter executed by a Borrower and delivered to Agent; (iii) failure by Agent to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations; (iv) the institution of any proceeding under the Bankruptcy Code, or any similar proceeding, by or against a Borrower or Agent's election in any such proceeding of the application of Section 1111(b)(2) of the Bankruptcy Code; (v) any borrowing or grant of a security interest by a Borrower as debtor-in-possession, under Section 364 of the Bankruptcy Code; (vi) the disallowance, under Section 502 of the Bankruptcy Code, of all or any portion of Agent's claim(s) for repayment of any of the Obligations; or (vii) any other circumstance other than payment in full of the Obligations which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

(e) The Borrowers hereby agree, as between themselves, that to the extent that Agent, on behalf of Lenders, shall have received from any Borrower any Recovery Amount (as defined below), then the paying Borrower shall have a right of contribution against each other Borrower in an amount equal to such other Borrower's contributive share of such Recovery Amount; provided, however, that in the event any Borrower suffers a Deficiency Amount (as defined below), then the Borrower suffering the Deficiency Amount shall be entitled to seek and receive contribution from and against the other Borrowers in an amount equal to the Deficiency Amount; and provided,

further, that in no event shall the aggregate amounts so reimbursed by reason of the contribution of any Borrower equal or exceed an amount that would, if paid, constitute or result in Fraudulent Conveyance. Until all Obligations have been paid and satisfied in full, no payment made by or for the account of a Borrower including, without limitation, (i) a payment made by such Borrower on behalf of the liabilities of any other Borrower, or (ii) a payment made by any other Guarantor under any Guarantee, shall entitle such Borrower, by subrogation or otherwise, to any payment from such other Borrower or from or out of such other Borrower's property. The right of each Borrower to receive any contribution under this Section 2.10(e) or by subrogation or otherwise from any other Borrower shall be subordinate in right of payment to the Obligations and such Borrower shall not exercise any right or remedy against such other Borrower or any property of such other Borrower by reason of any performance of such Borrower of its joint and several obligations hereunder, until the Obligations have been indefeasibly paid and satisfied in full, and no Borrower shall exercise any right or remedy with respect to this Section 2.10(e) until the Obligations have been indefeasibly paid and satisfied in full. As used in this Section 2.10(e), the term "**Recovery Amount**" means the amount of proceeds received by or credited to Agent from the exercise of any remedy of the Lenders under this Agreement or the other Financing Documents, including, without limitation, the sale of any Collateral. As used in this Section 2.10(e), the term "**Deficiency Amount**" means any amount that is less than the entire amount a Borrower is entitled to receive by way of contribution or subrogation from, but that has not been paid by, the other Borrowers in respect of any Recovery Amount attributable to the Borrower entitled to contribution, until the Deficiency Amount has been reduced to $0 through contributions and reimbursements made under the terms of this Section 2.10(e) or otherwise.

Section 2.11 Collections and Lockbox Account.

(a) From and after the Lockbox Post-Closing Period, Borrowers shall maintain a lockbox (the "**Lockbox**") with Silicon Valley Bank (the "**Lockbox Bank**"), subject to the provisions of this Agreement, and shall execute with the Lockbox Bank a Deposit Account Control Agreement and such other agreements related to such Lockbox as Agent may require. From and after the Lockbox Post-Closing Period, Borrowers shall ensure that all collections of Accounts of the Borrowers and the Secured Guarantors (other than Accounts for which the Account Debtor is a Governmental Account Debtor) are paid directly from Account Debtors (i) into the Lockbox for deposit into the Lockbox Account and/or (ii) directly into the Lockbox Account; *provided, however*, unless Agent shall otherwise direct by written notice to Borrowers, Borrowers shall be permitted to cause Account Debtors who are individuals to pay such Accounts directly to Borrowers, which Borrowers shall then administer and apply in the manner required below. At all times during the Lockbox Post-Closing Period, Borrowers shall ensure that (x) by the close of business on Wednesday of each calendar week, all collections of Accounts (other than Accounts for which the Account Debtor is a Governmental Account Debtor) received prior to such Wednesday are transferred into the Payment Account and (y) by the close of business on Friday of each calendar week, all collections of Accounts (other than Accounts for which the Account Debtor is a Governmental Account Debtor) received prior to such Friday are transferred into the Payment Account. From and after the Lockbox Post-Closing Period, all funds deposited into a Lockbox Account shall be transferred into the Payment Account by the close of each Business Day.

(b) If any of the Account Debtors of any Borrower or any Secured Guarantor are Governmental Account Debtors, from and after the Lockbox Post-Closing Period, Borrower shall establish and maintain additional lockboxes (also herein referred to collectively in the singular as the "**Lockbox**") and related Lockbox Accounts with the Lockbox Bank, subject to the provisions of this Agreement, and shall execute with the Lockbox Bank a Deposit Account Restriction Agreement and such other agreements related to such Lockbox as Agent may require. A separate Lockbox shall be established for any Borrower that is a licensed provider under the Medicaid or Medicare programs, if applicable. From and after the Lockbox Post-Closing Period, Borrower shall ensure that all collections of such Accounts due from Governmental Account Debtors are paid directly from such Account Debtors into the applicable Lockbox and/or Lockbox Account established pursuant to this subsection for deposit into the Lockbox Account established pursuant to this subsection. At all times during the Lockbox Post-Closing Period, Borrowers shall ensure that (x) by the close of business on Wednesday of each calendar week, all collections of Accounts due from Governmental Account Debtors received prior to such Wednesday are transferred into the Payment Account and (y) by the close of business on Friday of each calendar week, all collections of Accounts due from Governmental Account Debtors received prior to such Friday are transferred into the Payment Account. From and after the Lockbox Post-Closing Period, all funds deposited into a Lockbox Account that is subject (or required to be subject) to a Deposit Account Restriction Agreement shall be transferred into either (at Agent's option) (i) the Payment Account by the close of each Business Day, or (ii) the Lockbox Account established

pursuant to Section 2.11(a), which such transfer shall be made via an automatic immediate intrabank transfer, and then transferred to the Payment Account by the close of each Business Day.

(c) Notwithstanding anything in any lockbox agreement or Deposit Account Control Agreement to the contrary, Borrowers agree that they shall be liable for any fees and charges in effect from time to time and charged by the Lockbox Bank in connection with the Lockbox, the Lockbox Account, and that Agent shall have no liability therefor. Borrowers hereby indemnify and agree to hold Agent harmless from any and all liabilities, claims, losses and demands whatsoever, including reasonable attorneys' fees and expenses, arising from or relating to actions of Agent or the Lockbox Bank pursuant to this Section or any lockbox agreement or Deposit Account Control Agreement or similar agreement, except to the extent of such losses arising solely from Agent's gross negligence or willful misconduct.

(d) Agent shall apply, on a daily basis, all funds transferred into the Payment Account pursuant to this Section to reduce the outstanding Revolving Loans in such order of application as Agent shall elect. If as the result of collections of Accounts pursuant to the terms and conditions of this Section, a credit balance exists with respect to the Loan Account, such credit balance shall not accrue interest in favor of Borrowers, but Agent shall transfer such funds into an account that is subject to a Control Agreement designated by Borrower Representative for so long as no Event of Default exists.

(e) To the extent that any collections of Accounts of any Borrower or any Secured Guarantor or proceeds of other Collateral are not sent directly to the Lockbox or Lockbox Account but are received by any Borrower, such collections shall be held in trust for the benefit of Agent pursuant to an express trust created hereby and immediately remitted, in the form received, to applicable Lockbox or Lockbox Account. No such funds received by any Borrower shall be commingled with other funds of the Borrowers. If any funds received by any Borrower are commingled with other funds of the Borrowers, or are required to be deposited to a Lockbox or Lockbox Account and are not so deposited within three (3) Business Days, then Borrowers shall pay to Agent, for its own account and not for the account of any other Lenders, a compliance fee equal to $500 for each day that any such conditions exist.

(f) Borrowers acknowledge and agree that compliance with the terms of this Section is essential, and that Agent and Lenders will suffer immediate and irreparable injury and have no adequate remedy at law, if any Borrower, through acts or omissions, causes or permits Account Debtors to send payments other than to the Lockbox or Lockbox Accounts or if any Borrower fails to promptly deposit collections of Accounts or proceeds of other Collateral in the Lockbox Account as herein required. Accordingly, in addition to all other rights and remedies of Agent and Lenders hereunder, Agent shall have the right to seek specific performance of the Borrowers' obligations under this Section, and any other equitable relief as Agent may deem necessary or appropriate, and Borrowers waive any requirement for the posting of a bond in connection with such equitable relief.

(g) Borrowers shall not, and Borrowers shall not suffer or permit any Credit Party to, (i) withdraw any amounts from any Lockbox Account, (ii) change the procedures or sweep instructions under the agreements governing any Lockbox Accounts, or (iii) send to or deposit in any Lockbox Account any funds other than payments made with respect to and proceeds of Accounts or other Collateral. Borrowers shall, and shall cause each Credit Party to, cooperate with Agent in the identification and reconciliation on a daily basis of all amounts received in or required to be deposited into the Lockbox Accounts. If more than five percent (5%) of the collections of Accounts received by Borrowers during any given fifteen (15) day period is not identified or reconciled to the reasonable satisfaction of Agent within ten (10) Business Days of receipt, Agent shall not be obligated to make further advances under this Agreement until such amount is identified or is reconciled to the reasonable satisfaction of Agent, as the case may be. In addition, if any such amount cannot be identified or reconciled to the reasonable satisfaction of Agent, Agent may utilize its own staff or, if it deems necessary, engage an outside auditor, in either case at Borrowers' expense (which in the case of Agent's own staff shall be in accordance with Agent's then prevailing customary charges (*plus* expenses)), to make such examination and report as may be necessary to identify and reconcile such amount.

(h) If any Borrower breaches its obligation to direct payments of the proceeds of the Collateral to the Lockbox Account, Agent, as the irrevocably made, constituted and appointed true and lawful attorney for Borrowers, may, by the signature or other act of any of Agent's authorized representatives (without requiring any of them to do so), direct any Account Debtor to pay proceeds of the Collateral to Borrowers by directing payment to the Lockbox Account.

Section 2.12 Termination; Restriction on Termination.

(a) Termination by Lenders. In addition to the rights set forth in Section 10.2, Agent may, and at the direction of Required Lenders shall, terminate this Agreement without notice upon or after the occurrence and during the continuance of an Event of Default.

(b) Termination by Borrowers. Upon at least five (5) Business Days' prior written notice to Agent and Lenders, Borrower may, at its option, terminate this Agreement; *provided*, *however*, that (i) no such termination shall be effective until Borrowers have complied with Section 2.2(g) and the terms of any Fee Letter and have paid in full all Term Credit Obligations in immediately available funds and terminated the Term Credit Documents pursuant to a payoff letter in form and substance satisfactory to Agent and Term Credit Agent and (ii) such termination of this Agreement shall be pursuant to a payoff letter in form and substance satisfactory to Agent. Any notice of termination given by Borrowers shall be irrevocable unless all Lenders otherwise agree in writing and no Lender shall have any obligation to make any Loans on or after the termination date stated in such notice. Borrowers may elect to terminate this Agreement in its entirety only. No section of this Agreement or type of Loan available hereunder may be terminated singly.

(c) Effectiveness of Termination. All of the Obligations shall be immediately due and payable upon the Termination Date. All undertakings, agreements, covenants, warranties and representations of Borrowers contained in the Financing Documents shall survive any such termination and Agent shall retain its Liens in the Collateral and Agent and each Lender shall retain all of its rights and remedies under the Financing Documents notwithstanding such termination until all Obligations and Term Credit Obligations have been discharged or paid, in full, in immediately available funds, including, without limitation, all Obligations under Section 2.2(g) and the terms of any Fee Letter resulting from such termination. Notwithstanding the foregoing or the payment in full of the Obligations, Agent shall not be required to terminate its Liens in the Collateral unless, with respect to any loss or damage Agent may incur as a result of dishonored checks or other items of payment received by Agent from Borrower or any Account Debtor and applied to the Obligations, Agent shall, at its option, (i) have received a written agreement satisfactory to Agent, executed by Borrowers and by any Person whose loans or other advances to Borrowers are used in whole or in part to satisfy the Obligations, indemnifying Agent and each Lender from any such loss or damage or (ii) have retained cash Collateral or other Collateral for such period of time as Agent, in its discretion, may deem necessary to protect Agent and each Lender from any such loss or damage.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

To induce Agent and Lenders to enter into this Agreement and to make the Loans and other credit accommodations contemplated hereby, each Borrower hereby represents and warrants to Agent and each Lender that:

Due Organization, Authorization: Power and Authority

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(a) Each Credit Party is duly existing and in good standing, as a Registered Organization in its respective jurisdiction of formation. Each Credit Party is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. The Financing Documents have been duly authorized, executed and delivered by each Credit Party and constitute legal, valid and binding agreements enforceable in accordance with their terms, subject to bankruptcy, moratorium and other laws affecting secured creditors generally and equitable principles related to enforceability. The execution, delivery and performance by each Credit Party of each Financing Document executed or to be executed by it is in each case within such Credit Party's powers.

(b) The execution, delivery and performance by each Credit Party of the Financing Documents to which it is a party do not (i) conflict with any of such Credit Party's organizational documents; (ii) contravene, conflict with, constitute a default under or violate any Law; (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which such Credit Party or any of its property or assets may be bound or affected; (iv) require any action by, filing, registration, or qualification with, or Required Permit from, any Governmental Authority (except such Required Permits which have already been obtained and are in full force and effect); or (v) constitute a default under or conflict with any Material Agreement.

No Credit Party is in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a Material Adverse Effect.

Litigation

. Except as disclosed on Schedule 3.2 or, after the Closing Date, pursuant to Section 4.7, there are no actions, suits, proceedings or investigations pending or, to the knowledge of the Responsible Officers, threatened in writing by or against any Credit Party that could reasonably be expected to result in a Material Adverse Effect, or which questions the validity of the Financing Documents, or the other documents required thereby or any action to be taken pursuant to any of the foregoing.

No Material Deterioration in Financial Condition; Financial Statements

. All financial statements for the Credit Parties delivered to Agent or any Lender fairly present, in conformity with GAAP, in all material respects the consolidated financial condition and consolidated results of operations of such Credit Party. There has been no occurrence of any fact, event or circumstance that could reasonably be expected to result in a Material Adverse Effect since the date of the most recent financial statements and projections submitted to Agent or any Lender. There has been no material adverse deviation from the most recent annual operating plan of Borrower delivered to Agent and Lenders.

Solvency

. The fair salable value of each Credit Party's assets (including goodwill minus disposition costs) exceeds the fair value of its liabilities. After giving effect to the transactions described in this Agreement, (a) no Credit Party is left with unreasonably small capital in relation to its business as presently conducted, and (b) each Credit Party is able to pay its debts (including trade debts) as they mature.

Subsidiaries; Investments; Margin Stock

. Borrower and its Subsidiaries do not own any stock, partnership interest or other equity securities, except for Permitted Investments and any Subsidiaries created after the Closing Date that have satisfied the applicable requirements of Section 4.8. Without limiting the foregoing, Borrower and its Subsidiaries do not own or hold any Margin Stock other than as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

Tax Returns and Payments; Pension Contributions

. Each Credit Party has timely filed all U.S. federal income, state income and other material tax returns and reports, and, except for those Taxes that are subject to a Permitted Contest or are not material, each Credit Party has timely paid all Taxes owed by such Credit Party. Other than as disclosed to Agent in accordance with Section 4.2, Borrower is unaware of any claims or adjustments proposed in writing for any prior tax years of any such Credit Party which could result in additional material Taxes becoming due and payable by such Credit Party. For purposes of the foregoing, "material" shall mean in excess of $500,000. No Credit Party nor any trade or business (whether or not incorporated) that is under common control with any Credit Party within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of the provisions relating to Section 412 of the Code) or Section 4001 of ERISA (an "**ERISA Affiliate**") (i) has failed to satisfy the "minimum funding standards" (as defined in Section 412 of or Section 302 of ERISA), whether or not waived, with respect to any Pension Plan, (ii) has incurred liability with respect to the withdrawal or partial withdrawal of any Credit Party or ERISA Affiliate from any Pension Plan or incurred a cessation of operations that is treated as a withdrawal, (iii) has incurred any liability under Title IV of ERISA (other than for PBGC premiums due but not delinquent under Section 4007 of ERISA), (iv) has had any "reportable event" as defined in Section 4043(c) of ERISA (or the regulations issued thereunder) (other than an event for which the 30-day notice requirement is waived) occur with respect to any Pension Plan or (v) failed to maintain (1) each "plan" (as defined by Section 3(3) of ERISA) in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws, and (2) the tax qualified status of each plan (as defined above) intended to be so qualified.

Intellectual Property and License Agreements

. A list of all Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) of each Credit Party and, to the extent material or entered into on or after January 1, 2013, all in-bound license or sublicense agreements, exclusive out-bound license or sublicense agreements, or other rights of any Credit Party to use Intellectual Property (but excluding in-bound licenses of over-the-counter software that is commercially available to the public), as of the Closing Date and, to the extent material, as updated pursuant to Section 4.14, is set forth on Schedule 3.7. Such schedule shall be prepared by Borrower in the form provided by Agent and contain all information required in such form. Except for Permitted Licenses, each Credit Party is the sole owner of its Intellectual Property free and clear of any Liens. Except as set forth on Schedule 3.7, each patent within the Registered Intellectual Property

(registered with the United States Patent and Trademark Office) is valid and enforceable and no part of the Material Intangible Assets has been judged invalid or unenforceable, in whole or in part, and to the best of Borrower's knowledge, no written claim has been made that any part of the Intellectual Property violates the rights of any third party. As of the Closing Date, all Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) of any predecessor-in-interest of Borrower (including, without limitation, AVI Biopharma, Inc.) constituting Material Intangible Assets has been assigned to Borrower in the records of the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

Regulatory Status

. All of Borrower's Products and Regulatory Required Permits are listed on Schedule 3.8, respectively (as updated from time to time pursuant to Section 4.16), and Borrower has delivered to Agent a copy of all Regulatory Required Permits requested by Agent as of the date hereof or to the extent requested by Agent pursuant to Section 4.16. With respect to any Product, (i) Borrower and its Subsidiaries have received, and such Product is the subject of, all Regulatory Required Permits needed in connection with the testing, manufacture, marketing or sale of such Product as currently being conducted by or on behalf of Borrower, and have provided Agent and each Lender with all notices and other information required by Section 4.16, (ii) such Product is being tested, manufactured, marketed or sold, as the case may be, in material compliance with all applicable Laws and Regulatory Required Permits. As of the Closing Date, there have been no Regulatory Reporting Events.

Accuracy of Schedules and Perfection Certificate

. All information set forth in the Schedules (other than Schedules 4.13 and 9.1) (the "**Disclosure Schedules**") is true, accurate and complete as of the Closing Date, the date of delivery of the last Compliance Certificate and any other subsequent date on which Borrower is requested to update such certificate. All information set forth in the Perfection Certificate is true, accurate and complete as of the Closing Date and any other subsequent date on which Borrower is requested to update such certificate.

Labor Matters

. As of the Closing Date, there are no strikes or other labor disputes pending or, to any Borrower's knowledge, threatened against any Credit Party. Hours worked and payments made to the employees of the Credit Parties have not been in violation of the Fair Labor Standards Act or any other applicable Law dealing with such matters. All payments due from the Credit Parties, or for which any claim may be made against any of them, on account of wages and employee and retiree health and welfare insurance and other benefits have been paid or accrued as a liability on their books, as the case may be. The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which it is a party or by which it is bound.

Regulated Entities

. No Credit Party is an "investment company" or a company "controlled" by an "investment company" or a "subsidiary" of an "investment company," all within the meaning of the Investment Company Act of 1940.

Margin Regulations

. None of the proceeds from the Loans have been or will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U of the Federal Reserve Board), for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any "margin stock" or for any other purpose which might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulation T, U or X of the Federal Reserve Board.

Section 3.13 Compliance With Laws; Anti-Terrorism Laws.

(a) Each Credit Party is in compliance with the requirements of all applicable Laws, except for such Laws the noncompliance with which could not reasonably be expected to have a Material Adverse Effect.

(b) None of the Credit Parties and, to the knowledge of the Credit Parties, none of their Affiliates (i) is in violation of any Anti-Terrorism Law, (ii) 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, (iii) is a Blocked Person, or is controlled by a Blocked Person, (iv) is acting or will act for or on behalf of a Blocked Person, (v) is associated with, or will become associated with, a Blocked Person or (vi) is providing, or will provide, material, financial or technical support or other services to or in support of acts of terrorism of a Blocked Person. No Credit Party nor, to the knowledge of any Credit Party, any of its Affiliates or agents acting

or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (A) 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 (B) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law.

Capitalization

. The authorized equity securities of each of the Credit Parties as of the Closing Date are as set forth on Schedule 3.14. All issued and outstanding equity securities of each of the Credit Parties are duly authorized and validly issued, fully paid, nonassessable, free and clear of all Liens other than those in favor of Agent for the benefit of Agent and Lenders, and such equity securities were issued in compliance with all applicable Laws. The identity of the holders of the equity securities of each of the Credit Parties (other than Sarepta) and the percentage of their fully-diluted ownership of the equity securities of each of the Credit Parties (other than Sarepta) as of the Closing Date is set forth on Schedule 3.14. No shares of the capital stock or other equity securities of any Credit Party, other than those described above, are issued and outstanding as of the Closing Date (or in the case of Sarepta, as of March 31, 2017). Except as set forth on Schedule 3.14, as of the Closing Date (or in the case of Sarepta, as of March 31, 2017), there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the purchase or acquisition from any Credit Party of any equity securities of any such entity.

Ownership of Property

. Except to the extent covered by Section 3.7, each Borrower and each of its Subsidiaries is the lawful owner of, has good and marketable title to and is in lawful possession of, or has valid leasehold interests in, all properties and other assets (real or personal, tangible, intangible or mixed) purported or reported to be owned or leased (as the case may be) by such Person.

Consummation of Operative Documents; Brokers

. Except for fees payable to Agent and/or Lenders, no broker, finder or other intermediary has brought about the obtaining, making or closing of the transactions contemplated by the Operative Documents, and no Credit Party has or will have any obligation to any Person in respect of any finder's or brokerage fees, commissions or other expenses in connection herewith or therewith.

[Reserved]

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[Reserved]

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Compliance with Environmental Requirements; No Hazardous Materials

. Except in each case as set forth on Schedule 3.19:

(a) no notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to such Borrower's knowledge, threatened by any Governmental Authority or other Person with respect to any (i) alleged violation by any Credit Party of any Environmental Law, (ii) alleged failure by any Credit Party to have any Permits required in connection with the conduct of its business or to comply with the terms and conditions thereof, (iii) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials, or (iv) release of Hazardous Materials; and

(b) no property now owned or leased by any Credit Party and, to the knowledge of each Borrower, no such property previously owned or leased by any Credit Party, to which any Credit Party has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to such Borrower's knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA, or CERCLIS (as defined in CERCLA) or any similar state list or is the subject of federal, state or local enforcement actions or, to the knowledge of such Borrower, other investigations which may lead to claims against any Credit Party for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, without limitation, claims under CERCLA.

[Reserved]

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[Reserved]

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Full Disclosure

. None of the written information (financial or otherwise) taken as a whole furnished by or on behalf of any Credit Party to Agent or any Lender in connection with the consummation of the transactions contemplated by the Operative Documents, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which such statements were made. All financial projections delivered to Agent and the Lenders by Borrowers (or their agents) have been prepared on the basis of the assumptions stated therein. Such projections represent each Borrower's best estimate of such Borrower's future financial performance and such assumptions are believed by such Borrower to be fair and reasonable in light of current business conditions; *provided*, *however*, that Borrowers can give no assurance that such projections will be attained.

Interest Rate

. The rate of interest paid under the Notes and the method and manner of the calculation thereof do not violate any usury or other law or applicable Laws, any of the Organizational Documents, or any of the Operative Documents.

[Reserved]

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ARTICLE 4 - AFFIRMATIVE COVENANTS

Each Borrower agrees that, so long as any Credit Exposure exists:

Organization and Existence, Government Compliance

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(a) Each Credit Party shall maintain its legal existence and good standing in its respective jurisdiction of formation and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. If a Credit Party is not now a Registered Organization but later becomes one, Borrower shall promptly notify Agent of such occurrence and provide Agent with such Credit Party's organizational identification number.

(b) Each Credit Party shall comply with all Laws, ordinances and regulations to which it or its business locations is subject, the noncompliance with which could reasonably be expected to result in a Material Adverse Effect. Each Credit Party shall obtain and keep in full force and effect and comply with all of the Required Permits, except where failure to have or maintain compliance with or effectiveness of such Required Permit could not reasonably be expected to result in a Material Adverse Effect. Upon request of Agent or any Lender, each Credit Party shall promptly (and in any event within three (3) Business Days of such request) provide copies of any such obtained Required Permits to Agent. Borrower shall notify Agent within three (3) Business Days of the occurrence of any facts, events or circumstances known to a Borrower, whether threatened, existing or pending, that could cause any Required Permit to become limited, suspended or revoked. Notwithstanding the foregoing, each Credit Party shall comply with Section 4.16 as it relates to Regulatory Required Permits and to the extent that there is a conflict between this Section and Section 4.16 as it relates to Regulatory Required Permits, Section 6.16 shall govern.

Section 4.2 Financial Statements, Reports, Certificates.

(a) Each Credit Party shall deliver to Agent and each Lender: (i) as soon as available, but no later than fifty-five (55) days after the last day of each fiscal quarter, a company prepared consolidated (and, at the reasonable request of Agent, consolidating) balance sheet, income statement and cash flow statement covering such Credit Party's consolidated operations for such fiscal quarter certified by a Responsible Officer and in a form reasonably acceptable to Agent and each Lender; (ii) as soon as available, but no later than one hundred twenty (120) days after the last day of a Credit Party's fiscal year, audited consolidated (and, at the reasonable request of Agent, consolidating) financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Agent and each Lender in its reasonable discretion; (iii) as soon as available after approval thereof by such Credit Party's governing board, but no later than thirty (30) days after the last day of such Credit Party's fiscal year, and as amended and/or updated, such Credit Party's operating plan (including financial projections) for current fiscal year; (iv) within five (5) days of delivery, copies of all statements, reports and notices made available to all of such Credit Party's security holders or to any holders of Subordinated Debt; (v) within five (5) days of filing, all reports on Form 10-K, 10-Q and 8 K filed

with the Securities and Exchange Commission ("SEC") or a link thereto on such Credit Party's or another website on the Internet; (vi) as soon as available, but no later than ten (10) days after the last day of each month, copies of the month-end account statements for each Collateral Account maintained by Borrower, each Secured Guarantor and the Securities Subsidiary, which statements may be provided to Agent and each Lender by Borrower or directly from the applicable institution(s); (vii) promptly (and in any event within ten (10) days of any request therefor) such readily available budgets, sales projections, operating plans, financial information and other information, reports or statements regarding the Credit Parties or their respective businesses, contractors and subcontractors reasonably requested by Agent or any Lender; and (viii) within ten (10) days after any Credit Party becomes aware of any claim or adjustment proposed for any prior tax years of any Credit Party or any of their Subsidiaries which could result in additional material Taxes becoming due and payable by such Credit Party or Subsidiary, notice of such claim or adjustment, which purposes of the foregoing clause (viii), "material" shall mean in excess of $500,000. Delivery of the foregoing financial statements and other items as set forth in clauses (i), (ii), (iv) and (v) of this Section 4.2(a) may be satisfied by written notice that such financial statements or other items have been filed with the SEC or posted on the Borrower's website, which written notice shall include an electronic link to such financial statements or other items.

(b) Borrower shall deliver to Agent and each Lender with the quarterly financial statements described above, a duly completed Compliance Certificate signed by a Responsible Officer.

(c) Borrower shall, every ninety (90) days on a schedule to be designated by Agent, and at such other times as Agent shall request, deliver to Agent a schedule of Eligible Accounts.

(d) Borrower shall and shall cause each Credit Party to keep proper books of record and account in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities. Upon prior written notice and during business hours (which such limitations shall not apply if an Event of Default has occurred), Borrower shall allow, and cause each Credit Party to allow, Agent and Lenders to visit and inspect any properties of a Credit Party, to examine and make abstracts or copies from any Credit Party's books, to conduct a collateral audit and analysis of its operations and the Collateral to verify the amount and age of the accounts, the identity and credit of the respective account debtors, to review the billing practices of the Credit Party and to discuss its respective affairs, finances and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired. Borrower shall reimburse Agent and each Lender for all reasonable costs and expenses associated with such visits and inspections; provided, however, that Borrower shall be required to reimburse Agent and each Lender for such costs and expenses for no more than one (1) such visit and inspection per twelve (12) month period unless a Default or Event of Default has occurred and is continuing during such period; provided that if Agent or Lender, upon the occurrence of a Default of Event of Default, is in the process of performing, or has incurred any costs or expenses in connection with, such reimbursable visit or inspection when such Default or Event of Default is no longer continuing, such partially performed visit or inspection shall not be subject to, and shall not count against, any limitations set forth herein.

(e) Borrower shall, and shall cause each Credit Party to, deliver to Agent and each Lender, within five (5) days after the same are sent or received, copies of all material correspondence, reports, documents and other filings with any Governmental Authority that could reasonably be expected to have a material effect on any of the Required Permits material to Borrower's business or otherwise on the operations of Borrower or any of its Subsidiaries (except that reporting related to Regulatory Required Permits and/or Regulatory Reporting Events shall be governed by Section 4.16).

(f) Each Borrower shall, within ten (10) days after the last day of each month, deliver to Agent a duly completed Borrowing Base Certificate signed by a Responsible Officer, with aged listings of accounts receivable and accounts payable (by invoice date).

Maintenance of Property

. Borrower and each Secured Guarantor shall cause all equipment and other tangible personal property other than Inventory to be maintained and preserved in the same condition, repair and in working order as of the date hereof, ordinary wear and tear excepted, and shall promptly make or cause to be made all repairs, replacements and other improvements in connection therewith that are necessary or desirable to such end. Borrower and each Secured Guarantor shall keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between a Borrower (or a Secured Guarantor) and its Account Debtors shall follow the Borrower's (or such Secured Guarantor's, as applicable) customary practices as they existed on June 26,

2015. Borrower shall promptly notify Agent of all returns, recoveries, disputes and claims that involve more than Five Hundred Thousand Dollars ($500,000) of Inventory collectively among Borrower and the Secured Guarantors.

Taxes; Pensions

. Borrower shall timely file and cause each Credit Party to timely file, all U.S. federal income, state income and other material tax returns and reports and timely pay, and cause each such Credit Party to timely pay, all Taxes owed, and shall deliver to Agent, upon written demand, appropriate certificates attesting to such payments; provided, however, that any such Credit Party may defer payment of any Taxes that are not material or contested Taxes, and, in the case of contested Taxes, so long as such Credit Party (a) in good faith contests its obligation to pay the Taxes by appropriate proceedings promptly and diligently instituted and conducted, and (b) adequate reserves for such Taxes are maintained on the Books of such Credit Party in accordance with GAAP (such contest, a "**Permitted Contest**"). For purposes of the foregoing, "material" shall mean in excess of $500,000. Borrower shall pay, and cause each Credit Party to pay, all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms. Each Credit Party and their ERISA Affiliates shall timely make all required contributions to each Pension Plan and shall maintain each "plan" (as defined by Section 3(3) of ERISA) in material compliance with the applicable provisions of ERISA, the Code and other federal and state laws. Borrower shall give written notice to Agent and each Lender promptly (and in any event within three (3) Business Days) upon Borrower becoming aware of any (i) Credit Party's or any ERISA Affiliate's failure to make any contribution required to be made with respect to any Pension Plan not having been timely made, (ii) notice of the PBGC's, any Credit Party's or any ERISA Affiliate's intention to terminate or to have a trustee appointed to administer any such Pension Plan, or (iii) complete or partial withdrawal by any Credit Party or any ERISA Affiliate from any Pension Plan.

Insurance

. Borrower shall, and shall cause each Secured Guarantor to, keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Agent may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to Agent. All property policies shall have a lender's loss payable endorsement showing Agent as sole lender's loss payee and waive subrogation against Agent, and all liability policies shall show, or have endorsements showing, Agent as an additional insured. No other loss payees may be shown on the policies unless Agent shall otherwise consent in writing. If required by Agent, all policies (or the loss payable and additional insured endorsements) shall provide that the insurer shall endeavor to give Agent at least thirty (30) days' (ten (10) days' for non-payment of premium) notice before canceling, amending, or declining to renew its policy. At Agent's request, Borrower shall deliver certified copies of all such Borrower's and the Secured Guarantors' insurance policies and evidence of all premium payments. If Borrower or any Secured Guarantor fails to obtain insurance as required under this Section 4.5 or to pay any amount or furnish any required proof of payment to third persons and Agent, Agent may make all or part of such payment or obtain such insurance policies required in this Section 4.5, and take any action under the policies Agent deems prudent. Borrower and each Secured Guarantor hereby waives any rights against Agent and Lenders for any property damages or claims to the extent the same is insured or required to be insured hereunder.

Collateral Accounts

.

(a) Borrower shall, and shall cause each Secured Guarantor to, provide Agent five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution. In addition, for each Collateral Account that any Borrower or Secured Guarantor at any time maintains (and in connection with any such Collateral Account established after the Closing Date, prior to opening such Collateral Account), Borrower shall, and shall cause each Secured Guarantor to, cause the applicable bank or financial institution at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Agent's Lien in such Collateral Account in accordance with the terms hereunder, which Control Agreement may not be terminated without prior written consent of Agent. The provisions of the previous sentence shall not apply to (a) Deposit Accounts exclusively used for payroll, payroll taxes, other trust fund taxes, and, in Agent's reasonable discretion, other employee wage and benefit payments to or for the benefit of a Borrower's or a Secured Guarantor's employees, (b) Deposit Accounts owned by the Securities Subsidiary, (c) the Subject Cash Collateral Accounts or (d) Collateral Accounts in which the daily balances do not exceed $250,000 in the aggregate for all such Collateral Accounts and, in each case, identified to Agent by Borrower as such; provided, however, that at all times Borrower and each Secured Guarantor shall maintain one or more separate Deposit Accounts to hold any and all amounts to be used for payroll, payroll taxes and other employee wage and benefit payments, and

shall not commingle any monies allocated for such purposes with funds in any other Deposit Account. The provisions of this Section 4.6(a) shall not apply to any Deposit Accounts, Securities Accounts or Commodity Accounts established and/or maintained by any CFC, any CFC Holdco or any Subsidiary of a CFC.

(b) Borrower shall at all times maintain in a Collateral Account subject to a Control Agreement an amount of cash and/or cash equivalents equal to not less than 75% of the sum of (i) the aggregate outstanding principal amount of the Loans plus (ii) the aggregate outstanding principal amount of the Credit Extensions (as defined in the Term Credit Documents) (the "**Minimum Cash Amount**").

(c) Borrower shall, and shall cause the Secured Guarantors and the Securities Subsidiary, to maintain securities/asset management accounts with Silicon Valley Bank or its Affiliates which shall have balances at all times equal to the lesser of (i) all balances in all securities/asset management accounts of Borrower, the Secured Guarantors and the Securities Subsidiary or (ii) Five Hundred Million Dollars ($500,000,000).

(d) All Collateral Accounts of Borrower and each Secured Guarantor are set forth on Schedule 4.6(c) as updated pursuant to Section 4.14.

Notices of Material Agreements, Litigation and Defaults; Cooperation in Litigation

.

(a) Borrower shall promptly (and in any event within the time periods specified below) provide written notice to Agent and each Lender of the following:

(i) Within three (3) Business Days of Borrower becoming aware of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default;

(ii) Within three (3) Business Days of Borrower becoming aware of (or having reason to believe any of the following are pending or threatened in writing) any action, suit, proceeding or investigation by or against Borrower or any Credit Party that could reasonably be expected to result in a Material Adverse Effect, or which questions the validity of any of the Financing Documents, or the other documents required thereby or any action to be taken pursuant to any of the foregoing;

(iii) (A) Within three (3) Business Days of Borrower (1) executing and delivering any amendment, consent, waiver or other modification to any Material Agreement that is materially adverse to Borrower or any Secured Guarantor, Agent or any Lender (it being acknowledged that amendments, modifications and waivers with respect to any DMD Agreements among Borrower and its Subsidiaries will be deemed not to be materially adverse to Borrower, Agent or any Lender so long as such amendment, modification or waiver could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 4.15(e) or (2) receiving or delivering any notice of termination or default or similar notice in connection with any Material Agreement and (B) together with delivery of the next annual Compliance Certificate, the execution of any new Material Agreement and/or any new material amendment, consent, waiver or other modification to any Material Agreement not previously disclosed.

(b) Borrower shall, and shall cause each Credit Party, to provide such further information (including copies of such documentation) as Agent or any Lender shall reasonably request with respect to any of the events or notices described in clause (a). From the date hereof and continuing through the termination of this Agreement, Borrower shall, and shall cause each Credit Party to, make available to Agent and each Lender, without expense to Agent or any Lender, each Credit Party's officers, employees and agents and books, to the extent that Agent or any Lender may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Agent or any Lender with respect to any Collateral or relating to a Credit Party.

Creation/Acquisition of Subsidiaries

. Borrower shall provide Agent with at least ten (10) Business Days (or such shorter period as Agent may accept in its sole discretion) prior written notice of its intention to create or, to the extent permitted pursuant to this Agreement, acquire a new Subsidiary. Subject to the further

provisions of this Section 4.8, upon such creation or, to the extent permitted hereunder, acquisition of any Subsidiary, Borrower and such Subsidiary shall promptly (and in any event within five (5) Business Days of such creation or acquisition) take all such action as may be reasonably required by Agent or the Required Lenders to cause each such Subsidiary to either, in the discretion of Agent, become a co-Borrower hereunder or to guarantee the Obligations of Borrower under the Financing Documents and, in each case, grant a continuing pledge and security interest in and to the assets of such Subsidiary as soon as reasonably practicable but in any event, within 30 days after the creation or acquisition of such Subsidiary (substantially as described on Exhibit B hereto); and Borrower shall grant and pledge to Agent, for the ratable benefit of the Lenders, a perfected security interest (subject to the Intercreditor Agreement) in the stock, units or other evidence of ownership of each Subsidiary (the foregoing collectively, the "Joinder Requirements"); provided, that Borrower shall not be permitted to make any Investment in such Subsidiary until such time as Borrower has satisfied the Joinder Requirements and, for the avoidance of doubt, thereafter only such Investments as are permitted to be made pursuant to this Agreement, including, without limitation, Section 5.7 and the definition of "Permitted Investments". Notwithstanding the foregoing:

(a) so long as the Securities Subsidiary continues to qualify as a "Security Corporation" as defined in 830 Code of Mass. Regulations 63.38B.1, such Securities Subsidiary shall not be subject to the Joinder Requirements; provided, that, for the avoidance of doubt, (i) Borrower shall not be permitted to make any Investment in such Securities Subsidiary other than pursuant to clause (j) of the definition of Permitted Investments and (ii) the Securities Subsidiary shall be subject to a pledge by Borrower of 100% of the Securities Subsidiary's equity interests;

(b) with respect to any CFC Holdco, such CFC Holdco shall not be subject to the Joinder Requirements other than, in the case of a first tier CFC Holdco, a pledge by Borrower or Secured Guarantor, as applicable, of 65% of the equity interests of such CFC Holdco which are entitled to vote and 100% of the equity interests of such CFC Holdco which are not entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2)); and

(c) so long as any Foreign Subsidiary (including, without limitation, Sarepta International and AVI) remains wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) by ST International, STIH or another CFC Holdco, another Foreign Subsidiary, Borrower or Secured Guarantor, such Foreign Subsidiary (or any Subsidiary thereof) shall not be subject to the Joinder Requirements; provided, however, that in the event such Foreign Subsidiary is directly owned by Borrower (or any Secured Guarantor), such Foreign Subsidiary shall be subject to a pledge by Borrower (or such Secured Guarantor) of 65% of such Foreign Subsidiary's equity interests of which are entitled to vote and 100% of such Foreign Subsidiary's equity interests of which are not entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2)); and

(d) all Foreign Subsidiaries shall be directly or indirectly wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) either by a CFC Holdco whose equity has been pledged to the extent required by paragraph (b) above or by Borrower or a Secured Guarantor, who shall have pledged the equity of such Foreign Subsidiary to the extent required by paragraph (c) above.

The limitations set forth in clauses (b) and (c) above shall not apply and such Persons shall be required to satisfy the Joinder Requirements, if the formation or purpose of such Foreign Subsidiary adversely affects, or could reasonably be expected to adversely affect the Credit Parties' obligations to comply with Section 4.15(e).

Use of Proceeds

. Borrower shall use the proceeds of the Loans solely for (a) transaction fees incurred in connection with the Financing Documents, (b) for working capital needs of Borrower and its Subsidiaries, and (c) any other purpose specified in the Financing Documents. No portion of the proceeds of the Loans will be used for family, personal, agricultural or household use or to purchase Margin Stock other than, with respect to the purchase of Margin Stock, as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

Hazardous Materials; Remediation

.

(a) If any release or disposal of Hazardous Materials shall occur or shall have occurred on any real property of any Borrower or any Secured Guarantor, such Borrower will cause, or direct the applicable Secured Guarantor to cause, the prompt containment and removal of such Hazardous Materials and the remediation of such real property as is necessary to comply with all Environmental Laws in a manner that does not materially reduce the value of such real property. Without limiting the generality of the foregoing, each Borrower shall, and shall cause each Secured Guarantor to, comply with each Environmental Law requiring the performance at any real property by any Borrower or any Secured Guarantor of activities in response to the release or threatened release of a Hazardous Material.

(b) In the event of a release or disposal of Hazardous Materials, as described in Section 4.10(a), Borrower will provide Agent, within thirty (30) days after written demand therefor, with a bond, letter of credit or similar financial assurance evidencing to the reasonable satisfaction of Agent that sufficient funds are available to pay the cost of removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging any assessment which may be established by any Governmental Authority or applicable Law on any real property as a result thereof, such demand to be made, if at all, upon Agent's determination that the failure to remove, treat or dispose of such Hazardous Materials or Hazardous Materials Contamination, or the failure to discharge any such assessment could reasonably be expected to have a Material Adverse Effect.

(c) If there is any conflict between this Section 4.10 and any environmental indemnity agreement which is a Financing Document, the environmental indemnity agreement shall govern and control.

Power of Attorney

. Each of the officers of Agent is hereby irrevocably made, constituted and appointed the true and lawful attorney for each Borrower (and each Secured Guarantor) (without requiring any of them to act as such) with full power of substitution, and upon the occurrence and during the continuance of an Event of Default, Agent may do the following: (a) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; (b) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower (or such Secured Guarantor, as applicable) to perform the same and Borrower (or such Secured Guarantor, as applicable) has failed to take such action, (i) execute in the name of any Person comprising Borrower (or such Secured Guarantor, as applicable) any schedules, assignments, instruments, documents, and statements that Borrower (or such Secured Guarantor, as applicable) is obligated to give Agent under this Agreement or that Agent or any Lender deems necessary to perfect or better perfect Agent's security interest or Lien in any Collateral, (ii) do such other and further acts and deeds in the name of Borrower (or such Secured Guarantor, as applicable) that Agent may deem necessary or desirable to enforce, protect or preserve any Collateral or its rights therein, including, but not limited to, to sign Borrower's (or such Secured Guarantor's, as applicable) name on any invoice or bill of lading for any Account or drafts against Account Debtors; and (iii)(A) endorse the name of any Borrower (or such Secured Guarantor, as applicable) upon any and all checks, drafts, money orders, and other instruments for the payment of money that are payable to Borrower (or such Secured Guarantor, as applicable); (B) make, settle, and adjust all claims under Borrower's (or such Secured Guarantor's, as applicable) insurance policies; (C) take any action any Borrower (or such Secured Guarantor, as applicable) is required to take under this Agreement or any other Financing Document; (D) transfer the Collateral into the name of Agent or a third party as the UCC permits; (E) exercise any rights and remedies described in this Agreement or the other Financing Documents; and (F) do such other and further acts and deeds in the name of Borrower (or such Secured Guarantor, as applicable) that Agent may deem necessary or desirable to enforce its rights with regard to any Collateral.

Further Assurances

. Borrower shall, and shall cause each Secured Guarantor to, promptly execute any further instruments and take further action as Agent reasonably requests to perfect or better perfect or continue Agent's Lien in the Collateral or to effect the purposes of this Agreement or any other Financing Document.

Section 4.13 Post-Closing Obligations.

Borrower shall, and shall cause each Secured Guarantor to, complete each of the post-closing obligations and/or deliver to Agent each of the documents, instruments, agreements and information listed on Schedule 4.13, on or before the date set forth for each such item thereon (as the same may be extended by Agent in writing in its sole discretion), each of which shall be completed or provided in accordance with Schedule 4.13.

Section 4.14 Schedule Updates.

Borrower shall (and shall cause each Secured Guarantor), in the event of any information in the Disclosure Schedules becoming outdated, inaccurate, incomplete or misleading, deliver to Agent, together with the next Compliance Certificate required to be delivered under this Agreement after such event, a proposed update to the Disclosure Schedules correcting all outdated, inaccurate, incomplete or misleading information; provided, however, (i) with respect to any proposed updates to the Disclosure Schedules involving Permitted Liens, Permitted Debt or Permitted Investments, Agent will replace the Disclosure Schedules attached hereto with such proposed update only if such updated information is consistent with the definitions of and limitations herein pertaining to Permitted Liens, Permitted Debt or Permitted Investments, (ii) updates to the Disclosure Schedules involving Registered Intellectual Property or Material Agreements relating to Intellectual Property shall be provided only annually, (iii) updates to the Disclosure Schedule involving Registered Intellectual Property shall only be required to the extent relating to Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office) and (iv) with respect to any proposed updates to the Disclosure Schedules involving other matters, Agent will replace the applicable portion of the Disclosure Schedules attached hereto with such proposed update upon Agent's approval thereof.

Intellectual Property and Licensing

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(a) Together with each Compliance Certificate required to be delivered with the annual financial statements pursuant to Section 4.2(b), to the extent (A) Borrower acquires and/or develops any material new Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office), or (B) Borrower enters into or becomes bound by any additional material in-bound license or sublicense agreement, any additional exclusive material out-bound license or sublicense agreement or other material agreement with respect to rights in Intellectual Property (other than over-the-counter software that is commercially available to the public), or (C) there occurs any other material change in Borrower's Registered Intellectual Property (registered with the United States Patent and Trademark Office or the United States Copyright Office), in-bound licenses or sublicenses or exclusive out-bound licenses or sublicenses from that listed on Schedule 3.7 (other than a change in counterparty from a Subsidiary that is not a Secured Guarantor to another Subsidiary that is not a Secured Guarantor), together with such Compliance Certificate, Borrower will deliver to Agent an updated Schedule 3.7 reflecting such updated information. With respect to any updates to Schedule 3.7 involving exclusive out-bound licenses or sublicenses, such licenses shall be consistent with the definitions of and limitations herein pertaining to Permitted Licenses.

(b) If Borrower obtains after the Closing Date any Registered Intellectual Property (other than copyrights, mask works and related applications, which are addressed below), Borrower shall promptly execute such documents and provide such other information (including, without limitation, copies of applications) and take such other actions as Agent shall request in its good faith business judgment to perfect and maintain a first priority perfected security interest (subject to the Intercreditor Agreement) in favor of Agent, for the ratable benefit of Lenders, in the IP Proceeds (as defined in Schedule 9.1) pertaining thereto.

(c) Borrower shall take such commercially reasonable steps as Agent requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (x) all such licenses or agreements to be deemed "Collateral" and for Agent to have a security interest in it that might otherwise be restricted or prohibited by Law or by the terms of any such license or agreement, whether now existing or entered into in the future, and (y) Agent to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Agent's rights and remedies under this Agreement and the other Financing Documents.

(d) Borrower shall own, or be licensed to use or otherwise have the right to use, all Material Intangible Assets. Borrower shall cause all Registered Intellectual Property to be duly and properly registered, filed or issued in the appropriate office and jurisdictions for such registrations, filings or issuances, except where the failure to do so would not reasonably be expected to result in a Material Adverse Effect. Borrower shall at all times conduct its business without intentional infringement of any Intellectual Property rights of others. Borrower shall (i) protect, defend and maintain the validity and enforceability of its Material Intangible Assets (ii) promptly advise Agent in writing of material infringements of its Material Intangible Assets by a third party, or of a written notice sent by a third party of a material claim of infringement by Borrower on the Intellectual Property rights of others; and (iii) not

allow any of Borrower's Material Intangible Assets to be abandoned, invalidated, forfeited or dedicated to the public or to become unenforceable unless ordered by a court or administrative agency of competent jurisdiction. Borrower shall not become a party to, nor become bound by, any material license or other agreement with respect to which Borrower is the licensee that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or other property, other than a restriction invalidated under sections 9-406, 9-407 or 9-408 of the UCC.

(e) (i) With respect to any Product for the treatment of Duchenne Muscular Dystrophy that has been marketed, distributed or sold in the US Territory on or prior to the Closing Date, Borrower or a Secured Guarantor has been granted from a direct or indirect Subsidiary of Borrower, and Borrower or a Secured Guarantor, as applicable, shall maintain, the exclusive distributorship with the rights (to the exclusion of any other Person) to market, distribute and sell such Product in the US Territory pursuant to agreements and documentation that comply with Section 5.8(a) (collectively, the "Existing DMD Agreements") and (ii) with respect to any Product for the treatment of Duchenne Muscular Dystrophy that has not been marketed, distributed or sold in the US Territory on or prior to the Closing Date, by the time of (x) the filing of a new drug application with the FDA with respect to such Product or (y) the filing of a biologics license application with the FDA with respect to such Product, Borrower or a Secured Guarantor shall be granted from a direct or indirect Subsidiary of Borrower (and Borrower shall cause any applicable Credit Party to so grant), and thereafter Borrower or a Secured Guarantor, as applicable, shall maintain, the exclusive distributorship with the rights (to the exclusion of any other Person) to market, distribute and sell such Product in the US Territory pursuant to agreements and documentation that comply with Section 5.8(a) (together with the Existing DMD Agreements, the "DMD Agreements"). For the avoidance of doubt, with respect to the foregoing clauses (i) and (ii), no Person (other than Borrower or a Secured Guarantor) shall have the right to market, distribute or sell such Products in the US Territory.

Section 4.16 Regulatory Reporting and Covenants.

(a) Borrower shall notify Agent and each Lender promptly (and in any event within three (3) Business Days of receiving, becoming aware of or determining that (each, a "Regulatory Reporting Event" and collectively, the "Regulatory Reporting Events"): (i) any Governmental Authority, specifically including the FDA is conducting or has conducted (A) if applicable, any investigation of Borrower's or its Subsidiaries' manufacturing facilities and processes for any Product (or any investigation of the facility of a contract manufacturer engaged by Borrower or its Subsidiaries in respect of a Product of which Borrower and/or its Subsidiaries are aware), which has disclosed any material deficiencies or violations of Laws and/or the Regulatory Required Permits related thereto or (B) an investigation or review of any Regulatory Required Permit (other than routine reviews in the Ordinary Course of Business associated with the renewal of a Regulatory Required Permit and which could not reasonably be expected to result in a Material Adverse Effect), (ii) development, testing, and/or manufacturing of any Product should cease, (iii) if a Product has been approved for marketing and sale, any marketing or sales of such Product should cease or such Product should be withdrawn from the marketplace, (iv) any Regulatory Required Permit has been revoked or withdrawn, (v) adverse clinical test results have occurred with respect to any Product to the extent that such results have or could reasonably be expected to result in a Material Adverse Effect or (vi) any Product recalls or voluntary Product withdrawals from any market (other than with respect to discrete batches or lots that are not material in quantity or amount and are not made in conjunction with a larger recall) have occurred. Borrower shall provide to Agent or any Lender such further information (including copies of such documentation) as Agent or any Lender shall reasonably request with respect to any such Regulatory Reporting Event.

(b) Borrower shall, and shall cause each Credit Party to, obtain and, to the extent applicable, use commercially reasonable efforts to cause all third parties to obtain, all Regulatory Required Permits necessary for compliance in all material respects with Laws with respect to testing, manufacturing, developing, selling or marketing of Products and shall, and shall cause each Credit Party to, maintain and comply fully and completely in all respects with all such Regulatory Required Permits, the noncompliance with which could have a Material Adverse Effect. In the event Borrower or any Credit Party obtains any new Regulatory Required Permit or any information on Schedule 3.8 becomes outdated, inaccurate, incomplete or misleading, Borrower shall, together with the next Compliance Certificate required to be delivered under this Agreement after such event, provide Agent with an updated Schedule 3.8 including such updated information.

Section 4.17 Borrowing Base Collateral Administration.

(a) All data and other information relating to Accounts or other intangible Collateral shall at all times be kept by Borrowers, at their respective principal offices and shall not be moved from such locations without (i) providing prior written notice to Agent, and (ii) obtaining the prior written consent of Agent, which consent shall not be unreasonably withheld.

(b) From and after the Lockbox Post-Closing Period, Borrowers shall provide prompt written notice to each Person who either is currently an Account Debtor or becomes an Account Debtor on or after the Lockbox Post-Closing Period that directs each Account Debtor to make payments into the Lockbox, and hereby authorizes Agent, upon Borrowers' failure to send such notices within ten (10) Business Days after the date of this Agreement (or ten (10) Business Days after the Person becomes an Account Debtor), to send any and all similar notices to such Person. Agent reserves the right to notify Account Debtors that Agent has been granted a Lien upon all Accounts.

(c) Borrowers will conduct a physical count of the Inventory at least once per year and, during the existence of an Event of Default, at such other times as Agent reasonably requests, and Borrowers shall provide to Agent a written accounting of such physical count in form and substance reasonably satisfactory to Agent. Each Borrower will use commercially reasonable efforts to at all times keep its Inventory in good and marketable condition.

(d) In addition to the foregoing, from time to time, upon its reasonable request, but not more often than once per year (unless an Event of Default then exists), Agent may require Borrowers to obtain and deliver to Agent appraisal reports in form and substance and from appraisers reasonably satisfactory to Agent stating the then current fair market values of all or any portion of Inventory owned by any Credit Party.

(e) Borrowers will use commercially reasonable efforts to at all times keep its Equipment in good repair and physical condition. In addition to the foregoing, from time to time, Agent may require Borrowers to obtain and deliver to Agent appraisal reports in form and substance and from appraisers reasonably satisfactory to Agent stating the then current fair market values of all or any portion of Equipment owned by each Borrower or any Subsidiaries.

ARTICLE 5 - NEGATIVE COVENANTS

Each Borrower agrees that, so long as any Credit Exposure exists, the Borrower shall not do, nor shall it permit any Secured Guarantor or the Securities Subsidiary to do, any of the following without the prior written consent of the Agent:

Dispositions

. Convey, sell, abandon, lease, license, transfer, assign or otherwise dispose of (collectively, "**Transfer**") all or any part of its business or property, except (a) sales, transfers or dispositions of Inventory in the Ordinary Course of Business; (b) sales or abandonment of (i) worn out or obsolete Equipment or (ii) other Equipment that is no longer used or useful in the business of Borrower; (c) to the extent they may constitute a Transfer, Permitted Liens; (d) to the extent they may constitute a Transfer, Permitted Investments; (e) Permitted Licenses to the extent such licenses could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 4.15(e); (f) assignments of manufacturing, supply, services, distribution, research, collaboration and similar contracts among Borrower and its Subsidiaries to the extent not prohibited by this Agreement and such assignments could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 4.15(e); and (g) dispositions of other assets from Borrower (or a Secured Guarantor) to a Secured Guarantor (or Borrower).

Changes in Business, Management, Ownership or Business Locations

. (a) Engage in any business other than the businesses currently engaged in by Borrower and its Subsidiaries, as applicable, or reasonably related thereto; (b) liquidate or dissolve (other than the liquidation of (1) a Credit Party that is not a Secured Guarantor (or Borrower) where all assets of such liquidating Credit Party shall be contributed to its parent or (2) a Secured Guarantor only if its parent is a Secured Guarantor or Borrower and only if all assets of such Secured Guarantor are contributed to such parent, in each case so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower's tangible net worth is not thereby reduced, (iii) no Event of Default has occurred and is

continuing prior thereto or arises as a result therefrom, and (iv) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction); (c) enter into any transaction or series of related transactions which would result in a Change in Control unless the agreements with respect to such transactions provide for, as a condition precedent to the consummation thereof, either (i) the indefeasible payment in full of the Obligations and the occurrence of the Term Credit Obligations Termination or (ii) the consent of the Agent and Lenders; (d) enter into any new leases with respect to existing offices or business locations without first delivering a fully-executed Access Agreement to Agent (except as otherwise provided below); (e) change its jurisdiction of organization; (f) change its organizational structure or type; (g) change its legal name; or (h) change any organizational number (if any) assigned by its jurisdiction of organization. Notwithstanding the foregoing, in the case of subpart (d) preceding, subpart (d) shall not restrict leases for such new or existing offices or business locations containing less than Two Million Dollars ($2,000,000) in Borrower's assets or property and not containing Borrower's Books.

Mergers or Acquisitions

. Merge or consolidate with any other Person, or acquire all or substantially all of the capital stock or property of another Person; provided, however, (a) that a Subsidiary of Borrower or a Secured Guarantor may merge or consolidate into such Borrower or a Secured Guarantor so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower or a Secured Guarantor, as applicable, shall be the surviving legal entity (or in the case of a merger or consolidation involving a Secured Guarantor and Borrower, Borrower shall be the surviving legal entity), (iii) Borrower's tangible net worth is not thereby reduced, (iv) no Event of Default has occurred and is continuing prior thereto or arises as a result therefrom, and (v) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction, (b) that a Subsidiary of Borrower that is not a Secured Guarantor may merge or consolidate into its parent or another Subsidiary so long as (i) Borrower has provided Agent with prior written notice of such transaction, (ii) Borrower's tangible net worth is not thereby reduced, (iii) if such other Subsidiary is a Borrower or a Secured Guarantor, such Borrower or such Secured Guarantor, as applicable, shall be the surviving legal entity, (iv) no Event of Default has occurred and is continuing prior thereto or arises as a result therefrom, and (v) Borrower shall be in compliance with the covenants set forth in this Agreement both before and after giving effect to such transaction or (c) Borrower and the Secured Guarantors may make Permitted Acquisitions.

Indebtedness

. (a) Create (as obligor), incur, assume, or be liable for any Debt, other than Permitted Debt, including Debt set forth on Schedule 5.4, or (b) repurchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Debt (other than with respect to the Obligations as described in Section 2.1) prior to its scheduled maturity.

Encumbrance

. (a) Create, incur, allow, or suffer any Lien on any of its property, except for Permitted Liens (including Liens set forth on Schedule 5.5), (b) permit any Collateral to fail to be subject to the first priority security interest (subject to the Intercreditor Agreement) granted herein except for Permitted Liens that may have priority by operation of applicable Law or by the terms of a written intercreditor or subordination agreement entered into by Agent (including the Intercreditor Agreement), or (c) enter into any agreement, document, instrument or other arrangement (except with or in favor of Agent) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Collateral or Intellectual Property, except as is otherwise permitted in the definition of "Permitted Liens" herein.

Maintenance of Collateral Accounts

. In the case of Borrower and the Secured Guarantors, maintain any Collateral Account, except pursuant to the terms of Section 4.6 hereof.

Distributions; Investments; Margin Stock

. (a) Pay any dividends (other than (i) dividends payable solely in common stock or (ii) dividends paid by any Person (other than Borrower) to such Person's direct parent) or make any distribution or payment with respect to or redeem, retire or purchase or repurchase any of its equity interests (other than repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements or similar plans), or (b) make, in any form or manner, any Investment (including, without limitation, any additional Investment in any Subsidiary) other than Permitted Investments (including Investments set forth on Schedule 5.7). Without limiting the foregoing, Borrower shall not, and shall not permit any of its Subsidiaries to, purchase or carry Margin Stock other than as expressly permitted pursuant to this Agreement and for the avoidance of doubt so as to not result in a violation of Regulation U.

Transactions with Affiliates

. Enter into or permit to exist any material transaction with any Affiliate of any Credit Party, except for (a) transactions that are in the Ordinary Course of Business, upon fair and reasonable terms that are no less favorable to Borrower and the Secured Guarantors than would be obtained in an arm's length transaction with a non-affiliated Person, (b) transactions with Subsidiaries that are designated as a Borrower or a Secured Guarantor hereunder and that are not otherwise prohibited by Article 5 of this Agreement, (c) transactions permitted by Section 5.7 of this Agreement and (d) transactions by Subsidiaries that are not Secured Guarantors with other Subsidiaries that are not Secured Guarantors that are not otherwise prohibited by Article 7 of this Agreement.

Subordinated Debt

. (a) Make or permit any payment on any Subordinated Debt, except to the extent expressly permitted to be made pursuant to the terms of the Subordination Agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt other than as may be expressly permitted pursuant to the terms of any applicable Subordination Agreement to which such Subordinated Debt is subject.

Compliance

. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended or undertake as one of its important activities extending credit to purchase or carry Margin Stock, or use the proceeds of any Loan for that purpose; (i) fail, or permit any ERISA Affiliate to fail, to meet "minimum funding standards" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived, (ii) permit (with respect to any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof) a "reportable event" as defined in Section 4043(c) of ERISA (or the regulations issued thereunder) (other than an event for which the 30-day notice requirement is waived) to occur, (iii) engage in any "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code that could result in liability in excess of $500,000 in the aggregate or that could reasonably be expected to result in a Material Adverse Effect; (iv) fail to comply with the Federal Fair Labor Standards Act that could result in liability in excess of $500,000 in the aggregate or that could reasonably be expected to result in a Material Adverse Effect; (v) permit (with respect to any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof) the withdrawal from participation in any Pension Plan, or (vi) incur, or permit any Credit Party, any Subsidiary of any Credit Party or any ERISA Affiliate thereof to incur, any liability under Title IV of ERISA (other than for PBGC premiums due but not delinquent under Section 4007 of ERISA).

Amendments to Organization Documents and Material Agreements

. Amend, modify or waive any provision of (a) any Material Agreement in a manner that (i) is materially adverse to Borrower, Agent or any Lender (it being acknowledged that amendments, modifications and waivers with respect to any DMD Agreements among Borrower and its Subsidiaries will be deemed not to be materially adverse to Borrower, Agent or any Lender so long as such amendment, modification or waiver could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 4.15(e)), (ii) restricts or prohibits rights to assign or grant a security interest in such Material Agreement, (iii) that could reasonably be expected to result in a Material Adverse Effect or (iv) could reasonably be expected to adversely affect Borrower's or any Secured Guarantor's ability to comply with Section 4.15(e), (b) any of its organizational documents (other than a change in registered agents, or a change that could not adversely affect the rights of Agent or Lenders hereunder in any material respect, but, for the avoidance of doubt, under no circumstances a change of its name, type of organization or jurisdiction of organization), or (c) the Term Credit Documents, in each case of (a), (b) and (c), without the prior written consent of Agent. Borrower shall provide to Agent copies of all amendments, waivers and modifications of any Material Agreement or organizational documents, and in the case of amendments, waivers and modifications of Material Agreements, at Agent's request.

Compliance with Anti-Terrorism Laws

. Directly or indirectly, knowingly enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Borrower shall immediately notify Agent if Borrower has knowledge that Borrower or any Subsidiary or Affiliate is listed on the OFAC Lists or (a) is convicted on, (b) pleads nolo contendere to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Borrower will not, nor will Borrower permit any Subsidiary or Affiliate to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224,

any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire 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 Executive Order No. 13224 or other Anti-Terrorism Law. Agent hereby notifies Borrower that pursuant to the requirements of Anti-Terrorism Laws, and Agent's policies and practices, Agent is required to obtain, verify and record certain information and documentation that identifies Borrower and its principals, which information includes the name and address of Borrower and its principals and such other information that will allow Agent to identify such party in accordance with Anti-Terrorism Laws.

Lease Payments

. No Borrower will, or will permit any Credit Party to, directly or indirectly, incur or assume (whether pursuant to a Guarantee or otherwise) any liability for rental payments except in the Ordinary Course of Business.

Limitation on Sale and Leaseback Transactions

. No Borrower will, or will permit any Credit Party to, directly or indirectly, enter into any arrangement with any Person whereby, in a substantially contemporaneous transaction, any Borrower or any Credit Party sells or transfers all or substantially all of its right, title and interest in an asset and, in connection therewith, acquires or leases back the right to use such asset.

ARTICLE 6 - CFC HOLDCO AND CFC NEGATIVE COVENANTS

Borrower shall not permit any of its direct or indirect Subsidiaries that constitutes a CFC Holdco or Foreign Subsidiary to do, any of the following without the prior written consent of Agent:

Dispositions

. Transfer all or any part of its business or property, except dispositions of assets so long as a Change in Control does not occur and such disposition could not reasonably be expected to result in an adverse effect upon the ability of Borrower or any Secured Guarantor to comply with Section 4.15(e).

Indebtedness

. (a) Create (as obligor), incur, assume, or be liable for any Indebtedness, other than (i) intercompany indebtedness permitted pursuant to the definition of Permitted Indebtedness, (ii) trade payables incurred in the Ordinary Course of Business, (iii) equipment financing in the Ordinary Course of Business, (iv) hedging and letter of credit obligations in the Ordinary Course of Business, (v) non-compete obligations and deferred compensation in the Ordinary Course of Business and (vi) unsecured Indebtedness not to exceed $5,000,000 in the aggregate for all such Subsidiaries at any time outstanding.

Encumbrance

. Create, incur, allow, or suffer any Lien on any of its property, except for Permitted Liens, purchase money liens and capital leases with respect to Equipment and cash collateral for hedging and letter of credit obligations.

Mergers

. Merge or consolidate into any other Person other than (a) Borrower, (b) a direct or indirect wholly-owned Subsidiary of Borrower (other than the Securities Subsidiary) that is not a Foreign Subsidiary or (c) a direct or indirect wholly-owned (except with respect to the minimum number of qualifying shares of a director or local resident that are required under applicable Law) Foreign Subsidiary of Borrower.

ARTICLE 7 - CONDITIONS

Conditions to Effectiveness of this Agreement on the Closing Date

. The effectiveness of this Agreement on the Closing Date and the obligation of the Lenders to make the initial Loans or the initial advance in respect of any Loan shall be subject to the receipt by Agent of each agreement, document and instrument set forth on the closing checklist prepared by Agent or its counsel, each in form and substance reasonably satisfactory to Agent, and such other closing deliverables reasonably requested by Agent and Lenders, and to the satisfaction of the following conditions precedent, each to the satisfaction of Agent and Lenders and their respective counsel in their reasonable discretion:

(a) the payment of all fees, expenses and other amounts due and payable on the Closing Date under each Financing Document; and

(b) there has not been any Material Adverse Effect.

Each Lender, by delivering its signature page to this Agreement, shall be deemed to have acknowledged receipt of, and consented to and approved, each Financing Document, each additional Operative Document and each other document, agreement and/or instrument required to be approved by Agent, Required Lenders or Lenders, as applicable, on the Closing Date.

Conditions to Each Loan

. The obligation of the Lenders to make a Loan or an advance in respect of any Loan, is subject to the satisfaction of the following additional conditions:

(a) in the case of a borrowing of a Revolving Loan, receipt by Agent of a Notice of Borrowing (or telephonic notice if permitted by this Agreement) and updated Borrowing Base Certificate;

(b) the fact that, immediately after such borrowing and after application of the proceeds thereof or after such issuance, the Revolving Loan Outstandings will not exceed the Revolving Loan Limit;

(c) the fact that, immediately before and after such advance or issuance, no Default or Event of Default shall have occurred and be continuing;

(d) the fact that the representations and warranties of each Credit Party contained in the Financing Documents shall be true and correct in all material respects on and as of the date of such borrowing or issuance, except that such materiality qualifier shall not be applicable to any representations and warranties that are qualified or modified by materiality in the text thereof and except further to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct in all material respects as of such earlier date;

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

(f) the continued compliance by Borrowers with all of the terms, covenants and conditions of Article 8 and, unless Agent shall elect otherwise from time to time, the absence of any fact, event or circumstance for which Borrower is required to give Agent notice under Article 8.

Each giving of a Notice of Borrowing hereunder and each acceptance by any Borrower of the proceeds of any Loan made hereunder shall be deemed to be (y) a representation and warranty by each Borrower on the date of such notice or acceptance as to the facts specified in this Section.

Searches

. Before the Closing Date, and thereafter (as and when determined by Agent in its reasonable discretion), Agent shall have the right to perform, all at Borrowers' expense, the searches described in clauses (a), (b), and (c) below against Borrowers and any other Credit Party, the results of which are to be consistent with Borrowers' representations and warranties under this Agreement and the satisfactory results of which shall be a condition precedent to all advances of Loan proceeds: (a) UCC searches with the Secretary of State of the jurisdiction in which the applicable Person is organized; (b) judgment, pending litigation, federal tax lien, personal property tax lien, and corporate and partnership tax lien searches, in each jurisdiction searched under clause (a) above; and (c) searches of applicable corporate, limited liability company, partnership and related records to confirm the continued existence, organization and good standing of the applicable Person and the exact legal name under which such Person is organized.

ARTICLE 8 - REGULATORY MATTERS

Representations and Warranties

and Covenants

. To induce Agent and Lenders to enter into this Agreement and to make credit accommodations contemplated hereby, Borrower hereby represents and warrants and covenants to Agent and each Lender as follows:

(a) Disclosure. All of Borrower's Products and Regulatory Required Permits are listed on Schedule 3.8 (as updated from time to time pursuant to Section 4.16).

(b) Regulatory Required Permits.

(i) Borrowers have (i) each Regulatory Required Permit and other material rights from, and have made all material declarations and filings with, all applicable Governmental Authorities, all self-regulatory authorities and all courts and other tribunals that are necessary to engage in the ownership, management and operation of the business or the assets of any Borrower, the absence of which could reasonably be expected to result in a Material Adverse Effect, and (ii) have not received written notice that any Governmental Authority is investigating or claiming to limit, suspend or revoke any Regulatory Required Permit. Borrower has delivered to Agent a copy of all Regulatory Required Permits requested by Agent as of the date hereof or to the extent requested by Agent pursuant to Section 4.16. All such Regulatory Required Permits are valid and in full force and effect and Borrowers are in material compliance with the terms and conditions of all such Regulatory Required Permits, except where failure to be in such compliance or for a Regulatory Required Permit to be valid and in full force and effect would not reasonably be expected to have individually or in the aggregate a Material Adverse Effect.

(ii) With respect to any Product or related service, (i) Borrower and its Subsidiaries have received, and such Product or service is the subject of, all Regulatory Required Permits needed in connection with the testing, manufacture, marketing or sale of such Product or conduct of such service as currently being conducted by or on behalf of Borrowers, the absence of which could reasonably be expected to result in a Material Adverse Effect, and have provided Agent and each Lender with all notices and other information required by Section 4.16, and no Borrower has received any notice from any applicable Governmental Authority, specifically including the FDA, that such Governmental Authority is conducting a material investigation or review of any such Regulatory Required Permit or approval or that any such Regulatory Required Permit has been revoked or withdrawn, nor has any such Governmental Authority issued any final and binding order or recommendation stating that such marketing or sales of such Product or conduct of such service cease or that such Product or service be withdrawn from the marketplace, and (ii) such Product is being developed, tested, manufactured, labeled, processed, stored, advertised, promoted, distributed marketed or sold, as the case may be, in material compliance with all applicable Healthcare Laws and Regulatory Required Permits and Borrower has not received written notice from any applicable Governmental Authority, specifically including the FDA, that such Governmental Authority is conducting a material investigation or review of (A) Borrower's manufacturing facilities and processes or to the knowledge of the Borrower any contract manufacturing facilities for such Product which have disclosed any material deficiencies or violations of Laws (including Healthcare Laws) and/or the Regulatory Required Permits related to the manufacture of such Product, or (B) any such Regulatory Required Permit or that any such Regulatory Required Permit has been revoked or withdrawn, nor has any such Governmental Authority issued any order or recommendation stating that the development, testing and/or manufacturing of such Product by Borrower should cease.

(c) Healthcare and Regulatory Events.

(i) None of the Borrowers are in violation of any Healthcare Laws, including (but not limited to), any federal or state Law regulating (A) fraud and abuse, (B) referral and financial relationships with providers, (C) quality, (D) safety, (E) privacy, (F) security and (G) disclosure of payments under the Physician Payment Sunshine Act, except where any such violation would not reasonably be expected to have individually or in the aggregate a Material Adverse Effect.

(ii) As of the Closing Date, there are no Regulatory Reporting Events.

(iii) All Products, manufactured, tested, investigated, developed, prepared, packaged, labeled, distributed, sold, advertised or marketed by or on behalf of the Borrower have been and are being, manufactured, tested, developed, investigated, prepared, packaged, labeled, distributed, sold, advertised and marketed in material compliance with the Healthcare Laws, including, without limitation, human subject research, applicable study protocols, product approval or clearance, good manufacturing and good clinical practices, labeling, advertising, promotion and adverse event reporting. No Borrower has introduced into commercial distribution any Products manufactured by or on behalf of any Borrower or distributed any

Products on behalf of any other Person that were upon their shipment by any Borrower adulterated or misbranded in violation of 21 U.S.C. § 331.

(iv) None of such Borrower's officers or directors or to the Borrower's knowledge employees, shareholders, agents or affiliates has made an untrue statement of material fact or fraudulent statement to the CMS or FDA or failed to disclose a material fact required to be disclosed to the CMS or FDA, committed an act, made a statement, or failed to make a statement that could reasonably be expected to violate any fraud or abuse requirements of the CMS or provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities," set forth in 56 Fed. Regulation 46191 (September 10, 1991), in each case with respect to the Borrower or any Products or related services.

(v) Borrower has not received any written notice that any Governmental Authority, including without limitation the CMS, FDA, the Office of the Inspector General of Health and Human Services or the United States Department of Justice has commenced or threatened to initiate any action against a Credit Party, any action to enjoin a Credit Party, their officers, directors, employees, shareholders or their agents and Affiliates, from conducting their businesses at any facility owned or used by them or for any material civil penalty, injunction, seizure or criminal action.

(vi) Borrower has not received from the CMS or FDA a Warning Letter, Form FDA-483, "Untitled Letter," other correspondence or notice setting forth allegedly objectionable observations or alleged violations of laws and regulations enforced by the CMS or FDA or any comparable correspondence from any foreign, state or local authority responsible for regulating drug products and establishments, or any comparable correspondence from any foreign counterpart of the CMS or FDA or any comparable correspondence from any foreign counterpart of any state or local authority with regard to any Product or the manufacture, processing, distribution, packing, or holding thereof. Borrower does not have any current Product or manufacturing site (whether owned by the Borrower or that of a contract manufacturer) subject to a Governmental Authority (including the FDA) shutdown, seizure, import or export prohibition.

(vii) Except as would not reasonably be expected to result individually or in the aggregate a Material Adverse Effect, Borrower has not engaged in any Recalls, Market Withdrawals, or other forms of product retrieval from the marketplace of any Products.

(viii) Except as would not reasonably be expected to result in individually or in the aggregate a Material Adverse Effect, each Product (a) is not adulterated or misbranded within the meaning of the FDCA; (b) is not an article prohibited from introduction into interstate commerce under the provisions of Sections 404, 505 or 512 of the FDCA; (c) each Product has been and/or shall be manufactured, imported, possessed, owned, warehoused, marketed, promoted, sold, labeled, furnished, distributed and marketed and each service has been conducted in accordance with all applicable Permits and Laws; and (d) each Product has been and/or shall be manufactured in accordance with Good Manufacturing Practices.

(d) Proceedings. No Borrower or any Subsidiary thereof is subject to any proceeding, or, to Borrowers' knowledge, formal investigation by any federal, state or local government or quasi-governmental body, agency, board or authority or any other administrative or investigative body (including the Office of the Inspector General of the United States Department of Health and Human Services): (i) which is reasonably likely to result in the imposition of a fine, alternative, interim or final sanction, a lower reimbursement rate for services rendered to eligible patients which has not been disclosed within their respective financial statements, or which would have a Material Adverse Effect on any Borrower; or (ii) which could result in the revocation, transfer, surrender, suspension or other impairment of the Regulatory Required Permits of Borrowers.

(e) Participation Agreements/Provider Status.

(i) Borrower is in material compliance with (i) the Federal Health Care Program requirements applicable it and (ii) federal and state reporting obligations applicable to Borrower with respect to any Products or related services, including without limitation, any state law reporting obligations relating to sales and marketing to health care professionals, any price reporting obligations pursuant to the Medicaid

Drug Rebate program, the Medicare program, and any other federal or state programs (including, without limitation, the 340B drug pricing program).

(f) HIPAA. Borrowers are HIPAA Compliant.

(g) Fraud and Abuse.

(i) No Borrower has, or to its knowledge has any owner, officer, manager, employee or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. §420.201) in any Borrower has, engaged in any of the following in connection with the Borrower or any Products or related services: (A) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment by Medicare or Medicaid; (B) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment by Medicare or Medicaid; (C) failing to disclose knowledge by a claimant of the occurrence of any event affecting the initial or continued right to any benefit or payment under any Healthcare Laws on its own behalf or on behalf of another, with criminal intent to secure such benefit or payment fraudulently; (D) knowingly and willfully soliciting or receiving any illegal remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay such remuneration in violation of the federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(6)) (I) in return for referring an individual to a Person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or (II) in return for purchasing, leasing or ordering or arranging for or recommending the purchasing, leasing or ordering of any good, facility, service, or item for which payment may be made in whole or in part by Medicare or Medicaid; or (E) presenting or causing to be presented a claim for reimbursement for services that is for an item or services that was known to be (I) not provided as claimed, or (II) false or fraudulent. To Borrower's knowledge, all Material Agreements to which any Borrower is a party are in compliance in all material respects with all applicable Healthcare Laws.

(ii) During the three-year period immediately preceding the date of this Agreement, no Borrower, or to its knowledge any owner, officer, manager, employee of or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. §420.201) in any Borrower, in connection with Borrower or any Products or any related services: (A) has had a civil monetary penalty assessed against it or him or her pursuant to 42 U.S.C. §1320a-7a or is the subject of a proceeding seeking to assess such penalty; (B) has been excluded from participation in a Federal Health Care Program (as that term is defined in 42 U.S.C. §1320a-7b) or is the subject of a proceeding seeking to assess such penalty, or has been "suspended" or "debarred" from selling products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation, relating to debarment and suspension applicable to federal government agencies generally (48 C.F.R. Subpart 9.4), or other applicable laws or regulations; (C) has been convicted (as that term is defined in 42 C.F.R. §1001.2) of any of those offenses described in 42 U.S.C. §1320a-7b or 18 U.S.C. §§669, 1035, 1347, 1518 or is the subject of a proceeding seeking to assess such penalty; or (D) has been involved or named in a U.S. Attorney complaint made or any other action taken pursuant to the False Claims Act under 31 U.S.C. §§3729-3731 or qui tam action brought pursuant to 31 U.S.C. §3729 et seq.

Section 8.3 Healthcare Operations.

(a) Except as would not reasonably be expected to result individually or in the aggregate in a Material Adverse Effect, Borrower will timely file or cause to be timely filed (after giving effect to any extension duly obtained), all notifications, reports, submissions, Permit renewals and reports of every kind whatsoever required by Healthcare Laws (which reports will be materially accurate and complete in all respects and not misleading in any material respect and shall not remain open or unsettled); and

(b) Except as would not reasonably be expected to result individually or in the aggregate in a Material Adverse Effect, Borrower will not suffer or permit to occur any rescission, withdrawal, revocation, amendment or modification of or other alteration to the nature, tenor or scope of any Permit in any material respect.

(c) In connection with the development, testing, manufacture, marketing or sale of each and any Product by any Borrower, Borrower shall comply with all Regulatory Required Permits at all times issued by any Governmental Authority, specifically including the FDA, with respect to such development, testing, manufacture, marketing or sales of such Product by Borrower as such activities are at any such time being conducted by Borrower, except, in each case, to the extent a failure to do so would not reasonably be expected to result in a Material Adverse Effect.

ARTICLE 9 - SECURITY AGREEMENT

Generally

. As security for the payment and performance of the Obligations, and without limiting any other grant of a Lien and security interest in any Security Document, Borrowers hereby assign and grant to Agent, for the benefit of itself and Lenders, a continuing first priority Lien on and security interest in, upon, and to the personal property set forth on **Schedule 9.1** attached hereto and made a part hereof, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Section 9.2 Representations and Warranties and Covenants Relating to Collateral.

(a) Schedule 9.2(a) sets forth (i) each chief executive office and principal place of business of each Borrower and each of their respective Subsidiaries, and (ii) all of the addresses (including all warehouses) at which any of the Collateral is located and/or books and records of Borrowers regarding any of the Collateral are kept, which such Schedule 9.2(a) indicates in each case which Borrower(s) have Collateral and/or books and records located at such address, and, in the case of any such address not owned by one or more of the Borrowers(s), indicates the nature of such location (e.g., leased business location operated by Borrower(s), third party warehouse, consignment location, processor location, etc.) and the name and address of the third party owning and/or operating such location.

(b) Without limiting the generality of Section 3.2, except as indicated on Schedule 9.2(b) with respect to any rights of any Borrower as a licensee under any license of Intellectual Property owned by another Person, and except for the filing of financing statements under the UCC, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or consent of any other Person is required for (i) the grant by each Borrower to Agent of the security interests and Liens in the Collateral provided for under this Agreement and the other Security Documents (if any), or (ii) the exercise by Agent of its rights and remedies with respect to the Collateral provided for under this Agreement and the other Security Documents or under any applicable Law, including the UCC and neither any such grant of Liens in favor of Agent or exercise of rights by Agent shall violate or cause a default under any agreement between any Borrower and any other Person relating to any such collateral, including any license to which a Borrower is a party, whether as licensor or licensee, with respect to any Intellectual Property, whether owned by such Borrower or any other Person.

(c) As of the Closing Date, no Borrower has any ownership interest in any Chattel Paper (as defined in Article 9 of the UCC), letter of credit rights, commercial tort claims, Instruments, documents or investment property (other than Permitted Investments) (other than as disclosed on Schedule 9.2(c)) and Borrowers shall give notice to Agent promptly (but in any event not later than the delivery by Borrowers of the next Compliance Certificate required pursuant to Section 4.2 above) upon the acquisition by any Borrower of any such Chattel Paper, letter of credit rights, commercial tort claims, Instruments, documents, investment property. No Person other than Agent or (if applicable) any Lender has “control” (as defined in Article 9 of the UCC) over any Deposit Account, investment property (including Securities Accounts and commodities account), letter of credit rights or electronic chattel paper in which any Borrower has any interest (except for such control arising by operation of law in favor of any bank or securities intermediary or commodities intermediary with whom any Deposit Account, Securities Account or commodities account of Borrowers is maintained).

(d) Borrowers shall not, and shall not permit any Credit Party to, take any of the following actions or make any of the following changes unless Borrowers have given at least fifteen (15) days prior written notice to Agent of Borrowers’ intention to take any such action (which such written notice shall include an updated version of any Schedule impacted by such change) and have executed any and all documents, instruments and agreements and taken any other actions which Agent may request after receiving such written notice in order to protect

and preserve the Liens, rights and remedies of Agent with respect to the Collateral: (i) change the legal name or organizational identification number of any Borrower as it appears in official filings in the jurisdiction of its organization, (ii) change the jurisdiction of incorporation or formation of any Borrower or Credit Party or allow any Borrower or Credit Party to designate any jurisdiction as an additional jurisdiction of incorporation for such Borrower or Credit Party, or change the type of entity that it is, or (iii) change its chief executive office, principal place of business, or the location of its records concerning the Collateral or move any Collateral to or place any Collateral on any location that is not then listed on the Schedules and/or establish any business location at any location that is not then listed on the Schedules.

(e) Borrowers shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any Account Debtor, or allow any credit or discount thereon (other than adjustments, settlements, compromises, credits and discounts in the Ordinary Course of Business, made while no Default exists and in amounts which are not material with respect to the Account and which, after giving effect thereto, do not cause the Borrowing Base to be less than the Revolving Loan Outstandings) without the prior written consent of Agent. Without limiting the generality of this Agreement or any other provisions of any of the Financing Documents relating to the rights of Agent after the occurrence and during the continuance of an Event of Default, Agent shall have the right at any time after the occurrence and during the continuance of an Event of Default to: (i) exercise the rights of Borrowers with respect to the obligation of any Account Debtor to make payment or otherwise render performance to Borrowers and with respect to any property that secures the obligations of any Account Debtor or any other Person obligated on the Collateral, and (ii) adjust, settle or compromise the amount or payment of such Accounts.

(f) Without limiting the generality of Sections 9.2(c) and 9.2(e):

(i) Borrowers shall promptly (and in any event within 10 days of acquiring any of the following) deliver to Agent all tangible Chattel Paper and all Instruments and documents in excess of $500,000 in the aggregate for all such tangible Chattel Paper and all Instruments and documents owned by any Borrower and constituting part of the Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to Agent. Borrowers shall provide Agent with "control" (as defined in Article 9 of the UCC) of all electronic Chattel Paper in excess of $500,000 in the aggregate for all such electronic Chattel Paper owned by any Borrower and constituting part of the Collateral by having Agent identified as the assignee on the records pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of control set forth in the UCC. Borrowers also shall deliver to Agent all security agreements securing any such Chattel Paper and securing any such Instruments. Borrowers will mark conspicuously all such Chattel Paper and all such Instruments and documents with a legend, in form and substance reasonably satisfactory to Agent, indicating that such Chattel Paper and such instruments and documents are subject to the security interests and Liens in favor of Agent created pursuant to this Agreement and the Security Documents. Borrowers shall comply with all the provisions of Section 4.6 with respect to the Collateral Accounts.

(ii) Borrowers shall promptly (and in any event within 10 days of acquiring any of the following) deliver to Agent all letters of credit on which any Borrower is the beneficiary and which give rise to letter of credit rights in excess of $500,000 in the aggregate for all such letters of credit owned by such Borrower which constitute part of the Collateral in each case duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to Agent. Borrower shall take any and all actions as may be necessary or desirable, or that Agent may reasonably request, from time to time, to cause Agent to obtain exclusive "control" (as defined in Article 9 of the UCC) of any such letter of credit rights in a manner reasonably acceptable to Agent.

(iii) Borrower shall promptly (and in any event within 10 days) advise Agent upon any Borrower becoming aware that it has any interests in any commercial tort claim in excess of $500,000 in the aggregate for all such commercial tort claims that constitutes part of the Collateral, which such notice shall include descriptions of the events and circumstances giving rise to such commercial tort claim and the dates such events and circumstances occurred, the potential defendants with respect such commercial tort claim and any court proceedings that have been instituted with respect to such commercial tort claims, and Borrower shall, with respect to any such commercial tort claim, execute and deliver to Agent such documents

as Agent shall reasonably request to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to any such commercial tort claim.

(iv) Except for Inventory constituting Collateral in an aggregate amount of Ten Million Dollars ($10,000,000) and other Collateral (other than Borrower's or a Secured Guarantor's Books) in an aggregate amount of $2,000,000 at a particular location, and subject to Section 4.13, no Accounts or Inventory or other Collateral shall at any time be in the possession or control of any warehouse, consignee, bailee or any of Borrowers' agents or processors without prior written notice to Agent and the receipt by Agent, if Agent has so requested, of warehouse receipts, consignment agreements or bailee lien waivers (as applicable) satisfactory to Agent prior to the commencement of such possession or control. Borrower has notified Agent that Inventory is currently located at the locations set forth on Schedule 9.2(a). Borrowers shall, upon the request of Agent, notify any such warehouse, consignee, bailee, agent or processor of the security interests and Liens in favor of Agent created pursuant to this Agreement and the Security Documents, instruct such Person to hold all such Collateral for Agent's account subject to Agent's instructions and shall obtain an acknowledgement from such Person that such Person holds the Collateral for Agent's benefit.

(v) Upon request of Agent, Borrowers shall promptly deliver to Agent any and all certificates of title, applications for title or similar evidence of ownership of all such tangible personal property having a fair market value exceeding $500,000 in the aggregate, and shall cause Agent to be named as lienholder on any such certificate of title or other evidence of ownership. Borrowers shall not permit any such tangible personal property to become fixtures to real estate unless such real estate is subject to a Lien in favor of Agent.

(vi) Each Borrower hereby authorizes Agent to file without the signature of such Borrower one or more UCC financing statements relating to liens on personal property relating to all or any part of the Collateral, which financing statements may list Agent as the "secured party" and such Borrower as the "debtor" and which describe and indicate the collateral covered thereby as all or any part of the Collateral under the Financing Documents, in such jurisdictions as Agent from time to time determines are appropriate, and to file without the signature of such Borrower any continuations of or corrective amendments to any such financing statements, in any such case in order for Agent to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to the Collateral. Each Borrower also ratifies its authorization for Agent to have filed in any jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(vii) As of the Closing Date, no Borrower holds, and after the Closing Date Borrowers shall promptly notify Agent in writing upon creation or acquisition by any Borrower of, any Collateral which constitutes a claim against any Governmental Authority, including, without limitation, the federal government of the United States or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the federal Assignment of Claims Act and any other comparable Law. Upon the request of Agent, Borrowers shall take such steps as may be necessary or desirable, or that Agent may request, to comply with any such applicable Law.

(viii) Borrowers shall furnish to Agent from time to time any statements and schedules further identifying or describing the Collateral and any other information, reports or evidence concerning the Collateral as Agent may reasonably request from time to time.

(g) In the event Borrower or any Secured Guarantor acquires real property in fee simple with a fair market value in excess of $7,500,000, individually or in the aggregate for all real property in fee simple acquired after the Closing Date ("Material Real Property"), within ninety (90) days after such acquisition (or such later date as may be agreed by Agent in its sole discretion), Borrower or such Secured Guarantor, as applicable, shall execute and/or deliver, or cause to be executed and/or delivered, to Agent, (x) a fully executed Mortgage, in form and substance reasonably satisfactory to Agent together with a lender's title insurance policy issued by a title insurer reasonably satisfactory to Agent, in form and substance and in an amount reasonably satisfactory to Agent insuring that the Mortgage is a valid and enforceable first priority Lien (subject to the Intercreditor Agreement) on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, and (y) such other documents reasonably requested by Agent with respect to such acquired Material Real Property, including, without

limitation, appraisals, flood zone certifications, evidence of flood insurance, surveys, an environmental site assessment (prepared by a qualified firm reasonably acceptable to Agent, in form and substance reasonably satisfactory to Agent) and a customary legal opinion with respect to any such Mortgages.

ARTICLE 10 - EVENTS OF DEFAULT

Events of Default

. For purposes of the Financing Documents, the occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an "**Event of Default**":

(a) Borrower fails to (i) make any payment of principal or interest on any Loan on its due date, or (ii) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Termination Date or the date of acceleration pursuant to Section 10.2 hereof);

(b) Any Credit Party defaults in the performance of or compliance with any term contained in this Agreement or in any other Financing Document (other than occurrences described in other provisions of this Section 10.1 for which a different grace or cure period is specified or for which no grace or cure period is specified and thereby constitute immediate Events of Default) and such default is not remedied by the Credit Party or waived by Agent within ten (10) days after the earlier of (i) the date of receipt by any Borrower of notice from Agent or Required Lenders of such default, or (ii) the date an officer of such Credit Party becomes aware, or through the exercise of reasonable diligence should have become aware, of such default; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by such Credit Party be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then such Credit Party shall have an additional period (which shall not in any case exceed twenty (20) days) to attempt to cure such default, and within such additional time period the failure to cure the default shall not be deemed an Event of Default;

(c) Any Credit Party defaults in the performance of or compliance with any term contained in Section 4.2, 4.4, 4.5, 4.6, 4.7(a), 4.8, 4.9, 4.10, 4.13, 4.15 or 4.16, Article 5, or Article 6;

(d) Any representation, warranty, certification or statement made by any Credit Party or any other Person acting for or on behalf of a Credit Party (i) in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document, or (ii) to induce Agent and/or Lenders to enter into this Agreement or any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(e) (i) any Credit Party defaults under or breaches any Material Agreement (after any applicable grace period contained therein), or a Material Agreement shall be terminated by a third party or parties party thereto prior to the expiration thereof, or there is a loss of a material right of a Credit Party under any Material Agreement to which it is a party, in each case which could reasonably be expected to result in a Material Adverse Effect, (ii) (A) any Credit Party fails to make (after any applicable grace period) any payment when due (whether due because of scheduled maturity, required prepayment provisions, acceleration, demand or otherwise) on any Debt (other than the Obligations) of such Credit Party or such Subsidiary having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than Five Hundred Thousand Dollars ($500,000) ("**Material Indebtedness**"), (B) any other event shall occur or condition shall exist under any contractual obligation relating to any such Material Indebtedness, if the effect of such event or condition is to accelerate, or to permit the acceleration of (without regard to any subordination terms with respect thereto), the maturity of such Material Indebtedness or (C) any such Material Indebtedness shall become or be declared to be due and payable, or be required to be prepaid, redeemed, defeased or repurchased (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof, (iii) any Credit Party defaults (beyond any applicable grace period) under any obligation for payments due or otherwise under any lease agreement for such Credit Party's principal place of business or any place of business that meets the criteria for the requirement of an Access Agreement under Section 5.2 or Section 9.2(f)(iv), (iv) the occurrence of any breach or default under any terms or provisions of any Subordinated Debt Document or under any agreement subordinating the Subordinated Debt to all or any portion of the Obligations, or the occurrence of any event requiring the prepayment

of any Subordinated Debt, or the delivery of any notice with respect to any Subordinated Debt or pursuant to any Subordination Agreement that triggers the start of any standstill or similar period under any Subordination Agreement, (v) any Borrower makes any payment on account of any Debt that has been subordinated to any of the Obligations, other than payments specifically permitted by the terms of such subordination, or (vi) there shall occur any event of default under the Term Credit Documents;

(f) (i) any Credit Party shall generally not pay its debts as such debts become due, shall admit in writing its inability to pay its debts generally, shall make a general assignment for the benefit of creditors, or shall cease doing business as a going concern, (ii) any proceeding shall be instituted by or against any Credit Party seeking to adjudicate it a bankrupt or insolvent or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, composition of it or its debts or any similar order, in each case under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking the entry of an order for relief or the appointment of a custodian, receiver, trustee, conservator, liquidating agent, liquidator, other similar official or other official with similar powers, in each case for it or for any substantial part of its property and, in the case of any such proceedings instituted against (but not by or with the consent of) such Credit Party, either such proceedings shall remain undismissed or unstayed for a period of thirty (30) days or more or any action sought in such proceedings shall occur or (iii) any Credit Party shall take any corporate or similar action or any other action to authorize any action described in clause (i) or (ii) above;

(g) (i) The service of process seeking to attach, execute or levy upon, seize or confiscate any Collateral Account, any Intellectual Property, or any funds of any Credit Party on deposit with Agent, any Lender or any Affiliate of Agent or any Lender, or (ii) a notice of lien, levy, or assessment is filed against any assets of a Credit Party by any government agency, and the same under subclauses (i) and (ii) hereof are not discharged or stayed (whether through the posting of a bond or otherwise) prior to the earlier to occur of ten (10) days after the occurrence thereof or such action becoming effective;

(h) (i) any court order enjoins, restrains, or prevents Borrower from conducting any material part of its business, (ii) the institution by any Governmental Authority of criminal proceedings against any Credit Party, or (iii) one or more judgments or orders for the payment of money (to the extent not paid or fully covered by insurance and as to which the relevant insurance company has not disputed coverage in writing) aggregating in excess of $500,000 shall be rendered against any or all Credit Parties and either (A) enforcement proceedings shall have been commenced by any creditor upon any such judgments or orders, or (B) there shall be any period of ten (10) consecutive days during which a stay of enforcement of any such judgments or orders, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) any Lien created by any of the Financing Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be encumbered thereby, subject to no prior or equal Lien except Permitted Liens (subject to the Intercreditor Agreement), or any Credit Party shall so assert; any provision of any Financing Document shall fail to be valid and binding on, or enforceable against, a Credit Party, or any Credit Party shall so assert;

(j) (i) A Change in Control occurs or (ii) any Credit Party or direct or indirect equity owner in a Credit Party shall enter into an agreement which contemplates a Change in Control (unless such agreement is either (A) non-binding on such Credit Party or (B) provides for, as a condition precedent to the consummation of such agreement, either (x) the indefeasible payment in full in cash of all Obligations and the occurrence of the Term Credit Obligations Terminations or (y) the consent of Agent and Lenders);

(k) Any Required Permit shall have been (i) revoked, rescinded, suspended, modified in a materially adverse manner or not renewed in the Ordinary Course of Business for a full term, or (ii) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Required Permit or that could result in the Governmental Authority taking any of the actions described in clause (i) above, and such decision or such revocation, rescission, suspension, modification or non-renewal has, or could reasonably be expected to have, a Material Adverse Effect;

(l) (i) the voluntary withdrawal or institution of any action or proceeding by the FDA or similar Governmental Authority to order the withdrawal of any Product or Product category from the market or to

enjoin Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries from manufacturing, marketing, selling or distributing any Product or Product category, any of which has or could reasonably be expected to result in a Material Adverse Effect, (ii) the institution of any action or proceeding by any DEA, FDA, or any other Governmental Authority to revoke, suspend, reject, withdraw, limit, or restrict any Regulatory Required Permit held by Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries, which, in each case, has or could reasonably be expected to result in Material Adverse Effect, (iii) the commencement of any enforcement action against Borrower, its Subsidiaries or any representative of Borrower or its Subsidiaries (with respect to the business of Borrower or its Subsidiaries) by DEA, FDA, or any other Governmental Authority which has or could reasonably be expected to result in a Material Adverse Effect, or (iv) the occurrence of adverse test results in connection with a Product which could reasonably be expected to result in Material Adverse Effect;

(m) any Borrower is or becomes an entity whose equity is registered with the SEC, and/or is publicly traded on and/or registered with a public securities exchange, such Borrower's equity fails to remain registered with the SEC in good standing, and/or such equity fails to remain publicly traded on and registered with a public securities exchange; or

(n) The occurrence of any fact, event or circumstance that results in a Material Adverse Effect.

All cure periods provided for in this Section 10.1 shall run concurrently with any cure period provided for in any applicable Financing Documents under which the default occurred.

Acceleration and Suspension or Termination of Revolving Loan Commitment

. Upon the occurrence and during the continuance of an Event of Default, Agent may, and shall if requested by Required Lenders, (a) by notice to Borrower Representative suspend or terminate the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto, in whole or in part (and, if in part, each Lender's Revolving Loan Commitment shall be reduced in accordance with its Pro Rata Share), and/or (b) by notice to Borrower Representative declare all or any portion of the Obligations to be, and the Obligations shall thereupon become, immediately due and payable, with accrued interest thereon, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower and Borrowers will pay the same; *provided, however*, that in the case of any of the Events of Default specified in Section 10.1(f) above, without any notice to any Borrower or any other act by Agent or the Lenders, the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto shall thereupon immediately and automatically terminate and all of the Obligations shall become immediately and automatically due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower and Borrowers will pay the same.

Section 10.3 UCC Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default, Agent, in addition to all other rights, options, and remedies granted to Agent under this Agreement or at law or in equity, may exercise all rights and remedies granted to it under all Financing Documents and under the UCC in effect in the applicable jurisdiction(s) and under any other applicable law; including, without limitation:

(i) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process;

(ii) the right to (by its own means or with judicial assistance) enter any of Borrowers' premises and take possession of the Collateral, or render it unusable, or to render it usable or saleable, or dispose of the Collateral on such premises in compliance with subsection (iii) below and to take possession of Borrowers' original books and records, to obtain access to Borrowers' data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner Agent deems appropriate, without any liability for rent, storage, utilities, or other sums, and Borrowers shall not resist or interfere with such action (if Borrowers' books and records are prepared or maintained by an accounting service, contractor or other third party agent, Borrowers hereby irrevocably authorize such service, contractor or other agent, upon notice by Agent to such Person that an Event of Default has occurred and is continuing, to deliver to Agent or its designees such books and records, and to follow Agent's instructions with respect to further services to be rendered);

(iii) the right to require Borrowers at Borrowers' expense to assemble all or any part of the Collateral and make it available to Agent at any place designated by Lender;

(iv) the right to notify postal authorities to change the address for delivery of Borrowers' mail to an address designated by Agent and to receive, open and dispose of all mail addressed to any Borrower;

(v) the right to enforce Borrowers' rights against Account Debtors and other obligors, including, without limitation, (i) the right to collect Accounts directly in Agent's own name (as agent for Lenders) and to charge the collection costs and expenses, including attorneys' fees, to Borrowers, and (ii) the right, in the name of Agent or any designee of Agent or Borrowers, to verify the validity, amount or any other matter relating to any Accounts by mail, telephone, telegraph or otherwise, including, without limitation, verification of Borrowers' compliance with applicable Laws. Borrowers shall cooperate fully with Agent in an effort to facilitate and promptly conclude such verification process. Such verification may include contacts between Agent and applicable federal, state and local regulatory authorities having jurisdiction over the Borrowers' affairs, all of which contacts Borrowers hereby irrevocably authorize; and/or

(vi) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale and/or advertise for sale, the Collateral.

(b) Each Borrower agrees that a notice received by it at least ten (10) days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Agent without prior notice to Borrowers. At any sale or disposition of Collateral, Agent may (to the extent permitted by applicable law) purchase all or any part of the Collateral, free from any right of redemption by Borrowers, which right is hereby waived and released. Each Borrower covenants and agrees not to interfere with or impose any obstacle to Agent's exercise of its rights and remedies with respect to the Collateral. Agent shall have no obligation to clean-up or otherwise prepare the Collateral for sale. Agent may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Agent sells any of the Collateral upon credit, Borrowers will be credited only with payments actually made by the purchaser, received by Agent and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Borrowers shall be credited with the proceeds of the sale. Borrowers shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Obligations.

(c) Without restricting the generality of the foregoing and for the purposes aforesaid, each Borrower hereby appoints and constitutes Agent its lawful attorney-in-fact with full power of substitution in the Collateral, upon the occurrence and during the continuance of an Event of Default, to (i) use unadvanced funds remaining under this Agreement or which may be reserved, escrowed or set aside for any purposes hereunder at any time, or to advance funds in excess of the face amount of the Notes, (ii) pay, settle or compromise all existing bills and claims, which may be Liens or security interests, or to avoid such bills and claims becoming Liens against the Collateral, (iii) execute all applications and certificates in the name of such Borrower and to prosecute and defend all actions or proceedings in connection with the Collateral, and (iv) do any and every act which such Borrower might do in its own behalf; it being understood and agreed that this power of attorney in this subsection (c) shall be a power coupled with an interest and cannot be revoked.

(d) Agent is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrowers' labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral in completing production of, advertising for sale, and selling any Collateral (and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof); provided that Agent shall only use such license or other right to use as described in

this sentence solely in connection with Agent's exercise of its rights and remedies under this Article 10, and, in connection with Agent's exercise of its rights under this Article, Borrowers' rights under all licenses and all franchise agreements shall be deemed to inure to Agent for the benefit of the Lenders.

[Reserved]

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Default Rate of Interest

. At the election of Agent or Required Lenders, after the occurrence of an Event of Default and for so long as it continues, the Loans and other Obligations shall bear interest at rates that are three percent (3.0%) per annum in excess of the rates otherwise payable under this Agreement; *provided, however*, that in the case of any Event of Default specified in Section 10.1(f) above, such default rates shall apply immediately and automatically without the need for any election or action of any kind on the part of Agent or any Lender.

Setoff Rights

. During the continuance of any Event of Default, each Lender is hereby authorized by each Borrower at any time or from time to time, with reasonably prompt subsequent notice to such Borrower (any prior or contemporaneous notice being hereby expressly waived) to set off and to appropriate and to apply any and all (a) balances held by such Lender or any of such Lender's Affiliates at any of its offices for the account of such Borrower or any Secured Guarantor (regardless of whether such balances are then due to such Borrower or any Secured Guarantor), and (b) other property at any time held or owing by such Lender to or for the credit or for the account of such Borrower or any Secured Guarantor, against and on account of any of the Obligations (other than, in the case of clause (a) or (b) any deposits, credits, collateral, and property belonging to any CFC or CFC Holdco and any amount of the voting equity interests of any CFC or CFC Holdco, including ST International, in excess of 65%); except that no Lender shall exercise any such right without the prior written consent of Agent. Any Lender exercising a right to set off shall purchase for cash (and the other Lenders shall sell) interests in each of such other Lender's Pro Rata Share of the Obligations as would be necessary to cause all Lenders to share the amount so set off with each other Lender in accordance with their respective Pro Rata Share of the Obligations. Each Borrower agrees, to the fullest extent permitted by law, that any Lender and any of such Lender's Affiliates may exercise its right to set off with respect to the Obligations as provided in this Section 10.6.

Section 10.7 Application of Proceeds.

(a) Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, each Borrower, for itself and the Credit Parties, irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of such Borrower or such Credit Party of all or any part of the Obligations, and, as between Borrowers and the Credit Parties on the one hand and Agent and Lenders on the other, Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent.

(b) Following the occurrence and continuance of an Event of Default, but absent the occurrence and continuance of an Acceleration Event, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in such order as Agent may from time to time elect.

(c) Notwithstanding anything to the contrary contained in this Agreement, if an Acceleration Event shall have occurred, and so long as it continues, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in the following order: *first*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to Agent with respect to this Agreement, the other Financing Documents or the Collateral; *second*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to any Lender with respect to this Agreement, the other Financing Documents or the Collateral; *third*, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of the Bankruptcy Code, would have accrued on such amounts); *fourth*, to the principal amount of the Obligations outstanding; *fifth* to any other indebtedness or obligations of the Borrowers and the Secured Guarantors owing to Agent or any Lender under the Financing Documents; and *sixth*, to Silicon Valley Bank for payment of outstanding Bank Services Indebtedness in an aggregate amount not to exceed $250,000 and not cash collateralized pursuant to clause (c) of the definition of Subject Cash Collateral Accounts. Borrower shall remain fully liable for any deficiency. Any balance remaining shall be delivered to Borrowers or to whomever may be

lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. Unless the Agent and the Lenders shall agree otherwise, in carrying out the foregoing, (y) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (z) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its pro rata share of amounts available to be applied pursuant thereto for such category.

Section 10.8 Waivers.

(a) Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, each Borrower waives: (i) presentment, demand and protest, and notice of presentment, dishonor, intent to accelerate, acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all Financing Documents, and hereby ratifies and confirms whatever Agent or Lenders may do in this regard; (ii) all rights to notice and a hearing prior to Agent's or any Lender's entry upon the premises of a Borrower, the taking possession or control of, or to Agent's or any Lender's replevy, attachment or levy upon, any Collateral or any bond or security which might be required by any court prior to allowing Agent or any Lender to exercise any of its remedies; and (iii) the benefit of all valuation, appraisal and exemption Laws. Each Borrower acknowledges that it has been advised by counsel of its choices and decisions with respect to this Agreement, the other Financing Documents and the transactions evidenced hereby and thereby.

(b) Each Borrower for itself and all its successors and assigns, (i) agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; (ii) consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Agent or any Lender with respect to the payment or other provisions of the Financing Documents, and to any substitution, exchange or release of the Collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any Borrower, endorsers, guarantors, or sureties, or whether primarily or secondarily liable, without notice to any other Borrower and without affecting its liability hereunder; (iii) agrees that its liability shall be unconditional and without regard to the liability of any other Borrower, Agent or any Lender for any tax on the indebtedness; and (iv) to the fullest extent permitted by law, expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

(c) To the extent that Agent or any Lender may have acquiesced in any noncompliance with any requirements or conditions precedent to the closing of the Loans or to any subsequent disbursement of Loan proceeds, such acquiescence shall not be deemed to constitute a waiver by Agent or any Lender of such requirements with respect to any future disbursements of Loan proceeds and Agent may at any time after such acquiescence require Borrowers to comply with all such requirements. Any forbearance by Agent or Lender in exercising any right or remedy under any of the Financing Documents, or otherwise afforded by applicable law, including any failure to accelerate the maturity date of the Loans, shall not be a waiver of or preclude the exercise of any right or remedy nor shall it serve as a novation of the Notes or as a reinstatement of the Loans or a waiver of such right of acceleration or the right to insist upon strict compliance of the terms of the Financing Documents. Agent's or any Lender's acceptance of payment of any sum secured by any of the Financing Documents after the due date of such payment shall not be a waiver of Agent's and such Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Agent as the result of an Event of Default shall not be a waiver of Agent's right to accelerate the maturity of the Loans, nor shall Agent's receipt of any condemnation awards, insurance proceeds, or damages under this Agreement operate to cure or waive any Credit Party's default in payment of sums secured by any of the Financing Documents.

(d) Without limiting the generality of anything contained in this Agreement or the other Financing Documents, each Borrower agrees that if an Event of Default is continuing (i) Agent and Lenders shall not be subject to any "one action" or "election of remedies" law or rule, and (ii) all Liens and other rights, remedies or privileges provided to Agent or Lenders shall remain in full force and effect until Agent or Lenders have exhausted all remedies against the Collateral and any other properties owned by Borrowers and the Financing Documents and other security instruments or agreements securing the Loans have been foreclosed, sold and/or otherwise realized upon in satisfaction of Borrowers' obligations under the Financing Documents.

(e) Nothing contained herein or in any other Financing Document shall be construed as requiring Agent or any Lender to resort to any part of the Collateral for the satisfaction of any of Borrowers' obligations under the Financing Documents in preference or priority to any other Collateral, and Agent may seek satisfaction out of all of the Collateral or any part thereof, in its absolute discretion in respect of Borrowers' obligations under the Financing Documents. In addition, Agent shall have the right from time to time to partially foreclose upon any Collateral in any manner and for any amounts secured by the Financing Documents then due and payable as determined by Agent in its sole discretion, including, without limitation, the following circumstances: (i) in the event any Borrower defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and/or interest, Agent may foreclose upon all or any part of the Collateral to recover such delinquent payments, or (ii) in the event Agent elects to accelerate less than the entire outstanding principal balance of the Loans, Agent may foreclose all or any part of the Collateral to recover so much of the principal balance of the Loans as Lender may accelerate and such other sums secured by one or more of the Financing Documents as Agent may elect. Notwithstanding one or more partial foreclosures, any unforeclosed Collateral shall remain subject to the Financing Documents to secure payment of sums secured by the Financing Documents and not previously recovered.

(f) To the fullest extent permitted by law, each Borrower, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Collateral any equitable right otherwise available to any Credit Party which would require the separate sale of any of the Collateral or require Agent or Lenders to exhaust their remedies against any part of the Collateral before proceeding against any other part of the Collateral; and further in the event of such foreclosure each Borrower does hereby expressly consent to and authorize, at the option of Agent, the foreclosure and sale either separately or together of each part of the Collateral.

Injunctive Relief

. The parties acknowledge and agree that, in the event of a breach or threatened breach of any Credit Party's obligations under any Financing Documents, Agent and Lenders may have no adequate remedy in money damages and, accordingly, shall be entitled to an injunction (including, without limitation, a temporary restraining order, preliminary injunction, writ of attachment, or order compelling an audit) against such breach or threatened breach, including, without limitation, maintaining any cash management and collection procedure described herein. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach or threatened breach of any provision of this Agreement. Each Credit Party waives, to the fullest extent permitted by law, the requirement of the posting of any bond in connection with such injunctive relief. By joining in the Financing Documents as a Credit Party, each Credit Party specifically joins in this Section10.9 as if this Section 10.9 were a part of each Financing Document executed by such Credit Party.

Marshalling; Payments Set Aside

. Neither Agent nor any Lender shall be under any obligation to marshal any assets in payment of any or all of the Obligations. To the extent that Borrower makes any payment or Agent enforces its Liens or Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such enforcement or set-off is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid by anyone, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set-off had not occurred.

ARTICLE 11 - AGENT

Appointment and Authorization

. Each Lender hereby irrevocably appoints and authorizes Agent to enter into each of the Financing Documents to which it is a party (other than this Agreement) on its behalf and to take such actions as Agent on its behalf and to exercise such powers under the Financing Documents as are delegated to Agent by the terms thereof, together with all such powers as are reasonably incidental thereto. Subject to the terms of Section 11.16 and to the terms of the other Financing Documents, Agent is authorized and empowered to amend, modify, or waive any provisions of this Agreement or the other Financing Documents on behalf of Lenders. The provisions of this Article 11 are solely for the benefit of Agent and Lenders and neither any Borrower nor any other Credit Party shall have any rights as a third party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement, Agent shall act solely as agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Borrower or any other Credit Party. Agent may perform any of its duties hereunder, or under the Financing Documents, by or through its agents, servicers, trustees, investment managers or employees.

Agent and Affiliates

. Agent shall have the same rights and powers under the Financing Documents as any other Lender and may exercise or refrain from exercising the same as though it were not Agent, and Agent and its Affiliates may lend money to, invest in and generally engage in any kind of business with each Credit Party or Affiliate of any Credit Party as if it were not Agent hereunder.

Action by Agent

. The duties of Agent shall be mechanical and administrative in nature. Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender. Nothing in this Agreement or any of the Financing Documents is intended to or shall be construed to impose upon Agent any obligations in respect of this Agreement or any of the Financing Documents except as expressly set forth herein or therein.

Consultation with Experts

. Agent may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Liability of Agent

. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be liable to any Lender for any action taken or not taken by it in connection with the Financing Documents, except that Agent shall be liable with respect to its specific duties set forth hereunder but only to the extent of its own gross negligence or willful misconduct in the discharge thereof as determined by a final non-appealable judgment of a court of competent jurisdiction. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be responsible for or have any duty to ascertain, inquire into or verify (a) any statement, warranty or representation made in connection with any Financing Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements specified in any Financing Document; (c) the satisfaction of any condition specified in any Financing Document; (d) the validity, effectiveness, sufficiency or genuineness of any Financing Document, any Lien purported to be created or perfected thereby or any other instrument or writing furnished in connection therewith; (e) the existence or non-existence of any Default or Event of Default; or (f) the financial condition of any Credit Party. Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement, or other writing (which may be a bank wire, facsimile or electronic transmission or similar writing) believed by it to be genuine or to be signed by the proper party or parties. Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

Indemnification

. Each Lender shall, in accordance with its Pro Rata Share, indemnify Agent (to the extent not reimbursed by Borrowers) upon demand against any cost, expense (including counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction) that Agent may suffer or incur in connection with the Financing Documents or any action taken or omitted by Agent hereunder or thereunder. If any indemnity furnished to Agent for any purpose shall, in the opinion of Agent, be insufficient or become impaired, Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against even if so directed by Required Lenders until such additional indemnity is furnished.

Right to Request and Act on Instructions

. Agent may at any time request instructions from Lenders with respect to any actions or approvals which by the terms of this Agreement or of any of the Financing Documents Agent is permitted or desires to take or to grant, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Financing Documents until it shall have received such instructions from Required Lenders or all or such other portion of the Lenders as shall be prescribed by this Agreement. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Financing Documents in accordance with the instructions of Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) and, notwithstanding the instructions of Required Lenders (or such other applicable portion of the Lenders), Agent shall have no obligation to take any action if it

believes, in good faith, that such action would violate applicable Law or exposes Agent to any liability for which it has not received satisfactory indemnification in accordance with the provisions of Section 11.6.

Credit Decision

. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the Financing Documents.

Collateral Matters

. Lenders irrevocably authorize Agent, at its option and in its discretion, to (a) release any Lien granted to or held by Agent under any Security Document (i) upon termination of the Revolving Loan Commitment and payment in full of all Obligations; or (ii) constituting property sold or disposed of as part of or in connection with any disposition or transfer permitted under any Financing Document (it being understood and agreed that Agent may conclusively rely without further inquiry on a certificate of a Responsible Officer as to the sale or other disposition of property being made in full compliance with the provisions of the Financing Documents); (b) subordinate any Lien granted to or held by Agent under any Security Document to a Permitted Lien that is allowed to have priority over the Liens granted to or held by Agent pursuant to the definition of "Permitted Liens".; and (c) without limiting clause (b) above enter into the Intercreditor Agreement. Each Lender agrees to comply with and be bound by the terms and conditions of any subordination agreement or intercreditor agreement (including the Intercreditor Agreement) which Agent has entered into in accordance with clauses (b) or (c) above. Upon request by Agent at any time, Lenders will confirm Agent's authority to release and/or subordinate particular types or items of Collateral pursuant to this Section 11.9.

Agency for Perfection

. Agent and each Lender hereby appoint each other Lender as agent for the purpose of perfecting Agent's security interest in assets which, in accordance with the UCC in any applicable jurisdiction, can be perfected by possession or control. Should any Lender (other than Agent) obtain possession or control of any such assets, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor, shall deliver such assets to Agent or in accordance with Agent's instructions or transfer control to Agent in accordance with Agent's instructions. Each Lender agrees that it will not have any right individually to enforce or seek to enforce any Security Document or to realize upon any Collateral for the Loan unless instructed to do so by Agent (or consented to by Agent), it being understood and agreed that such rights and remedies may be exercised only by Agent.

Notice of Default

. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Lenders, unless Agent shall have received written notice from a Lender or a Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". Agent will notify each Lender of its receipt of any such notice. Agent shall take such action with respect to such Default or Event of Default as may be requested by Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) in accordance with the terms hereof. Unless and until Agent has received any such request, 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 or in the best interests of Lenders.

Section 11.12 Assignment by Agent; Resignation of Agent; Successor Agent.

(a) Agent may at any time assign its rights, powers, privileges and duties hereunder to (i) a Lender, or (ii) any Person to whom Agent or any of its Affiliates, in their capacity as a Lender, has assigned (or will assign, in conjunction with such assignment of agency rights hereunder) 50% or more of its Loan then held by Agent or such Affiliate (in its capacity as a Lender), in each case without the consent of the Lenders or Borrowers. Following any such assignment, Agent shall give notice to the Lenders and Borrowers. An assignment by Agent pursuant to this subsection (a) shall not be deemed a resignation by Agent for purposes of subsection (b) below.

(b) Without limiting the rights of Agent to designate an assignee pursuant to subsection (a) above, Agent may at any time give notice of its resignation to the Lenders and Borrowers. Upon receipt of any such notice of resignation, Required Lenders shall have the right to appoint a successor Agent with consultation with the

Borrower except that consultation with the Borrower shall not be required if such successor Agent is an Affiliate or Approved Fund of MCF. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within ten (10) Business Days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent; *provided, however,* that if Agent shall notify Borrowers and the Lenders that no Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice from Agent that no Person has accepted such appointment and, from and following delivery of such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Financing Documents, and (ii) all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Agent as provided for above in this paragraph.

(c) Upon (i) an assignment permitted by subsection (a) above, or (ii) the acceptance of a successor's appointment as Agent pursuant to subsection (b) above, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder and under the other Financing Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrowers and such successor. After the retiring Agent's resignation hereunder and under the other Financing Documents, the provisions of this Article and Section 11.12 shall continue in effect for the benefit of such retiring Agent and its sub-agents in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting or was continuing to act as Agent.

Section 11.13 Payment and Sharing of Payment.

(a) Revolving Loan Advances, Payments and Settlements; Interest and Fee Payments.

(i) Agent shall have the right, on behalf of Revolving Lenders to disburse funds to Borrowers for all Revolving Loans requested or deemed requested by Borrowers pursuant to the terms of this Agreement. Agent shall be conclusively entitled to assume, for purposes of the preceding sentence, that each Revolving Lender, other than any Non-Funding Lenders, will fund its Pro Rata Share of all Revolving Loans requested by Borrowers. Each Revolving Lender shall reimburse Agent on demand, in accordance with the provisions of the immediately following paragraph, for all funds disbursed on its behalf by Agent pursuant to the first sentence of this clause (i), or if Agent so requests, each Revolving Lender will remit to Agent its Pro Rata Share of any Revolving Loan before Agent disburses the same to a Borrower. If Agent elects to require that each Revolving Lender make funds available to Agent, prior to a disbursement by Agent to a Borrower, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender's Pro Rata Share of the Revolving Loan requested by such Borrower no later than noon (Eastern time) on the date of funding of such Revolving Loan, and each such Revolving Lender shall pay Agent on such date such Revolving Lender's Pro Rata Share of such requested Revolving Loan, in same day funds, by wire transfer to the Payment Account, or such other account as may be identified by Agent to Revolving Lenders from time to time. If any Lender fails to pay the amount of its Pro Rata Share of any funds advanced by Agent pursuant to the first sentence of this clause (i) within one (1) Business Day after Agent's demand, Agent shall promptly notify Borrower Representative, and Borrowers shall immediately repay such amount to Agent. Any repayment required by Borrowers pursuant to this Section 11.13 shall be accompanied by accrued interest thereon from and including the date such amount is made available to a Borrower to but excluding the date of payment at the rate of interest then applicable to Revolving Loans. Nothing in this Section 11.13 or elsewhere in this Agreement or the other Financing Documents shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that Agent or any Borrower may have against any Lender as a result of any default by such Lender hereunder.

(ii) On a Business Day of each week as selected from time to time by Agent, or more frequently (including daily), if Agent so elects (each such day being a "**Settlement Date**"), Agent will advise each Revolving Lender by telephone, facsimile or e-mail of the amount of each such Revolving Lender's percentage interest of the Revolving Loan balance as of the close of business of the Business Day immediately preceding the Settlement Date. In the event that payments are necessary to adjust the amount of such Revolving Lender's actual percentage interest of the Revolving Loans to such Lender's required

percentage interest of the Revolving Loan balance as of any Settlement Date, the Revolving Lender from which such payment is due shall pay Agent, without setoff or discount, to the Payment Account before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date the full amount necessary to make such adjustment. Any obligation arising pursuant to the immediately preceding sentence shall be absolute and unconditional and shall not be affected by any circumstance whatsoever. In the event settlement shall not have occurred by the date and time specified in the second preceding sentence, interest shall accrue on the unsettled amount at the rate of interest then applicable to Revolving Loans.

(iii) On each Settlement Date, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender's percentage interest of principal, interest and fees paid for the benefit of Revolving Lenders with respect to each applicable Revolving Loan, to the extent of such Revolving Lender's Revolving Loan Exposure with respect thereto, and shall make payment to such Revolving Lender before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date of such amounts in accordance with wire instructions delivered by such Revolving Lender to Agent, as the same may be modified from time to time by written notice to Agent; *provided*, *however*, that, in the case such Revolving Lender is a Defaulted Lender, Agent shall be entitled to set off the funding short-fall against that Defaulted Lender's respective share of all payments received from any Borrower.

(iv) On the Closing Date, Agent, on behalf of Lenders, may elect to advance to Borrowers the full amount of the initial Loans to be made on the Closing Date prior to receiving funds from Lenders, in reliance upon each Lender's commitment to make its Pro Rata Share of such Loans to Borrowers in a timely manner on such date. If Agent elects to advance the initial Loans to Borrower in such manner, Agent shall be entitled to receive all interest that accrues on the Closing Date on each Lender's Pro Rata Share of such Loans unless Agent receives such Lender's Pro Rata Share of such Loans before 3:00 p.m. (Eastern time) on the Closing Date.

(v) It is understood that for purposes of advances to Borrowers made pursuant to this Section 11.13, Agent will be using the funds of Agent, and pending settlement, (A) all funds transferred from the Payment Account to the outstanding Revolving Loans shall be applied first to advances made by Agent to Borrowers pursuant to this Section 11.13, and (B) all interest accruing on such advances shall be payable to Agent.

(vi) The provisions of this Section 11.13(a) shall be deemed to be binding upon Agent and Lenders notwithstanding the occurrence of any Default or Event of Default, or any insolvency or bankruptcy proceeding pertaining to any Borrower or any other Credit Party.

(b) [Reserved].

(c) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind, together with interest accruing on a daily basis at the Federal Funds Rate.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to any Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(d) Defaulted Lenders. The failure of any Defaulted Lender to make any payment required by it hereunder shall not relieve any other Lender of its obligations to make payment, but neither any other Lender nor Agent shall be responsible for the failure of any Defaulted Lender to make any payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulted Lender shall not have any voting or consent rights under or with respect to any Financing Document or constitute a "Lender" (or be included in the calculation of "Required Lenders" hereunder) for any voting or consent rights under or with respect to any Financing Document.

(e) Sharing of Payments. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Loan (other than pursuant to the terms of Section 2.8(d)) in excess of its Pro Rata Share of payments entitled pursuant to the other provisions of this Section 11.13, such Lender shall purchase from the other Lenders such participations in extensions of credit made by such other Lenders (without recourse, representation or warranty) as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably with each of them; *provided, however,* that if all or any portion of the excess payment or other recovery is thereafter required to be returned or otherwise recovered from such purchasing Lender, such portion of such purchase shall be rescinded and each Lender which has sold a participation to the purchasing Lender shall repay to the purchasing Lender the purchase price to the ratable extent of such return or recovery, without interest. Each Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this clause (e) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 10.6) with respect to such participation as fully as if such Lender were the direct creditor of Borrowers in the amount of such participation. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this clause (e) applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this clause (e) to share in the benefits of any recovery on such secured claim.

Right to Perform, Preserve and Protect

. If any Credit Party fails to perform any obligation hereunder or under any other Financing Document, Agent itself may, but shall not be obligated to, cause such obligation to be performed at Borrowers' expense. Agent is further authorized by Borrowers and the Lenders to make expenditures from time to time which Agent, in its reasonable business judgment, deems necessary or desirable to (a) preserve or protect the business conducted by Borrowers, the Collateral, or any portion thereof, and/or (b) enhance the likelihood of, or maximize the amount of, repayment of the Loan and other Obligations. Each Borrower hereby agrees to reimburse Agent on demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14. Each Lender hereby agrees to indemnify Agent upon demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14, in accordance with the provisions of Section 11.6.

Additional Titled Agents

. Except for rights and powers, if any, expressly reserved under this Agreement to any bookrunner, arranger or to any titled agent named on the cover page of this Agreement, other than Agent (collectively, the "**Additional Titled Agents**"), and except for obligations, liabilities, duties and responsibilities, if any, expressly assumed under this Agreement by any Additional Titled Agent, no Additional Titled Agent, in such capacity, has any rights, powers, liabilities, duties or responsibilities hereunder or under any of the other Financing Documents. Without limiting the foregoing, no Additional Titled Agent shall have nor be deemed to have a fiduciary relationship with any Lender. At any time that any Lender serving as an Additional Titled Agent shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loan, such Lender shall be deemed to have concurrently resigned as such Additional Titled Agent.

Section 11.16 Amendments and Waivers.

(a) No provision of this Agreement or any other Financing Document may be materially amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by Borrowers, the Required Lenders and any other Lender to the extent required under Section 11.16(b); *provided*, *however*, that the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

(b) In addition to the required signatures under Section 11.16(a), no provision of this Agreement or any other Financing Document may be amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by the following Persons:

(i) if any amendment, waiver or other modification would increase a Lender's funding obligations in respect of any Loan, by such Lender; and/or

(ii) if the rights or duties of Agent are affected thereby, by Agent;

provided, *however*, that, in each of (i) and (ii) above, no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Loan; (B) postpone the date fixed for, or waive, any payment (other than any mandatory prepayment pursuant to Section 2.1(b)(ii)) of principal of any Loan , or of interest on any Loan (other than default interest) or any fees provided for hereunder (other than late charges) or postpone the date of termination of any commitment of any Lender hereunder; (C) change the definition of the term Required Lenders or the percentage of Lenders which shall be required for Lenders to take any action hereunder; (D) release all or substantially all of the Collateral, authorize any Borrower to sell or otherwise dispose of all or substantially all of the Collateral or release any Guarantor of all or any portion of the Obligations or its Guarantee obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be provided in this Agreement or the other Financing Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 11.16(b) or the definitions of the terms used in this Section 11.16(b) insofar as the definitions affect the substance of this Section 11.16(b); (F) consent to the assignment, delegation or other transfer by any Credit Party of any of its rights and obligations under any Financing Document or release any Borrower of its payment obligations under any Financing Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; or (G) amend any of the provisions of Section 10.7 or amend any of the definitions Pro Rata Share, Revolving Loan Commitment, Revolving Loan Commitment Amount, Revolving Loan Commitment Percentage, or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F) and (G) of the preceding sentence.

Section 11.17 Assignments and Participations.

(a) Assignments.

(i) Any Lender may at any time assign to one or more Eligible Assignees all or any portion of such Lender's Loan together with all related obligations of such Lender hereunder. Except as Agent may otherwise agree, the amount of any such assignment (determined as of the date of the applicable Assignment Agreement or, if a "Trade Date" is specified in such Assignment Agreement, as of such Trade Date) shall be in a minimum aggregate amount equal to $1,000,000 or, if less, the assignor's entire interests in the outstanding Loan; *provided*, *however,* that, in connection with simultaneous assignments to two or more related Approved Funds, such Approved Funds shall be treated as one assignee for purposes of determining compliance with the minimum assignment size referred to above. Borrowers and Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned to an Eligible Assignee until Agent shall have received and accepted an effective Assignment Agreement executed, delivered and fully completed by the applicable parties thereto, such assignment is recorded by Agent in the register maintained pursuant to Section 11.17(a)(iii), and a processing fee of $3,500 to be paid by the assigning Lender; *provided*, *however,* that only one processing fee shall be payable in connection with simultaneous assignments to two or more related Approved Funds.

(ii) From and after the date on which the conditions described above have been met, (A) such Eligible Assignee shall be deemed automatically to have become a party hereto and, to the extent of the interests assigned to such Eligible Assignee pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder, and (B) the assigning Lender, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, shall be released from its rights and obligations hereunder (other than those that survive termination pursuant to Section 12.1). Upon the request of the Eligible Assignee (and, as applicable, the assigning Lender) pursuant to an effective Assignment Agreement, each Borrower shall execute and deliver to Agent for delivery to the Eligible Assignee (and, as applicable, the assigning Lender) Notes in the aggregate principal amount of the Eligible

Assignee's Loan (and, as applicable, Notes in the principal amount of that portion of the principal amount of the Loan retained by the assigning Lender). Upon receipt by the assigning Lender of such Note, the assigning Lender shall return to Borrower Representative any prior Note held by it.

(iii) Agent, acting solely for this purpose as an agent of Borrower, shall maintain at the office of its servicer located in Bethesda, Maryland a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of each Lender, and the commitments of, and principal amount of (and stated interest on) the Loan owing to, such Lender pursuant to the terms hereof. The entries in such register shall be conclusive absent manifest error, and Borrower, Agent and Lenders shall treat each Person whose name is recorded therein pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such register shall be available for inspection by Borrower and any Lender, at any reasonable time upon reasonable prior notice to Agent.

(iv) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, 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; *provided*, *however*, that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(v) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, Agent has the right, but not the obligation, to effectuate assignments of Loan via an electronic settlement system acceptable to Agent as designated in writing from time to time to the Lenders by Agent (the "**Settlement Service**"). At any time when the Agent elects, in its sole discretion, to implement such Settlement Service, each such assignment shall be effected by the assigning Lender and proposed assignee pursuant to the procedures then in effect under the Settlement Service, which procedures shall be consistent with the other provisions of this Section 11.17(a). Each assigning Lender and proposed Eligible Assignee shall comply with the requirements of the Settlement Service in connection with effecting any assignment of Loan pursuant to the Settlement Service. With the prior written approval of Agent, Agent's approval of such Eligible Assignee shall be deemed to have been automatically granted with respect to any transfer effected through the Settlement Service. Assignments and assumptions of the Loan shall be effected by the provisions otherwise set forth herein until Agent notifies Lenders of the Settlement Service as set forth herein.

(b) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or Agent, sell to one or more Persons (other than any Borrower or any Borrower's Affiliates) participating interests in its Loan, commitments or other interests hereunder (any such Person, a "**Participant**"). In the event of a sale by a Lender of a participating interest to a Participant, (i) such Lender's obligations hereunder shall remain unchanged for all purposes, (ii) Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations hereunder, and (iii) all amounts payable by each Borrower shall be determined as if such Lender had not sold such participation and shall be paid directly to such Lender. Each Borrower agrees that if amounts outstanding under this Agreement are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; *provided*, *however*, that such right of set-off shall be subject to the obligation of each Participant to share with Lenders, and Lenders agree to share with each Participant, as provided in Section 11.5. Each Lender that sells a participating interest shall, acting solely for this purpose as an agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts of (and stated interest on) each Participant's interest in the Obligations. The entries in such a participant register shall be conclusive, absent manifest error. Each participant register shall be available for inspection by Borrower and the Agent at any reasonable time upon reasonable prior notice to the applicable Lender; provided, that no Lender shall have any obligation to disclose all or any portion of a participant register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Financing Document) to any Person (including Borrower) except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. Notwithstanding anything to the contrary contained in this Agreement

or any other Financing Documents, the Loans are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans shall be transferable (whether by assignment or participation) only upon notation of such transfer in the applicable register maintained pursuant to this Section 11.17(b) or Section 11.17(a)(iii), and no assignment thereof shall be effective until recorded therein. This Agreement shall be construed so that the Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and Section 5f.103-1(c) of the United States Treasury Regulations. Borrower agrees that each participant shall be entitled to the benefits of Section 2.8 (subject to the requirements and limitations therein, including the requirements under Section 2.8(c) (it being understood that the documentation required under Section 2.8(c) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 11.17(a); provided that such Participant (i) agrees to be subject to the provisions of Sections 2.8(e) and 11.17(c) as if it were an assignee; and (ii) shall not be entitled to receive any greater payment under Section 2.8, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in law that occurs after the participant acquired the applicable participation.

(c) Replacement of Lenders. Within thirty (30) days after: (i) receipt by Agent of notice and demand from any Lender for payment of additional costs as provided in Section 2.8(d), which demand shall not have been revoked, (ii) Borrower is required to pay any Taxes (other than Excluded Taxes) or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8(a), (iii) any Lender is a Defaulted Lender, and the circumstances causing such status shall not have been cured or waived; or (iv) any failure by any Lender to consent to a requested amendment, waiver or modification to any Financing Document in which Required Lenders have already consented to such amendment, waiver or modification but the consent of each Lender, or each Lender affected thereby, is required with respect thereto (each relevant Lender in the foregoing clauses (i) through (iv) being an "**Affected Lender**") each of Borrower Representative and Agent may, at its option, notify such Affected Lender and, in the case of Borrowers' election, the Agent, of such Person's intention to obtain, at Borrowers' expense, a replacement Lender ("**Replacement Lender**") for such Lender, which Replacement Lender shall be an Eligible Assignee and, in the event the Replacement Lender is to replace an Affected Lender described in the preceding clause (iv), such Replacement Lender consents to the requested amendment, waiver or modification making the replaced Lender an Affected Lender. In the event Borrowers or Agent, as applicable, obtains a Replacement Lender within ninety (90) days following notice of its intention to do so, the Affected Lender shall sell, at par, and assign all of its Loan and funding commitments hereunder to such Replacement Lender in accordance with the procedures set forth in Section 11.17(a); *provided, however,* that (A) Borrowers shall have reimbursed such Lender for its increased costs and additional payments for which it is entitled to reimbursement under Section 2.8(a) or Section 2.8(d), as applicable, of this Agreement through the date of such sale and assignment, and (B) Borrowers shall pay to Agent the $3,500 processing fee in respect of such assignment. In the event that a replaced Lender does not execute an Assignment Agreement pursuant to Section 11.17(a) within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 11.17(c) and presentation to such replaced Lender of an Assignment Agreement evidencing an assignment pursuant to this Section 11.17(c), such replaced Lender shall be deemed to have consented to the terms of such Assignment Agreement, and any such Assignment Agreement executed by Agent, the Replacement Lender and, to the extent required pursuant to Section 11.17(a), Borrowers, shall be effective for purposes of this Section 11.17(c) and Section 11.17(a). Upon any such assignment and payment, such replaced Lender shall no longer constitute a "**Lender**" for purposes hereof, other than with respect to such rights and obligations that survive termination as set forth in Section 12.1.

(d) Credit Party Assignments. No Credit Party may assign, delegate or otherwise transfer any of its rights or other obligations hereunder or under any other Financing Document without the prior written consent of Agent and each Lender.

Section 11.18 Funding and Settlement Provisions Applicable When Non-Funding Lenders Exist.

So long as Agent has not waived the conditions to the funding of Revolving Loans set forth in Section 7.2, any Lender may deliver a notice to Agent stating that such Lender shall cease making Revolving Loans due to the non-satisfaction of one or more conditions to funding Loans set forth in Section 7.2, and specifying any such non-satisfied conditions. Any Lender delivering any such notice shall become a non-funding Lender (a "**Non-Funding Lender**") for purposes of this Agreement commencing on the Business Day following receipt by Agent of such notice, and shall cease to be a Non-Funding Lender on the date on which such Lender has either revoked the effectiveness of

such notice or acknowledged in writing to each of Agent the satisfaction of the condition(s) specified in such notice, or Required Lenders waive the conditions to the funding of such Loans giving rise to such notice by Non-Funding Lender. Each Non-Funding Lender shall remain a Lender for purposes of this Agreement to the extent that such Non-Funding Lender has Revolving Loan Outstandings in excess of $0; *provided*, *however,* that during any period of time that any Non-Funding Lender exists, and notwithstanding any provision to the contrary set forth herein, the following provisions shall apply:

(a) For purposes of determining the Pro Rata Share of each Revolving Lender under clause (c) of the definition of such term, each Non-Funding Lender shall be deemed to have a Revolving Loan Commitment Amount as in effect immediately before such Lender became a Non-Funding Lender.

(b) Except as provided in clause (a) above, the Revolving Loan Commitment Amount of each Non-Funding Lender shall be deemed to be $0.

(c) The Revolving Loan Commitment at any date of determination during such period shall be deemed to be equal to the sum of (i) the aggregate Revolving Loan Commitment Amounts of all Lenders, other than the Non-Funding Lenders as of such date plus (ii) the aggregate Revolving Loan Outstandings of all Non-Funding Lenders as of such date.

(d) [Reserved.]

(e) Agent shall have no right to make or disburse Revolving Loans for the account of any Non-Funding Lender pursuant to Section 2.1(b)(i) to pay interest, fees, expenses and other charges of any Credit Party.

(f) [Reserved.]

(g) To the extent that Agent applies proceeds of Collateral or other payments received by Agent to repayment of Revolving Loans pursuant to Section 10.7, such payments and proceeds shall be applied first in respect of Revolving Loans made at the time any Non-Funding Lenders exist, and second in respect of all other outstanding Revolving Loans.

Buy-Out Upon Refinancing

. MCF shall have the right to purchase from the other Lenders all of their respective interests in the Loan at par in connection with any refinancing of the Loan upon one or more new economic terms, but which refinancing is structured as an amendment and restatement of the Loan rather than a payoff of the Loan.

Definitions

. As used in this Article 11, the following terms have the following meanings:

"**Approved Fund**" means any (a) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business, or (b) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (a) and that, with respect to each of the preceding clauses (a) and (b), is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

"**Assignment Agreement**" means an assignment agreement in form and substance acceptable to Agent.

"**Defaulted Lender**" means, so long as such failure shall remain in existence and uncured, any Lender which shall have failed to make any Loan or other credit accommodation, disbursement, settlement or reimbursement required pursuant to the terms of any Financing Document.

"**Eligible Assignee**" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by Agent; *provided*, *however*, that notwithstanding the foregoing, (x) "**Eligible Assignee**" shall not include any (i) Borrower or any of a Borrower's Affiliates and (ii) so long as no

Event of Default has occurred and is continuing (A) any operating company that is a direct competitor of Borrower or (B) any vulture or distressed debt fund, in the cases of (A) and (B), as reasonably determined by Agent, and (y) no proposed assignee intending to assume all or any portion of the Revolving Loan Commitment shall be an Eligible Assignee unless such proposed assignee either already holds a portion of such Revolving Loan Commitment, or has been approved as an Eligible Assignee by Agent. Notwithstanding the foregoing, in connection with assignments by a Lender due to a forced divestiture at the request of any regulatory agency, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party becoming an assignee incident to such forced divestiture.

"**Federal Funds Rate**" means, for any day, the rate of interest per annum (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%) 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*, *however*, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day, and (b) if no such rate is so published on such next preceding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Agent on such day on such transactions as determined by Agent.

ARTICLE 12 - MISCELLANEOUS

Survival

. All agreements, representations and warranties made herein and in every other Financing Document shall survive the execution and delivery of this Agreement and the other Financing Documents and the other Operative Documents. The provisions of Section 2.10 and Articles 11 and 12 shall survive the payment of the Obligations (both with respect to any Lender and all Lenders collectively) and any termination of this Agreement and any judgment with respect to any Obligations, including any final foreclosure judgment with respect to any Security Document, and no unpaid or unperformed, current or future, Obligations will merge into any such judgment.

No Waivers

. No failure or delay by Agent or any Lender in exercising any right, power or privilege under any Financing Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein and therein provided shall be cumulative and not exclusive of any rights or remedies provided by law. Any reference in any Financing Document to the "continuing" nature of any Event of Default shall not be construed as establishing or otherwise indicating that any Borrower or any other Credit Party has the independent right to cure any such Event of Default, but is rather presented merely for convenience should such Event of Default be waived in accordance with the terms of the applicable Financing Documents.

Section 12.3 Notices.

(a) All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, facsimile transmission or similar writing) and shall be given to such party at its address, facsimile number or e-mail address set forth on the signature pages hereof (or, in the case of any such Lender who becomes a Lender after the date hereof, in an assignment agreement or in a notice delivered to Borrower Representative and Agent by the assignee Lender forthwith upon such assignment) or at such other address, facsimile number or e-mail address as such party may hereafter specify for the purpose by notice to Agent and Borrower Representative; provided, however, that notices, requests or other communications shall be permitted by electronic means only in accordance with the provisions of Section 12.3(b) and (c). Each such notice, request or other communication shall be effective (i) if given by facsimile, when such notice is transmitted to the facsimile number specified by this Section and the sender receives a confirmation of transmission from the sending facsimile machine, or (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified by this Section 12.3(a).

(b) Notices and other communications to the parties hereto may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved from time to time by Agent, provided, however, that the foregoing shall not apply to notices sent directly to any Lender if such Lender has notified the Agent that it is incapable of receiving notices by electronic communication. The Agent or Borrower Representative may, in their discretion, agree to accept notices and other communications to them

hereunder by electronic communications pursuant to procedures approved by it, *provided*, *however*, that approval of such procedures may be limited to particular notices or communications.

(c) Unless the Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor, provided, however, that if any such notice or other communication is not sent or posted during normal business hours, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day.

Severability

. In case any provision of or obligation under this Agreement or any other Financing Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Headings

. Headings and captions used in the Financing Documents (including the Exhibits, Schedules and Annexes hereto and thereto) are included for convenience of reference only and shall not be given any substantive effect.

Section 12.6 Confidentiality.

(a) Each Credit Party agrees (i) not to transmit or disclose provisions of any Financing Document to any Person (other than to Borrowers' advisors and officers on a need-to-know basis or as otherwise may be required by Law) without Agent's prior written consent, (ii) to inform all Persons of the confidential nature of the Financing Documents and to direct them not to disclose the same to any other Person and to require each of them to be bound by these provisions.

(b) Agent and each Lender shall hold all non-public information regarding the Credit Parties and their respective businesses and obtained by Agent or any Lender pursuant to the requirements hereof in accordance with such Person's customary procedures for handling information of such nature, except that disclosure of such information may be made (i) to their respective agents, employees, Subsidiaries, Affiliates, attorneys, auditors, professional consultants, rating agencies, insurance industry associations and portfolio management services, (ii) to prospective transferees or purchasers of any interest in the Loans, the Agent or a Lender, *provided*, *however*, that any such Persons are bound by obligations of confidentiality, (iii) as required by Law, subpoena, judicial order or similar order and in connection with any litigation, (iv) as may be required in connection with the examination, audit or similar investigation of such Person, and (v) to a Person that is a trustee, investment advisor or investment manager, collateral manager, servicer, noteholder or secured party in a Securitization (as hereinafter defined) in connection with the administration, servicing and reporting on the assets serving as collateral for such Securitization. For the purposes of this Section, "**Securitization**" shall mean (A) the pledge of the Loans as collateral security for loans to a Lender, or (B) a public or private offering by a Lender or any of its Affiliates or their respective successors and assigns, of securities which represent an interest in, or which are collateralized, in whole or in part, by the Loans. Confidential information shall include only such information identified as such at the time provided to Agent and shall not include information that either: (y) is in the public domain, or becomes part of the public domain after disclosure to such Person through no fault of such Person, or (z) is disclosed to such Person by a Person other than a Credit Party, *provided*, *however*, Agent does not have actual knowledge that such Person is prohibited from disclosing such information. The obligations of Agent and Lenders under this Section 12.6 shall supersede and replace the obligations of Agent and Lenders under any confidentiality agreement in respect of this financing executed and delivered by Agent or any Lender prior to the date hereof.

Waiver of Consequential and Other Damages

. To the fullest extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee (as defined below), 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 Financing Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan

or the use of the proceeds thereof. 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 Financing Documents or the transactions contemplated hereby or thereby.

Section 12.8 GOVERNING LAW; SUBMISSION TO JURISDICTION.

(a) THIS AGREEMENT, EACH NOTE AND EACH OTHER FINANCING DOCUMENT, AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

(b) EACH BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER FINANCING DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS. EACH BORROWER EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. EACH BORROWER HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH BORROWER BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH BORROWER AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

(c) Each Borrower, Agent and each Lender agree that each Loan (including those made on the Closing Date) shall be deemed to be made in, and the transactions contemplated hereunder and in any other Financing Document shall be deemed to have been performed in, the State of Maryland.

WAIVER OF JURY TRIAL

. (a) EACH BORROWER, AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE FINANCING DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH BORROWER, AGENT AND EACH LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH BORROWER, AGENT AND EACH LENDER WARRANTS AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

Section 12.10 Publication; Advertisement.

(a) Publication. No Credit Party will directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of MCF or any of its Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except (i) as required by Law (including SEC disclosure rules), subpoena or judicial or similar order, in which case the applicable Credit Party shall give Agent prior written notice of such publication or other disclosure, or (ii) with MCF's prior written consent.

(b) Advertisement. Each Lender and each Credit Party hereby authorizes MCF to publish the name of such Lender and Credit Party, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone", comparable advertisement or press release which MCF elects to submit for publication. In addition, each Lender and

each Credit Party agrees that MCF may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, MCF shall provide Borrowers with an opportunity to review and confer with MCF regarding the contents of any such tombstone, advertisement or information, as applicable, prior to its submission for publication and, following such review period, MCF may, from time to time, publish such information in any media form desired by MCF, until such time that Borrowers shall have requested MCF cease any such further publication.

Counterparts; Integration

. This Agreement and the other Financing Documents may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. This Agreement and the other Financing Documents constitute the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

No Strict Construction

. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly 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 provisions of this Agreement.

Lender Approvals

. Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Agent or Lenders with respect to any matter that is the subject of this Agreement, the other Financing Documents may be granted or withheld by Agent and Lenders in their sole and absolute discretion and credit judgment.

Section 12.14 Expenses; Indemnity

(a) Borrowers hereby agree to promptly pay (i) all reasonable costs and expenses of Agent (including, without limitation, the reasonable fees, costs and expenses of counsel to, and independent appraisers and consultants retained by Agent) in connection with the examination, review, due diligence investigation, documentation, negotiation, closing and syndication of the transactions contemplated by the Financing Documents, in connection with the performance by Agent of its rights and remedies under the Financing Documents and in connection with the continued administration of the Financing Documents including (A) any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, and (B) any periodic public record searches conducted by or at the reasonable request of Agent (including, without limitation, title investigations, UCC searches, fixture filing searches, judgment, pending litigation and tax lien searches and searches of applicable corporate, limited liability, partnership and related records concerning the continued existence, organization and good standing of certain Persons); (ii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents; (iii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with (A) protecting, storing, insuring, handling, maintaining or selling any Collateral, (B) any litigation, dispute, suit or proceeding relating to any Financing Document, and (C) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents; (iv) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with Agent's reservation of funds in anticipation of the funding of the initial Loans to be made hereunder; and (v) all costs and expenses incurred by Lenders in connection with any litigation, dispute, suit or proceeding relating to any Financing Document and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, whether or not Agent or Lenders are a party thereto, *provided, however*, that to the extent that the costs and expenses referred to in this clause (v) consist of fees, costs and expenses of counsel, Borrower shall be obligated to pay such fees, costs and expenses for counsel to Agent and for only one counsel acting for all Lenders (other than Agent).

(b) Each Borrower hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the Related Parties of Agent and Lenders (collectively called the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for such Indemnitee) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnitee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a

Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Agent or Lenders) asserting any right to payment for the transactions contemplated hereby, which may be imposed on, incurred by or asserted against such Indemnitee as a result of or in connection with the transactions contemplated hereby or by the other Operative Documents (including (i)(A) as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from, any property now or previously owned, leased or operated by Borrower, any Subsidiary or any other Person of any Hazardous Materials, (B) arising out of or relating to the offsite disposal of any materials generated or present on any such property, or (C) arising out of or resulting from the environmental condition of any such property or the applicability of any governmental requirements relating to Hazardous Materials, whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of Borrower or any Subsidiary, and (ii) proposed and actual extensions of credit under this Agreement) and the use or intended use of the proceeds of the Loans, except that Borrower shall have no obligation hereunder to an Indemnitee with respect to any liability resulting from the gross negligence or willful misconduct of such Indemnitee or such Indemnitee's Related Party, as determined by a final non-appealable judgment of a court of competent jurisdiction. To the extent that the undertaking set forth in the immediately preceding sentence may be unenforceable, Borrower shall contribute the maximum portion which it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all such indemnified liabilities incurred by the Indemnitees or any of them. For the avoidance of doubt, this Section 12.14(b) shall not apply to Taxes, which are addressed in Section 2.8.

(c) Notwithstanding any contrary provision in this Agreement, the obligations of Borrowers under this Section 12.14 shall survive the payment in full of the Obligations and the termination of this Agreement. NO INDEMNITEE SHALL BE RESPONSIBLE OR LIABLE TO THE BORROWERS OR TO ANY OTHER PARTY TO ANY FINANCING DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

[Reserved]

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Reinstatement

. This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against any Credit Party for liquidation or reorganization, should any Credit Party become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager or trustee be appointed for all or any significant part of any Credit Party's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

Successors and Assigns

. This Agreement shall be binding upon and inure to the benefit of Borrowers and Agent and each Lender and their respective successors and permitted assigns.

USA PATRIOT Act Notification

. Agent (for itself and not on behalf of any Lender) and each Lender hereby notifies Borrowers that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record certain information and documentation that identifies Borrowers, which information includes the name and address of Borrower and such other information that will allow Agent or such Lender, as applicable, to identify Borrowers in accordance with the USA PATRIOT Act.

[**SIGNATURES APPEAR ON FOLLOWING PAGE(S)**]

IN WITNESS WHEREOF, intending to be legally bound, and intending that this Agreement constitute an agreement executed under seal, each of the parties have caused this Agreement to be executed under seal the day and year first above mentioned.

BORROWER REPRESENTATIVE AND AS A BORROWER:

SAREPTA THERAPEUTICS, INC.

By:/s/ Sandesh Mahatme
Name: Sandesh Mahatme
Title: Executive Vice President, Chief Financial Officer and Chief Business Officer

Address:

Sarepta Therapeutics, Inc.
215 First Street
Cambridge, MA 02142
Attention: Sandy Mahatme, Chief Financial Officer
Facsimile: (617) 812-5811
E-Mail: smahatme@sarepta.com

AGENT:

MIDCAP FINANCIAL TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

Address:

c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Avenue, Suite 200
Bethesda, Maryland 20814
Attn: Account Manager for Sarepta transaction
Facsimile: 301-941-1450
E-mail: notices@midcapfinancial.com

with a copy to:

c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Avenue, Suite 200
Bethesda, Maryland 20814
Attn: General Counsel
Facsimile: 301-941-1450
E-mail: legalnotices@midcapfinancial.com

Payment Account Designation:

Wells Fargo Bank, N.A. (McLean, VA)
ABA #: 121-000-248
Account Name: MidCap Funding IV Trust – Collections
Account #: 2000036282803
Attention: Sarepta Therapeutics

LENDERS:

MIDCAP FINANCIAL TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

Address:

c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Avenue, Suite 200
Bethesda, Maryland 20814
Attn: Account Manager for Sarepta transaction
Facsimile: 301-941-1450
E-mail: notices@midcapfinancial.com

with a copy to:

c/o MidCap Financial Services, LLC, as servicer
7255 Woodmont Avenue, Suite 200
Bethesda, Maryland 20814
Attn: General Counsel
Facsimile: 301-941-1450
E-mail: legalnotices@midcapfinancial.com

(*Signature Page to Credit and Security Agreement*)

SILICON VALLEY BANK

By: /s/ Ryan Roller (SEAL)
Name: Ryan Roller
Title: Vice President

Silicon Valley Bank
275 Grove Street, Suite 2-200
Newton, MA 02466
Attention: Ryan Roller
Facsimile: 617-969-5965
Email: rroller@svb.com

ANNEXES, EXHIBITS AND SCHEDULES

ANNEXES

Annex A	Commitment Annex

EXHIBITS

Exhibit A	[Reserved]
Exhibit B	Form of Compliance Certificate
Exhibit C	Borrowing Base Certificate
Exhibit D	Form of Notice of Borrowing

SCHEDULES

Schedule 1.1(a)	Material Agreements
Schedule 3.2	Litigation
Schedule 3.7	Intellectual Property
Schedule 3.8	Products and Regulatory Required Permits
Schedule 3.14	Capitalization
Schedule 3.19	Environmental Compliance
Schedule 4.6(c)	Collateral Accounts
Schedule 4.13	Post-Closing Obligations
Schedule 5.4	Permitted Debt
Schedule 5.5	Permitted Liens
Schedule 5.7	Permitted Investments
Schedule 9.1	Collateral
Schedule 9.2(a)	Chief Executive Office and principal Place of Business; Location of Collateral
Schedule 9.2(b)	License Authorizations
Schedule 9.2(c)	Certain Collateral

ANNEX A TO CREDIT AGREEMENT (COMMITMENT ANNEX)

Lender	Revolving Loan Commitment Amount	Revolving Loan Commitment Percentage
MidCap Financial Trust	$22,000,000	55%
Silicon Valley Bank	$18,000,000	45%
TOTALS	$40,000,000	100%

EXHIBIT A TO CREDIT AGREEMENT (RESERVED)

EXHIBIT C TO CREDIT AGREEMENT (BORROWING BASE CERTIFICATE)

EXHIBIT D TO CREDIT AGREEMENT (FORM OF NOTICE OF BORROWING)

Schedule 4.13 – Post Closing Requirements

Borrowers shall satisfy and complete each of the following obligations, or provide Agent each of the items listed below, as applicable, on or before the date indicated below, all to the satisfaction of Agent as more specifically described below:

1. on or before August 18, 2017, to the extent not delivered on the Closing Date, Borrower shall deliver all original counterparts of Borrower's signature pages to the Financing Documents;

2. on or before September 18, 2017, Borrower shall deliver to Agent an updated certified Schedule 4.6(c) of the Credit Agreement setting forth all Collateral Accounts of Borrower and its Subsidiaries (including such Collateral Accounts established pursuant to Schedule 4.13);

3. on or before September 18, 2017, Borrower shall establish the Lockboxes pursuant to Sections 2.11(a) and (b) and shall otherwise be in compliance with Sections 2.11(a) and (b);

4. on or before September 18, 2017, Borrower shall deliver or cause to be delivered a duly executed Control Agreement for each of the following Collateral Accounts are required pursuant to Section 4.6 of the Credit Agreement:

   (a) Bank of America Merrill Lynch, Operating Account, 004640433350

5. on or before September 18, 2017, Borrower shall deliver of cause to be delivered such insurance endorsements in order for Borrower and each Secured Guarantor to be in compliance with Section 4.5 of the Credit Agreement; and

6. on or before October 18, 2017, Borrower shall use commercially reasonable efforts to obtain and deliver, or cause to be delivered, to Agent an Access Agreement with respect to each location required pursuant to Section 5.2 or 9.2(e)(iv) of the Credit Agreement.

Borrower's failure to complete and satisfy any of the above obligations on or before the date indicated above, or Borrower's failure to deliver any of the above listed items on or before the date indicated above, shall constitute an immediate an automatic Event of Default.

Schedule 9.1 – Collateral

The Collateral consists of all assets of Borrower, including all of Borrower's right, title and interest in and to the following personal property:

(a) all goods, Accounts (including health-care insurance receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, investment accounts, commodity accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

(b) all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Pursuant to the terms of a certain negative pledge arrangement with Agent and Lenders, Borrower has agreed not to encumber any of its Intellectual Property without Agent's and Lenders' prior written consent.

Notwithstanding the foregoing, except as provided below, the Collateral shall not include (1) any Intellectual Property of any Credit Party, whether now owned or hereafter acquired, except to the extent that it is necessary under applicable law to have a Lien and security interest in any such Intellectual Property in order to have a perfected Lien and security interest in and to IP Proceeds (defined below), and for the avoidance of any doubt, the Collateral shall include, and Agent shall have a Lien and security interest in, (i) all IP Proceeds, and (ii) all payments with respect to IP Proceeds that are received after the commencement of a bankruptcy or insolvency proceeding or (2) Excluded Property.

The term "IP Proceeds" means, collectively, all cash, Accounts, license and royalty fees, claims, products, awards, judgments, insurance claims, and other revenues, proceeds or income, arising out of, derived from or relating to any Intellectual Property of any Credit Party, and any claims for damage by way of any past, present or future infringement of any Intellectual Property of any Credit Party (including, without limitation, all cash, royalty fees, other proceeds, Accounts and General Intangibles that consist of rights of payment to or on behalf of a Credit Party and the proceeds from the sale, licensing or other disposition of all or any part of, or rights in, any Intellectual Property by or on behalf of a Credit Party).

The term "Excluded Property" means, collectively, (a) any license, lease or contract to the extent and only to the extent that the granting of a security interest in such license, lease or contract would be prohibited by law or constitute a default under or a breach of such license, lease or contract, as applicable, but only to the extent that such prohibition or default is enforceable under applicable law (including without limitation Sections 9-406, 9-407 and 9-408 of the UCC), provided that upon the termination or expiration of any such prohibition, such license, lease or contract, as applicable, shall automatically be subject to the security interest granted in favor of Agent hereunder and become part of the "Collateral", (b) more than 65% of equity interests of any CFC Holdco or CFC which are entitled to vote (within the meaning of Treasury Reg. Section 1.956-2(c)(2)) so long as the conditions of Section 6.8 of this Agreement are satisfied and (c) Margin Stock (within the meaning of Regulation U); provided, however, that "Collateral" shall include all proceeds, substitutions or replacements of any and all of the foregoing (unless such proceeds, substitutions or replacements would constitute Excluded Property).

TABLE OF CONTENTS

Page

Page

Page

Page

Page

Exhibit 10.11

FIRST AMENDMENT TO PLEDGE AGREEMENT

This **FIRST AMENDMENT TO PLEDGE AGREEMENT** (this "**Agreement**") is dated as of July 18, 2017 by and among **SAREPTA THERAPEUTICS, INC.**, a Delaware corporation (the "**Pledgor**"), the Lenders party hereto and **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust ("**MidCap**"), as administrative agent to the Credit Agreement and Pledge Agreement described below (in such capacity, "**Agent**").

W I T N E S S E T H:

WHEREAS, Pledgor, as borrower, Lenders and Agent are parties to that certain Credit and Security Agreement, dated as of June 26, 2015 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"; capitalized terms used herein have the meanings given to them in the Credit Agreement except as otherwise expressly defined herein), pursuant to which Lenders have agreed to provide to Pledgor certain loans and other extensions of credit in accordance with the terms and conditions thereof;

WHEREAS, Pledgor and Agent are parties to that certain Pledge Agreement, dated as of June 26, 2015 (as amended, restated, supplemented or otherwise modified from time to time, the "**Pledge Agreement**"), pursuant to which the Pledgor pledged, assigned and granted to Agent, for its benefit and the benefit of the Lenders, a security interest in certain property of the Pledgor; and

WHEREAS, Pledgor, Agent and Lenders desire to amend certain provisions of the Pledge Agreement on the terms and subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the premises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Pledgor, Lenders and Agent hereby agree as follows:

1.Acknowledgment of Obligations. Pledgor hereby acknowledges, confirms and agrees that all Credit Extensions made prior to the date hereof, together with interest accrued and accruing thereon, and fees, costs, expenses and other charges owing by Pledgor to Agent and Lenders under the Credit Agreement and the other Financing Documents, are owing by Pledgor to Agent and Lenders, without offset, defense or counterclaim of any kind, nature or description whatsoever except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting creditor's rights generally.

2. Amendments to Pledge Agreement. The Pledgor, the Agent and Lenders hereby agree that the Pledge Agreement is amended as follows:

(a) Recital B of the Pledge Agreement is amended by deleting the following language from the first sentence to Recital B: "in an aggregate principal amount of up to FORTY MILLION NO/100 DOLLARS ($40,000,000.00)";

(b) Section 4(f) of the Pledge Agreement is amended by deleting such subsection and restating it in its entirety as follows:

"Pledgor has good and marketable title to the Collateral. Pledgor is the sole owner of all of the Collateral, free and clear of all security interests, pledges, voting trusts, agreements, liens, claims and encumbrances whatsoever, other than the security interests, assignments and liens granted under this Agreement, the Credit and Security Agreement and the Revolving Credit Documents;"

(c) Section 4(g) of the Pledge Agreement is amended by deleting such subsection and restating it in its entirety as follows:

"Pledgor has not heretofore transferred, pledged, assigned or otherwise encumbered any of its rights in or to the Collateral except to secure (i) the Obligations pursuant to this Agreement and the Credit and Security Agreement, and (ii) the Revolving Credit Obligations pursuant to the Revolving Credit Documents;"

(d) Section 5(h) of the Pledge Agreement is amended by deleting such subsection and restating it in its entirety as follows:

"Not to sell or otherwise dispose of, or create, incur, assume or suffer to exist any lien upon any of the Collateral, other than liens in favor of Agent, for its benefit and the benefit of the Lenders, and liens in favor of the Revolving Credit Agent pursuant to the Revolving Credit Documents;"

(e) The Pledge Agreement is amended by adding a new section, Section 18, as follows:

"Intercreditor Agreement. Anything herein to the contrary notwithstanding, the liens and security interests granted to Agent pursuant to or in connection with this Agreement, the exercise of any right or remedy with respect thereto, and certain of the rights of the parties hereto are subject to the provisions of the Intercreditor Agreement dated as of July 18, 2017, (as amended, restated, supplemented, or otherwise modified from time to time, the "Intercreditor Agreement"), by and between Agent, as "Term Agent", and MidCap Financial Trust, as "ABL Agent". In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control;"

(f) Schedule I to the Pledge Agreement is amended by (i) deleting "TBD" in the row labelled "Equity Interest Certificate No.:" and replacing it with "CA-1" in lieu thereof; and (ii) deleting "TBD" in the row labelled "Number of Units:" and replacing it with "650" in lieu thereof.

3. No Other Amendments. Except for the amendments set forth and referred to in Section 2 above, the Pledge Agreement and the other Financing Documents shall remain unchanged and in full force and effect and Pledgor hereby ratifies and reaffirms all of its obligations under the Pledge Agreement and the other Financing Documents as amended by this Agreement. Nothing in this Agreement is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of Pledgor's Obligations or to modify, affect or impair the perfection or continuity of Agent's security interests in, security titles to or other liens, for the benefit of itself and the Lenders, on any Collateral for the Obligations.

4. Representations and Warranties. To induce Agent and Lenders to enter into this Agreement, Pledgor does hereby warrant, represent and covenant to Agent and Lenders that (i) each representation and warranty of Pledgor set forth in the Credit Agreement and other Financing Documents is hereby restated and reaffirmed as true, correct and complete in all material respects on and as of the date hereof as if such representation or warranty were made on and as of the date hereof (provided, however, that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified by materiality in the text thereof, and provided, further, that those representations and warranties expressly referring to a specific date shall be true, correct and complete in all material respects as of such date), (ii) no Default or Event of Default has occurred and is continuing as of the date hereof and (iii) Pledgor has the power and is duly authorized and has obtained all necessary consents and has taken all necessary actions to enter into, deliver and perform this Agreement, and this Agreement and the Pledge Agreement, as amended by this Agreement, are the legal, valid and binding obligations of Pledgor enforceable against Pledgor in accordance with their terms subject to bankruptcy, moratorium and other other laws affecting secured creditors generally and equitable principles related to enforceability.

5. **Condition Precedent to Effectiveness of this Agreement.** This Agreement shall become effective as of the date (the "**Amendment Effective Date**") upon which Agent shall notify Pledgor in writing that Agent has received one or more counterparts of this Agreement duly executed and delivered by the Pledgor, the Agent and the Lenders, in form and substance reasonably satisfactory to Agent and Lenders.

6. [Reserved.]

7. [Reserved.]

8. **Advice of Counsel.** Each of the parties represents to each other party hereto that it has discussed this Agreement with its counsel.

9. **Severability of Provisions.** Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

10. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic transmission shall be as effective as delivery of a manually executed counterpart hereof.

11. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS.

12. **Entire Agreement.** The Pledge Agreement and the other Financing Documents as and when amended by this Agreement represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Pledge Agreement (as amended by this Agreement) and the Financing Documents merge into this Agreement and the Financing Documents.

13. **No Strict Construction, Etc.** The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly 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 provisions of this Agreement.

14. **Costs and Expenses.** Pledgor absolutely and unconditionally agrees to pay or reimburse upon demand for all reasonable and documented fees, costs and expenses incurred by Agent in connection with the preparation, negotiation, execution and delivery of this Agreement and any other Financing Documents or other agreements prepared, negotiated, executed or delivered in connection with this Agreement or transactions contemplated hereby.

[*Remainder of page intentionally blank; signature pages follow.***]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered under seal as of the day and year specified at the beginning hereof.

BORROWER:

SAREPTA THERAPEUTICS, INC.

By: /s/ Sandesh Mahatme (SEAL)
Name: Sandesh Mahatme
Title: Executive Vice President, Chief Financial Officer and Chief Business Officer

[*Signatures continued on next page*]

AGENT:

MIDCAP FINANCIAL TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amesellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

[*Signatures continued on next page*]

LENDERS:

ELM 2016-1 TRUST

By: MidCap Financial Services Capital Management, LLC, as Servicer

By: /s/ John O'Dea (SEAL)
Name: John O'Dea
Title: Authorized Signatory

[*Signatures continued on next page*]

SILICON VALLEY BANK

By: /s/ Ryan Roller (SEAL)
Name: Ryan Roller
Title: Vice President

FLEXPOINT MCLS SPV LLC

By: /s/ Daniel Edelmon (SEAL)
Name: Daniel Edelmon
Title: Vice President

PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this "**Agreement**") is made as of July 18, 2017, by and among **SAREPTA THERAPEUTICS, INC.**, a Delaware corporation ("**Pledgor**"), and **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust, as agent (in such capacity, together with its successors and assigns, "**Agent**"), for itself and the other Lenders (as defined herein).

RECITALS

A. The term "**Borrowers**", as used herein, shall mean collectively the Pledgor and such other borrowers that may become "Borrowers" under the Credit and Security Agreement (as defined herein); the term "**Borrower**", as used herein, shall mean individually each entity that is one of the Borrowers; and the term "**Company**" as used herein shall mean, individually and collectively, as the context requires, each "Company" as set forth on Schedule I attached hereto, as such Company relates to its respective "Pledgor" as set forth on such schedule.

B. Pursuant to that certain Credit and Security Agreement dated as of even date herewith among Borrowers, the financial institutions from time to time parties thereto, as lenders (collectively, the "**Lenders**"), and Agent (as the same may be amended, supplemented, modified, increased, renewed or restated from time to time, the "**Credit and Security Agreement**"), Agent and Lenders have agreed to make revolving loans to Borrowers. Borrowers have executed and delivered one or more promissory notes evidencing the indebtedness incurred by Borrowers under the Credit and Security Agreement (as the same may be amended, modified, increased, renewed or restated from time to time, and together with all renewal notes issued in respect thereof, collectively the "**Notes**"). The defined terms of the Credit and Security Agreement are hereby incorporated by reference in this Agreement.

C. This Agreement, the Notes, the Credit and Security Agreement, the other Financing Documents (as defined in the Credit and Security Agreement) and all of the other documents evidencing, securing and/or governing or executed in connection with the Notes, as the same may be amended, modified, increased, renewed or restated from time to time, are herein referred to collectively as the "**Loan Documents**".

D. The term "**Obligations**", as used herein, means (1) the principal of, and interest on, the Notes and all other sums, fees, charges and expenses due or payable to Agent and the Lenders under this Agreement or the other Loan Documents, (2) all agreements and covenants with and obligations to Agent and the Lenders arising under, out of, or as a result of or in connection with the Loan Documents, (3) all amounts advanced by Agent and the Lenders to preserve, protect, defend, and enforce their rights under this Agreement and the other Loan Documents or in the collateral encumbered by the Loan Documents, and all expenses incurred by Agent in connection therewith, and (4) any and all other present and future indebtedness, liabilities and obligations of every kind and nature whatsoever of Borrowers to Agent and the Lenders, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, joint or several, both now and hereafter existing, or due or to become due, whether as borrower, guarantor, surety, indemnitor, assignor, pledgor or otherwise. The term "**Loans**" as used herein means the loan transaction or transactions giving rise to the Obligations.

E. In connection with Agent and the Lenders entering into the Credit and Security Agreement and agreeing to make the credit accommodations under the Credit and Security Agreement and as security for all of the Obligations, Agent is requiring that Pledgor shall have executed and delivered this Agreement.

F. Pledgor is a member of, shareholder of, partner in or other equity owner in Company and, as such, will continue to derive substantial benefit by reason of Lenders making the Loans.

AGREEMENT

NOW, THEREFORE, to induce Agent and the Lenders to enter into the Credit and Security Agreement and to make the Loans, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Pledgor and Agent hereby incorporate hereby by this reference the foregoing Recitals and hereby covenant and agree as follows:

1. Grant of Assignment and Security Interest. Pledgor hereby pledges, assigns and grants to Agent, for its benefit and the benefit of the Lenders, as security for the Obligations a security interest in the following property of Pledgor (collectively, the "**Collateral**"), whether now existing or hereafter created or arising:

(a) all of the stock, shares, membership interests, partnership interests and other equity ownership interests in Company now or hereafter held by Pledgor as set forth in Schedule 1 attached hereto (collectively, the "**Ownership Interests**") and all of Pledgor's rights to participate in the management of Company, all rights, privileges, authority and powers of Pledgor as owner or holder of its Ownership Interests in Company, including, but not limited to, all contract rights, general intangibles, accounts and payment intangibles related thereto, all rights, privileges, authority and powers relating to the economic interests of Pledgor as owner or holder or its Ownership Interests in Company, including, without limitation, all investment property, contract rights, general intangibles, accounts and payment intangibles related thereto, all options and warrants of Pledgor for the purchase of any Ownership Interest in Company, all documents and certificates representing or evidencing the Pledgor's Ownership Interests in Company, all of Pledgor's right, title and interest to receive payments of principal and interest on any loans and/or other extensions of credit made by Pledgor to Company, and any other right, title, interest, privilege, authority and power of Pledgor in or relating to Company, all whether existing or hereafter arising, and whether arising under any operating agreement, shareholders' agreement, partnership agreement or other agreement, or any bylaws, certificate of formation, articles of organization or other organization or governing documents of Company (as the same may be amended, modified or restated from time to time) or otherwise, or at law or in equity and all books and records of Pledgor pertaining to any of the foregoing and all options, warrants, distributions, investment property, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests, and Pledgor shall promptly thereafter deliver to Agent a certificate duly executed by Pledgor describing such percentage interests, options or warrants and certifying that the same have been duly pledged hereunder;

(b) all rights to receive cash distributions, profits, losses and capital distributions (including, but not limited to, distributions in kind and liquidating dividends and distributions) and any other rights and property interests related to the Ownership Interests;

(c) all other securities, instruments or property (including cash) paid or distributed in respect of or in exchange for the Ownership Interests, whether or not as part of or by way of spin-off, merger, consolidation, dissolution, reclassification, combination or exchange of stock (or other Ownership Interests), asset sales, or similar rearrangement or reorganization or otherwise; and

(d) all proceeds (both cash and non-cash) of the foregoing, whether now or hereafter arising with respect to the foregoing.

2. Registration of Pledge in Books of Company; Application of Proceeds. Pledgor hereby authorizes and directs Company to register Pledgor's pledge to Agent, for its benefit and the benefit of the Lenders, of the Collateral on the books of Company and, following written notice to do so by Agent after the occurrence and during the continuance of an Event of Default (as hereinafter defined) under this Agreement, to make direct payment to Agent of any amounts due or to become due to Pledgor with respect to the Collateral. Any moneys received by Agent shall be applied to the Obligations in such order and manner of application as Agent may from time to time determine in its sole discretion.

3. Rights of Pledgor in the Collateral. Until an Event of Default occurs and is continuing under this Agreement, Pledgor shall be entitled to exercise all voting rights and to receive all dividends and other distributions

that may be paid on any Collateral and that are not otherwise prohibited by the Loan Documents. Any cash dividend or distribution payable in respect of the Collateral that is, in whole or in part, a return of capital or that is made in violation of this Agreement or the Loan Documents shall be received by Pledgor in trust for Agent, for its benefit and the benefit of the Lenders, shall be paid immediately to Agent and shall be retained by Agent as part of the Collateral. Upon the occurrence and during the continuation of an Event of Default, Pledgor shall, at the written direction of Agent, immediately send a written notice to Company instructing Company, and shall cause Company, to remit all cash and other distributions payable with respect to the Ownership Interests (until such time as Agent notifies Pledgor that such Event of Default has ceased to exist) directly to Agent. Nothing contained in this paragraph shall be deemed to permit the payment of any sum or the making of any distribution which is prohibited by any of the Loan Documents, if any.

4. Representations and Warranties of Pledgor. Pledgor hereby warrants to Agent as follows:

(a) Schedule I and Schedule II are true, correct and complete in all respects;

(b) All of the pledged Ownership Interests of Pledgor (the "**Pledged Interests**") are in certificated form, and are registered in the name of Pledgor;

(c) The Pledged Interests constitute at least the percentage of all the issued and outstanding Ownership Interests of Company as set forth on Schedule I;

(d) The Pledged Interests listed on Schedule I are the only Ownership Interests of Company in which Pledgor has any rights;

(e) All certificates evidencing the Pledged Interests of Pledgor have been delivered to Agent;

(f) Pledgor has good and marketable title to the Collateral. Pledgor is the sole owner of all of the Collateral, free and clear of all security interests, pledges, voting trusts, agreements, liens, claims and encumbrances whatsoever, other than the security interests, assignments and liens granted under this Agreement, the Credit and Security Agreement and the Term Credit Documents;

(g) Pledgor has not heretofore transferred, pledged, assigned or otherwise encumbered any of its rights in or to the Collateral except to secure (i) the Obligations pursuant to this Agreement and the Credit and Security Agreement, and (ii) the Term Credit Obligations pursuant to the Term Credit Documents;

(h) Pledgor is not prohibited under any agreement with any other person or entity, or under any judgment or decree, from the execution and delivery of this Agreement or the performance or discharge of the obligations, duties, covenants, agreements, and liabilities contained in this Agreement;

(i) No action has been brought or threatened that might prohibit or interfere with the execution and delivery of this Agreement or the performance or discharge of the obligations, duties, covenants, agreements, and liabilities contained in this Agreement;

(j) Pledgor has full power and authority to execute and deliver this Agreement, and the execution and delivery of this Agreement do not conflict with any agreement to which Pledgor is a party or any law, order, ordinance, rule, or regulation to which Pledgor is subject or by which it is bound and do not constitute a default under any agreement or instrument binding upon Pledgor; and

(k) This Agreement has been properly executed and delivered and constitutes the valid and legally binding obligation of Pledgor and is fully enforceable against Pledgor in accordance with its terms.

5. Covenants of Pledgor. Pledgor hereby covenants and agrees as follows:

(a) To do or cause to be done all things necessary to preserve and to keep in full force and effect its interests in the Collateral, and to defend, at its sole expense, the title to the Collateral and any part of the Collateral;

(b) To cooperate fully with Agent's efforts to preserve the Collateral and to take such actions to preserve the Collateral as Agent may in good faith direct;

(c) To cause Company to maintain proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to the Collateral and which reflect the lien of Agent on the Collateral;

(d) To deliver immediately to Agent any certificates that may be issued following the date of this Agreement representing the Ownership Interests or other Collateral, and to execute and deliver to Agent one or more transfer powers, substantially in the form of Schedule III attached hereto or otherwise in form and content satisfactory to Agent, pursuant to which Pledgor assigns, in blank, all Ownership Interests and other Collateral (the "**Transfer Powers**"), which such Transfer Powers shall be held by Agent as part of the Collateral;

(e) To execute and deliver to Agent such financing statements as Agent may request with respect to the Ownership Interests, and to take such other steps as Agent may from time to time reasonably request to perfect Agent's security interest in the Ownership Interests under applicable law;

(f) Not to sell, discount, allow credits or allowances, assign, extend the time for payment on, convey, lease, assign, transfer or otherwise dispose of the Collateral or any part of the Collateral;

(g) After an Event of Default under the Loan Documents (including but not limited to this Agreement) has occurred and is continuing, not to receive any dividend or distribution or other benefit with respect to Company, and not to vote, consent, waive or ratify any action taken, that would violate or be inconsistent with any of the terms and provisions of this Agreement, or any of the Loan Documents or that would materially impair the position or interest of Agent in the Collateral or dilute the Ownership Interests pledged to Agent under this Agreement;

(h) Not to sell or otherwise dispose of, or create, incur, assume or suffer to exist any lien upon any of the Collateral, other than liens in favor of Agent, for its benefit and the benefit of the Lenders, and liens in favor of the Term Credit Agent pursuant to the Term Credit Documents;

(i) That Pledgor will, upon obtaining ownership of any other Ownership Interests otherwise required to be pledged to Agent, for its benefit and the benefit of the Lenders, pursuant to any of the Loan Documents, which Ownership Interests are not already Pledged Interests, within five (5) Business Days deliver to Agent a Pledge Amendment, duly executed by Pledgor, in substantially the form of Schedule IV hereto (a "**Pledge Amendment**") in respect of any such additional Ownership Interests pursuant to which Pledgor shall pledge to Agent, for its benefit and the benefit of the Lenders, all of such additional Ownership Interests. Prior to the delivery thereof to Agent, all such additional Ownership Interests shall be held by Pledgor separate and apart from its other property and in express trust for Agent, for its benefit and the benefit of the Lenders;

(j) That Pledgor consents to the admission of Agent (and its assigns or designee) as a member, partner or stockholder of Company upon Agent's acquisition of any of the Ownership Interests; and

(k) Pledgor shall not take any action to cause any membership interest of the Collateral to be or become a "security" within the meaning of, or to be governed by, Article 8 (Investment Securities) of the UCC as in effect under the laws of any state having jurisdiction, and shall not cause any Subsidiary to "opt in" or to take any other action seeking to establish any membership interest of the Collateral as a "security" or to become certificated; provided that, for the avoidance of doubt, this clause (k) shall not apply to any membership interest of the Collateral

that, as of the date hereof, is a "security" within the meaning of Article 8 (Investment Securities) of the UCC as in effect under the laws of any state having jurisdiction so long as such membership interest is certificated and delivered to the Administrative Agent in accordance with Section 1(a) hereof.

6. Rights of Agent. Agent may from time to time and at its option (a) require Pledgor to, and Pledgor shall, periodically deliver to Agent records and schedules, which show the status of the Collateral and such other matters which affect the Collateral; (b) verify the Collateral and inspect the books and records of Company and make copies of or extracts from the books and records; and (c) notify any prospective buyers or transferees of the Collateral of Agent's interest in the Collateral. Pledgor agrees that Agent may at any time take such steps as Agent deems reasonably necessary to protect Agent's interest in and to preserve the Collateral. Pledgor hereby consents and agrees that Agent may at any time or from time to time pursuant to the Credit and Security Agreement (a) extend or change the time of payment and/or the manner, place or terms of payment of any and all Obligations, (b) supplement, amend, restate, supercede, or replace the Credit and Security Agreement or any other Loan Documents, (c) renew, extend, modify, increase or decrease loans and extensions of credit under the Credit and Security Agreement, (d) modify the terms and conditions under which loans and extensions of credit may be made under the Credit and Security Agreement, (e) settle, compromise or grant releases for any Obligations and/or any person or persons liable for payment of any Obligations, (f) exchange, release, surrender, sell, subordinate or compromise any collateral of any party now or hereafter securing any of the Obligations and (g) apply any and all payments received from any source by Agent at any time against the Obligations in any order as Agent may determine pursuant to the terms of the Credit and Security Agreement; all of the foregoing in such manner and upon such terms as Agent may determine and without notice to or further consent from Pledgor and without impairing or modifying the terms and conditions of this Agreement which shall remain in full force and effect.

This Agreement shall remain in full force and effect and shall not be limited, impaired or otherwise affected in any way by reason of (i) any delay in making demand on Pledgor for or delay in enforcing or failure to enforce, performance or payment of any Obligations, (ii) any failure, neglect or omission on Agent's part to perfect any lien upon, protect, exercise rights against, or realize on, any property of Pledgor or any other party securing the Obligations, (iii) any failure to obtain, retain or preserve, or the lack of prior enforcement of, any rights against any person or persons or in any property, (iv) the invalidity or unenforceability of any Obligations or rights in any Collateral under the Credit and Security Agreement, (v) the existence or nonexistence of any defenses which may be available to Pledgor with respect to the Obligations, or (vi) the commencement of any bankruptcy, reorganization; liquidation, dissolution or receivership proceeding or case filed by or against Pledgor or any Borrower.

7. Events of Default. The occurrence of an Event of Default (as defined in any of the Loan Documents) shall constitute an event of default (an "**Event of Default**") under this Agreement.

8. Rights of Agent Following Event of Default. Upon the occurrence and during the continuance of an Event of Default under this Agreement (and in addition to all of its other rights, powers and remedies under this Agreement), Agent may, at its option, without notice to Pledgor or any other party, do any one or more of the following:

(a) Proceed to perform or discharge any and all of Pledgor's obligations, duties, responsibilities, or liabilities and exercise any and all of its rights in connection with the Collateral for such period of time as Agent may deem appropriate, with or without the bringing of any legal action in or the appointment of any receiver by any court;

(b) Do all other acts which Agent may deem necessary or proper to protect Agent's security interest in the Collateral and carry out the terms of this Agreement;

(c) Exercise all voting and management rights of Pledgor as to Company or otherwise pertaining to the Collateral upon notice to Pledgor; provided, that any failure of Agent to send such notice or of Pledgor to receive such notice shall not invalidate any such voting or management rights, and Pledgor, forthwith upon the request of Agent, shall use its best efforts to secure, and cooperate with the efforts of Agent to secure (if not already secured by Agent), all the benefits of such voting and management rights.

(d) Sell the Collateral in any manner permitted by the UCC; and upon any such sale of the Collateral, Agent may (i) bid for and purchase the Collateral and apply the expenses of such sale (including, without limitation, attorneys' fees) as a credit against the purchase price, or (ii) apply the proceeds of any sale or sales to other persons or entities, in whatever order Agent in its sole discretion may decide, to the expenses of such sale (including, without limitation, attorneys' fees), to the Obligations, and the remainder, if any, shall be paid to Pledgor or to such other person or entity legally entitled to payment of such remainder; and

(e) Proceed by suit or suits in law or in equity or by any other appropriate proceeding or remedy to enforce the performance of any term, covenant, condition, or agreement contained in this Agreement, and institution of such a suit or suits shall not abrogate the rights of Agent to pursue any other remedies granted in this Agreement or to pursue any other remedy available to Agent either at law or in equity.

Agent shall have all of the rights and remedies of a secured party under the UCC and other applicable laws. All costs and expenses, including reasonable attorneys' fees and expenses, incurred or paid by Agent in exercising or protecting any interest, right, power or remedy conferred by this Agreement, shall bear interest at a per annum rate of interest equal to the then highest rate of interest charged on any of the Obligations from the date of payment until repaid in full and shall, along with the interest thereon, constitute and become a part of the Obligations secured by this Agreement.

Pledgor hereby constitutes and appoints Agent or any of its agents as the attorney-in-fact of Pledgor, and after the occurrence and during the continuance of an Event of Default under the Loan Documents (including but not limited to this Agreement), Agent may take such actions and execute such documents as Agent may deem appropriate in the exercise of the rights and powers granted to Agent in this Agreement, including, but not limited to, filling-in blanks in the Transfer Power to cause a transfer of the Ownership Interests and other Collateral pursuant to a sale of the Collateral. The power of attorney granted hereby shall be irrevocable and coupled with an interest and shall terminate only upon the payment in full of the Obligations. Pledgor shall indemnify and hold Agent harmless for all losses, costs, damages, fees, and expenses suffered or incurred in connection with the exercise of this power of attorney, and shall release Agent from any and all liability arising in connection with the exercise of this power of attorney, except, in each case, to the extent resulting from the gross negligence or willful misconduct of Pledgor or Pledgor's Related Parties as determined by a final non-appealable judgment of a court of competent jurisdiction.

9. Performance by Agent. Without limiting any of Agent's or Lenders' rights or remedies in the Credit and Security Agreement, if Pledgor shall fail to perform, observe or comply with any of the conditions, terms, or covenants contained in this Agreement, Agent, without notice to or demand upon Pledgor and without waiving or releasing any of the Obligations or any Event of Default, may (but shall be under no obligation to) at any time thereafter perform such conditions, terms or covenants for the account and at the expense of Pledgor, and may enter upon the premises of Pledgor for that purpose and take all such action on the premises as Agent may consider necessary or appropriate for such purpose. All sums paid or advanced by Agent in connection with the foregoing and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection with the foregoing, together with interest thereon at a per annum rate of interest equal to the then highest rate of interest charged on the principal of any of the Obligations, from the date of payment until repaid in full, shall be paid by Pledgor to Agent on demand and shall constitute and become a part of the Obligations secured by this Agreement.

10. Indemnification. Agent shall not in any way be responsible for the performance or discharge of, and Agent does not hereby undertake to perform or discharge, any obligation, duty, responsibility, or liability of Pledgor in connection with the Collateral or otherwise. Pledgor hereby agrees to indemnify Agent and hold Agent harmless from and against all losses, liabilities, damages, claims, or demands suffered or incurred by reason of this Agreement or by reason of any alleged responsibilities or undertakings on the part of Agent to perform or discharge any obligations, duties, responsibilities, or liabilities of Pledgor in connection with the Collateral or otherwise; *provided*, *however*, that the foregoing indemnity and agreement to hold harmless shall not apply to losses, liabilities, damages, claims, or demands suffered or incurred by reason of Agent's own gross negligence or willful misconduct. Agent shall have no duty to collect any amounts due or to become due in connection with the Collateral or enforce or preserve Pledgor's rights under this Agreement.

11. Termination. Upon payment in full of the Obligations, and termination of any further obligation of Agent and the Lenders to extend any credit to Borrower under the Loan Documents, this Agreement shall terminate and Agent shall promptly execute appropriate documents to evidence such termination.

12. Release. Without prejudice to any of Agent's rights under this Agreement, Agent may take or release other security for the payment or performance of the Obligations, may release any party primarily or secondarily liable for the Obligations, and may apply any other security held by Agent to the satisfaction of the Obligations.

13. Pledgor's Liability Absolute. The liability of Pledgor under this Agreement shall be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Pledgor or any other person, nor against other securities or liens available to Agent or Agent's respective successors, assigns, or agents. Pledgor waives any right to require that resort be had to any security or to any balance of any deposit account or credit on the books of Agent in favor of any other person.

14. Preservation of Collateral. Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral and in preserving rights under this Agreement if Agent takes action for those purposes as Pledgor may reasonably request in writing, *provided, however*, that failure to comply with any such request shall not, in and of itself, be deemed a failure to exercise reasonable care, and no failure by Agent to preserve or protect any rights with respect to the Collateral or to do any act with respect to the preservation of the Collateral not so requested by Pledgor shall be deemed a failure to exercise reasonable care in the custody or preservation of the Collateral.

15. Private Sale. Pledgor recognizes that Agent may be unable to effect a public sale of the Collateral by reason of certain provisions contained in the federal Securities Act of 1933, as amended, and applicable state securities laws and, under the circumstances then existing, may reasonably resort to a private sale to a restricted group of purchasers who will be obliged to agree, among other things, to acquire the Collateral for their own account for investment and not with a view to the distribution or resale of the Collateral. Pledgor agrees that a private sale so made may be at a price and on other terms less favorable to the seller than if the Collateral were sold at public sale and that Agent has no obligation to delay sale of the Collateral for the period of time necessary to permit Pledgor, even if Pledgor would agree to register or qualify the Collateral for public sale under the Securities Act of 1933, as amended, and applicable state securities laws. Pledgor agrees that a private sale made under the foregoing circumstances and otherwise in a commercially reasonable manner shall be deemed to have been made in a commercially reasonable manner under the UCC.

16. General.

(a) Final Agreement and Amendments. This Agreement, together with the other Loan Documents, constitutes the final and entire agreement and understanding of the parties and any term, condition, covenant or agreement not contained herein or therein is not a part of the agreement and understanding of the parties. Neither this Agreement, nor any term, condition, covenant or agreement hereof may be changed, waived, discharged or terminated except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(b) Waiver. No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and, without limiting the generality of the foregoing, no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made in any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right. No single or partial exercise of any power or right shall preclude other or further exercise of the power or right or the exercise of any other power or right. No course of dealing between the parties hereto shall be construed as an amendment to this Agreement or a waiver of any provision of this Agreement. No notice to or demand on Pledgor in any case shall thereby entitle Pledgor to any other or further notice or demand in the same, similar or other circumstances.

(c) Headings. The headings of the Sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents.

(d) Construction. As used herein, all references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, and (iii) to any Section, subsection, paragraph or subparagraph shall, unless therein expressly indicated to the contrary, be deemed to have been made to such Section, subsection, paragraph or subparagraph of this Agreement. The Recitals are incorporated herein as a substantive part of this Agreement and the parties hereto acknowledge that such Recitals are true and correct.

(e) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns hereunder. In the event of any assignment or transfer by Agent of any of the Pledgor's obligations under the Loan Documents or the collateral therefor, Agent thereafter shall be fully discharged from any responsibility with respect to such collateral so assigned or transferred, but Agent shall retain all rights and powers given by this Agreement with respect to any of the Pledgor's obligations under the Loan Documents or collateral not so assigned or transferred. Pledgor shall have no right to assign or delegate its rights or obligations hereunder.

(f) Severability. If any term, provision, covenant or condition of this Agreement or the application of such term, provision, covenant or condition to any party or circumstance shall be found by a court of competent jurisdiction to be, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such term, provision, covenant, or condition to parties or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, provision, covenant or condition shall be valid and enforced to the fullest extent permitted by law.

(g) Notices. All notices required or permitted hereunder shall be given and shall become effective as provided in Section 12.3 of the Credit and Security Agreement. All notices to Pledgor shall be addressed in accordance with the information provided on the signature page hereto.

(h) Remedies Cumulative. Each right, power and remedy of Agent as provided for in this Agreement, or in any of the other Loan Documents or now or hereafter existing by law, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement, or in any of the other Loan Documents now or hereafter existing by law, and the exercise or beginning of the exercise by Agent of any one or more of such rights, powers or remedies shall not preclude the later exercise by Agent of any other rights, powers or remedies.

(i) Time of the Essence; Survival; Joint and Several Liability. Time is of the essence of this Agreement and each and every term, covenant and condition contained herein. All covenants, agreements, representations and warranties made in this Agreement or in any of the other Loan Documents shall continue in full force and effect so long as any of the obligations of any party under the Loan Documents (other than Agent) remain outstanding. Each person or entity constituting Pledgor shall be jointly and severally liable for all of the obligations of Pledgor under this Agreement.

(j) Further Assurances. Pledgor hereby agrees that at any time and from time to time, at the expense of Pledgor, Pledgor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that Agent may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Agent or any of its agents to exercise and enforce its rights and remedies under this Agreement with respect to any portion of such collateral.

(k) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered to be an original, but all of which shall constitute one in the same instrument. As used in this Agreement, the term "this Agreement" shall include all attachments, exhibits, schedules, riders and addenda.

(l) Costs. Pledgor shall be responsible for the payment of any and all reasonable fees, costs and expenses which Agent may incur by reason of this Agreement, including, but not limited to, the following: (i) any taxes of any kind related to any property or interests assigned or pledged hereunder; (ii) expenses incurred in filing public notices relating to any property or interests assigned or pledged hereunder; and (iii) any and all costs, expenses and fees (including, without limitation, reasonable attorneys' fees and expenses and court costs and fees), whether or not litigation is commenced, incurred by Agent in protecting, insuring, maintaining, preserving, attaching, perfecting, enforcing, collecting or foreclosing upon any lien, security interest, right or privilege granted to Agent or any obligation of Pledgor under this Agreement, whether through judicial proceedings or otherwise, or in defending or prosecuting any actions or proceedings arising out of or related to this Agreement or any property or interests assigned or pledged hereunder.

(m) No Defenses. Pledgor's obligations under this Agreement shall not be subject to any set-off, counterclaim or defense to payment that Pledgor now has or may have in the future.

(n) Cooperation in Discovery and Litigation. In any litigation, trial, arbitration or other dispute resolution proceeding relating to this Agreement, all directors, officers, employees and agents of Pledgor or of its affiliates shall be deemed to be employees or managing agents of Pledgor for purposes of all applicable law or court rules regarding the production of witnesses by notice for testimony (whether in a deposition, at trial or otherwise). Pledgor agrees that Agent's counsel in any such dispute resolution proceeding may examine any of these individuals as if under cross-examination and that any discovery deposition of any of them may be used in that proceeding as if it were an evidence deposition. Pledgor in any event will use all commercially reasonable efforts to produce in any such dispute resolution proceeding, at the time and in the manner requested by Agent, all persons and entities, documents (whether in tangible, electronic or other form) or other things under its control and relating to the dispute in any jurisdiction that recognizes that (or any similar) distinction.

(o) **CHOICE OF LAW; CONSENT TO JURISDICTION. THIS AGREEMENT AND THE RIGHTS, REMEDIES AND OBLIGATIONS OF THE PARTIES HEREUNDER, THE RELATIONSHIP OF THE PARTIES, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES AND ALL OTHER MATTERS RELATING HERETO OR ARISING HEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS RELATING TO THIS AGREEMENT (EACH, A "PROCEEDING"), PLEDGOR HEREBY (A) SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS AND (B) WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDING BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT ANY PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDING, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY. NOTHING IN THIS AGREEMENT SHALL PRECLUDE AGENT FROM BRINGING A PROCEEDING IN ANY OTHER JURISDICTION NOR WILL THE BRINGING OF A PROCEEDING IN ANY ONE OR MORE JURISDICTIONS PRECLUDE THE BRINGING OF A PROCEEDING IN ANY OTHER JURISDICTION. PLEDGOR HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND FURTHER AGREES AND CONSENTS THAT, IN ADDITION TO ANY METHODS OF SERVICE OF PROCESS PROVIDED FOR UNDER APPLICABLE LAW, ALL SERVICE OR PROCESS IN ANY PROCEEDING IN ANY NEW YORK STATE OR UNITED STATES COURT SITTING IN THE STATE OF NEW YORK MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO PLEDGOR AT THE ADDRESS INDICATED HEREIN, AND SERVICE SO MADE SHALL BE COMPLETE UPON RECEIPT; EXCEPT THAT IF PLEDGOR SHALL REFUSE TO ACCEPT DELIVERY, SERVICE SHALL BE DEEMED COMPLETE FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO MAILED.**

17. **WAIVER OF JURY TRIAL. PLEDGOR HEREBY (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY A JURY, AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN, KNOWINGLY AND VOLUNTARILY, BY PLEDGOR, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. AGENT IS HEREBY AUTHORIZED AND REQUESTED TO SUBMIT THIS AGREEMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES HERETO, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF PLEDGOR'S WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, PLEDGOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF AGENT (INCLUDING THEIR RESPECTIVE COUNSEL) HAS REPRESENTED, EXPRESSLY OR OTHERWISE, TO PLEDGOR THAT AGENT WILL NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.**

18. Intercreditor Agreement. Anything herein to the contrary notwithstanding, the liens and security interests granted to Agent pursuant to or in connection with this Agreement, the exercise of any right or remedy with respect thereto, and certain of the rights of the parties hereto are subject to the provisions of the Intercreditor Agreement dated as of July 18, 2017, (as amended, restated, supplemented, or otherwise modified from time to time, the "**Intercreditor Agreement**"), by and between MidCap Financial Trust, as "Term Agent", and Agent, as "ABL Agent". In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

[*Remainder of page intentionally blank; signature pages follow.*]

IN WITNESS WHEREOF, intending to be legally bound, and intending that this agreement constitute an agreement executed under seal, each of the parties have caused this Pledge Agreement to be executed under seal the day and year first above mentioned.

PLEDGOR:

SAREPTA THERAPEUTICS, INC.,
a Delaware corporation

By: /s/ Sandesh Mahatme (SEAL)
Name: Sandesh Mahatme
Title: Executive Vice President,
Chief Financial Officer and
Chief Business Officer

Pledgor Contact Information:

Sarepta Therapeutics, Inc.
215 First Street
Cambridge, MA 02142
Attn: Sandy Mahatme

AGENT:

MIDCAP FINANCIAL TRUST, a Delaware statutory trust, as Agent for Lenders

By: Apollo Capital Management, L.P.,
its investment manager

By:Apollo Capital Management GP, LLC,
its general partner

By /s/ Maurice Amsellem (SEAL)
Name: Maurice Amsellem
Title: Authorized Signatory

SCHEDULE I

PLEDGED INTERESTS

Name of Pledgor:	SAREPTA THERAPEUTICS, INC.
Company Name:	•Sarepta Securities Corp. ("Securities Subsidiary") •ST International Holdings, Inc. ("ST International")
Type of Entity of Company:	•Securities Subsidiary - Massachusetts Securities Corporation •ST International - Delaware corporation
Jurisdiction of Organization of Company:	•Securities Subsidiary - Massachusetts •ST International - Delaware
Organizational ID No. of Company:	•Securities Subsidiary - 001123798 •ST International - 3388130
Tax ID No. of Company:	•Securities Subsidiary – 46-4368941 •ST International – 98-1084672
Class of Interests in Company:	•Securities Subsidiary – Common Stock •ST International – Common Stock
Equity Interest Certificate No.:	•Securities Subsidiary – 1 •ST International – CA-1
Number of Units:	•Securities Subsidiary – 1,000 •ST International – 650

Percentage of Outstanding Equity Interest:	•Securities Subsidiary – 100% •ST International – 65% of Ownership Interests entitled to vote; 100% of Ownership Interests not entitled to vote

SCHEDULE II

PLEDGOR INFORMATION

Name of Pledgor: SAREPTA THERAPEUTICS, INC.
Type of Entity of Pledgor: Corporation
Jurisdiction of Organization of Pledgor: Delaware
Organizational ID No. of Pledgor: 5345340
Tax ID No. of Pledgor: 93-0797222

SCHEDULE III

STOCK POWER

FOR VALUE RECEIVED, the undersigned, _____, a _____ _____ ("**Pledgor**"), does hereby sell, assign and transfer to _____* all of its Equity Interests (as hereinafter defined) represented by Certificate No(s). _____ in _____, a _____ _____ ("**Issuer**"), standing in the name of Pledgor on the books of said Issuer. Pledgor does hereby irrevocably constitute and appoint _____*, as attorney, to transfer the Equity Interest in said Issuer with full power of substitution in the premises. The term "**Equity Interest**" means any security, share, unit, partnership interest, membership interest, ownership interest, equity interest, option, warrant, participation, "equity security" (as such term is defined in Rule 3(a)11 1 of the General Rules and Regulations of the Securities Exchange Act of 1934, as amended, or any similar statute then in effect, promulgated by the Securities and Exchange Commission and any successor thereto) or analogous interest (regardless of how designated) of or in a corporation, partnership, limited partnership, limited liability company, limited liability partnership, business trust or other entity, of whatever nature, type, series or class, whether voting or nonvoting, certificated or uncertificated, common or preferred, and all rights and privileges incident thereto.

Dated:*

PLEDGOR:

_____

By:_____(SEAL)
Name:
Its:_____

[*][To Remain Blank - Not Completed upon Execution/Delivery by Pledgor]

SCHEDULE IV

PLEDGE AMENDMENT

This Pledge Amendment, dated _____, 20___ is delivered pursuant to Section 5(i) of the Pledge Agreement referred to below. All defined terms herein shall have the meanings ascribed thereto or incorporated by reference in the Pledge Agreement. The undersigned hereby certifies that the representations and warranties in Section 4 of the Pledge Agreement are and continue to be true and correct, both as to the Collateral pledged prior to this Pledge Amendment and as to the Collateral pledged pursuant to this Pledge Amendment. The undersigned further agrees that this Pledge Amendment may be attached to that certain Pledge Agreement, dated July 18, 2017, by and among the undersigned, as Pledgor, and Midcap Financial Trust, as Agent (as may be amended, restated, supplemented or otherwise modified from time to time, the "**Pledge Agreement**"), and that the Ownership Interests listed on this Pledge Amendment shall be and become a part of the Pledged Interests and Collateral referred to in said Pledge Agreement and shall secure all Obligations referred to and in accordance with said Pledge Agreement. Schedule I of the Pledge Agreement shall be deemed amended to include the Ownership Interests listed on this Pledge Amendment. The undersigned acknowledge that any Ownership Interests issued by Company owned by Pledgor not included in the Collateral at the discretion of Agent may not otherwise be pledged by Pledgor to any other Person or otherwise used as security for any obligations other than the Obligations.

PLEDGOR:

SAREPTA THERAPEUTICS, INC.

By:_____(SEAL)
Name:_____
Title:_____

SCHEDULE IV- continued

Name and Address of Pledgor	Company	Class of Equity Interest	Certificate Number(s)	Number of Shares
	Initial Principal Amount	Issue Date	Maturity Date	Interest Rate

NOTICE OF PLEDGE

[____], 2017

TO: _____ (“**Company”**)

Notice is hereby given that, pursuant to that certain Pledge Agreement of even date with this Notice (the “**Agreement**”), from undersigned (“**Pledgor**”), to **MIDCAP FINANCIAL TRUST**, as agent (in such capacity, together with its successors and assigns, “**Agent**”) in connection with financing arrangements in effect for Company, Agent and certain financial institutions, Pledgor has pledged and assigned to Agent and granted to Agent, for its benefit and the benefit of the Lenders, a continuing security interest in, all of its right, title and interest, whether now existing or hereafter arising our acquired, in, to, and under the following (the “**Collateral**”):

(a) **[all of the stock, shares, membership interests, partnership interests and other equity ownership interests in Company now or hereafter held by Pledgor] [65% of the stock, shares, membership interests, partnership interests and other equity ownership interests in Company entitled to vote and 100% of the foregoing in Company not entitled to vote, in each case now or hereafter held by Pledgor]** (collectively, the “**Ownership Interests**”) and all of Pledgor’s rights to participate in the management of Company, all rights, privileges, authority and powers of Pledgor as owner or holder of its Ownership Interests in Company, including, but not limited to, all investment property, contract rights related thereto, all rights, privileges, authority and powers relating to the economic interests of Pledgor as owner or holder or its Ownership Interests in Company, including, without limitation, all contract rights related thereto, all options and warrants of Pledgor for the purchase of any Ownership Interest in Company, all documents and certificates representing or evidencing Pledgor’s Ownership Interests in Company, all of Pledgor’s right, title and interest to receive payments of principal and interest on any loans and/or other extensions of credit made by Pledgor to Company, and any other right, title, interest, privilege, authority and power of Pledgor in or relating to Company, all whether existing or hereafter arising, and whether arising under any operating agreement, shareholder’s agreement, partnership agreement or any other agreement, or any bylaws of Company (as the same may be amended, modified or restated from time to time), or the certificate of formation or existence of Company (as the same may be amended, modified or restated from time to time) or otherwise, or at law or in equity and all books and records of Pledgor pertaining to any of the foregoing and all options, warrants, distributions, investment property, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests, and Pledgor shall promptly thereafter deliver to Agent a certificate duly executed by Pledgor describing such percentage interests, options or warrants and certifying that the same have been duly pledged hereunder;

(b) all rights to receive cash distributions, profits, losses and capital distributions (including, but not limited to, distributions in kind and liquidating dividends) and any other rights and property interests related to the Ownership Interests;

(c) all other securities, instruments or property (including cash) paid or distributed in respect of or in exchange for the Ownership Interests, whether or not as part of or by way of spin-off, merger, consolidation, dissolution, reclassification, combination or exchange of stock (or other Ownership Interests), asset sales, or similar rearrangement or reorganization or otherwise; and

(d) all proceeds (both cash and non-cash) of the foregoing, whether now or hereafter arising under the foregoing.

Pursuant to the Agreement, Company is hereby authorized and directed, and Company hereby agrees, to:

(i) register on its books Pledgor’s pledge to Agent of the Collateral; and

(ii) upon the occurrence and during the continuance of an Event of Default under the Agreement (or prior thereto, as may be required under the Agreement) make direct payment to Agent of any amounts due or to become due to Pledgor that are attributable, directly or indirectly, to Pledgor’s ownership of the Collateral.

Pledgor hereby directs Company to, and Company hereby agrees to, comply with instructions originated by Agent with respect to the Collateral without further consent of the Pledgor. It is the intention of the foregoing to grant "control" to Agent within the meaning of Articles 8 and 9 of the UCC, to the extent the same may be applicable to the Collateral.

Company acknowledges and agrees that upon the delivery of any certificates representing the Collateral endorsed to Agent or in blank, Agent's security interest in the Collateral shall be perfected by "control" (as such term is used in Articles 8 and 9 of the UCC).

Pledgor hereby requests Company to indicate its acceptance of this Notice and consent to and confirmation of its terms and provisions by signing a copy of this Notice where indicated below and returning it to Agent.

[*Remainder of page intentionally blank; signature pages follow.*]

PLEDGOR:

_____

By:_____(SEAL)
Name: _____
Its: _____

ACKNOWLEDGED BY COMPANY as of the date above:

COMPANY:

_____

By:_____(SEAL)
Name: _____
Title: _____

Exhibit 31.1

CERTIFICATION

I, Douglas S. Ingram, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Sarepta Therapeutics, Inc., (the "Registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

August 3, 2017

/s/ DOUGLAS S. INGRAM
Douglas S. Ingram
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, Sandesh Mahatme, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Sarepta Therapeutics, Inc., (the "Registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

August 3, 2017

/s/ SANDESH MAHATME

Sandesh Mahatme
Executive Vice President,
Chief Financial Officer and
Chief Business Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002
(18 U.S.C. SECTION 1350)

I, Douglas S. Ingram, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that this Quarterly Report of Sarepta Therapeutics, Inc. on Form 10-Q for the quarterly period ended June 30, 2017, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Sarepta Therapeutics, Inc.

August 3, 2017

/s/ DOUGLAS S. INGRAM
Douglas S. Ingram
President and Chief Executive Officer
(Principal Executive Officer)

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to Sarepta Therapeutics, Inc. and will be retained by Sarepta Therapeutics, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies this Quarterly Report on Form 10-Q pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by such Act, be deemed filed by Sarepta Therapeutics, Inc. for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that Sarepta Therapeutics, Inc. specifically incorporates it by reference.

Exhibit 32.2

CERTIFICATION PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002
(18 U.S.C. SECTION 1350)

I, Sandesh Mahatme, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that this Quarterly Report of Sarepta Therapeutics, Inc. on Form 10-Q for the quarterly period ended June 30, 2017 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Sarepta Therapeutics, Inc.

August 3, 2017

/s/ SANDESH MAHATME
Sandesh Mahatme
Executive Vice President,
Chief Financial Officer and
Chief Business Officer
(Principal Financial and Accounting Officer)

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to Sarepta Therapeutics, Inc. and will be retained by Sarepta Therapeutics, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies this Quarterly Report on Form 10-Q pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by such Act, be deemed filed by Sarepta Therapeutics, Inc. for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that Sarepta Therapeutics, Inc. specifically incorporates it by reference.