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ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA
PART IV

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2013

or

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

For the transition period from to

Commission File No. 0-30319

THERAVANCE, INC.

(Exact name of registrant as specified in its charter)

Delaware	**94-3265960**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
901 Gateway Boulevard, South San Francisco, California	
(Address of principal executive offices)	**94080** (Zip Code)

Registrant's telephone number, including area code: **650-808-6000**

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of Each Class	**Name of Each Exchange On Which Registered**
Common Stock $0.01 Par Value	Nasdaq Global Market

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT: **NONE**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No o

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes o No ☒

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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

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

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant based upon the closing price of the Common Stock on the Nasdaq Global Market on June 30, 2013 was $1,657,233,711.

On February 14, 2014, there were 111,976,127 shares of the registrant's Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Specified portions of the registrant's definitive Proxy Statement to be issued in conjunction with the registrant's 2014 Annual Meeting of Stockholders, which is expected to be filed not later than 120 days after the registrant's fiscal year ended December 31, 2013, are incorporated by reference into Part III of this Annual Report. Except as expressly incorporated by reference, the registrant's Proxy Statement shall not be deemed to be a part of this Annual Report on Form 10-K.

THERAVANCE, INC.

2013 Form 10-K Annual Report

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Special Note regarding Forward-Looking Statements

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such forward-looking statements involve substantial risks, uncertainties and assumptions. All statements in this Annual Report on Form 10-K, other than statements of historical facts, including statements regarding our strategy, future operations, future financial position, future revenues, projected costs, prospects, plans, intentions, expectations and objectives could be forward-looking statements. The words "anticipates," "believes," "could," "designed," "estimates," "expects," "goal," "intends," "may," "plans," "projects," "pursuing," "will," "would" and similar expressions (including the negatives thereof) are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We may not actually achieve the plans, intentions, expectations or objectives disclosed in our forward-looking statements and the assumptions underlying our forward-looking statements may prove incorrect. Therefore, you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions, expectations and objectives disclosed in the forward-looking statements that we make. Factors that we believe could cause actual results or events to differ materially from our forward-looking statements include, but are not limited to, those discussed below in "Risk Factors" in Item 1A, "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Item 7 and elsewhere in this Annual Report on Form 10-K. Our forward-looking statements in this Annual Report on Form 10-K are based on current expectations and we do not assume any obligation to update any forward-looking statements.

PART I

ITEM 1. BUSINESS

Overview

Theravance, Inc. (Theravance, the Company, the Registrant or we and other similar pronouns) is a biopharmaceutical company with a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. We are focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including respiratory disease, bacterial infections, and central nervous system (CNS)/pain. Theravance's key programs include: RELVAR®/BREO® ELLIPTA® (fluticasone furoate/vilanterol, "FF/VI"), ANORO™ ELLIPTA™ (umeclidinium bromide/vilanterol, "UMEC/VI") and MABA (Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist), each partnered with Glaxo Group Limited (GSK), and our Long-Acting Muscarinic Antagonist program. By leveraging our proprietary insight of multivalency to drug discovery, we are pursuing a best-in-class strategy designed to discover superior medicines in areas of significant unmet medical need. Our headquarters are located at 901 Gateway Boulevard, South San Francisco, California 94080. Theravance was incorporated in Delaware in November 1996 under the name Advanced Medicine, Inc. and began operations in May 1997. The Company changed its name to Theravance, Inc. in April 2002.

Our strategy focuses on the discovery, development and commercialization of medicines with superior efficacy, convenience, tolerability and/or safety. Our proprietary approach combines chemistry and biology to discover new product candidates using our expertise in multivalency. Multivalency refers to the simultaneous attachment of a single molecule to multiple binding sites on one or more biological targets. When compared to monovalency, whereby a molecule attaches to only one binding site, multivalency can significantly increase a compound's potency, duration of action and/or selectivity. Multivalent compounds generally consist of several individual small molecules, at least one of which is biologically active when bound to its target, joined by linking components. In addition, we believe that we can enhance the probability of successfully developing and commercializing medicines by identifying at least two structurally different product candidates, whenever practicable, in each therapeutic program.

In April 2013, Theravance announced that its Board of Directors approved plans to separate its businesses into two independent publicly traded companies. The company to be spun-off, Theravance Biopharma, Inc. (Theravance Biopharma), filed an initial Form 10 with the SEC on August 1, 2013 and filed amendments of its Form 10 with the SEC on September 27, 2013, October 29, 2013 and November 22, 2013. After the spin-off, Theravance will be responsible for all development and commercial activities under the LABA collaboration and the Strategic Alliance agreements with GSK. Theravance will be eligible to receive the associated potential royalty revenues from FF/VI (RELVAR®/BREO® ELLIPTA®), UMEC/VI (ANORO™ ELLIPTA™) and potentially VI monotherapy and 15% of the potential royalty revenues from UMEC/VI/FF, MABA, and MABA/FF and other products that may be developed under the LABA collaboration and Strategic Alliance agreements. Theravance Biopharma will be a biopharmaceutical company focused on discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. The result will be two independent, publicly traded companies with different business models enabling investors to align their investment philosophies with the strategic opportunities and financial objectives of the two independent companies.

Our Programs

Our drug discovery efforts are based on the principles of multivalency. Multivalency involves the simultaneous attachment of a single molecule to multiple binding sites on one or more biological targets. We have applied our expertise in multivalency to discover product candidates and lead compounds in a wide variety of therapeutic areas. We have conducted extensive research in both relevant laboratory and animal models to demonstrate that by applying the design principles of multivalency, we can achieve significantly stronger and more selective attachment of our compounds to a variety of intended biological targets. We believe that medicines that attach more strongly and selectively to their targets will be superior to many medicines by substantially improving potency, duration of action and/or safety.

Prior to entering into human clinical studies, a product candidate undergoes preclinical studies which include formulation development or safety testing in animal models.

The table below summarizes the status of our most advanced product candidates for internal development or co-development.

THERAPEUTIC AREA	DEVELOPMENT STATUS			
Program	Phase 1	Phase 2	Phase 3	Filed
RESPIRATORY				
ANORO™ ELLIPTA™ (UMEC/VI): COPD (EU AND JAPAN)				
GSK961081 (MABA): COPD				
TD-4208 (LAMA): COPD				
BACTERIAL INFECTIONS				
TD-1792: Serious Gram+ Infections				
TD-1607: Serious Gram+ Infections				
CNS/PAIN				
TD-1211 (axelopron): Opioid-Induced Constipation				
TD-9855: Fibromyalgia				
GI MOTILITY DYSFUNCTION				
TD-5108 (velusetrag): GI Motility Dysfunction				
TD-8954: GI Motility Dysfunction				

Legend:

Demonstrated Proof-of-Concept

Pre-Proof-of-Concept

Key: **CNS:** Central Nervous System; **COPD:** Chronic Obstructive Pulmonary Disease; **FF:** Fluticasone Furoate; **GI:** Gastrointestinal; **LAMA:** Long-Acting Muscarinic Antagonist; **MABA:** Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist; **UMEC:** Umeclidinium; **VI:** Vilanterol

In the table above:

- Development Status indicates the most advanced stage of development that has been completed or is in process.
- Phase 1 indicates initial clinical safety testing in healthy volunteers, or studies directed toward understanding the mechanisms of action of the drug.
- Phase 2 indicates further clinical safety testing and preliminary efficacy testing in a limited patient population.
- Phase 3 indicates evaluation of clinical efficacy and safety within an expanded patient population.
- Filed indicates that a marketing application has been submitted to a regulatory authority and is under review.
- We consider programs in which at least one compound has successfully completed a Phase 2a study showing efficacy and tolerability as having achieved Proof-of-Concept.

Our Relationship with GSK

LABA Collaboration

In November 2002, we entered into our long-acting beta$_2$ agonist (LABA) collaboration with GSK to develop and commercialize once-daily LABA products for the treatment of chronic obstructive pulmonary disease (COPD) and asthma. For the treatment of COPD, the collaboration has developed two combination products: (1) RELVAR®/BREO® ELLIPTA® (FF/VI) (BREO® ELLIPTA® is the proprietary name in the U.S. and Canada and RELVAR® ELLIPTA® is the proprietary name outside the U.S. and Canada), a once-daily combination medicine consisting of a LABA, vilanterol (VI), and an inhaled corticosteroid (ICS), fluticasone furoate (FF) and (2) ANORO™ ELLIPTA™ (UMEC/VI), a once-daily medicine combining a long-acting muscarinic antagonist (LAMA), umeclidinium bromide (UMEC), with a LABA, VI. Under the collaboration agreements between the parties, GSK and Theravance are exploring various paths to create triple therapy medications. The use of triple therapy is supported by the GOLD (Global initiative for chronic Obstructive Lung Disease) guidelines in high-risk patients with severe COPD and a high risk of exacerbations. One potential triple therapy path is the combination of UMEC/VI (two bronchodilators) and FF (an inhaled corticosteroid), to be administered via the ELLIPTA® investigational dry powder inhaler, which triple therapy program GSK has referred to as Diamond. GSK recently announced its goal of advancing Diamond into Phase 3 in either 2014 or 2015. For the treatment of asthma, RELVAR® ELLIPTA® is approved in multiple regions outside of North America and the collaboration is further developing FF/VI for the U.S. The FF/VI program is aimed at developing a once-daily combination LABA/ICS to succeed GSK's Advair® /Seretide™ (salmeterol and fluticasone as a combination) franchise, which had reported 2013 sales of approximately $8.3 billion, and to compete with Symbicort® (formoterol and budesonide as a combination), which had reported 2013 sales of approximately $3.5 billion. ANORO™ ELLIPTA™, which is also a combination product, is targeted as an alternative treatment option to Spiriva® (tiotropium), a once-daily, single-mechanism bronchodilator, which had reported 2012 sales of approximately $4.7 billion.

In the event that a product containing VI is successfully developed and commercialized, we will be obligated to make milestone payments to GSK, which could total as much as $220.0 million if both a single-agent and a combination product or two different combination products are launched in multiple regions of the world. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and accrued a liability of $40.0 million as of

December 31, 2013 and recorded an additional $15.0 million payment in January 2014. These milestone fees paid or owed to GSK were capitalized as finite-lived intangible assets, which are being amortized over their estimated useful life. We estimate the remaining potential milestone payments of $80.0 million could be payable by the end of 2014.

Total milestone fees paid of $85.0 million as of December 31, 2013 resulted from the following:

- In May 2013, the U.S. Food and Drug Administration (FDA) approved BREO® ELLIPTA® as an inhaled long-term, once-daily maintenance treatment of airflow obstruction in patients with COPD, including chronic bronchitis and/or emphysema. It is also indicated to reduce exacerbations of COPD in patients with a history of exacerbations.

- In September 2013, the Japanese Ministry of Health, Labour and Welfare (MHLW) approved RELVAR® ELLIPTA® for the treatment of bronchial asthma in cases where concurrent use of inhaled corticosteroid and long-acting inhaled $beta_2$ agonist is required.

- In October 2013, BREO® ELLIPTA® was launched in the U.S. for the treatment of COPD.

- In November 2013, the European Commission granted marketing authorization for RELVAR® ELLIPTA® for the regular treatment of asthma and the systematic treatment of COPD.

Total milestone fees accrued as liabilities of $40.0 million as of December 31, 2013 resulted from the following:

- In December 2013, RELVAR® ELLIPTA® was launched in Japan for the treatment of bronchial asthma.

- In December 2013, the U.S. FDA approved ANORO™ ELLIPTA™ as a combination anticholinergic/long-acting $beta_2$-adrenergic agonist (LABA) indicated for the long-term, once-daily, maintenance treatment of airflow obstruction in patients with chronic obstructive pulmonary disease (COPD), including chronic bronchitis and/or emphysema.

Total milestone fees recorded of $15.0 million in January 2014 resulted from the following:

- In January 2014, RELVAR® ELLIPTA® was launched in the European Union.

We are entitled to receive annual royalties from GSK on sales of RELVAR®/BREO® ELLIPTA® as follows: 15% on the first $3.0 billion of annual global net sales and 5% for all annual global net sales above $3.0 billion. Sales of single-agent LABA medicines and combination medicines would be combined for the purposes of this royalty calculation. For other products combined with a LABA from the LABA collaboration, such as ANORO™ ELLIPTA™, royalties are upward tiering and range from 6.5% to 10%.

2004 Strategic Alliance

In March 2004, we entered into our strategic alliance with GSK (the Strategic Alliance agreement and the LABA collaboration are together referred to herein as the GSK Agreements). Under this alliance, GSK received an option to license exclusive development and commercialization rights to product candidates from certain of our discovery programs on pre-determined terms and on an exclusive, worldwide basis. Upon GSK's decision to license a program, GSK is responsible for funding all future development, manufacturing and commercialization activities for product candidates in that program. In addition, GSK is obligated to use diligent efforts to develop and commercialize product candidates from any program that it licenses. If the program is successfully advanced through development by GSK, we are entitled to receive clinical, regulatory and commercial milestone payments and royalties on any sales of medicines developed from the program. If GSK chooses not to license a program, we retain all rights to the program and may continue the program alone or with a third party. GSK has no further option rights on any of our research or development programs under the strategic alliance.

In 2005, GSK licensed our MABA program for the treatment of COPD, and in October 2011, we and GSK expanded the MABA program by adding six additional Theravance-discovered preclinical MABA compounds (the "Additional MABAs"). GSK's development, commercialization, milestone and royalty obligations under the strategic alliance remain the same with respect to GSK961081 ('081), the lead compound in the MABA program. GSK is obligated to use diligent efforts to develop and commercialize at least one MABA within the MABA program, but may terminate progression of any or all Additional MABAs at any time and return them to us, at which point we may develop and commercialize such Additional MABAs alone or with a third party. Both GSK and we have agreed not to conduct any MABA clinical studies outside of the strategic alliance so long as GSK is in possession of the Additional MABAs. If a single-agent MABA medicine containing '081 is successfully developed and commercialized, we are entitled to receive royalties from GSK of between 10% and 20% of annual global net sales up to $3.5 billion, and 7.5% for all annual global net sales above $3.5 billion. If a MABA medicine containing '081 is commercialized as a combination product, such as a '081/FF, the royalty rate is 70% of the rate applicable to sales of the single-agent MABA medicine. For single-agent MABA medicines containing an Additional MABA, we are entitled to receive royalties from GSK of between 10% and 15% of annual global net sales up to $3.5 billion, and 10% for all annual global net sales above $3.5 billion. For combination products containing an Additional MABA, such as a MABA/ICS combination, the royalty rate is 50% of the rate applicable to sales of the single-agent MABA medicine. If a MABA medicine containing '081 is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $125.0 million for a single-agent medicine and up to $250.0 million for both a single-agent and a combination medicine. If a MABA medicine containing an Additional MABA is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $129.0 million.

Agreements Entered into with GSK in Connection with the Spin-Off

In conjunction with the planned spin-off of Theravance Biopharma, on March 3, 2014, we, Theravance Biopharma and GSK entered into a series of agreements clarifying how the companies will implement the spin-off and operate following the spin-off. We, Theravance Biopharma and GSK entered into a three-way master agreement providing for GSK's consent to the spin-off provided certain conditions are met. In addition, we and GSK also entered into amendments of our LABA collaboration and Strategic Alliance agreements, and Theravance Biopharma and GSK entered into a governance agreement, a registration rights agreement and an extension agreement. The three-way master agreement is currently effective, but will terminate if the spin-off is not effected by June 30, 2014, and the other agreements will become effective upon the spin-off, provided that the spin-off is effected on or before June 30, 2014.

The amendments to the GSK Agreements do not change the economics or royalty rates. The amendments to the GSK Agreements do provide that GSK's diligent efforts obligations regarding commercialization matters under both agreements will change upon regulatory approval in either the United States or the European Union of UMEC/VI/FF or a MABA in combination with FF. Upon such regulatory approval, GSK's diligent efforts obligations as to commercialization matters under the GSK Agreements will have the objective of focusing on the best interests of patients and maximizing the net value of the overall portfolio of products under the collaboration agreement and strategic alliance agreement. Since GSK's commercialization efforts following such regulatory approval will be guided by a portfolio approach across products in which we will retain our full interests upon the spin-off and also products in which we will have retained only a portion of our interests upon the planned spin-off transaction, GSK's commercialization efforts may have the effect of reducing the overall value of our remaining interests in the GSK Agreements after the spin-off.

Purchases of Common Stock by GSK

Prior to 2013, affiliates of GSK purchased an aggregate of 26,411,103 shares of our common stock. In 2013, GSK purchased 3,504,970 shares of our common stock pursuant to its periodic "top-up" rights under our Amended and Restated Governance Agreement, dated as of June 4, 2004, as amended, among us, GSK and certain GSK affiliates, for a total investment of $126.0 million. As of February 14, 2014, GSK beneficially owned approximately 27.0% of our outstanding capital stock.

Program Highlights

Respiratory Programs with GSK

RELVAR®/BREO® ELLIPTA® (fluticasone furoate/vilanterol "FF/VI")

RELVAR®/BREO® ELLIPTA® has been approved by eight regulatory agencies for marketing and has been launched in seven countries as of February 1, 2014.

In November 2013, the European Commission granted marketing authorization for RELVAR® ELLIPTA®, which is now licensed across 31 European countries. Following approval in Europe, RELVAR® ELLIPTA® for COPD and asthma was launched in the United Kingdom, Germany and Denmark in January 2014.

In December 2013, RELVAR® ELLIPTA® was launched in Japan following approval in asthma in September 2013.

In October 2013, BREO® ELLIPTA® for COPD was launched in the United States (U.S.). In addition, BREO® ELLIPTA® for COPD was launched in Canada in January 2014. BREO® ELLIPTA® is not indicated for the relief of acute bronchospasm or for the treatment of asthma.

BREO® ELLIPTA® is the proprietary name in the U.S. and Canada for the once-daily combination medicine of an inhaled corticosteroid (ICS), fluticasone furoate "FF", and a long-acting beta$_2$-agonist (LABA), vilanterol "VI" (FF/VI) administered using the ELLIPTA®, a dry powder inhaler (DPI). RELVAR® ELLIPTA® is the proprietary name for FF/VI outside of the U.S. and Canada.

Fluticasone Furoate/Vilanterol "FF/VI"

In December 2013, GSK and Theravance announced positive results from a Phase 3 efficacy and safety study of FF/VI designed to support a potential filing for an asthma indication for adults in the U.S. These results will inform GSK's discussions with the FDA on the regulatory requirements of an asthma indication for FF/VI in the U.S.

ANORO™ ELLIPTA™ (umeclidinium bromide/vilanterol, UMEC/VI)

On December 18, 2013, the U.S. Food and Drug Administration (FDA) approved ANORO™ ELLIPTA™ as a combination anticholinergic/long-acting beta$_2$-adrenergic agonist (LABA) indicated for the long-term, once-daily, maintenance treatment of airflow obstruction in patients with COPD, including chronic bronchitis and/or emphysema. ANORO™ ELLIPTA™ is not indicated for the relief of acute bronchospasm or for the treatment of asthma. Following this approval by the FDA, it is anticipated that launch activities in the U.S. will commence during the first quarter of 2014.

ANORO™ ELLIPTA™ (umeclidinium and vilanterol inhalation powder) is the first once-daily product approved in the U.S. that combines two long-acting bronchodilators in a single inhaler for the maintenance treatment of COPD. The FDA-approved strength is umeclidinium/vilanterol 62.5 mcg/25 mcg. ANORO™ ELLIPTA™ is the proposed proprietary name for UMEC/VI, a combination of two bronchodilator molecules—umeclidinium, a long-acting muscarinic antagonist (LAMA) and VI, a LABA, administered using the ELLIPTA™ inhaler.

In addition, ANORO™ ELLIPTA™ (UMEC/VI 62.5/25mcg) was approved for COPD in Canada on December 23, 2013.

UMEC/VI is under regulatory review by a number of regulatory authorities, including the European Medicines Agency (EMA) and the Japanese Ministry of Health, Labour and Welfare. In February 2014, the EMA's Committee for Medicinal Products for Human Use (CHMP) issued a positive opinion recommending marketing authorization for UMEC/VI under the proposed brand name ANORO® as a once-daily, maintenance bronchodilator treatment to relieve symptoms in adult patients with COPD. A CHMP positive opinion is one of the final steps before marketing authorization is granted by the European Commission, but does not always result in marketing authorization. A final decision by the European Commission is anticipated during the second quarter of 2014.

Inhaled Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist (MABA)—GSK961081

GSK961081 ('081) is an investigational, single molecule bifunctional bronchodilator with both muscarinic antagonist and beta$_2$ receptor agonist activities. '081 has completed a Phase 2b study, a Phase 1 study in combination with fluticasone propionate ("FP"), an ICS, and a number of Phase 3 enabling non clinical studies. In mid-2013 GSK made a decision to move away from the twice-daily option with FP in the Diskus® inhaler to the combination of '081/FF delivered once-daily in the ELLIPTA® inhaler which requires additional work on non-clinical studies, manufacturing and a Phase 1 bioequivalence study. Because of this change in program direction the Phase 3 study with '081 monotherapy did not begin in 2013 and we believe it is unlikely that a Phase 3 study with '081 monotherapy will commence even in 2014. Preclinical Phase 3-enabling studies with the combination '081/FF are ongoing to explore its potential as a once-daily medicine delivered in the ELLIPTA™ inhaler.

Theravance Respiratory Program

Long-Acting Muscarinic Antagonist—TD-4208

We are developing TD-4208, a once daily inhaled nebulized muscarinic antagonist discovered by us, for the treatment of a subset of COPD patients whom we believe are underserved by current hand held products. We believe that such a medicine could serve as a foundation for several combination nebulized products as well as potential metered dose inhaler or dry powder inhaler products. In September 2013, Theravance announced positive topline results from a dose-ranging 7-day cross-over design Phase 2b study of TD-4208, an investigational LAMA, administered once-a-day as a nebulized aqueous solution in patients with moderate to severe COPD. All doses met the primary and secondary efficacy endpoints. The primary efficacy endpoint in this study was change from baseline in trough FEV1 (forced expiratory volume in one second) at the end of Day 7. TD-4208 demonstrated significant bronchodilation over 24 hours. All doses of TD-4208 were generally well tolerated in the study with rates of adverse events comparable to placebo. We intend to initiate the second Phase 2b study with TD-4208 ourselves.

Bacterial Infections Program

VIBATIV® (telavancin)

Theravance reintroduced VIBATIV® (telavancin) into the U.S. in August 2013. VIBATIV® is approved in the U.S. for the treatment of adult patients with hospital-acquired and ventilator-associated bacterial pneumonia (HABP/VABP) caused by susceptible isolates of *Staphylococcus aureus* when alternative treatments are not suitable, and for the treatment of complicated skin and skin structure infections (cSSSI) caused by susceptible isolates of Gram-positive bacteria, including *Staphylococcus aureus*, both methicillin-susceptible (MSSA) and methicillin-resistant (MRSA) strains. VIBATIV® is a bactericidal, once-daily, injectable lipoglycopeptide antibiotic with a dual mechanism of action whereby it both inhibits bacterial cell wall synthesis and disrupts bacterial cell membrane function.

Central Nervous System (CNS)/Pain Programs

Oral Peripheral Mu Opioid Receptor Antagonist—TD-1211

TD-1211 is an investigational once-daily, orally administered, peripherally selective, multivalent inhibitor of the mu opioid receptor designed with a goal of alleviating gastrointestinal side effects of opioid therapy without affecting analgesia. In July 2012, Theravance announced positive topline results from the Phase 2b Study 0084, the key study in the Phase 2b program evaluating TD-1211 as potential treatment for chronic, non-cancer pain patients with opioid-induced constipation. The Phase 2b program consisted of three studies (0074, 0076 and 0084) designed to evaluate doses and dosing regimens for Phase 3. We are currently evaluating our Phase 3 strategy due to potentially evolving FDA requirements for this class of drug.

Norepinephrine and Serotonin Reuptake Inhibitor—TD-9855

TD-9855 is an investigational norepinephrine and serotonin reuptake inhibitor for the treatment of central nervous system conditions such as chronic pain. TD-9855 is being evaluated in an ongoing Phase 2 study in patients with fibromyalgia. Results from the Phase 2 study in fibromyalgia are anticipated to be reported during the first half of 2014. In late 2013 we reported that TD-9855 did not meet the primary efficacy endpoints in a Phase 2 study in adult patients with Attention Deficit/Hyperactivity Disorder.

GI Motility Dysfunction Program

Velusetrag

Velusetrag, Theravance's oral, once-daily, investigational 5-HT4 agonist partnered with Alfa Wassermann S.p.A., is in a Phase 2 gastrointestinal motility proof-of-concept study in patients with diabetic or idiopathic gastroparesis. Velusetrag, also known as TD-5108, is a highly selective agonist with high intrinsic activity at the human 5-HT4 receptor. Results from this Phase 2 study are expected during the first half of 2014.

TD-8954

TD-8954 is a selective 5-HT4 receptor agonist. Theravance recently initiated a Phase 2a study to evaluate the safety, tolerability and pharmacodynamics of a single-dose of TD-8954 administered intravenously compared to metoclopramide in critically ill patients with enteral feeding intolerance. The objective of the study is assessment of adverse events and ability to tolerate feeding.

Multivalency

Our proprietary approach combines chemistry and biology to discover new product candidates using our expertise in multivalency. Multivalency refers to the simultaneous attachment of a single molecule to multiple binding sites on one or more biological targets. When compared to monovalency, whereby a molecule attaches to only one binding site, multivalency can significantly increase a compound's potency, duration of action and/or selectivity. Multivalent compounds generally consist of several individual small molecules, at least one of which is biologically active when bound to its target, joined by linking components.

Our approach is based on an integration of the following insights:

- many targets have multiple binding sites and/or exist in clusters with similar or different targets;
- biological targets with multiple binding sites and/or those that exist in clusters lend themselves to multivalent drug design;
- molecules that simultaneously attach to multiple binding sites can exhibit considerably greater potency, duration of action and/or selectivity than molecules that attach to only one binding site; and
- greater potency, duration of action and/or selectivity provides the basis for superior therapeutic effects, including enhanced convenience, tolerability and/or safety compared to conventional drugs.

Our Strategy

Our objective is to discover, develop and commercialize new medicines with superior efficacy, convenience, tolerability and/or safety using our proprietary insight in chemistry, biology and multivalency, where applicable. The key elements of our strategy are to:

Apply our expertise in chemistry, biology and multivalency to discover and develop superior medicines in areas of significant unmet medical need. We intend to continue to concentrate our efforts on discovering and developing product candidates where:

- existing drugs have levels of efficacy, convenience, tolerability and/or safety that are insufficient to meet an important medical need;
- we believe our expertise in chemistry, biology and multivalency can be applied to create superior product candidates that are more potent, longer acting and/or more selective than currently available medicines;
- there are established animal models that can be used to provide us with evidence as to whether our product candidates have the potential to provide superior therapeutic benefits relative to current medicines; and
- there is a relatively large commercial opportunity.

Identify two structurally different product candidates in each therapeutic program whenever practicable. We believe that we can increase the likelihood of successfully bringing superior medicines to market by identifying, whenever practicable, two product candidates for development in each program. Our second product candidates are typically in a different structural class from the first product candidate. Applying this strategy can reduce our dependence on any one product candidate and provide us with the potential opportunity to commercialize two compounds in a given area.

Partner with pharmaceutical companies. Although in certain instances we may choose to pursue late-stage development and commercialization activities on our own, one feature of our strategy is to seek collaborations with pharmaceutical companies to accelerate development and commercialization of our product candidates at the strategically appropriate time. The LABA collaboration and our strategic alliance with GSK, as well as our non-U.S. VIBATIV® development and commercialization agreements, are examples of these types of partnerships.

Leverage the extensive experience of our people. We have an experienced senior management team with many years of experience discovering, developing and commercializing new medicines with companies such as Bristol-Myers Squibb Company, Eli Lily and Company, Gilead Sciences and Merck & Co.

Improve, expand and protect our technical capabilities. We have created a substantial body of know-how and trade secrets in the application of our multivalent approach to drug discovery. We believe this is a significant asset that distinguishes us from our competitors. We expect to continue to make substantial investments in drug discovery using multivalency and other technologies to maintain what we believe are our competitive advantages.

Manufacturing

We have limited in-house active pharmaceutical ingredient (API) production capabilities, and we rely primarily on a number of third parties, including contract manufacturing organizations and our collaborative partners, to produce our active pharmaceutical ingredient and drug product. Manufacturing of RELVAR®/BREO® ELLIPTA® (FF/VI) and ANORO™ ELLIPTA™ (UMEC/VI) and for the MABA program is handled by GSK.

We believe that we have in-house expertise to manage a network of third party manufacturers. We believe that we will be able to continue to negotiate third-party manufacturing arrangements on commercially reasonable terms and that it will not be necessary for us to obtain internal manufacturing capacity in order to develop or commercialize our products. However, if we are unable to obtain contract manufacturing or obtain such manufacturing on commercially reasonable terms, or if manufacturing is interrupted at one of our suppliers, whether due to regulatory or other reasons, we may not be able to develop or commercialize our products as planned.

We have a single source of supply of telavancin API and another, separate single source of supply of VIBATIV® drug product. If, for any reason, either the single-source third party manufacturer of telavancin API or of VIBATIV® drug product is unable or unwilling to perform, or if its performance does not meet regulatory requirements, including maintaining cGMP compliance, we may not be able to locate alternative manufacturers, enter into acceptable agreements with them or obtain sufficient quantities of API or finished drug product in a timely manner. Any inability to acquire sufficient quantities of API or finished drug product in a timely manner from current or future sources would adversely affect the commercialization of VIBATIV® and our obligations to our partners.

Government Regulation

The development and commercialization of VIBATIV® and our product candidates and our ongoing research are subject to extensive regulation by governmental authorities in the United States and other countries. Before marketing in the United States, any medicine must undergo rigorous preclinical studies and clinical studies and an extensive regulatory approval process implemented by the FDA under the Federal Food, Drug, and Cosmetic Act. Outside the United States, the ability to market a product depends upon receiving a marketing authorization from the appropriate regulatory authorities. The requirements governing the conduct of clinical studies, marketing authorization, pricing and reimbursement vary widely from country to country. In any country, the commercialization of medicines is permitted only if the appropriate regulatory authority is satisfied that we have presented adequate evidence of the safety, quality and efficacy of our medicines.

Before commencing clinical studies in humans in the United States, we must submit to the FDA an Investigational New Drug application that includes, among other things, the results of preclinical studies. If the FDA accepts the Investigational New Drug submission, clinical studies are usually conducted in three phases and under FDA oversight. These phases generally include the following:

Phase 1. The product candidate is introduced into healthy human volunteers and is tested for safety, dose tolerance and pharmacokinetics.

Phase 2. The product candidate is introduced into a limited patient population to assess the efficacy of the drug in specific, targeted indications, assess dosage tolerance and optimal dosage, and identify possible adverse effects and safety risks.

Phase 3. If a compound is found to be potentially effective and to have an acceptable safety profile in Phase 2 evaluations, the clinical study will be expanded to further demonstrate clinical efficacy, optimal dosage and safety within an expanded patient population.

The results of product development, preclinical studies and clinical studies must be submitted to the FDA as part of a new drug application (NDA). The NDA also must contain extensive manufacturing information. NDAs for new chemical entities are subject to performance goals defined in the Prescription Drug User Fee Act (PDUFA) which suggests a goal for FDA action within six months of the 60-day filing date for applications that are granted priority review and ten months of the 60-day filing date for applications that receive standard review. For a product candidate no active ingredient of which has been previously approved by the FDA, the FDA must either refer the product candidate to an advisory committee for review or provide in the action letter on the application for the

product candidate a summary of the reasons why the product candidate was not referred to an advisory committee prior to approval. In addition, under the 2009 Food and Drug Administration Amendments Act, the FDA has authority to require submission of a formal Risk Evaluation and Management Strategy (REMS) to ensure safe use of the product. At the end of the review period, the FDA communicates an approval of the NDA or issues a complete response listing the application's deficiencies.

Once approved, the FDA may withdraw the product approval if compliance with pre- and post-marketing regulatory standards is not maintained or if safety or quality issues are identified after the product reaches the marketplace. In addition, the FDA may require post-marketing studies, referred to as Phase 4 studies, to monitor the effect of approved products, and may limit further marketing of the product based on the results of these post-marketing studies. The FDA has broad post-market regulatory and enforcement powers, including the ability to suspend or delay issuance of approvals, seize products, withdraw approvals, enjoin violations, and institute criminal prosecution.

If regulatory approval for a medicine is obtained, the clearance to market the product will be limited to those diseases and conditions for which the medicine is effective, as demonstrated through clinical studies and included in the medicine's labeling. Even if this regulatory approval is obtained, a marketed medicine, its manufacturer and its manufacturing facilities are subject to continual review and periodic inspections by the FDA. The FDA ensures the quality of approved medicines by carefully monitoring manufacturers' compliance with its cGMP regulations. The cGMP regulations for drugs contain minimum requirements for the methods, facilities, and controls used in manufacturing, processing, and packaging of a medicine. The regulations are intended to make sure that a medicine is safe for use, and that it has the ingredients and strength it claims to have. Discovery of previously unknown problems with a medicine, manufacturer or facility may result in restrictions on the medicine or manufacturer, including costly recalls or withdrawal of the medicine from the market.

We and our collaborative partners are also subject to various laws and regulations regarding laboratory practices, the experimental use of animals and the use and disposal of hazardous or potentially hazardous substances in connection with our research. In each of these areas, as above, the FDA and other regulatory authorities have broad regulatory and enforcement powers, including the ability to suspend or delay issuance of approvals, seize products, withdraw approvals, enjoin violations, and institute criminal prosecution, any one or more of which could have a material adverse effect upon our business, financial condition and results of operations.

Outside the United States our ability to market our products will also depend on receiving marketing authorizations from the appropriate regulatory authorities. Risks similar to those associated with FDA approval described above exist with the regulatory approval processes in other countries.

Patents and Proprietary Rights

We will be able to protect our technology from unauthorized use by third parties only to the extent that our technology is covered by valid and enforceable patents or is effectively maintained as trade secrets. Our success in the future will depend in part on obtaining patent protection for our product candidates. Accordingly, patents and other proprietary rights are essential elements of our business. Our policy is to seek in the United States and selected foreign countries patent protection for novel technologies and compositions of matter that are commercially important to the development of our business. For proprietary know-how that is not patentable, processes for which patents are difficult to enforce and any other elements of our drug discovery process that involve proprietary know-how and technology that is not covered by patent applications, we rely on trade secret protection and confidentiality agreements to protect our interests. We require all of our employees, consultants and advisors to enter into confidentiality agreements. Where it is necessary to share our proprietary information or data with outside parties, our policy is to make available only that information and data

required to accomplish the desired purpose and only pursuant to a duty of confidentiality on the part of those parties.

As of December 31, 2013, we owned 379 issued United States patents and 1,364 granted foreign patents, as well as additional pending United States patent applications and foreign patent applications. The claims in these various patents and patent applications are directed to compositions of matter, including claims covering product candidates, lead compounds and key intermediates, pharmaceutical compositions, methods of use and processes for making our compounds along with methods of design, synthesis, selection and use relevant to multivalency in general and to our research and development programs in particular. In particular, we own the following U.S. patents which are listed in the FDA *Approved Drug Products with Therapeutic Equivalence Evaluations* (Orange Book) for telavancin: U.S. Patent No. 6,635,618 B2, expiring on September 11, 2023; U.S. Patent No. 6,858,584 B2, expiring on August 24, 2022; U.S. Patent No. 6,872,701 B2, expiring on June 5, 2021; U.S. Patent No. 7,008,923 B2, expiring on May 6, 2021; U.S. Patent No. 7,208,471 B2, expiring on May 1, 2021; U.S. Patent No. 7,351,691 B2, expiring on May 1, 2021; U.S. Patent No. 7,531,623 B2, expiring on January 1, 2027; U.S. Patent No. 7,544,364 B2, expiring on May 1, 2021; U.S. Patent No. 7,700,550 B2, expiring on May 1, 2021; U.S. Patent No. 8,101,575 B2, expiring on May 1, 2021; and U.S. Patent No. 8,158,580 B2, expiring on May 1, 2021.

United States issued patents and foreign patents generally expire 20 years after filing. The patent rights relating to telavancin owned by us currently consist of United States patents that expire between 2019 and 2027, additional pending United States patent applications and counterpart patents and patent applications in a number of jurisdictions, including Europe. Nevertheless, issued patents can be challenged, narrowed, invalidated or circumvented, which could limit our ability to stop competitors from marketing similar products and threaten our ability to commercialize our product candidates. Our patent position, similar to other companies in our industry, is generally uncertain and involves complex legal and factual questions. To maintain our proprietary position we will need to obtain effective claims and enforce these claims once granted. It is possible that, before any of our products can be commercialized, any related patent may expire or remain in force only for a short period following commercialization, thereby reducing any advantage of the patent. Also, we do not know whether any of our patent applications will result in any issued patents or, if issued, whether the scope of the issued claims will be sufficient to protect our proprietary position.

We have entered into a License Agreement with Janssen Pharmaceutica (Janssen) pursuant to which we have licensed rights under certain patents owned by Janssen covering an excipient used in the formulation of telavancin. We believe that the general and financial terms of the agreement with Janssen are ordinary course terms. Pursuant to the terms of this license agreement, we are obligated to pay royalties and milestone payments to Janssen based on any commercial sales of telavancin. The license is terminable by us upon prior written notice to Janssen or upon an uncured breach or a liquidation event of one of the parties.

Competition

Our objective is to discover, develop and commercialize new medicines with superior efficacy, convenience, tolerability and/or safety using our proprietary insight in chemistry, biology and multivalency, where applicable. We expect that any medicines that we commercialize with our collaborative partners or on our own will compete with existing and future market-leading medicines.

Many of our potential competitors have substantially greater financial, technical and personnel resources than we have. In addition, many of these competitors have significantly greater commercial infrastructures than we have. Our ability to compete successfully will depend largely on our ability to leverage our experience in drug discovery and development to:

- discover and develop medicines that are superior to other products in the market;

- attract qualified scientific, product development and commercial personnel;
- obtain patent and/or other proprietary protection for our medicines and technologies;
- obtain required regulatory approvals; and
- successfully collaborate with pharmaceutical companies in the discovery, development and commercialization of new medicines.

LABA Collaboration with GSK. We anticipate that any approved product from our LABA collaboration with GSK, including RELVAR®/BREO® ELLIPTA® (FF/VI) and ANORO™ ELLIPTA™ (UMEC/VI) will compete with a number of approved bronchodilator drugs and drug candidates under development that are designed to treat asthma and COPD. These include but are not limited to Advair®/Seretide™ (salmeterol and fluticasone as a combination) marketed by GSK, Foradil®/Oxis® (formoterol) marketed by a number of companies, Symbicort® (formoterol and budesonide as a combination) marketed by AstraZeneca, Dulera® (formoterol and mometasone as a combination) marketed by Merck, and Spiriva® (tiotropium) marketed by Boehringer-Ingelheim and Pfizer. Onbrez®/Arcapta® (indacaterol) is marketed in multiple international markets by Novartis and was launched in the United States in 2012. For markets outside of the United States, Novartis is developing indacaterol in combination with an ICS (mometasone). In addition, indacaterol combined with a muscarinic antagonist (Ultibro®) has been developed by Novartis and European regulatory approval and launch was achieved in 2013. Boehringer-Ingelheim is developing a combination product with tiotropium and the long-acting beta agonist olodaterol for the treatment of COPD. In addition, several firms are reported to be developing new formulations of salmeterol- fluticasone and formoterol-budesonide which may be marketed as generics or branded generics relative to the existing products from GSK and AstraZeneca, respectively. In late 2013, the Sandoz division of Novartis announced a first approval for AirFluSal® (a branded generic containing salmeterol-fluticasone) in Denmark with further EU approval expected in coming months. All of these efforts represent potential competition for any product from our LABA collaboration.

VIBATIV® (telavancin). VIBATIV® competes with vancomycin, a generic drug that is manufactured by a variety of companies, as well as other drugs marketed to treat complicated skin and skin structure infections and hospital-acquired and ventilator-associated bacterial pneumonia caused by Gram-positive bacteria. Currently marketed products include but are not limited to Cubicin® (daptomycin) marketed by Cubist Pharmaceuticals, Zyvox® (linezolid) and Tygacil® (tigecycline) both marketed by Pfizer, and Teflaro® (ceftaroline) marketed by Forest Laboratories. To compete effectively with these medicines, and in particular with the relatively inexpensive generic option of vancomycin, we will need to demonstrate to physicians that, based on experience, clinical data, side-effect profiles and other factors, VIBATIV® is a suitable alternative to vancomycin and other existing or subsequently-developed anti-infective drugs in certain clinical situations.

In addition, as the principles of multivalent medicine design become more widely known and appreciated based on patent and scientific publications and regulatory filings, we expect the field to become highly competitive. Pharmaceutical companies, biotechnology companies and academic and research institutions may seek to develop product candidates based upon the principles underlying our multivalent technologies.

Employees

As of December 31, 2013, we had 241 employees, of which 183 were engaged primarily in research and development activities. None of our employees are represented by a labor union. We consider our employee relations to be good.

Available Information

Our Internet address is *www.theravance.com*. Our investor relations website is located at *http://ir.theravance.com*. We make available free of charge on our investor relations website under "SEC Filings" our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, our directors' and officers' Section 16 Reports and any amendments to those reports as soon as reasonably practicable after filing or furnishing such materials to the U.S. Securities and Exchange Commission (SEC). The information found on our website is not part of this or any other report that we file with or furnish to the SEC. Theravance and the Theravance logo are registered trademarks of Theravance, Inc. Trademarks, tradenames or service marks of other companies appearing in this report are the property of their respective owners.

ITEM 1A. RISK FACTORS

Risks Related to our Business

If the commercialization of RELVAR®/BREO® ELLIPTA® in the countries in which it has received regulatory approval encounter any delays or adverse developments, or perceived delays or adverse developments, or if sales or payor coverage do not meet investor expectations, our business will be harmed, and the price of our securities could fall.

Under our agreements with our collaborative partner GSK, GSK has full responsibility for commercialization of BREO® ELLIPTA® and RELVAR® ELLIPTA®. GSK launched BREO® ELLIPTA® into the U.S. and Canadian markets in October 2013 and January 2014, respectively. GSK launched RELVAR® ELLIPTA® in Japan during December 2013 and in the United Kingdom, Germany and Denmark during January 2014. BREO® ELLIPTA® is the proprietary name in the United States (U.S.) and Canada and RELVAR® ELLIPTA® is the proprietary name outside the U.S. and Canada. As we expected, the initial launch of BREO® ELLIPTA® has been relatively slow, as this is a primary care product and we believe it will take time to obtain payor coverage and increase physician awareness. However, any delays or adverse developments or perceived delays or adverse developments with respect to the commercialization of RELVAR®/BREO® ELLIPTA® in the U.S., Europe, Japan, Canada or other countries in which RELVAR®/BREO® ELLIPTA® has received regulatory approval, including if sales or payor coverage do not meet investor expectations, will significantly harm our business and could cause the price of our securities to fall.

If the commercialization of ANORO™ ELLIPTA™ (UMEC/VI) in the U.S. or Canada encounters any delays or adverse developments, or perceived delays or adverse developments, or if sales or payor coverage do not meet investor expectations, our business will be harmed, and the price of our securities could fall.

Following the December 2013 approval of ANORO™ ELLIPTA™ (UMEC/VI) by the U.S. Food and Drug Administration (FDA), GSK plans to begin U.S. launch activities during the first quarter of 2014. Any delays or adverse developments or perceived delays or adverse developments with respect to the commercialization of ANORO™ ELLIPTA™ in the U.S. or Canada, including if sales or payor coverage do not meet investor expectations, will significantly harm our business and could cause the price of our securities to fall.

Any adverse developments or results or perceived adverse developments or results with respect to the Phase 3 programs for FF/VI in asthma or chronic obstructive pulmonary disease (COPD), for UMEC/VI in COPD or any future studies will significantly harm our business and could cause the price of our securities to fall, and If regulatory authorities in those countries in which approval has not yet been granted determine that the Phase 3 programs for FF/VI in asthma or COPD or the Phase 3 programs for UMEC/VI for COPD do not demonstrate adequate safety and efficacy, the continued development of FF/VI or UMEC/VI or both may be significantly delayed, they may not be approved by these regulatory authorities, and even if approved it may be subject to restrictive labeling, any of which will harm our business, and the price of our securities could fall.

Although we have announced the completion of, and reported certain top-line data from, the Phase 3 registrational program for FF/VI in COPD and asthma, additional studies of FF/VI are underway. In September 2012, GSK announced that it was commencing an additional Phase 3 study to complete the U.S. asthma filing package. The Phase 3b program for FF/VI in COPD commenced in February 2011. Any adverse developments or results or perceived adverse developments or results with respect to the asthma Phase 3 study, the COPD Phase 3b program or any future studies will significantly harm our business and could cause the price of our securities to fall.

Although the FDA and Health Canada approved ANORO™ ELLIPTA™ in December 2013, it has not yet been approved in other countries. GSK submitted a regulatory application for UMEC/VI (proposed brand name ANORO®) for the treatment of COPD in Europe in January 2013 which was accepted for review and in February 2014 GSK and we announced that the European Medicines

Agency's (EMA) Committee for Medicinal Products for Human Use (CHMP) issued a positive opinion recommending marketing authorization for UMEC/VI (under the proposed brand name ANORO®) as a once-daily, maintenance bronchodilator treatment to relieve symptoms in adult patients with COPD. A CHMP positive opinion is one of the final steps before marketing authorization is granted by the European Commission, but does not always result in marketing authorization. A final decision by the European Commission is anticipated during the second quarter of 2014. GSK also submitted a regulatory application for UMEC/VI (proposed brand name ANORO™ ELLIPTA™) in Japan in April 2013, which submission has been accepted for review. GSK plans to make regulatory submissions in other countries for FF/VI and UMEC/VI. Any adverse developments or results or perceived adverse developments or results with respect to these regulatory submissions (such as the 2013 withdrawal of the COPD submission from the Japanese New Drug Application), the FF/VI program, or the UMEC/VI program will significantly harm our business and could cause the price of our securities to fall. Examples of such adverse developments include, but are not limited to:

- not every study, nor every dose in every study, in the Phase 3 programs for FF/VI achieved its primary endpoint and regulatory authorities may determine that additional clinical studies are required;
- inability to gain, or delay in gaining, regulatory approval outside the countries in which regulatory approval has already been received, for the new ELLIPTA® investigational dry powder inhaler used in these programs;
- safety, efficacy or other concerns arising from clinical or non-clinical studies in these programs having to do with the LABA VI, which is a component of FF/VI and UMEC/VI;
- safety, efficacy or other concerns arising from clinical or non-clinical studies in these programs. For example, GSK is investigating seven cases of fatal pneumonia in the Phase 3 FF/VI COPD program, six of which were at a dose that is higher than the dose being pursued for approval and a majority of which occurred at one clinical site;
- regulatory authorities determining that the Phase 3 programs in asthma or in COPD raise safety concerns or do not demonstrate adequate efficacy; or
- any change in FDA policy or guidance regarding the use of LABAs to treat asthma or the use of LABAs combined with a LAMA to treat COPD.

On February 18, 2010, the FDA announced that LABAs should not be used alone in the treatment of asthma and will require manufacturers to include this warning in the product labels of these drugs, along with taking other steps to reduce the overall use of these medicines. The FDA now requires that the product labels for LABA medicines reflect, among other things, that the use of LABAs is contraindicated without the use of an asthma controller medication such as an inhaled corticosteroid, that LABAs should only be used long-term in patients whose asthma cannot be adequately controlled on asthma controller medications, and that LABAs should be used for the shortest duration of time required to achieve control of asthma symptoms and discontinued, if possible, once asthma control is achieved. In addition, on March 10 and 11, 2010, the FDA held an Advisory Committee to discuss the design of medical research studies (known as "clinical trial design") to evaluate serious asthma outcomes (such as hospitalizations, a procedure using a breathing tube known as intubation, or death) with the use of LABAs in the treatment of asthma in adults, adolescents, and children. Further, in April 2011, the FDA announced that to further evaluate the safety of LABAs, it is requiring the manufacturers of currently marketed LABAs to conduct additional randomized, double-blind, controlled clinical trials comparing the addition of LABAs to inhaled corticosteroids versus inhaled corticosteroids alone. Results from these post-marketing studies are expected in 2017. It is unknown at this time what, if any, effect these or future FDA actions will have on the prospects for FF/VI. The current uncertainty regarding the FDA's position on LABAs for the treatment of asthma and the lack of consensus expressed at the March 2010 Advisory Committee may result in the FDA requiring

additional asthma clinical trials in the U.S. for FF/VI and increase the overall risk for FF/VI for the treatment of asthma in the U.S.

If the MABA program for the treatment of COPD encounters further delays, does not demonstrate safety and efficacy or is terminated, our business will be harmed, and the price of our securities could fall.

The lead compound, GSK961081 ('081), in the bifunctional muscarinic antagonist-beta2 agonist (MABA) program with GSK has completed a Phase 2b study, a Phase 1 study in combination with fluticasone propionate (FP), an inhaled corticosteroid (ICS), and a number of Phase 3-enabling non-clinical studies. GSK recently initiated preclinical Phase 3 enabling studies in the combination '081/FF program. In mid-2013 GSK made a decision to move away from twice-daily option with fluticasone propionate (FP) in the Diskus® inhaler to the combination of '081/FF delivered once-daily in the ELLIPTA™ inhaler which requires additional work on non-clinical studies, manufacturing and a Phase 1 bioequivalence study. We are in further discussions with GSK regarding the '081 monotherapy program but we believe it is unlikely that a Phase 3 study with '081 monotherapy will commence in 2014. Any further delays or adverse developments or results or perceived adverse developments or results with respect to the MABA program will harm our business and could cause the price of our securities to fall. Examples of such adverse developments include, but are not limited to:

- GSK deciding to further delay or halt development of '081 monotherapy or the combination '081/FF);
- the FDA and/or other regulatory authorities determining that any of the '081 studies do not demonstrate adequate safety or efficacy, or that additional non-clinical or clinical studies are required with respect to the MABA program;
- inability to gain, or delay in gaining, regulatory approval outside the U.S., EU, Canada, Japan and other countries in which regulatory approval has been received, for the new ELLIPTA® investigational dry powder inhaler used in these programs;
- safety, efficacy or other concerns arising from clinical or non-clinical studies in this program; or
- any change in FDA policy or guidance regarding the use of MABAs to treat COPD.

In February 2014, GSK noted an intention to move the UMEC/VI/FF (LABA/LAMA/ICS) program being developed under our LABA collaboration into Phase 3 in 2014 or 2015. If GSK is unable to meet that goal, if the program encounters delays, does not demonstrate safety and efficacy, is terminated, or if there are any adverse developments or perceived adverse developments with respect to the program, our business will be harmed, and the price of our securities could fall.

Under the collaboration agreements between the parties, GSK and Theravance are exploring various paths to create triple therapy respiratory medications. The use of triple therapy is supported by the GOLD (Global initiative for chronic Obstructive Lung Disease) guidelines in high-risk patients with severe COPD and a high risk of exacerbations. One potential triple therapy path is the combination of UMEC/VI (two separate bronchodilators) and FF (an inhaled corticosteroid), to be administered via the ELLIPTA® dry powder inhaler, referred to as UMEC/VI/FF. In February 2014, GSK noted an intention to move UMEC/VI/FF into Phase 3 in 2014 or 2015. If GSK is unable to meet that goal, if the program encounters delays, does not demonstrate safety and efficacy, is terminated, or if there are any adverse developments or perceived adverse developments with respect to the program, our business will be harmed, and the price of our securities could fall.

In April 2013 we announced our intention to separate our businesses into two independent, publicly traded companies by separating our late-stage partnered respiratory assets from our biopharmaceutical operations; the lengthy, complicated and ongoing process to separate the two businesses has and will continue to divert the attention of our management and employees, may disrupt our operations, has and will continue to increase our professional services expenses and may not be consummated in the second quarter of 2014 or at all.

On April 25, 2013 we announced our intention to separate our businesses into two independent, publicly traded companies. On August 1, 2013, the company to be spun-off, Theravance Biopharma, Inc. (Theravance Biopharma), filed a preliminary Form 10 with the SEC, and subsequent amendments on September 27, 2013, October 29, 2013 and November 22, 2013. After the spin-off, Theravance will be responsible for all development and commercial activities under the LABA collaboration and the Strategic Alliance agreements with GSK. Theravance will be eligible to receive the associated potential royalty revenues from FF/VI (RELVAR®/BREO® ELLIPTA®), UMEC/VI (ANORO™ ELLIPTA™) and potentially VI monotherapy and 15% of the potential royalty revenues from UMEC/VI/FF, MABA, and MABA/FF and other products that may be developed under the LABA collaboration and Strategic Alliance agreements. Theravance Biopharma will be a biopharmaceutical company focusing on the discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. Our ability to effect the business separation is subject to the completion of numerous tasks, including but not limited to the preparation of audited financial statements for the new company, the completion of required regulatory filings, the receipt of a private letter ruling from the Internal Revenue Service (should we determine to wait to receive such a ruling before proceeding with the separation), and obtaining the consent of third parties to the transfer of contractual rights to the new company. The failure to obtain necessary approvals and consents could delay or make impractical our plan to effect the business separation. In addition, other transactions or developments could delay, prevent the completion of, or otherwise adversely affect the planned business separation. If the separation is not completed by June 30, 2014, GSK's consent to the terms of the separation will expire and we would have to determine whether to re-seek GSK's consent, proceed without GSK's consent or not proceed. If the business separation is delayed or not consummated for any reason, we will not realize the anticipated benefits of the business separation as expected or at all, and the price of our securities is likely to fall.

In conjunction with the planned spin-off of Theravance Biopharma, on March 3, 2014, we, Theravance Biopharma and GSK entered into a series of agreements clarifying how the companies will implement the separation and operate following the spin-off. We, Theravance Biopharma and GSK entered into a three-way master agreement providing for GSK's consent to the spin-off provided certain conditions are met. We and GSK also entered into amendments of our LABA Collaboration Agreement and Strategic Alliance Agreement, and Theravance Biopharma and GSK entered into a governance agreement, a registration rights agreement and an extension agreement. The master agreement is currently effective, but will terminate if the spin-off is not effected by June 30, 2014, and the other agreements will become effective upon the spin-off, provided that the spin-off is effected on or before June 30, 2014.

The amendments to the LABA collaboration agreement and the strategic alliance agreement do not change the royalty rates or other economic terms. The amendments do provide that GSK's diligent efforts obligations regarding commercialization matters under both agreements will change upon regulatory approval in either the United States or the European Union of UMEC/VI/FF or a MABA combined with FF. Upon such regulatory approval, GSK's diligent efforts obligations as to commercialization matters under the GSK Agreements will have the objective of focusing on the best interests of patients and maximizing the net value of the overall portfolio of products under the collaboration agreement and strategic alliance agreement. Since GSK's commercialization efforts following such regulatory approval will be guided by a portfolio approach across products that we will retain our full interests in upon the separation and also products that we will have retained only a portion of our interests in upon the spin-off transaction, GSK's commercialization efforts may have the

effect of reducing the overall value of our remaining interests in the GSK Agreements after the spin-off.

The process of planning for and effecting the business separation will continue to demand a significant amount of time and effort from our management and certain employees. The diversion of our management's and employees' attention to the business separation process has and may continue to disrupt our operations and may adversely impact the progress of our discovery and development efforts, disrupt our relationships with collaborators and increase employee turnover.

We currently anticipate funding Theravance Biopharma with approximately $300 million at separation. We expect this initial cash will fund the new company's operations through significant potential corporate milestones for approximately the next two to three years after the completion of the spin-off, based on current operating plans and financial forecasts. Changes in our development or operating plans, the timing of, and our cash balance at the time of, the spin-off, however, could affect the amount of cash available for the two companies at the time of separation and the initial cash funding needed to adequately capitalize both companies. In addition, any delays in completion of the planned separation may increase the amount of time, effort, and expense that we devote to the transaction and reduce the amount of funding available to both companies.

We cannot assure you that we will not undertake additional restructuring activities, that the planned business separation will be completed or if completed will succeed, or that the actual results will not differ materially from the results that we anticipate.

We have and will continue to incur significant expenditures for professional services in connection with our planning and implementation of the business separation, including financial advisory, accounting and legal fees.

Under the terms of a separation and distribution agreement to be entered into between us and Theravance Biopharma, Theravance Biopharma will indemnify us from and after the spin-off with respect to (i) all debts, liabilities and obligations transferred to Theravance Biopharma in connection with the spin-off (including its failure to pay, perform or otherwise promptly discharge any such debts, liabilities or obligations after the spin-off), (ii) any misstatement or omission of a material fact in its information statement filed with the SEC, resulting in a misleading statement and (iii) any breach by it of certain agreements entered into between the parties in connection with the spin-off. Theravance Biopharma's ability to satisfy these indemnities, if called upon to do so, will depend upon its future financial strength and if we are not able to collect on indemnification rights from Theravance Biopharma, our financial condition may be harmed.

Under the terms of a transition services agreement to be entered into between us and Theravance Biopharma, Theravance Biopharma will provide us with a variety of administrative services for a period of time following the spin-off, including (i) record keeping support, (ii) finance, tax and accounting support to assist us in a secondary capacity to our own personnel, (iii) legal support, (iv) human resources support and (v) facilities support to the extent we continue to occupy separate space at our current South San Francisco, California facilities. We will be relying on Theravance Biopharma for execution of these administrative activities through the transition period, which is a period when Theravance Biopharma personnel will be highly focused on supporting their own newly public company. If there is any disruption in the provision of these services to us, or if the services provided to us are not provided in a timely or satisfactory manner, our business operations could be adversely affected.

The amount of our net operating losses that will be used as a result of pre-spin-off restructuring is uncertain.

As a part of the overall spin-off transaction, it is anticipated that certain assets that are transferred by us to Theravance Biopharma will result in taxable transfers pursuant to Section 367 of the Internal Revenue Code of 1986, as amended (the "Code"), or other applicable provisions of the Code and Treasury Regulations. The taxable gain recognized by us attributable to the transfer of certain assets to

Theravance Biopharma will equal the excess of the fair market value of each asset transferred over our adjusted tax basis in such asset. Although our basis in the cash we transfer to Theravance Biopharma will be equal to the amount of cash (and, therefore, we will recognize no gain on the transfer of such cash), our basis in some assets (other than cash) transferred to Theravance Biopharma may be significantly less than their associated fair market values, which could result in substantial taxable gain to us. The determination of the fair market value of non publicly traded assets is subjective and could be subject to adjustments or future challenge by the Internal Revenue Service ("IRS"), which could result in an increase in the amount of gain, and thus U.S. federal income tax, realized by us as a result of the transfer. Our U.S. federal income tax resulting from any gain realized upon the transfer of our assets to Theravance Biopharma (including any increased U.S. federal income tax that may result from a subsequent determination of higher fair market values of the transferred assets), may be reduced by our net operating loss carryforward. Although federal and state tax laws impose restrictions on the utilization of net operating losses in the event of an ownership change, as defined in Section 382 of the Code, we conducted an analysis to determine whether an ownership change had occurred since inception through December 31, 2013, and concluded that we had undergone two ownership changes in prior years. However, notwithstanding the applicable annual limitations, we estimate that no portion of the net operating loss or credit carryforwards will expire before becoming available to reduce federal and state income tax liabilities. We had approximately $1.4 billion of net operating loss as of December 31, 2013. We expect our net operating loss carryforward and current projected losses will fully offset the U.S. federal income tax resulting from the gains we will realize in connection with the pre spin-off restructuring. However, the amount of our net operating loss carryforward that will be used is uncertain as we are not seeking a pre-spin-off appraisal of the fair market value of our transferred assets, but instead will be determining fair market values after the spin-off in significant part on the trading prices of Theravance Biopharma shares following the spin-off.

If the distribution is determined to be taxable for U.S. federal income tax purposes, our shareholders could incur significant U.S. federal income tax liabilities.

We intend to seek a private letter ruling from the IRS regarding the U.S. federal income tax consequences of the distribution of the Theravance Biopharma common shares to our stockholders substantially to the effect that the distribution, except for cash received in lieu of a fractional share of the Theravance Biopharma common shares, will qualify as tax free under Sections 368(a)(1)(D) and 355 of the Code and, that, for U.S. federal income tax purposes, no gain or loss will be recognized by a holder of our common stock upon the receipt of the Theravance Biopharma common shares pursuant to the distribution. As part of the IRS' general policy with respect to rulings on spin-off transactions (including the distribution), the private letter ruling requested by us will not be based upon a determination by the IRS that certain conditions which are necessary to obtain tax free treatment under Section 355 of the Code have been satisfied. Rather, the private letter ruling relies or will rely on certain facts and assumptions, and certain representations and undertakings, from us and Theravance Biopharma regarding the past and future conduct of our respective businesses and other matters. Notwithstanding the private letter ruling, the IRS could determine on audit that the distribution or certain related transactions should be treated as taxable transactions if it determines that any of these facts, assumptions, representations or undertakings is not correct or has been violated or that the distributions should be taxable for other reasons, including as a result of significant changes in stock or asset ownership after the distribution. In addition, the receipt of a private letter ruling is not a condition to the distribution, and the spin-off may occur prior to the receipt of such ruling. If the distribution ultimately is determined to be taxable for U.S. federal income tax purposes, the distribution could be treated as a taxable dividend or capital gain to you for U.S. federal income tax purposes, and you could incur significant U.S. federal income tax liabilities.

Completion of the Proposed Spin-off of Theravance Biopharma will result in substantial changes in our Board and management.

After the spin-off, our Chief Executive Officer is expected to work part time for us and part time for Theravance Biopharma and this arrangement is expected to last until the earlier of recruitment and transition of a new chief executive officer for Theravance or nine months following the spin-off. Although we will benefit from his deep knowledge of our business, as well as his familiarity with our systems, policies, procedures and mode of operation, the lack of his full time focus on our business may dilute his effectiveness on our behalf and therefore hurt our business. In addition, we also anticipate that some or all of the other senior officers remaining at Theravance may become officers of Theravance Biopharma following the spin-off as we recruit and integrate new officers for our royalty management business. Some of these senior officer transitions may occur quickly after the spin-off depending in part on our success in recruiting and integrating new officers into our management. We also anticipate that substantially all of the current members of our Board of Directors other than Mr. Winningham and Mr. Waltrip will resign from our Board of Directors prior to the spin-off. We are currently engaged in a search to locate additional independent board members. At the time of the spin-off and for a period of time thereafter, these senior officer and board level changes could be disruptive to our operations, present significant management challenges and could harm our business.

If we cannot identify a suitable commercialization partner for VIBATIV® in the U.S. we will bear the full cost of developing the capability to market, sell and distribute the product.

Our general strategy is to engage pharmaceutical or other healthcare companies with an existing sales and marketing organization and distribution system to market, sell and distribute our products. We may not be able to establish these sales and distribution relationships on acceptable terms, or at all. For any of our product candidates that receive regulatory approval in the future and are not covered by our current collaboration agreements, we will need a partner in order to commercialize such products unless we establish independent sales, marketing and distribution capabilities with appropriate technical expertise and supporting infrastructure. VIBATIV® was returned to Theravance by Astellas Pharma Inc. (Astellas) (our former VIBATIV® collaboration partner) in January 2012. On August 14, 2013 we announced the reintroduction of VIBATIV® to the U.S. market with the commencement of shipments into the wholesaler channel. While we have contracted a small sales force and expanded our medical affairs presence, other commercialization alternatives for the U.S. market are being evaluated. The risks of commercializing VIBATIV® in the U.S. without a partner include:

- costs and expenses associated with creating an independent sales and marketing organization with appropriate technical expertise and supporting infrastructure and distribution capability, which costs and expenses could, depending on the scope and the method of the marketing effort, exceed any product revenue from VIBATIV® for several years;
- our unproven ability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the unproven ability of sales personnel to obtain access to or educate adequate numbers of physicians about prescribing VIBATIV® in appropriate clinical situations; and
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines.

Since our reintroduction of VIBATIV® to the U.S. market in August 2013, we have recognized only approximately $0.9 million as deferred revenue on our balance sheet, reflecting our limited sales, marketing and medical affairs investment and the relatively slow sales ramp for a hospital-based antibiotic. If we are not able to partner VIBATIV® in the U.S. with a third party with marketing, sales and distribution capabilities and if we are not successful in recruiting sales and marketing personnel or in building an internal sales and marketing organization with appropriate technical expertise and supporting infrastructure and distribution capability, we will have difficulty in successfully commercializing VIBATIV® in the U.S., which would adversely affect our business and financial condition and which could cause the price of our securities to fall.

With regard to all of our programs, any delay in commencing or completing clinical studies for product candidates and any adverse results from clinical or non-clinical studies or regulatory obstacles product candidates may face, would harm our business and could cause the price of our securities to fall.

Each of our product candidates must undergo extensive non-clinical and clinical studies as a condition to regulatory approval. Non-clinical and clinical studies are expensive, take many years to complete and study results may lead to delays in further studies or decisions to terminate programs.

The commencement and completion of clinical studies for our product candidates may be delayed and programs may be terminated due to many factors, including, but not limited to:

- lack of effectiveness of product candidates during clinical studies (for example, in 2013 when TD-9855 did not meet the primary efficacy endpoints in the Phase 2 study in adult patients with Attention-Deficit/Hyperactivity Disorder);
- adverse events, safety issues or side effects relating to the product candidates or their formulation into medicines;
- inability to raise additional capital in sufficient amounts to continue our development programs, which are very expensive;
- the need to sequence clinical studies as opposed to conducting them concomitantly in order to conserve resources;
- our inability to enter into partnering arrangements relating to the development and commercialization of our programs and product candidates;
- our inability or the inability of our collaborators or licensees to manufacture or obtain from third parties materials sufficient for use in non-clinical and clinical studies;
- governmental or regulatory delays and changes in regulatory requirements, policy and guidelines;
- failure of our partners to advance our product candidates through clinical development;
- delays in patient enrollment and variability in the number and types of patients available for clinical studies;
- difficulty in maintaining contact with patients after treatment, resulting in incomplete data;
- varying regulatory requirements or interpretations of data among the FDA and foreign regulatory authorities; and
- a regional disturbance where we or our collaborative partners are enrolling patients in clinical trials, such as a pandemic, terrorist activities or war, political unrest or a natural disaster.

If our product candidates that we develop on our own or with collaborative partners are not approved by regulatory authorities, including the FDA, we will be unable to commercialize them.

The FDA must approve any new medicine before it can be marketed and sold in the United States. We must provide the FDA and similar foreign regulatory authorities with data from preclinical and clinical studies that demonstrate that our product candidates are safe and effective for a defined indication before they can be approved for commercial distribution. We will not obtain this approval for a product candidate unless and until the FDA approves a NDA. The processes by which regulatory approvals are obtained from the FDA to market and sell a new product are complex, require a number of years and involve the expenditure of substantial resources. In order to market our medicines in foreign jurisdictions, we must obtain separate regulatory approvals in each country. The approval procedure varies among countries and can involve additional testing, and the time required to obtain approval may differ from that required to obtain FDA approval. Approval by the FDA does not ensure

approval by regulatory authorities in other countries, and approval by one foreign regulatory authority does not ensure approval by regulatory authorities in other foreign countries or by the FDA. Conversely, failure to obtain approval in one or more jurisdictions may make approval in other jurisdictions more difficult.

Clinical studies involving our product candidates may reveal that those candidates are ineffective, inferior to existing approved medicines, unacceptably toxic, or that they have other unacceptable side effects. In addition, the results of preclinical studies do not necessarily predict clinical success, and larger and later-stage clinical studies may not produce the same results as earlier-stage clinical studies.

Frequently, product candidates that have shown promising results in early preclinical or clinical studies have subsequently suffered significant setbacks or failed in later clinical or non-clinical studies. In addition, clinical and non-clinical studies of potential products often reveal that it is not possible or practical to continue development efforts for these product candidates. If these studies are substantially delayed or fail to prove the safety and effectiveness of our product candidates in development, we may not receive regulatory approval of any of these product candidates and our business and financial condition will be materially harmed and the price of our securities may fall.

If any product candidates, in particular those in any respiratory program with GSK, are determined to be unsafe or ineffective in humans, our business will be adversely affected and the price of our securities could fall.

Although VIBATIV®, discovered and developed by us, is approved in the U.S. and Canada, and RELVAR®/BREO® ELLIPTA® developed in collaboration with GSK, is approved in the U.S., EU, Japan, Canada, and a number of other countries, and ANORO™ ELLIPTA™ is approved in the U.S. and Canada, none of our other product candidates have been approved by regulatory authorities. We are uncertain whether any of our other product candidates and our collaborative partners' product candidates will prove effective and safe in humans or meet applicable regulatory standards. In addition, our approach to applying our expertise in multivalency to drug discovery may not result in the creation of successful medicines. The risk of failure for our product candidates is high. For example, in late 2005, we discontinued our overactive bladder program based upon the results of our Phase 1 studies with compound TD-6301, and GSK discontinued development of TD-5742, the first LAMA compound licensed from us, after completing a single-dose Phase 1 study. More recently, in 2013 we discontinued the development of TD-9855 in adult patients with Attention-Deficit/Hyperactivity Disorder because it did not meet the primary efficacy endpoints in a Phase 2 study. In addition, although we believe the results of our Phase 2b program with TD-1211, our investigational mu-opioid antagonist, support progression into Phase 3 development, the FDA appears to be exploring whether there is evidence of a potential cardiovascular class effect related to opioid withdrawal associated with mu-opioid antagonists. Accordingly, we are currently evaluating our Phase 3 strategy due to the potentially evolving FDA requirements in this area. The data supporting our drug discovery and development programs is derived solely from laboratory experiments, non-clinical studies and clinical studies. A number of other compounds remain in the lead identification, lead optimization, preclinical testing or early clinical testing stages.

Several well-publicized Complete Response letters issued by the FDA and safety-related product withdrawals, suspensions, post-approval labeling revisions to include boxed warnings and changes in approved indications over the last several years, as well as growing public and governmental scrutiny of safety issues, have created a conservative regulatory environment. The implementation of new laws and regulations and revisions to FDA clinical trial design guidance have increased uncertainty regarding the approvability of a new drug. Further, there are additional requirements for approval of new drugs, including advisory committee meetings for new chemical entities, and formal risk evaluation and mitigation strategy at the FDA's discretion. These laws, regulations, additional requirements and

changes in interpretation could cause non-approval or further delays in the FDA's review and approval of our and our collaborative partner's product candidates.

We rely on a single manufacturer for the Active Pharmaceutical Ingredient (API) for telavancin and a separate, single manufacturer for VIBATIV® drug product supply. Our business will be harmed if either of these single-source manufacturers are not able to satisfy demand and alternative sources are not available.

We have a single source of supply of API for telavancin and another, separate single source of supply of VIBATIV® drug product. If, for any reason, either single-source third party manufacturer of telavancin API or of VIBATIV® drug product is unable or unwilling to perform, or if its performance does not meet regulatory requirements, including maintaining current Good Manufacturing Practice (cGMP) compliance, we may not be able to locate alternative manufacturers, enter into acceptable agreements with them or obtain sufficient quantities of API or finished drug product in a timely manner. Any inability to acquire sufficient quantities of API or finished drug product in a timely manner from current or future sources would adversely affect the commercialization of VIBATIV® and could cause the price of our securities to fall.

Our previous VIBATIV® commercialization partner failed to maintain a reliable source of drug product supply which resulted in critical product shortages and, eventually, suspension of commercialization. In addition, the E.U. marketing authorization for VIBATIV® has been suspended since May 2012 because our previous VIBATIV® commercialization partner's single-source VIBATIV® drug product supplier at that time did not meet cGMP requirements for the manufacture of VIBATIV®. The CHMP has recommended lifting the suspension of the marketing authorization for VIBATIV and we currently believe the suspension could be lifted as soon as the end of the first quarter of 2014. Manufacturing of E.U. approved VIBATIV® finished drug product currently is scheduled for the first half of 2014. Any failure to remove the E.U. marketing authorization suspension or manufacture E.U. approved drug product on a timely basis will continue to delay the commercial introduction of VIBATIV® in the E.U. and Canada. In May 2012, we entered into an agreement with Hospira Worldwide, Inc. (Hospira) to supply VIBATIV® drug product. In June 2013 the FDA approved Hospira as a VIBATIV® drug product manufacturer. Although we believe that Hospira will be a reliable supplier of VIBATIV® drug product, if it cannot perform or if its performance does not meet regulatory requirements, including maintaining cGMP compliance, and if commercial manufacture of VIBATIV® drug product cannot be arranged elsewhere on a timely basis, the commercialization of VIBATIV® in the U.S. could be adversely affected and the commercial introduction of VIBATIV® in the E.U. and Canada will be further delayed.

We rely on a single source of supply for a number of our product candidates, and our business will be harmed if any of these single-source manufacturers are not able to satisfy demand and alternative sources are not available.

We have limited in-house production capabilities for preclinical and clinical study purposes, and depend primarily on a number of third-party API and drug product manufacturers. We may not have long-term agreements with these third parties and our agreements with these parties may be terminable at will by either party at any time. If, for any reason, these third parties are unable or unwilling to perform, or if their performance does not meet regulatory requirements, we may not be able to locate alternative manufacturers or enter into acceptable agreements with them. Any inability to acquire sufficient quantities of API and drug product in a timely manner from these third parties could delay preclinical and clinical studies, prevent us from developing our product candidates in a cost-effective manner or on a timely basis. In addition, manufacturers of our API and drug product are subject to the FDA's cGMP regulations and similar foreign standards and we do not have control over compliance with these regulations by our manufacturers.

Our manufacturing strategy presents the following additional risks:

- because of the complex nature of many of our compounds, our manufacturers may not be able to successfully manufacture our APIs and/or drug products in a cost effective and/or timely manner and changing manufacturers for our APIs or drug products could involve lengthy technology transfer, validation and regulatory qualification activities for the new manufacturer;

- the processes required to manufacture certain of our APIs and drug products are specialized and available only from a limited number of third-party manufacturers;

- some of the manufacturing processes for our APIs and drug products have not been scaled to quantities needed for continued clinical studies or commercial sales, and delays in scale-up to commercial quantities could delay clinical studies, regulatory submissions and commercialization of our product candidates; and

- because some of the third-party manufacturers are located outside of the U.S., there may be difficulties in importing our APIs and drug products or their components into the U.S. as a result of, among other things, FDA import inspections, incomplete or inaccurate import documentation or defective packaging.

Even if our product candidates receive regulatory approval, as VIBATIV® has, commercialization of such products may be adversely affected by regulatory actions and oversight.

Even if we receive regulatory approval for our product candidates, this approval may include limitations on the indicated uses for which we can market our medicines or the patient population that may utilize our medicines, which may limit the market for our medicines or put us at a competitive disadvantage relative to alternative therapies. For example, the U.S. labeling for VIBATIV® contains a number of boxed warnings. Products with boxed warnings are subject to more restrictive advertising regulations than products without such warnings. In addition, the VIBATIV® labeling for hospital-acquired and ventilator associated bacterial pneumonia (HABP/VABP) in the U.S. and the E.U. specifies that VIBATIV® should be reserved for use when alternative treatments are not suitable. These restrictions make it more difficult to market VIBATIV®. With VIBATIV® approved in certain countries, we are subject to continuing regulatory obligations, such as safety reporting requirements and additional post-marketing obligations, including regulatory oversight of promotion and marketing.

In addition, the manufacturing, labeling, packaging, adverse event reporting, advertising, promotion and recordkeeping for the approved product remain subject to extensive and ongoing regulatory requirements. If we become aware of previously unknown problems with an approved product in the U.S. or overseas or at contract manufacturers' facilities, a regulatory authority may impose restrictions on the product, the contract manufacturers or on us, including requiring us to reformulate the product, conduct additional clinical studies, change the labeling of the product, withdraw the product from the market or require the contract manufacturer to implement changes to its facilities. For example, during the fourth quarter of 2011, the third party manufacturer of VIBATIV® drug product utilized by Theravance's former commercialization partner notified the FDA of an ongoing investigation related to its production equipment and processes. In response to this notice, Theravance's former VIBATIV® commercialization partner placed a voluntary hold on distribution of VIBATIV® to wholesalers and cancelled pending orders for VIBATIV® with this manufacturer. In April 2013, we were advised by the FDA that its consent decree with the manufacturer prohibited the distribution of the VIBATIV® drug product lots previously manufactured but unreleased by this manufacturer. As a result of this supply termination, commercialization of VIBATIV® ceased for well over a year.

We are also subject to regulation by regional, national, state and local agencies, including the Department of Justice, the Federal Trade Commission, the Office of Inspector General of the U.S. Department of Health and Human Services and other regulatory bodies with respect to VIBATIV®, as

well as governmental authorities in those foreign countries in which any of our product candidates are approved for commercialization. The Federal Food, Drug, and Cosmetic Act, the Public Health Service Act and other federal and state statutes and regulations govern to varying degrees the research, development, manufacturing and commercial activities relating to prescription pharmaceutical products, including non-clinical and clinical testing, approval, production, labeling, sale, distribution, import, export, post-market surveillance, advertising, dissemination of information and promotion. If we or any third parties that provide these services for us are unable to comply, we may be subject to regulatory or civil actions or penalties that could significantly and adversely affect our business. Any failure to maintain regulatory approval will limit our ability to commercialize our product candidates, which would materially and adversely affect our business and financial condition, which may cause the price of our securities to fall.

The risks identified in this risk factor relating to regulatory actions and oversight by agencies in the U.S. and throughout the world also apply to the commercialization of partnered products by our collaboration partners, and such regulatory actions and oversight may limit our collaboration partners' ability to commercialize such products, which could materially and adversely affect our business and financial condition, which may cause the price of our securities to fall.

We have incurred operating losses in each year since our inception and expect to continue to incur substantial losses for the foreseeable future.

We have been engaged in discovering and developing compounds and product candidates since mid-1997. We may never generate sufficient revenue from the sale of medicines or royalties on sales by our partners to achieve profitability. As of December 31, 2013, we had an accumulated deficit of approximately $1.5 billion.

We expect to incur substantial expenses as we continue our drug discovery and development efforts, particularly to the extent we advance our product candidates into and through clinical studies, which are very expensive. For example, TD-9855 in our MARIN program is in a Phase 2 study for fibromyalgia and in September 2013 we reported positive top line data from a Phase 2b study with TD-4208, our LAMA compound. Also, in July 2012, we announced positive results from the key study in our Phase 2b program with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid induced constipation. In February 2014, we announced that we intend to initiate a larger Phase 2b study with TD-4208, our LAMA compound, during the first half of 2014. Though we are seeking to partner these programs, we intend to initiate the second Phase 2b study with TD-4208 ourselves and we may choose to progress one or more other programs into later stage clinical studies by ourselves, which could increase our anticipated operating expenses substantially. Furthermore, should we decide to continue to commercialize VIBATIV® in the United States without a partner, we will incur costs and expenses associated with creating an independent sales and marketing organization with appropriate technical expertise, supporting infrastructure and distribution capabilities. As a result, we expect to continue to incur substantial losses for the foreseeable future. We are uncertain when or if we will be able to achieve or sustain profitability. Failure to become and remain profitable would adversely affect the price of our securities and our ability to raise capital and continue operations.

If we fail to maintain or obtain the capital necessary to fund our operations, we may be unable to develop our product candidates or commercialize VIBATIV® and we could be forced to share our rights to commercialize our product candidates with third parties on terms that may not be favorable to us.

We need large amounts of capital to support our research and development efforts. If we are unable to maintain or to secure capital to fund our operations we will not be able to continue our discovery and development efforts and we might have to enter into strategic collaborations that could require us to share commercial rights to our medicines to a greater extent than we currently intend. Based on our current operating plans and financial forecasts, we believe that our cash and cash

equivalents and marketable securities will be sufficient to meet our anticipated operating needs for at least the next twelve months. If our current operating plans and financial forecasts change, we may seek additional funding sooner in the form of public or private equity offerings or debt financings. For example, we announced that we intend to initiate a larger Phase 2b study with TD-4208 in our LAMA program during the first half of 2014, and if we choose to conduct Phase 3 studies with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid-induced constipation, or progress TD-9855 in our MARIN program into later stage development and we choose to progress any of these other programs on our own, our capital needs would increase substantially. We also intend to invest in other assets in our pipeline, including programs in earlier-stage clinical development and late-stage discovery. In addition, under our LABA collaboration with GSK, in the event that a product containing vilanterol (VI), which is the LABA product candidate in FF/VI, UMEC/VI and UMEC/VI/FF and which was discovered by GSK, is successfully developed and commercialized in multiple regions of the world as both a single-agent and a combination product or two different combination products, we will be obligated to pay GSK milestone payments that could total as much as $220.0 million. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and recognized a liability of $40.0 million as of December 31, 2013, we recorded an additional $15.0 million in January 2014, and we estimate that all the remaining milestone payments of $80.0 million could be payable by the end of 2014. We are not entitled to receive any further milestone payments from GSK under the LABA collaboration. Future financing to meet our capital needs may not be available in sufficient amounts or on terms acceptable to us, if at all. Even if we are able to raise additional capital, such financing may result in significant dilution to existing security holders. If we are unable to raise additional capital in sufficient amounts or on terms acceptable to us, we may have to make reductions in our workforce and may be prevented from continuing our discovery and development efforts and exploiting other corporate opportunities. This could harm our business, prospects and financial condition and cause the price of our securities to fall.

VIBATIV® may not be accepted by physicians, patients, third party payors, or the medical community in general.

The commercial success of VIBATIV® depends upon its acceptance by physicians, patients, third party payors and the medical community in general. We cannot be sure that VIBATIV® will be accepted by these parties. VIBATIV® competes with vancomycin, a relatively inexpensive generic drug that is manufactured by a variety of companies, and a number of existing antibacterials manufactured and marketed by major pharmaceutical companies and others, and may compete against new antibacterials that are not yet on the market. If we are unable to demonstrate to physicians that, based on experience, clinical data, side-effect profiles and other factors, VIBATIV® for the treatment of complicated skin and skin structure infections (cSSSI) and HABP/VABP caused by susceptible Gram-positive bacteria in adult patients is a suitable alternative to vancomycin and other antibacterial drugs in certain clinical situations, we may never generate meaningful revenue from VIBATIV® which could cause the price of our securities to fall. The degree of market acceptance of VIBATIV® depends on a number of factors, including, but not limited to:

- the demonstration of the clinical efficacy and safety of VIBATIV®;
- the experiences of physicians, patients and payors with the use of VIBATIV® in the U.S.;
- potential negative perceptions of physicians related to product shortages and regional supply outages that halted commercialization of VIBATIV®, stemming from the manufacturing issues at the previous drug product supplier;
- potential negative perceptions of physicians related to the European Commission's suspension of marketing authorization for VIBATIV® because our previous VIBATIV® commercialization

partner's single-source VIBATIV® drug product supplier did not meet the cGMP requirements for the manufacture of VIBATIV®;

- the advantages and disadvantages of VIBATIV® compared to alternative therapies;
- our ability to educate the medical community about the appropriate circumstances for use of VIBATIV®;
- the reimbursement policies of government and third party payors; and
- the market price of VIBATIV® relative to competing therapies.

If our partners do not satisfy their obligations under our agreements with them, or if they terminate our partnerships with them, we may not be able to develop or commercialize our partnered product candidates as planned.

We entered into our LABA collaboration agreement with GSK in November 2002, our strategic alliance agreement with GSK in March 2004, and our VIBATIV® collaboration agreement with Astellas in November 2005, which was terminated by Astellas in January 2012. In October 2012, we entered into an exclusive development and commercialization agreement with Alfa Wassermann for velusetrag, our lead compound in the 5-HT4 program, covering the EU, Russia, China, Mexico and certain other countries, and we entered into a research collaboration and license agreement with Merck to discover, develop and commercialize novel small molecule therapeutics for the treatment of cardiovascular disease on an exclusive, worldwide basis. In March 2013, we entered into a commercialization agreement with Clinigen Group plc for VIBATIV® in the European Union and certain other European countries (including Switzerland and Norway). In connection with these agreements, we have granted to these parties certain rights regarding the use of our patents and technology with respect to compounds in our development programs, including development and marketing rights. Under our GSK agreements, GSK has full responsibility for development and commercialization of FF/VI, UMEC/VI, UMEC/VI/FF, VI monotherapy and any product candidates in the MABA program. Any future milestone payments or royalties to us from these programs will depend on the extent to which GSK advances the product candidate through development and, if approved, commercialization. In September 2013, Merck provided Theravance notice of its termination of the Research Collaboration and License Agreement (which provided us with research funding for the program under license) and such termination became effective in December 2013. The Alfa Wassermann agreement provides us with development funding for velusetrag, our lead compound in the 5-HT4 program but if Alfa Wassermann decides not to progress the licensed program, we may not be able to develop or commercialize the program on our own.

Our partners might not fulfill all of their obligations under these agreements, and, in certain circumstances, they may terminate our partnership with them as Astellas did in January 2012 with its VIBATIV® agreement and as Merck did in September 2013 with the cardiovascular disease collaboration. In either event, we may be unable to assume the development and commercialization of the product candidates covered by the agreements or enter into alternative arrangements with a third party to develop and commercialize such product candidates. If a partner elected to promote its own products and product candidates in preference to those licensed from us, future payments to us could be reduced and our business and financial condition would be materially and adversely affected. Accordingly, our ability to receive any revenue from the product candidates covered by these agreements is dependent on the efforts of our partners. If a partner terminates or breaches its agreements with us, or otherwise fails to complete its obligations in a timely manner, the chances of successfully developing or commercializing product candidates under the collaboration could be materially and adversely affected. We could also become involved in disputes with a partner, which could lead to delays in or termination of our development and commercialization programs and time-consuming and expensive litigation or arbitration.

If we are unable to enter into future collaboration arrangements or if any such collaborations with third parties are unsuccessful, we will be unable to fully develop and commercialize our product candidates and our business will be adversely affected.

We have active collaborations with GSK for FF/VI, UMEC/VI, UMEC/VI/FF, VI monotherapy and the MABA program, with Alfa Wassermann for velusetrag, with Clinigen for VIBATIV® for the EU, and with other companies for regional development and commercialization of VIBATIV®. Additional collaborations will be needed to fund later-stage development of our product candidates that have not been licensed to a collaborator or for territory that is not covered by the collaboration, and to commercialize these product candidates if approved by the necessary regulatory authorities. Velusetrag, our lead compound in the 5 HT4 program, and TD-1792, our investigational antibiotic have successfully completed a Phase 2 proof of concept study. In July 2012 we reported positive results from a Phase 2b study with TD-1211, the lead compound in our Peripheral Mu Opioid Receptor Antagonist program for opioid induced constipation and in September 2013 we reported positive top line results from a Phase 2b study with TD-4208 LAMA compound. In addition, in connection with the expansion of the MABA program under the strategic alliance with GSK in October 2011, GSK relinquished its right to option our MARIN program with TD-9855 and our ARNI program. We currently intend to seek additional third parties with which to pursue collaboration arrangements for the development and commercialization of our development programs and for the future commercialization of VIBATIV® in regions where it is not currently partnered. Collaborations with third parties regarding these programs or our other programs may require us to relinquish material rights, including revenue from commercialization of our medicines, on terms that are less attractive than our current arrangements or to assume material ongoing development obligations that we would have to fund. These collaboration arrangements are complex and time-consuming to negotiate, and if we are unable to reach agreements with third-party collaborators, we may fail to meet our business objectives and our financial condition may be adversely affected. We face significant competition in seeking third-party collaborators. We may be unable to find third parties to pursue product collaborations on a timely basis or on acceptable terms. Furthermore, for any collaboration, we may not be able to control the amount of time and resources that our partners devote to our product candidates and our partners may choose to prioritize alternative programs. Our inability to successfully collaborate with third parties would increase our development costs and would limit the likelihood of successful commercialization of our product candidates which may cause the price of our securities to fall.

We depend on third parties in the conduct of our clinical studies for our product candidates.

We depend on independent clinical investigators, contract research organizations and other third-party service providers in the conduct of our non-clinical and clinical studies for our product candidates. We rely heavily on these parties for execution of our non-clinical and clinical studies, and control only certain aspects of their activities. Nevertheless, we are responsible for ensuring that our clinical studies are conducted in accordance with good clinical practices ("GCPs") and other regulations as required by the FDA and foreign regulatory authorities, and the applicable protocol. Failure by these parties to comply with applicable regulations, GCPs and protocols in conducting studies of our product candidates can result in a delay in our development programs or non-approval of our product candidates by regulatory authorities.

The FDA enforces GCPs and other regulations through periodic inspections of trial sponsors, clinical research organizations (CROs), principal investigators and trial sites. If we or any of the third parties on which we have relied to conduct our clinical studies are determined to have failed to comply with GCPs, the study protocol or applicable regulations, the clinical data generated in our studies may be deemed unreliable. This could result in non-approval of our product candidates by the FDA, or we or the FDA may decide to conduct additional audits or require additional clinical studies, which would delay our development programs, could result in significant additional costs and could cause the price of our securities to fall.

We face substantial competition from companies with more resources and experience than we have, which may result in others discovering, developing, receiving approval for or commercializing products before or more successfully than we do.

Our ability to succeed in the future depends on our ability to demonstrate and maintain a competitive advantage with respect to our approach to the discovery and development of medicines. Our objective is to discover, develop and commercialize new small molecule medicines with superior efficacy, convenience, tolerability and/or safety using our proprietary insight in chemistry, biology and multivalency, where applicable. We expect that any medicines that we commercialize with our collaborative partners will compete with existing or future market-leading medicines.

Many of our potential competitors have substantially greater financial, technical and personnel resources than we have. In addition, many of these competitors have significantly greater commercial infrastructures than we have. Our ability to compete successfully will depend largely on our ability to leverage our experience in drug discovery and development to:

- discover and develop medicines that are superior to other products in the market;
- attract and retain qualified personnel;
- obtain patent and/or other proprietary protection for our medicines and technologies;
- obtain required regulatory approvals; and
- successfully collaborate with pharmaceutical companies in the discovery, development and commercialization of new medicines.

Established pharmaceutical companies may invest heavily to quickly discover and develop or in-license novel compounds that could make our product candidates obsolete. Accordingly, our competitors may succeed in obtaining patent protection, receiving FDA approval or discovering, developing and commercializing medicines before we do. Other companies are engaged in the discovery of medicines that would compete with the product candidates that we are developing.

Any new medicine that competes with a generic or proprietary market leading medicine must demonstrate compelling advantages in efficacy, convenience, tolerability and/or safety in order to overcome severe price competition and be commercially successful. VIBATIV® must demonstrate these advantages in certain circumstances, as it competes with vancomycin, a relatively inexpensive generic drug that is manufactured by a number of companies, and a number of existing antibacterial drugs marketed by major and other pharmaceutical companies. If we are not able to compete effectively against our current and future competitors, our business will not grow, our financial condition and operations will suffer and the price of our securities could fall.

As the principles of multivalency become more widely known, we expect to face increasing competition from companies and other organizations that pursue the same or similar approaches. Novel therapies, such as gene therapy or effective vaccines for infectious diseases, may emerge that will make both conventional and multivalent medicine discovery efforts obsolete or less competitive.

If we lose key management or scientific personnel, or if we fail to retain our key employees, our ability to discover and develop our product candidates will be impaired.

We are highly dependent on principal members of our management team and scientific staff to operate our business. Our company is located in northern California, which is headquarters to many other biotechnology and biopharmaceutical companies and many academic and research institutions. As a result, competition for certain skilled personnel in our market remains intense. None of our employees have employment commitments for any fixed period of time and they all may leave our employment at will. If we fail to retain our qualified personnel or replace them when they leave, we

may be unable to continue our development and commercialization activities, which may cause the price of our securities to fall.

Our business and operations would suffer in the event of system failures.

Although we have security measures in place, our internal computer systems and those of our CROs and other service providers are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Any material system failure, accident or security breach could result in a material disruption to our business. For example, the loss of clinical trial data from completed or ongoing clinical trials of our product candidates could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. If a disruption or security breach results in a loss of or damage to our data or regulatory applications, or inadvertent disclosure of confidential or proprietary information, we could incur liability, the further development of our product candidates could be delayed and the price of our securities could fall.

Our principal facility is located near known earthquake fault zones, and the occurrence of an earthquake, extremist attack or other catastrophic disaster could cause damage to our facilities and equipment, which could require us to cease or curtail operations.

Our principal facility is located in the San Francisco Bay Area near known earthquake fault zones and therefore is vulnerable to damage from earthquakes. In October 1989, a major earthquake struck this area and caused significant property damage and a number of fatalities. We are also vulnerable to damage from other types of disasters, including power loss, attacks from extremist organizations, fire, floods, communications failures and similar events. If any disaster were to occur, our ability to operate our business could be seriously impaired. In addition, the unique nature of our research activities and of much of our equipment could make it difficult for us to recover from this type of disaster. We may not have adequate insurance to cover our losses resulting from disasters or other similar significant business interruptions and we do not plan to purchase additional insurance to cover such losses due to the cost of obtaining such coverage. Any significant losses that are not recoverable under our insurance policies could seriously impair our business and financial condition, which could cause the price of our securities to fall.

Risks Related to our Alliance with GSK

Because GSK is a strategic partner as well as a significant stockholder, it may take actions that in certain cases are materially harmful to both our business or to our other stockholders.

Although GSK beneficially owns approximately 27.0% of our outstanding capital stock as of February 14, 2014, it is also a strategic partner with rights and obligations under our collaboration and strategic alliance agreements with GSK that cause its interests to differ from the interests of us and our other stockholders. In particular, GSK has a substantial respiratory product portfolio in addition to its products that are covered by our GSK agreements. GSK may make respiratory product portfolio decisions or statements about its portfolio which may be, or may be perceived to be, harmful to the respiratory products partnered with us. For example, GSK could promote its own respiratory products and/or delay or terminate the development or commercialization of the respiratory programs covered by our GSK agreements. Also, given the potential future royalty payments GSK may be obligated to pay under our GSK agreements, GSK may seek to acquire us to reduce those payment obligations. The timing of when GSK may seek to acquire us could potentially be when it possesses information regarding the status of drug programs covered by our GSK agreements that has not been publicly disclosed and is not otherwise known to us. As a result of these differing interests, GSK may take actions that it believes are in its best interest but which might not be in the best interests of either us or our other stockholders. In addition, upon regulatory approval of UMEC/VI/FF or a MABA/ICS in

either the U.S. or the European Union, GSK's diligent efforts obligations as to commercialization matters under the GSK Agreements will have the objective of focusing on the best interests of patients and maximizing the net value of the overall portfolio of products under the collaboration agreement and strategic alliance agreement. Since GSK's commercialization efforts following such regulatory approval will be guided by a portfolio approach across products in which we will retain our full interests upon the separation and also products in which we will have retained only a portion of our interests upon the spin-off transaction, GSK's commercialization efforts may have the effect of reducing the overall value of our remaining interests in the GSK Agreements after the spin-off. In addition, GSK could also seek to challenge our post-spin-off operation of the limited liability company to be jointly owned by us and Theravance Biopharma as violating or allowing it to terminate the GSK agreements, including by violating the confidentiality provisions of those agreements or the master agreement between GSK, Theravance Biopharma and us entered into in connection with the proposed spin-off, or otherwise violating its legal rights. Although we believe our planned operation of the limited liability company fully complies with our GSK agreements and applicable law, there can be no assurance that we will prevail against any such claims by GSK. Moreover, regardless of the merit of any claims by GSK, we may incur significant cost and diversion of resources in defending them. In addition, any uncertainty about the our respiratory programs partnered with GSK or the enforceability of our GSK agreements could result in significant reduction in the market price of our securities and other material harm to our business.

GSK has also indicated to us that it believes its consent may be required before we can engage in certain royalty monetization transactions with third parties, which may inhibit our ability to engage in these transactions.

In the course of our recent discussions with GSK concerning the proposed spin-off of Theravance Biopharma, GSK has indicated to us that it believes that its consent may be required before we can engage in certain transactions designed to monetize the future value of royalties that may be payable to us from GSK under our GSK Agreements. GSK has informed us that it believes that there may be certain covenants included in these types of transactions that might violate certain provisions of the GSK Agreements. Although we believe that we can structure royalty monetization transactions in a manner that fully complies with the requirements of the GSK Agreements without GSK's consent, a third party in a proposed monetization transaction may nonetheless insist that we obtain GSK's consent for the transaction or re-structure the transaction on less favorable terms. We have obtained GSK's agreement that (i) after the spin-off of Theravance Biopharma, provided such spin-off occurs on or prior to June 30, 2014 and in compliance with our master agreement with GSK and Theravance Biopharma, we may grant certain pre-agreed covenants in connection with monetization of our interests in RELVAR/BREO, ANORO and vilanterol monotherapy and portions of our interests in TRC limited liability company, and (ii) it will not unreasonably withhold its consent to our requests to grant other covenants, provided, among other conditions, that in each case, the covenants are not granted in favor of pharmaceutical or biotechnology company with a product either being developed or commercialized for the treatment of respiratory disease. If we seek GSK's consent to grant covenants before the spin-off of Theravance Biopharma is effective or with respect to the granting of covenants other than pre-agreed covenants, we may not be able to obtain GSK's consent on reasonable terms, or at all. If we proceed with a royalty monetization transaction that is not otherwise covered by our agreement with GSK without GSK's consent, GSK could request that their consent be obtained or seek to enjoin or otherwise challenge the transaction as violating or allowing it to terminate the GSK agreements. Regardless of the merit of any claims by GSK, we would incur significant cost and diversion of resources in defending against GSK's claims or asserting our own claims and GSK may seek concessions from us in order to provide its consent. Any uncertainty about whether or when we could engage in a royalty monetization transaction, the potential impact on the enforceability of the GSK agreements or the loss of potential royalties from our respiratory programs partnered with GSK, could

impair our ability to pursue a return of capital strategy for our stockholders ahead of our receipt of significant royalties from GSK, result in significant reduction in the market price of our securities and cause other material harm to our business.

GSK's ownership of a significant percentage of our stock and its ability to acquire additional shares of our stock may create conflicts of interest, and may inhibit our management's ability to continue to operate our business in the manner in which it is currently being operated.

As of February 14, 2014, GSK beneficially owned approximately 27.0% of our outstanding capital stock, and GSK has the right to acquire stock from us to maintain its percentage ownership of our capital stock in certain circumstances. GSK could have substantial influence in the election of our directors, delay or prevent a transaction in which stockholders might receive a premium over the prevailing market price for their shares and have significant control over certain changes in our business.

In addition, GSK may make an offer to our stockholders to acquire outstanding voting stock that would bring GSK's percentage ownership of our voting stock to no greater than 60%, provided that:

- the offer includes no condition as to financing;
- the offer is approved by a majority of our independent directors;
- the offer includes a condition that the holders of a majority of the shares of the voting stock not owned by GSK accept the offer by tendering their shares in the offer; and
- the shares purchased will be subject to the same provisions of the governance agreement as are the shares of voting stock currently held by GSK.

If pursuant to the provision described above GSK's ownership of us is greater than 50.1%, then GSK is allowed to make an offer to our stockholders to acquire outstanding voting stock that would bring GSK's percentage ownership of our voting stock to 100%, provided that;

- the offer includes no condition as to financing;
- the offer is approved by a majority of our independent directors; and
- the offer includes a condition that the holders of a majority of the shares of the voting stock not owned by GSK accept the offer by tendering their shares in the offer.

The procedures governing GSK offers to ours stockholders to acquire outstanding voting stock set forth in the preceding two paragraphs are applicable until the termination of the governance agreement September 1, 2015 and thereafter the foregoing restrictions will not apply.

Further, pursuant to our certificate of incorporation, we renounce our interest in and waive any claim that a corporate or business opportunity taken by GSK constitutes a corporate opportunity of ours unless such corporate or business opportunity is expressly offered to one of our directors who is a director, officer or employee of GSK, primarily in his or her capacity as one of our directors.

GSK's significant ownership position and its rights under the governance agreement may deter or prevent efforts by other companies to acquire us, which could prevent our stockholders from realizing a control premium.

As of February 14, 2014, GSK beneficially owned approximately 27.0% of our outstanding capital stock. GSK may vote at its sole discretion on any proposal to effect a change of control of us or for us to issue equity securities to one or more parties that would result in that party or parties beneficially owning more than 20% of our outstanding capital stock. Our governance agreement with GSK requires us to exempt GSK from our stockholder rights plan, affords GSK certain rights to offer to acquire us in

the event third parties seek to acquire our stock and contains other provisions that could deter or prevent another company from seeking to acquire us. For example, GSK may offer to acquire 100% of our outstanding stock from stockholders in certain circumstances, such as if we are faced with a hostile acquisition offer or if our board of directors acts in a manner to facilitate a change in control of us with a party other than GSK. As a result of GSK's significant ownership and its rights under the governance agreement, other companies may be less inclined to pursue an acquisition of us and therefore we may not have the opportunity to be acquired in a transaction that stockholders might otherwise deem favorable, including transactions in which our stockholders might realize a substantial premium for their shares.

GSK could sell or transfer a substantial number of shares of our common stock, which could depress the price of our securities or result in a change in control of our company.

Under our governance agreement with GSK, GSK could previously sell or transfer our common stock only pursuant to a public offering registered under the Securities Act or pursuant to Rule 144 of the Securities Act. GSK no longer has contractual restrictions on its ability to sell or transfer our common stock on the open market, in privately negotiated transactions or otherwise, and these sales or transfers could create substantial declines in the price of our securities or, if these sales or transfers were made to a single buyer or group of buyers, could contribute to a transfer of control of our company to a third party.

Risks Related to Legal and Regulatory Uncertainty

If our efforts to protect the proprietary nature of the intellectual property related to our technologies are not adequate, we may not be able to compete effectively in our market.

We rely upon a combination of patents, patent applications, trade secret protection and confidentiality agreements to protect the intellectual property related to our technologies. Any involuntary disclosure to or misappropriation by third parties of this proprietary information could enable competitors to quickly duplicate or surpass our technological achievements, thus eroding our competitive position in our market. The status of patents in the biotechnology and pharmaceutical field involves complex legal and scientific questions and is very uncertain. As of December 31, 2013, we owned 379 issued United States patents and 1364 granted foreign patents, as well as additional pending United States and foreign patent applications. Our patent applications may be challenged or fail to result in issued patents and our existing or future patents may be invalidated or be too narrow to prevent third parties from developing or designing around these patents. If the sufficiency of the breadth or strength of protection provided by our patents with respect to a product candidate is threatened, it could dissuade companies from collaborating with us to develop, and threaten our ability to commercialize, the product candidate. Further, if we encounter delays in our clinical trials or in obtaining regulatory approval of our product candidates, the patent lives of the related product candidates would be reduced.

In addition, we rely on trade secret protection and confidentiality agreements to protect proprietary know-how that is not patentable, for processes for which patents are difficult to enforce and for any other elements of our drug discovery and development processes that involve proprietary know-how, information and technology that is not covered by patent applications. Although we require our employees, consultants, advisors and any third parties who have access to our proprietary know-how, information and technology to enter into confidentiality agreements, we cannot be certain that this know-how, information and technology will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Further, the laws of some foreign countries do not protect proprietary rights to the same extent as the laws of the United States. As a result, we may encounter significant problems in protecting and defending our intellectual property both in the United States and abroad. If we are

unable to prevent material disclosure of the intellectual property related to our technologies to third parties, we will not be able to establish or, if established, maintain a competitive advantage in our market, which could materially adversely affect our business, financial condition and results of operations, which could cause the price of our securities to fall.

Litigation or third-party claims of intellectual property infringement would require us to divert resources and may prevent or delay our drug discovery and development efforts.

Our commercial success depends in part on us and our partners not infringing the patents and proprietary rights of third parties. Third parties may assert that we or our partners are using their proprietary rights without authorization. There are third party patents that may cover materials or methods for treatment related to our product candidates. At present, we are not aware of any patent claims with merit that would adversely and materially affect our ability to develop our product candidates, but nevertheless the possibility of third party allegations cannot be ruled out. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. Furthermore, parties making claims against us or our partners may obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business.

In the event of a successful claim of infringement against us, we may have to pay substantial damages, obtain one or more licenses from third parties or pay royalties. In addition, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research or allow commercialization of our product candidates, and we have done so from time to time. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In that event, we would be unable to further develop and commercialize one or more of our product candidates, which could harm our business significantly. In addition, in the future we could be required to initiate litigation to enforce our proprietary rights against infringement by third parties. Prosecution of these claims to enforce our rights against others would involve substantial litigation expenses and divert substantial employee resources from our business. If we fail to effectively enforce our proprietary rights against others, our business will be harmed, which may cause the price of our securities to fall.

If the efforts of our partner, GSK, to protect the proprietary nature of the intellectual property related to the assets in the LABA collaboration are not adequate, the future commercialization of any medicines resulting from the LABA collaboration could be delayed or prevented, which would materially harm our business and could cause the price of our securities to fall.

The risks identified in the two preceding risk factors also apply to the intellectual property protection efforts of our partner, GSK. To the extent the intellectual property protection of any of the assets in the LABA collaboration are successfully challenged or encounter problems with the United States Patent and Trademark Office or other comparable agencies throughout the world, the future commercialization of these potential medicines could be delayed or prevented. Any challenge to the intellectual property protection of a late-stage development asset arising from the LABA collaboration could harm our business and cause the price of our securities to fall.

Product liability lawsuits could divert our resources, result in substantial liabilities and reduce the commercial potential of our medicines.

The risk that we may be sued on product liability claims is inherent in the development and commercialization of pharmaceutical products and have likely increased with the reintroduction of VIBATIV®. Side effects of, or manufacturing defects in, products that we or our partners develop or commercialize could result in the deterioration of a patient's condition, injury or even death. Once a

product is approved for sale and commercialized, the likelihood of product liability lawsuits tends to increase. Claims may be brought by individuals seeking relief for themselves or by individuals or groups seeking to represent a class. Also, changes in laws outside the U.S. are expanding our potential liability for injuries that occur during clinical trials. These lawsuits may divert our management from pursuing our business strategy and may be costly to defend. In addition, if we are held liable in any of these lawsuits, we may incur substantial liabilities and may be forced to limit or forgo further commercialization of the applicable products.

Although we maintain general liability and product liability insurance, this insurance may not fully cover potential liabilities and we cannot be sure that our insurer will not disclaim coverage as to a future claim. In addition, inability to obtain or maintain sufficient insurance coverage at an acceptable cost or to otherwise protect against potential product liability claims could prevent or inhibit the commercial production and sale of our products, which could adversely affect our business. The cost of defending any product liability litigation or other proceeding, even if resolved in our favor, could be substantial and uncertainties resulting from the initiation and continuation of product liability litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Product liability claims could also harm our reputation, which may adversely affect our and our partners' ability to commercialize our products successfully, which could cause the price of our securities to fall.

Government restrictions on pricing and reimbursement, as well as other healthcare payor cost-containment initiatives, may negatively impact our ability to generate revenues.

The continuing efforts of the government, insurance companies, managed care organizations and other payors of health care costs to contain or reduce costs of health care may adversely affect one or more of the following:

- our or our collaborators' ability to set a price we believe is fair for our products, if approved;
- our ability to generate revenues and achieve profitability; and
- the availability of capital.

The Patient Protection and Affordable Care Act and other potential legislative or regulatory action regarding healthcare and insurance matters, along with the trend toward managed healthcare in the United States, could influence the purchase of healthcare products and reduce demand and prices for our products, if approved. This could harm our or our collaborators' ability to market our potential medicines and generate revenues. Cost containment measures that health care payors and providers are instituting and the effect of the Patient Protection and Affordable Care Act and further agency regulations that are likely to emerge in connection with the passage of this act could significantly reduce potential revenues from the sale of any product candidates approved in the future. In addition, in certain foreign markets, the pricing of prescription drugs is subject to government control and reimbursement may in some cases be unavailable. We believe that pricing pressures at the state and federal level, as well as internationally, will continue and may increase, which may make it difficult for us to sell our potential medicines that may be approved in the future at a price acceptable to us or our collaborators, which may cause the price of our securities to fall.

If we use hazardous and biological materials in a manner that causes injury or violates applicable law, we may be liable for damages.

Our research and development activities involve the controlled use of potentially hazardous substances, including chemical, biological and radioactive materials. In addition, our operations produce hazardous waste products. Federal, state and local laws and regulations govern the use, manufacture, storage, handling and disposal of hazardous materials. We may incur significant additional costs to

comply with these and other applicable laws in the future. Also, even if we are in compliance with applicable laws, we cannot completely eliminate the risk of contamination or injury resulting from hazardous materials and we may incur liability as a result of any such contamination or injury. In the event of an accident, we could be held liable for damages or penalized with fines, and the liability could exceed our resources. We do not have any insurance for liabilities arising from hazardous materials. Compliance with applicable environmental laws and regulations is expensive, and current or future environmental regulations may impair our research, development and production efforts, which could harm our business, which could cause the price of our securities to fall.

Risks Related to Ownership of our Common Stock

The price of our securities has been extremely volatile and may continue to be so, and purchasers of our securities could incur substantial losses.

The price of our securities has been extremely volatile and may continue to be so. The stock market in general and the market for biotechnology and biopharmaceutical companies in particular have experienced extreme volatility that has often been unrelated to the companies' operating performance, in particular during the last several years. The following factors, in addition to the other risk factors described in this section, may also have a significant impact on the market price of our securities:

- any adverse developments or results or perceived adverse developments or results with respect to the development or commercialization of FF/VI with GSK, including, without limitation, any difficulties or delays encountered with regard to the regulatory path for FF/VI or any indication from clinical or non-clinical studies, including the large Phase 3b program, that FF/VI is not safe or efficacious;

- any adverse developments or results or perceived adverse developments or results with respect to the development of UMEC/VI with GSK, including, without limitation, any difficulties or delays encountered with regard to the regulatory path for UMEC/VI, any indication from clinical or non-clinical studies that UMEC/VI is not safe or efficacious;

- any adverse developments or results or perceived adverse developments or results with respect to the MABA program with GSK, including, without limitation, any further delays encountered in progressing the MABA program or a decision by GSK to halt the program or any further development of certain drug candidates in the program, any difficulties or delays encountered with regard to the regulatory path for GSK961081, either alone or in combination with other therapeutically active ingredients, or any indication from non-clinical studies of GSK961081 that the compound is not safe or efficacious;

- any further adverse developments or perceived adverse developments with respect to the commercialization of VIBATIV®;

- any adverse developments or perceived adverse developments in the field of LABAs, including any change in FDA policy or guidance (such as the pronouncement in February 2010 warning that LABAs should not be used alone in the treatment of asthma and related labeling requirements, the impact of the March 2010 FDA Advisory Committee discussing LABA clinical trial design to evaluate serious asthma outcomes or the FDA's April 2011 announcement that manufacturers of currently marketed LABAs conduct additional clinical studies comparing the addition of LABAs to inhaled corticosteroids versus inhaled corticosteroids alone);

- GSK's decisions whether or not to purchase, on a quarterly basis, sufficient shares of our common stock to maintain its ownership percentage taking into account our preceding quarter's option exercise, equity vesting and debt conversion activity;

- any announcements of developments with, or comments by, the FDA or other regulatory authorities with respect to products we or our partners have under development or have commercialized;
- our incurrence of expenses in any particular quarter that are different than market expectations;
- the extent to which GSK advances (or does not advance) FF/VI, UMEC/VI, UMEC/VI/FF, VI monotherapy and the MABA program through development into commercialization in all indications in all major markets;
- any adverse developments or perceived adverse developments with respect to our relationship with GSK, including, without limitation, disagreements that may arise between us and GSK;
- any adverse developments or perceived adverse developments with respect to our relationship with any of our research, development or commercialization partners other than GSK, including, without limitation, disagreements that may arise between us and any of those partners;
- any adverse developments or perceived adverse developments with respect to our partnering efforts with VIBATIV®, velusetrag, TD-1211, TD-9855, TD-4208, TD-1792 or our cardiovascular program;
- announcements regarding GSK generally;
- announcements of patent issuances or denials, technological innovations or new commercial products by us or our competitors;
- developments concerning any collaboration we undertake with companies other than GSK;
- publicity regarding actual or potential study results or the outcome of regulatory review relating to products under development by us, our partners or our competitors;
- regulatory developments in the United States and foreign countries;
- economic and other external factors beyond our control;
- sales of stock by us or by our stockholders, including sales by certain of our employees and directors whether or not pursuant to selling plans under Rule 10b5-1 of the Securities Exchange Act of 1934;
- relative illiquidity in the public market for our common stock (our three largest stockholders other than GSK collectively owned approximately 36.8% of our outstanding capital stock as of February 14, 2014 based on our review of publicly available filings);
- any adverse developments or perceived adverse developments with respect to the proposed business separation; and
- potential sales or purchases of our capital stock by GSK.

Concentration of ownership will limit your ability to influence corporate matters.

As of February 14, 2014, GSK beneficially owned approximately 27.0% of our outstanding capital stock and our directors, executive officers and investors affiliated with these individuals beneficially owned approximately 4.6% of our outstanding capital stock. Based on our review of publicly available filings as of February 14, 2014, our three largest stockholders other than GSK collectively owned approximately 36.8% of our outstanding capital stock. These stockholders could control the outcome of actions taken by us that require stockholder approval, including a transaction in which stockholders might receive a premium over the prevailing market price for their shares.

Anti-takeover provisions in our charter and bylaws, in our rights agreement and in Delaware law could prevent or delay a change in control of our company.

Provisions of our certificate of incorporation and bylaws may discourage, delay or prevent a merger or acquisition that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions include:

- requiring supermajority stockholder voting to effect certain amendments to our certificate of incorporation and bylaws;
- restricting the ability of stockholders to call special meetings of stockholders;
- prohibiting stockholder action by written consent; and
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted on by stockholders at meetings.

In addition, our board of directors has adopted a rights agreement that may prevent or delay a change in control of us. Further, some provisions of Delaware law may also discourage, delay or prevent someone from acquiring us or merging with us.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our headquarters consist of 150,000 square feet of office and laboratory space leased in two buildings in South San Francisco, CA. The lease expires in May 2020 and we may extend the terms for two additional five-year periods. The current annual rental expense under these leases is approximately $6.0 million. As security for performance of certain obligations under the facility operating leases for our headquarters, we were required to have a financial institution issue letters of credit in the aggregate of approximately $0.8 million, which we have collateralized with the financial institution by an equal amount of restricted cash.

ITEM 3. LEGAL PROCEEDINGS

We are not a party to any material legal proceedings.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock has been traded on the Nasdaq Global Market under the symbol "THRX" since October 5, 2004. The following table sets forth the high and low closing prices of our common stock on a per share basis for the periods indicated and as reported on the Nasdaq Global Market:

Calendar Quarter	High	Low
2013		
Fourth Quarter	$ 41.53	$ 33.74
Third Quarter	$ 42.64	$ 35.82
Second Quarter	$ 41.87	$ 22.53
First Quarter	$ 24.84	$ 20.16
2012		
Fourth Quarter	$ 26.90	$ 20.12
Third Quarter	$ 31.69	$ 23.81
Second Quarter	$ 23.42	$ 17.61
First Quarter	$ 20.50	$ 16.39

As of February 14, 2014, there were 149 stockholders of record of our common stock. As many of our shares of common stock are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these record holders.

On October 29, 2013, we completed the sale of 130,473 shares of our common stock to an affiliate of GSK at a price of $37.66 per share, resulting in aggregate gross proceeds of approximately $4.9 million before deducting transaction expenses. Neither we nor the affiliate of GSK engaged any investment advisors with respect to the sale and no finders' fees were paid or will be paid to any party in connection with the sale. We issued and sold the shares in reliance upon an exemption from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended.

Dividend Policy

We currently intend to retain any future earnings to finance our research and development efforts. We have never declared or paid cash dividends on our common stock and do not intend to declare or pay cash dividends on our common stock in the foreseeable future.

Equity Compensation Plans

The following table provides certain information with respect to all of our equity compensation plans in effect as of December 31, 2013:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	5,707,012(1)	$ 25.88(3)	3,436,529(4)
Equity compensation plans not approved by security holders	232,486(2)	$ 13.84(3)	—
Total	5,939,498(1)(2)	$ 25.30(3)	3,436,529(4)

(1) Includes 4,591,695 shares issuable upon exercise of outstanding options and 1,115,317 shares issuable upon vesting of outstanding restricted stock units and restricted stock awards.

(2) Includes 232,486 shares issuable upon exercise of outstanding options and no outstanding restricted stock units.

(3) Does not take into account outstanding restricted stock units as these awards have no exercise price.

(4) Includes 284,139 shares of common stock available under our Employee Stock Purchase Plan.

In May 2012, we adopted the 2012 Equity Incentive Plan (2012 Plan). The number of shares of our common stock available for issuance under the 2012 Plan is equal to 6,500,000 shares plus up to 12,667,411 additional shares that may be added to the 2012 Plan in connection with the forfeiture, repurchase, cash settlement or termination of awards outstanding under the 2004 Equity Incentive Plan (2004 Plan), the 2008 New Employee Equity Incentive Plan, the 1997 Stock Plan and the Long-Term Stock Option Plan (collectively, the "Prior Plans") as of December 31, 2011. While a maximum of 12,667,411 shares could be added to the 2012 Plan from the Prior Plans, this assumes that all the awards outstanding on December 31, 2011 will be forfeited, repurchased, cash settled or terminated. Therefore, the actual number that may be added to the 2012 Plan share reserve will likely be lower. No additional awards have been or will be made after May 15, 2012 under the 2004 Plan. Stock options and stock appreciation rights (SARs) will reduce the 2012 Plan reserve by one share for every share granted, and stock awards other than options and SARs granted will reduce the 2012 Plan share reserve by 1.45 shares for every share granted. The 2012 Plan share reserve was also reduced by the number of stock awards granted under the 2004 Plan on or after January 1, 2012, using the same ratios described.

The 2012 Plan provides for the grant of incentive stock options, nonstatutory stock options, restricted stock awards, stock unit awards and SARs to our employees, non-employee directors and consultants. Stock options may be granted with an exercise price not less than the fair market value of the common stock on the grant date. Stock options granted to employees generally have a maximum term of 10 years and vest over a four year period from the date of grant; 25% vest at the end of one year, and 75% vest monthly over the remaining three years. We may grant options with different vesting terms from time to time. Unless an employee's termination of service is due to disability or death, upon termination of service, any unexercised vested options will be forfeited at the end of three months or the expiration of the option, whichever is earlier. Additional information regarding stock-

based compensation is included in Note 1, "Description of Operations and Summary of Significant Accounting Policies," and Note 10, "Stock-Based Compensation," to the consolidated financial statements appearing in this Annual Report on Form 10-K.

Stock Performance Graph

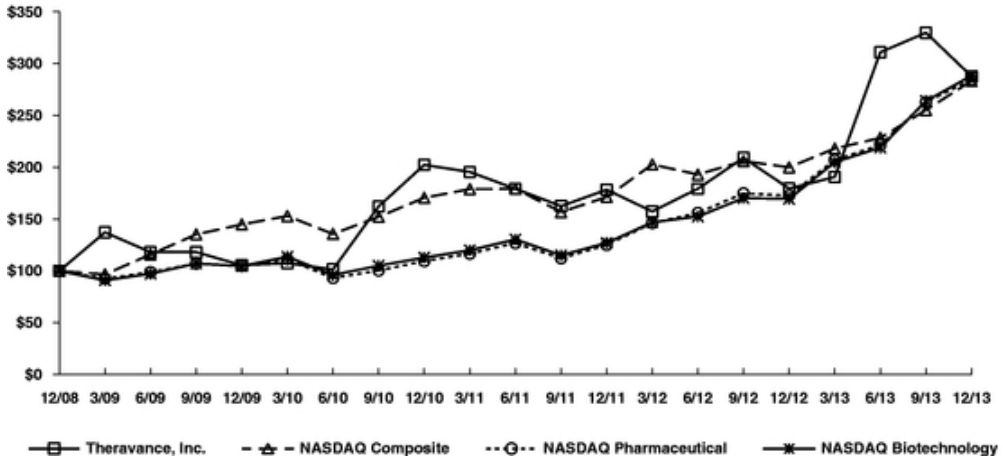
The graph set forth below compares the cumulative total stockholder return on our common stock for the period commencing on December 31, 2008 and ending on December 31, 2013, with the cumulative total return of (i) the Nasdaq Composite Index, (ii) the Nasdaq Pharmaceutical Index and (iii) the Nasdaq Biotechnology Index over the same period. This graph assumes the investment of $100.00 on December 31, 2008 in each of (1) our common stock, (2) the Nasdaq Composite Index, (3) the Nasdaq Pharmaceutical Index and (4) the Nasdaq Biotechnology Index, and assumes the reinvestment of dividends, if any, although dividends have never been declared on our common stock.

The comparisons shown in the graph below are based upon historical data. We caution that the stock price performance shown in the graph below is not necessarily indicative of, nor is it intended to forecast, the potential future performance of our common stock. Information used in the graph was obtained from Research Data Group, Inc., a source believed to be reliable, but we are not responsible for any errors or omissions in such information.

Notwithstanding anything to the contrary set forth in any of our previous or future filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, that might incorporate this Annual Report on Form 10-K or future filings made by us under those statutes, this Stock Performance Graph section shall not be deemed filed with the United States Securities and Exchange Commission and shall not be deemed incorporated by reference into any of those prior filings or into any future filings made by us under those statutes.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*

Among Theravance, Inc., the NASDAQ Composite Index, the NASDAQ Pharmaceutical Index, and the NASDAQ Biotechnology Index



* $100 invested on 12/31/2008 in stock or index, including reinvestment of dividends.

ITEM 6. SELECTED FINANCIAL DATA

The selected consolidated summary financial data below should be read in conjunction with Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Part II, Item 8, "Financial Statements and Supplementary Data", in this Annual Report on Form 10-K.

	Year Ended December 31,				
	2013	2012	2011	2010	2009
	(In thousands, except per share data)				
CONSOLIDATED STATEMENT OF OPERATIONS DATA:					
Net revenue[1]	$ 4,758	$ 135,758	$ 24,512	$ 24,223	$ 24,374
Operating expenses:					
Research and development	125,181	117,898	103,568	75,070	77,524
Selling, general and administrative	48,440	30,859	30,681	27,476	27,066
Restructuring charges	—	—	—	—	1,145
Total operating expenses[2]	173,621	148,757	134,249	102,546	105,735
Loss from operations	(168,863)	(12,999)	(109,737)	(78,323)	(81,361)
Other income (expense), net	6,732	—	—	—	—
Interest income	778	460	415	505	2,111
Interest expense	(9,348)	(6,003)	(6,022)	(6,044)	(6,052)
Net loss	$ (170,701)	$ (18,542)	$ (115,344)	$ (83,862)	$ (85,302)
Basic and diluted net loss per share	$ (1.67)	$ (0.20)	$ (1.41)	$ (1.16)	$ (1.35)
Shares used to compute basic and diluted net loss per share	102,425	90,909	82,051	72,070	63,027

	As of December 31,				
	2013	2012	2011	2010	2009
	(In thousands)				
CONSOLIDATED BALANCE SHEET DATA:					
Cash, cash equivalents and marketable securities	$ 520,499	$ 343,683	$ 240,915	$ 309,634	$ 155,390
Working capital	398,794	231,167	199,267	276,300	123,096
Total assets	681,255	368,582	258,782	331,202	181,393
Long-term liabilities[3]	297,729	183,588	300,338	313,568	331,441
Accumulated deficit	(1,505,203)	(1,334,502)	(1,315,960)	(1,200,616)	(1,116,754)
Total stockholders' equity (net capital deficiency)	299,122	155,028	(87,052)	(22,420)	(188,994)

(1) In 2012, there was an acceleration of deferred revenue of $125.8 million from our global collaboration agreement with Astellas for the development and commercialization of VIBATIV®, which resulted from the termination of the Astellas agreement in January 2012.

(2) Stock-based compensation expense included in total operating expenses is as follows:

	Year Ended December 31,				
(In thousands)	2013	2012	2011	2010	2009
Research and development	$ 16,017	$ 13,667	$ 13,422	$ 10,322	$ 11,542
Selling, general and administrative	9,670	10,116	11,494	8,687	8,458
Total stock-based compensation	$ 25,687	$ 23,783	$ 24,916	$ 19,009	$ 20,000

(3) Long-term liabilities include the long-term portion of deferred revenue as follows:

(In thousands)	2013	2012	2011	2010	2009
Deferred revenue	$ 5,455	$ 6,014	$ 122,017	$ 137,425	$ 157,426

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's Discussion and Analysis (MD&A) is intended to facilitate an understanding of our business and results of operations. This discussion and analysis should be read in conjunction with our consolidated financial statements and notes included in this Annual Report on Form 10-K. The information contained in this discussion and analysis or set forth elsewhere in this Annual Report on Form 10-K, including information with respect to our plans and strategy for our business, our operating expenses, and future payments under our collaboration agreements, includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based upon current expectations that involve risks and uncertainties. You should review the section entitled "Risk Factors" in Item 1A of Part I above for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. See the section entitled "Special Note Regarding Forward Looking Statements" above for more information.

Management Overview

Theravance is a biopharmaceutical company with a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. We are focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including respiratory disease, bacterial infections, and central nervous system (CNS)/pain. Theravance's key programs include: RELVAR®/BREO® ELLIPTA® (FF/VI), ANORO™ ELLIPTA™ (UMEC/VI) and MABA (Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist), each partnered with Glaxo Group Limited (GSK), and our Long-Acting Muscarinic Antagonist program. By leveraging our proprietary insight of multivalency to drug discovery, we are pursuing a best-in-class strategy designed to discover superior medicines in areas of significant unmet medical need.

Business Highlights

Issuance of Convertible Subordinated Notes Due 2023

In January 2013, we completed an underwritten public offering of $287.5 million aggregate principal amount of unsecured convertible subordinated notes, which will mature on January 15, 2023. The financing raised proceeds, net of issuance costs, of approximately $281.2 million, less $36.8 million to purchase two privately-negotiated capped-call option transactions in connection with the issuance of the notes.

Business Separation Announcement

In April 2013, Theravance announced that its Board of Directors approved plans to separate its businesses into two independent publicly traded companies. The company to be spun-off, Theravance Biopharma, Inc. (Theravance Biopharma), filed an initial Form 10 with the SEC on August 1, 2013 and filed amendments of its Form 10 with the SEC on September 27, 2013, October 29, 2013 and November 22, 2013. After the spin-off, Theravance will be responsible for all development and commercial activities under the LABA collaboration and the Strategic Alliance agreements with GSK. Theravance will be eligible to receive the associated potential royalty revenues from FF/VI (RELVAR®/BREO® ELLIPTA®), UMEC/VI (ANORO™ ELLIPTA™) and potentially VI monotherapy and 15% of the potential royalty revenues from UMEC/VI/FF, MABA, and MABA/FF and other products that may be developed under the LABA collaboration and Strategic Alliance agreements. Theravance Biopharma will be a biopharmaceutical company focused on discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. The result will be two independent, publicly traded companies with different business models enabling investors to align their

investment philosophies with the strategic opportunities and financial objectives of the two independent companies.

Royalty Participation Agreement

In May 2013, we and Elan Corporation, plc (Elan) entered into a royalty participation agreement. The closing of the transaction was subject to closing conditions, including the approval of the transaction by Elan's shareholders. Elan's shareholders did not approve the transaction at an Extraordinary General Meeting. Subsequently, we terminated the agreement and as a result, Elan paid us a $10.0 million termination fee in June 2013, which is reflected in other income.

Conversion of Convertible Subordinated Notes Due 2015

In June 2013, we called for the redemption of all of our outstanding 3% Convertible Subordinated Notes due 2015 (the "2015 Notes"), pursuant to the redemption right in the indenture governing the 2015 Notes. All of the convertible subordinated notes, $172.5 million principal amount, were converted into shares of our common stock and none were redeemed for cash.

Financial Highlights

In 2013, our net loss was $170.7 million, an increase of $152.2 million from $18.5 million in 2012. Net loss in 2012 includes the recognition of $125.8 million deferred revenue from our global collaboration arrangement with Astellas Pharma Inc. (Astellas) for the development and commercialization of VIBATIV®. This recognition resulted from Astellas' January 6, 2012 termination of our agreement with them. In 2013, our research and development expenses were $125.2 million, an increase of 6% from $117.9 million in 2012 primarily due to external-related costs for key Phase 2 clinical trials. In 2013, our selling, general and administrative expenses were $48.4 million, an increase of 57% from $30.9 million in 2012 largely driven by external legal and accounting fees incurred in connection with our separation strategy. Cash, cash equivalents, and marketable securities totaled $520.5 million on December 31, 2013, an increase of $176.8 million from December 31, 2012. The increase was primarily due to net proceeds of $281.6 million received from the January 2013 issuance of convertible subordinated notes and net proceeds of $153.0 million received from issuances of our common stock, which includes net proceeds of $126.0 million received from private placements of our common stock to an affiliate of GSK. These increases were partially offset by cash used in operations of $129.6 million, registrational and launch-related milestone payments to GSK of $85.0 million and payments on privately-negotiated capped call option transactions in connection with the issuance of the convertible subordinated notes of $36.8 million.

Program Highlights

Respiratory Programs with GSK

RELVAR®/BREO® ELLIPTA® (fluticasone furoate/vilanterol, "FF/VI")

RELVAR®/BREO® ELLIPTA® has been approved by eight regulatory agencies for marketing and has been launched in seven countries as of February 1, 2014.

In November 2013, the European Commission granted marketing authorization for RELVAR® ELLIPTA®, which is now licensed across 31 European countries. Following approval in Europe, RELVAR® ELLIPTA® for COPD and asthma was launched in the United Kingdom, Germany and Denmark in January 2014.

In December 2013, RELVAR® ELLIPTA® was launched in Japan following approval in asthma in September 2013.

In October 2013, BREO® ELLIPTA® for COPD was launched in the United States (U.S.). In addition, BREO® ELLIPTA® for COPD was launched in Canada in January 2014. BREO® ELLIPTA® is not indicated for the relief of acute bronchospasm or for the treatment of asthma.

BREO® ELLIPTA® is the proprietary name in the U.S. and Canada for the once-daily combination medicine of an inhaled corticosteroid (ICS), fluticasone furoate "FF", and a long-acting beta$_2$-agonist (LABA), vilanterol "VI" (FF/VI) administered using the ELLIPTA®, a dry powder inhaler (DPI). RELVAR® ELLIPTA® is the proprietary name for FF/VI outside of the U.S. and Canada.

Fluticasone Furoate/Vilanterol "FF/VI"

In December 2013, GSK and Theravance announced positive results from a Phase 3 efficacy and safety study of FF/VI designed to support a potential filing for an asthma indication for adults in the U.S. These results will inform GSK's discussions with the FDA on the regulatory requirements of an asthma indication for FF/VI in the U.S.

ANORO™ ELLIPTA™ (umeclidinium bromide/vilanterol, UMEC/VI)

On December 18, 2013, the U.S. Food and Drug Administration (FDA) approved ANORO™ ELLIPTA™ as a combination anticholinergic/long-acting beta$_2$-adrenergic agonist (LABA) indicated for the long-term, once-daily, maintenance treatment of airflow obstruction in patients with COPD, including chronic bronchitis and/or emphysema. ANORO™ ELLIPTA™ is not indicated for the relief of acute bronchospasm or for the treatment of asthma. Following this approval by the FDA, it is anticipated that launch activities in the U.S. will commence during the first quarter of 2014.

ANORO™ ELLIPTA™ (umeclidinium and vilanterol inhalation powder) is the first once-daily product approved in the U.S. that combines two long-acting bronchodilators in a single inhaler for the maintenance treatment of COPD. The FDA-approved strength is umeclidinium/vilanterol 62.5 mcg/25 mcg. ANORO™ ELLIPTA™ is the proposed proprietary name for UMEC/VI, a combination of two bronchodilator molecules—umeclidinium, a long-acting muscarinic antagonist (LAMA) and VI, a LABA, administered using the ELLIPTA™ inhaler.

In addition, ANORO™ ELLIPTA™ (UMEC/VI 62.5/25mcg) was approved for COPD in Canada on December 23, 2013.

UMEC/VI is under regulatory review by a number of regulatory authorities, including the European Medicines Agency (EMA) and the Japanese Ministry of Health, Labour and Welfare. In February 2014, the EMA's Committee for Medicinal Products for Human Use (CHMP) issued a positive opinion recommending marketing authorization for UMEC/VI under the proposed brand name ANORO® as a once-daily, maintenance bronchodilator treatment to relieve symptoms in adult patients with COPD. A CHMP positive opinion is one of the final steps before marketing authorization is granted by the European Commission, but does not always result in marketing authorization. A final decision by the European Commission is anticipated during the second quarter of 2014.

Inhaled Bifunctional Muscarinic Antagonist-Beta$_2$ Agonist (MABA)—GSK961081

GSK961081 ('081) is an investigational, single molecule bifunctional bronchodilator with both muscarinic antagonist and beta$_2$ receptor agonist activities. '081 has completed a Phase 2b study, a Phase 1 study in combination with fluticasone propionate ("FP"), an ICS, and a number of Phase 3 enabling non clinical studies. In mid-2013 GSK made a decision to move away from the twice-daily option with FP in the Diskus® inhaler to the combination of '081/FF delivered once-daily in the ELLIPTA® inhaler which requires additional work on non-clinical studies, manufacturing and a Phase 1 bioequivalence study. Because of this change in program direction the Phase 3 study with '081 monotherapy did not begin in 2013 and we believe it is unlikely that a Phase 3 study with '081

monotherapy will commence even in 2014. Preclinical Phase 3-enabling studies with the combination '081/FF are ongoing to explore its potential as a once-daily medicine delivered in the ELLIPTA™ inhaler.

Theravance Respiratory Program

Long-Acting Muscarinic Antagonist—TD-4208

We are developing TD-4208, a once daily inhaled nebulized muscarinic antagonist discovered by us, for the treatment of a subset of COPD patients whom we believe are underserved by current hand held products. We believe that such a medicine could serve as a foundation for several combination nebulized products as well as potential metered dose inhaler or dry powder inhaler products. In September 2013, Theravance announced positive topline results from a dose-ranging 7-day cross-over design Phase 2b study of TD-4208, an investigational LAMA, administered once-a-day as a nebulized aqueous solution in patients with moderate to severe COPD. All doses met the primary and secondary efficacy endpoints. The primary efficacy endpoint in this study was change from baseline in trough FEV1 (forced expiratory volume in one second) at the end of Day 7. TD-4208 demonstrated significant bronchodilation over 24 hours. All doses of TD-4208 were generally well tolerated in the study with rates of adverse events comparable to placebo. We intend to initiate the second Phase 2b study with TD-4208 ourselves.

Bacterial Infections Program

VIBATIV® (telavancin)

Theravance reintroduced VIBATIV® (telavancin) into the U.S. in August 2013. VIBATIV® is approved in the U.S. for the treatment of adult patients with hospital-acquired and ventilator-associated bacterial pneumonia (HABP/VABP) caused by susceptible isolates of *Staphylococcus aureus* when alternative treatments are not suitable, and for the treatment of complicated skin and skin structure infections (cSSSI) caused by susceptible isolates of Gram-positive bacteria, including *Staphylococcus aureus*, both methicillin-susceptible (MSSA) and methicillin-resistant (MRSA) strains. VIBATIV® is a bactericidal, once-daily, injectable lipoglycopeptide antibiotic with a dual mechanism of action whereby it both inhibits bacterial cell wall synthesis and disrupts bacterial cell membrane function.

Central Nervous System (CNS)/Pain Programs

Oral Peripheral Mu Opioid Receptor Antagonist—TD-1211

TD-1211 is an investigational once-daily, orally administered, peripherally selective, multivalent inhibitor of the mu opioid receptor designed with a goal of alleviating gastrointestinal side effects of opioid therapy without affecting analgesia. In July 2012, Theravance announced positive topline results from the Phase 2b Study 0084, the key study in the Phase 2b program evaluating TD-1211 as potential treatment for chronic, non-cancer pain patients with opioid-induced constipation. The Phase 2b program consisted of three studies (0074, 0076 and 0084) designed to evaluate doses and dosing regimens for Phase 3. We are currently evaluating our Phase 3 strategy due to potentially evolving FDA requirements for this class of drug.

Norepinephrine and Serotonin Reuptake Inhibitor—TD-9855

TD-9855 is an investigational norepinephrine and serotonin reuptake inhibitor for the treatment of central nervous system conditions such as chronic pain. TD-9855 is being evaluated in an ongoing Phase 2 study in patients with fibromyalgia. Results from the Phase 2 study in fibromyalgia are anticipated to be reported during the first half of 2014. In late 2013 we reported that TD-9855 did not meet the primary efficacy endpoints in a Phase 2 study in adult patients with Attention Deficit/Hyperactivity Disorder.

GI Motility Dysfunction Program

Velusetrag

Velusetrag, Theravance's oral, once-daily, investigational 5-HT4 agonist partnered with Alfa Wassermann S.p.A., is in a Phase 2 gastrointestinal motility proof-of-concept study in patients with diabetic or idiopathic gastroparesis. Velusetrag, also known as TD-5108, is a highly selective agonist with high intrinsic activity at the human 5-HT4 receptor. Results from this Phase 2 study are expected during the first half of 2014.

TD-8954

TD-8954 is a selective 5-HT4 receptor agonist. Theravance recently initiated a Phase 2a study to evaluate the safety, tolerability and pharmacodynamics of a single-dose of TD-8954 administered intravenously compared to metoclopramide in critically ill patients with enteral feeding intolerance. The objective of the study is assessment of adverse events and ability to tolerate feeding.

Collaborative Arrangement with GSK

LABA Collaboration

In November 2002, we entered into our long-acting beta$_2$ agonist (LABA) collaboration with GSK to develop and commercialize once-daily LABA products for the treatment of chronic obstructive pulmonary disease (COPD) and asthma. For the treatment of COPD, the collaboration has developed two combination products: (1) RELVAR®/BREO® ELLIPTA® (FF/VI) (BREO® ELLIPTA® is the proprietary name in the U.S. and Canada and RELVAR® ELLIPTA® is the proprietary name outside the U.S. and Canada), a once-daily combination medicine consisting of a LABA, vilanterol (VI), and an inhaled corticosteroid (ICS), fluticasone furoate (FF) and (2) ANORO™ ELLIPTA™ (UMEC/VI), a once-daily medicine combining a long-acting muscarinic antagonist (LAMA), umeclidinium bromide (UMEC), with a LABA, VI. Under the collaboration agreements between the parties, GSK and Theravance are exploring various paths to create triple therapy medications. The use of triple therapy is supported by the GOLD (Global initiative for chronic Obstructive Lung Disease) guidelines in high-risk patients with severe COPD and a high risk of exacerbations. One potential triple therapy path is the combination of UMEC/VI (two bronchodilators) and FF (an inhaled corticosteroid), to be administered via the ELLIPTA® investigational dry powder inhaler, which triple therapy program GSK has referred to as Diamond. GSK recently announced its goal of advancing Diamond into Phase 3 in either 2014 or 2015. For the treatment of asthma, RELVAR® ELLIPTA® is approved in multiple regions outside of North America and the collaboration is further developing FF/VI for the U.S. The FF/VI program is aimed at developing a once-daily combination LABA/ICS to succeed GSK's Advair ® /Seretide™ (salmeterol and fluticasone as a combination) franchise, which had reported 2013 sales of approximately $8.3 billion, and to compete with Symbicort ® (formoterol and budesonide as a combination), which had reported 2013 sales of approximately $3.5 billion. ANORO™ ELLIPTA™, which is also a combination product, is targeted as an alternative treatment option to Spiriva® (tiotropium), a once-daily, single-mechanism bronchodilator, which had reported 2012 sales of approximately $4.7 billion.

In the event that a product containing VI is successfully developed and commercialized, we will be obligated to make milestone payments to GSK, which could total as much as $220.0 million if both a single-agent and a combination product or two different combination products are launched in multiple regions of the world. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and accrued a liability of $40.0 million as of December 31, 2013 and recorded an additional $15.0 million payment in January 2014. These milestone fees paid or owed to GSK were capitalized as finite-lived intangible assets, which are being amortized

over their estimated useful life. We estimate the remaining potential milestone payments of $80.0 million could be payable by the end of 2014.

Total milestone fees paid of $85.0 million as of December 31, 2013 resulted from the following:

- In May 2013, the U.S. Food and Drug Administration (FDA) approved BREO® ELLIPTA® as an inhaled long-term, once-daily maintenance treatment of airflow obstruction in patients with COPD, including chronic bronchitis and/or emphysema. It is also indicated to reduce exacerbations of COPD in patients with a history of exacerbations.

- In September 2013, the Japanese Ministry of Health, Labour and Welfare (MHLW) approved RELVAR® ELLIPTA® for the treatment of bronchial asthma in cases where concurrent use of inhaled corticosteroid and long-acting inhaled $beta_2$ agonist is required.

- In October 2013, BREO® ELLIPTA® was launched in the U.S. for the treatment of COPD.

- In November 2013, the European Commission granted marketing authorization for RELVAR® ELLIPTA® for the regular treatment of asthma and the systematic treatment of COPD.

Total milestone fees accrued as liabilities of $40.0 million as of December 31, 2013 resulted from the following:

- In December 2013, RELVAR® ELLIPTA® was launched in Japan for the treatment of bronchial asthma.

- In December 2013, the U.S. FDA approved ANORO™ ELLIPTA™ as a combination anticholinergic/long-acting $beta_2$-adrenergic agonist (LABA) indicated for the long-term, once-daily, maintenance treatment of airflow obstruction in patients with chronic obstructive pulmonary disease (COPD), including chronic bronchitis and/or emphysema.

Total milestone fees recorded of $15.0 million in January 2014 resulted from the following:

- In January 2014, RELVAR® ELLIPTA® was launched in the European Union.

We are entitled to receive annual royalties from GSK on sales of RELVAR®/BREO® ELLIPTA® as follows: 15% on the first $3.0 billion of annual global net sales and 5% for all annual global net sales above $3.0 billion. Sales of single-agent LABA medicines and combination medicines would be combined for the purposes of this royalty calculation. For other products combined with a LABA from the LABA collaboration, such as ANORO™ ELLIPTA™, royalties are upward tiering and range from 6.5% to 10%.

2004 Strategic Alliance

In March 2004, we entered into our strategic alliance with GSK (the Strategic Alliance agreement and the LABA collaboration are together referred to herein as the GSK Agreements). Under this alliance, GSK received an option to license exclusive development and commercialization rights to product candidates from certain of our discovery programs on pre-determined terms and on an exclusive, worldwide basis. Upon GSK's decision to license a program, GSK is responsible for funding all future development, manufacturing and commercialization activities for product candidates in that program. In addition, GSK is obligated to use diligent efforts to develop and commercialize product candidates from any program that it licenses. If the program is successfully advanced through development by GSK, we are entitled to receive clinical, regulatory and commercial milestone payments and royalties on any sales of medicines developed from the program. If GSK chooses not to license a program, we retain all rights to the program and may continue the program alone or with a third party. GSK has no further option rights on any of our research or development programs under the strategic alliance.

In 2005, GSK licensed our MABA program for the treatment of COPD, and in October 2011, we and GSK expanded the MABA program by adding six additional Theravance-discovered preclinical MABA compounds (the "Additional MABAs"). GSK's development, commercialization, milestone and royalty obligations under the strategic alliance remain the same with respect to GSK961081 ('081), the lead compound in the MABA program. GSK is obligated to use diligent efforts to develop and commercialize at least one MABA within the MABA program, but may terminate progression of any or all Additional MABAs at any time and return them to us, at which point we may develop and commercialize such Additional MABAs alone or with a third party. Both GSK and we have agreed not to conduct any MABA clinical studies outside of the strategic alliance so long as GSK is in possession of the Additional MABAs. If a single-agent MABA medicine containing '081 is successfully developed and commercialized, we are entitled to receive royalties from GSK of between 10% and 20% of annual global net sales up to $3.5 billion, and 7.5% for all annual global net sales above $3.5 billion. If a MABA medicine containing '081 is commercialized as a combination product, such as a '081/FF, the royalty rate is 70% of the rate applicable to sales of the single-agent MABA medicine. For single-agent MABA medicines containing an Additional MABA, we are entitled to receive royalties from GSK of between 10% and 15% of annual global net sales up to $3.5 billion, and 10% for all annual global net sales above $3.5 billion. For combination products containing an Additional MABA, such as a MABA/ICS combination, the royalty rate is 50% of the rate applicable to sales of the single-agent MABA medicine. If a MABA medicine containing '081 is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $125.0 million for a single-agent medicine and up to $250.0 million for both a single-agent and a combination medicine. If a MABA medicine containing an Additional MABA is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $129.0 million.

Agreements Entered into with GSK in Connection with the Spin-Off

In conjunction with the planned spin-off of Theravance Biopharma, on March 3, 2014, we, Theravance Biopharma and GSK entered into a series of agreements clarifying how the companies will implement the spin-off and operate following the spin-off. We, Theravance Biopharma and GSK entered into a three-way master agreement providing for GSK's consent to the spin-off provided certain conditions are met. In addition, we and GSK also entered into amendments of our LABA collaboration and Strategic Alliance agreements, and Theravance Biopharma and GSK entered into a governance agreement, a registration rights agreement and an extension agreement. The three-way master agreement is currently effective, but will terminate if the spin-off is not effected by June 30, 2014, and the other agreements will become effective upon the spin-off, provided that the spin-off is effected on or before June 30, 2014.

The amendments to the GSK Agreements do not change the economics or royalty rates. The amendments to the GSK Agreements do provide that GSK's diligent efforts obligations regarding commercialization matters under both agreements will change upon regulatory approval in either the United States or the European Union of UMEC/VI/FF or a MABA in combination with FF. Upon such regulatory approval, GSK's diligent efforts obligations as to commercialization matters under the GSK Agreements will have the objective of focusing on the best interests of patients and maximizing the net value of the overall portfolio of products under the collaboration agreement and strategic alliance agreement. Since GSK's commercialization efforts following such regulatory approval will be guided by a portfolio approach across products in which we will retain our full interests upon the spin-off and also products in which we will have retained only a portion of our interests upon the planned spin-off transaction, GSK's commercialization efforts may have the effect of reducing the overall value of our remaining interests in the GSK Agreements after the spin-off.

Purchases of Common Stock by GSK

Prior to 2013, affiliates of GSK purchased an aggregate of 26,411,103 shares of our common stock. In 2013, GSK purchased 3,504,970 shares of our common stock pursuant to its periodic "top-up" rights under our Amended and Restated Governance Agreement, dated as of June 4, 2004, as amended, among us, GSK and certain GSK affiliates, for a total investment of $126.0 million. As of February 14, 2014, GSK beneficially owned approximately 27.0% of our outstanding capital stock.

GSK Contingent Payments and Revenue

The potential future contingent payments receivable related to the MABA program of $363.0 million are not deemed substantive milestones due to the fact that the achievement of the event underlying the payment predominantly relates to GSK's performance of future development, manufacturing and commercialization activities for product candidates after licensing the program.

Net revenue recognized from GSK under the LABA collaboration and strategic alliance agreements was as follows:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Royalty revenue	$ 1,945	$ —	$ —
Amortization of intangible assets	(743)	—	—
Net royalty revenue	1,202	—	—
LABA collaboration[1]	1,815	3,629	4,718
Strategic alliance agreement	—	—	1,858
Strategic alliance—MABA program license[2]	1,515	1,984	3,082
Total net revenue from GSK	$ 4,532	$ 5,613	$ 9,658

(1) We revised the estimated performance period for the LABA program based on its progress in the fourth quarter of 2011, resulting in an increase to net loss of $0.4 million for the year ended December 31, 2011. Deferred revenue under this agreement was fully recognized in 2013.

(2) We revised the estimated performance period for the MABA program based on its progress as follows: (i) in the fourth quarter of 2011, resulting in an increase to net loss of $0.2 million for the year ended December 31, 2011, (ii) in the fourth quarter of 2012, resulting in an increase to net loss of $0.1 million for the year ended December 31, 2012 and (iii) in the fourth quarter of 2013, resulting in an increase to net loss of $0.1 million for the year ended December 31, 2013. We do not expect that these revisions will have a material impact on future revenue recognized under this program

Under the GSK collaboration arrangements, we are reimbursed for research and development expenses. These reimbursements have been reflected as a reduction of research and development expense of $0.5 million, $0.2 million and $0.4 million in 2013, 2012 and 2011.

Other Collaborative Arrangements

During the last three years, we have entered into several other collaborative arrangements, which have been accounted for in accordance with our accounting policies related to collaborative arrangements and revenue recognition. Refer to Notes 1 and 3, "Description of Operations and Summary of Significant Accounting Policies" and "Collaborative Arrangements," to the consolidated financial statements appearing in this Annual Report on Form 10-K for additional information.

Critical Accounting Policies and Estimates

Our management's discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported revenue generated and expenses incurred during the reporting periods. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management's judgments and estimates.

Revenue Recognition

Revenue is recognized when the four basic criteria of revenue recognition are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured. Determination of criteria (3) and (4) are based on management's judgments regarding the nature of the fee charged for products or services delivered and the collectability of those fees. Where the revenue recognition criteria are not met, we defer the recognition of revenue by recording deferred revenue until such time that all criteria are met.

Product Revenues

We sell VIBATIV® in the U.S. through a limited number of distributors, and title and risk of loss transfer upon receipt by these distributors. Healthcare providers order VIBATIV® through these distributors. For all product shipped in 2013, we are deferring the recognition of revenue until the product is sold through to healthcare providers, the end customers, due to the inherent uncertainties in estimating normal channel inventory at the distributors, and during which period we also provided extended payment terms and expanded return rights that allow distributors to return the product. As of December 31, 2013, we had deferred revenue of $0.9 million related to VIBATIV® shipments and recorded this amount as a current liability in the consolidated balance sheet.

Product sales are recorded net of estimated government-mandated rebates and chargebacks, distribution fees, estimated product returns and other deductions. We reflect such reductions in revenue as either an allowance to the related account receivable from the distributor, or as an accrued liability, depending on the nature of the sales deduction. Sales deductions are based on management's estimates that consider payer mix in target markets, industry benchmarks and experience to date. We monitor inventory levels in the distribution channel, as well as sales of VIBATIV® by distributors to healthcare providers, using product-specific data provided by the distributors. Product return allowances are based on amounts owed or to be claimed on related sales. These estimates take into consideration the terms of our agreements with customers, historical product returns of VIBATIV® experienced by Astellas, rebates or discounts taken, estimated levels of inventory in the distribution channel, the shelf life of the product, and specific known market events, such as competitive pricing and new product introductions. We update our estimates and assumptions each quarter and if actual future results vary from our estimates, we may adjust these estimates, which could have an effect on product sales and earnings in the period of adjustment.

Sales Discounts: We offer cash discounts to our customers, generally 2% of the sales price, as an incentive for prompt payment. We expect our customers to comply with the prompt payment terms to earn the cash discount. We account for cash discounts by reducing accounts receivable by the full

amount and recognizing the discount as a reduction of revenue in the same period the related revenue is recognized.

Chargebacks and Government Rebates: For VIBATIV® sales in the U.S., we estimate reductions to product sales for qualifying federal and state government programs including discounted pricing offered to Public Health Service (PHS) as well as government-managed Medicaid programs. Our reduction for PHS is based on actual chargebacks that distributors have claimed for reduced pricing offered to such health care providers. Our accrual for Medicaid is based upon statutorily-defined discounts, estimated payer mix, expected sales to qualified healthcare providers, and our expectation about future utilization. The Medicaid accrual and government rebates that are invoiced directly to us are recorded in other accrued liabilities on the consolidated balance sheet. For qualified programs that can purchase our products through distributors at a lower contractual government price, the distributors charge back to us the difference between their acquisition cost and the lower contractual government price, which we record as an allowance against accounts receivable.

Distribution Fees and Product Returns: We have written contracts with our distributors that include terms for distribution-related fees. We record distribution-related fees based on a percentage of the product sales price. We offer our distributors a right to return product purchased directly us, which is principally based upon the product's expiration date. Additionally, we have granted more expansive return rights to our distributors following our product launch of VIBATIV®. We will generally accept returns for expired product during the six months prior to and twelve months after the product expiration date on product that had been sold to the distributors. Product returned is generally not resalable given the nature of our products and method of administration. We have developed estimates for VIBATIV® product returns based upon historical VIBATIV® sales from our former collaborative partner, Astellas. We record distribution fees and product returns as an allowance against accounts receivable.

Allowance for Doubtful Accounts: We maintain a policy to record allowances for potentially doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. As of December 31, 2013, there was no allowance for doubtful accounts.

Concentration of Credit Risk: Financial instruments which potentially subject us to concentrations of credit risk include accounts receivable. At December 31, 2013, 99% of our accounts receivable balance represents amounts due to us from two distributors, AmerisourceBergen Drug Corporation and McKesson Corporation. Despite the significant concentration of distributors, the demand for VIBATIV® is driven primarily by patient therapy requirements and we are not dependent upon any individual distributor with respect to VIBATIV® sales.

Royalties: We recognize royalty revenue on licensee net sales of our products in the period in which the royalties are earned and reported to us and collectability is reasonably assured.

Collaborative Arrangements and Multiple Element Arrangements

We generate revenue from collaboration and license agreements for the development and commercialization of our product candidates. Collaboration and license agreements may include non-refundable upfront payments, partial or complete reimbursement of research and development costs, supply arrangement, contingent payments based on the occurrence of specified events under our collaborative arrangements, license fees and royalties on sales of product candidates if they are successfully approved and commercialized. Our performance obligations under the collaborations may include the transfer of intellectual property rights in the form of licenses, obligations to provide research and development services and related materials, supply of active pharmaceutical ingredient (API) and/or drug product, and obligations to participate on certain development and/or commercialization committees with the collaborative partners. We make judgments that affect the periods over which we recognize revenue. We periodically review our estimated periods of performance based on the progress under each arrangement and account for the impact of any changes in estimated periods of performance on a prospective basis.

On January 1, 2011, we adopted an accounting standards update that amends the guidance on accounting for new or materially modified multiple-element arrangements that we enter into subsequent to January 1, 2011. This guidance removed the requirement for objective and reliable evidence of fair value of the undelivered items in order to consider a deliverable a separate unit of accounting. It also changed the allocation method such that the relative-selling-price method must be used to allocate arrangement consideration to all the units of accounting in an arrangement. This guidance established the following hierarchy that must be used in estimating selling price under the relative-selling-price method: (1) vendor-specific objective evidence of fair value of the deliverable, if it exists, (2) third-party evidence of selling price, if vendor-specific objective evidence is not available or (3) vendor's best estimate of selling price (BESP) if neither vendor-specific nor third-party evidence is available.

We may determine that the selling price for the deliverables within collaboration and license arrangements should be determined using BESP. The process for determining BESP involves significant judgment on our part and includes consideration of multiple factors such as estimated direct expenses and other costs, and available data. We have determined BESP for license units of accounting based on market conditions, similar arrangements entered into by third parties and entity-specific factors such as the terms of previous collaborative agreements, our pricing practices and pricing objectives, the likelihood that clinical trials will be successful, the likelihood that regulatory approval will be received and that the products will become commercialized. We have also determined BESP for services-related deliverables based on the nature of the services to be performed and estimates of the associated effort as well as estimated market rates for similar services.

For each unit of accounting identified within an arrangement, we determine the period over which the performance obligation occurs. Revenue is then recognized using either a proportional performance or straight-line method. We recognize revenue using the proportional performance method when the level of effort to complete our performance obligations under an arrangement can be reasonably estimated. Direct labor hours or full time equivalents are typically used as the measurement of performance. The total amount of deferred revenue based on BESP at December 31, 2013 was $7.1 million. Any changes in the remaining estimated performance obligation periods under these collaborative arrangements will not have a significant impact on the results of operations, except for a change in estimated performance period resulting from the termination of a collaborative arrangement, which would result in immediate recognition of the related deferred revenue.

For multiple element arrangements entered into prior to January 1, 2011, we determined whether the elements had stand-alone value and whether there was objective and reliable evidence of fair value. When the delivered element did not have stand-alone value or there was insufficient evidence of fair value for the undelivered element(s), we recognized the consideration for the combined unit of accounting ratably over the estimated period of performance, which was the same manner in which the revenue was recognized for the final deliverable. Our collaborative agreements with GSK and our former collaborative arrangement with Astellas were entered into prior to January 1, 2011. The deliverables under these collaborative agreements did not meet the criteria required to be accounted for as separate accounting units for the purposes of revenue recognition. As a result, revenue from non-refundable, upfront fees and development contingent payments were recognized ratably over the term of our performance periods under the agreements. These upfront or contingent payments received, pending recognition as revenue, were recorded as deferred revenue and amortized over the estimated performance periods.

We recognized revenue from our GSK collaborative arrangements of $4.5 million in 2013 and $5.6 million in 2012. The remaining deferred revenue under the GSK strategic alliance agreement is $6.0 million at December 31, 2013. Any change in the estimated performance period, which is predominantly based on GSK's development timeline, will not have a significant impact on the results of operations, except for a change in estimated performance period resulting from the termination of

the MABA program that would result in immediate recognition of the deferred revenue. The collaborative arrangement with Astellas was terminated on January 6, 2012. The termination resulted in the recognition of deferred revenue of $125.8 million in 2012.

On January 1, 2011, we also adopted an accounting standards update that provides guidance on revenue recognition using the milestone method. Payments that are contingent upon achievement of a substantive milestone are recognized in their entirety in the period in which the milestone is achieved. Milestones are defined as events that can be achieved based only on our performance and as to which, at the inception of the arrangement, there is substantive uncertainty about whether the milestone will be achieved. Events that are contingent only on the passage of time or only on third-party performance are not considered milestones subject to this guidance. Further, the amounts received must relate solely to prior performance, be reasonable relative to all of the deliverables and payment terms in the agreement and commensurate with our performance to achieve the milestone after commencement of the agreement. Total contingent payments that may become payable to us under our collaborative agreements were up to $429.5 million at December 31, 2013 and are considered non-substantive.

Amounts related to research and development funding is recognized as the related services or activities are performed, in accordance with the contract terms. Payments may be made to us based on the number of full-time equivalent researchers assigned to the collaborative project and the related research and development expenses incurred. Accordingly, reimbursement of research and development expenses pursuant to the cost-sharing provisions of our agreements with certain collaborative partners are recognized as a reduction of research and development expenses. For the year ended December 31, 2013, we recorded a reduction in our research and development expenses of $7.0 million for reimbursement of research and development expenses related to these collaborative arrangements.

Intangible Assets

We capitalize fees paid to licensors related to agreements for approved products or commercialized products. We capitalize these fees as finite-lived intangible assets and amortize these intangible assets on a straight-line basis over their estimated useful lives once we begin recognizing the related royalty revenue. Consistent with our policy for classification of costs under the research and development collaborative arrangements, the amortization of these intangible assets will be recognized as a reduction of royalty revenue.

We review our intangible assets for impairment when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. The recoverability of finite-lived intangible assets is measured by comparing the asset's carrying amount to the expected undiscounted future cash flows that the asset is expected to generate. The determination of recoverability typically requires various estimates and assumptions, including estimating the useful life over which cash flows will occur, their amount, and the asset's residual value, if any. We derive the required cash flow estimates from near-term forecasted product sales and long-term projected sales in the corresponding market.

Our intangible assets of $125.0 million at December 31, 2013 consist of registrational and launch-related to milestone fees paid or owed to GSK (see "Collaborative Arrangements with GSK" above for more information). These intangible assets are considered finite-lived intangible assets, which will be amortized over their estimated useful lives using the straight-line method.

Accrued Research and Development Expenses

As part of the process of preparing financial statements, we are required to estimate and accrue expenses, the largest of which are research and development expenses. This process involves the following:

- communicating with our applicable personnel to identify services that have been performed on our behalf and estimating the level of service performed and the associated cost incurred for the service when we have not yet been invoiced or otherwise notified of actual cost;
- estimating and accruing expenses in our financial statements as of each balance sheet date based on facts and circumstances known to us at the time; and
- periodically confirming the accuracy of our estimates with selected service providers and making adjustments, if necessary.

Examples of estimated research and development expenses that we accrue include:

- fees paid to CROs in connection with preclinical and toxicology studies and clinical studies;
- fees paid to investigative sites in connection with clinical studies;
- fees paid to CMOs in connection with the production of product and clinical study materials; and
- professional service fees for consulting and related services.

We base our expense accruals related to clinical studies on our estimates of the services received and efforts expended pursuant to contracts with multiple research institutions and clinical research organizations that conduct and manage clinical studies on our behalf. The financial terms of these agreements vary from contract to contract and may result in uneven payment flows. Payments under some of these contracts depend on factors, such as the successful enrollment of patients and the completion of clinical study milestones. Our service providers invoice us monthly in arrears for services performed. In accruing service fees, we estimate the time period over which services will be performed and the level of effort to be expended in each period. If we do not identify costs that we have begun to incur or if we underestimate or overestimate the level of services performed or the costs of these services, our actual expenses could differ from our estimates.

To date, we have not experienced significant changes in our estimates of accrued research and development expenses after a reporting period. However, due to the nature of estimates, we cannot assure you that we will not make changes to our estimates in the future as we become aware of additional information about the status or conduct of our clinical studies and other research activities.

Fair Value of Stock-Based Compensation Awards

We use the Black-Scholes-Merton option pricing model to estimate the fair value of options at the date of grant. The Black-Scholes-Merton option valuation model requires the use of assumptions, including the expected term of the award and the expected stock price volatility. We use the "simplified" method as described in Staff Accounting Bulletin No. 107, "Share Based Payment," for the expected option term because the usage of our historical option exercise data is limited due to post-IPO exercise restrictions. Beginning April 1, 2011, we have used our historical volatility to estimate expected stock price volatility. Prior to April 1, 2011, we used our peer company price volatility to estimate expected stock price volatility due to our limited historical common stock price volatility since our initial public offering in 2004. The estimated fair value of the option is expensed on a straight-line basis over the expected term of the grant.

We estimated the fair value of restricted stock units (RSUs) and restricted stock awards (RSAs) based on the fair market values of the underlying stock on the dates of grant. The estimated fair value of time-based RSUs and RSAs is expensed on a straight-line basis over the expected term of the grant. The estimated fair value of performance-contingent RSUs and RSAs is expensed using an accelerated method over the requisite service period based on management's best estimate as to whether it is probable that the shares awarded are expected to vest. We assess the probability of the performance indicators being met on a continuous basis.

Stock-based compensation expense was calculated based on awards ultimately expected to vest and was reduced for estimated forfeitures at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differed from those estimates. The estimated annual forfeiture rates for stock options, RSUs and RSAs are based on our historical forfeiture experience.

We do not expect to recognize in the near future any tax benefit related to employee stock-based compensation expense as a result of the full valuation allowance on our deferred tax assets including deferred tax assets related to our net operating loss carry forwards.

For more information, refer to Note 10, "Stock-Based Compensation," to the consolidated financial statements appearing in this Annual Report on Form 10-K.

Inventories

Inventories are stated at the lower of cost or market value. Raw materials include VIBATIV® API and other raw materials of $5.1 million, work-in-process of $0.4 million and finished goods of $4.9 million at December 31, 2013. Work-in-process and finished goods include third party manufacturing costs and labor and indirect costs we incur in the production process. Included in inventories are raw materials and work-in-process that may be used as clinical products, which are charged to research and development (R&D) expense when consumed. If information becomes available that suggests the inventories may not be realizable, we may be required to expense a portion or all of the previously capitalized inventories.

Results of Operations

Revenues from Collaborative Arrangements

Total net revenue, as compared to the prior years, was as follows:

	Year Ended December 31,			Change			
				2013		2012	
(In thousands)	2013	2012	2011	$	%	$	%
GSK	$ 4,532	$ 5,613	$ 9,658	$ (1,081)	(19)%	$ (4,045)	(42)%
Astellas	—	125,788	14,854	(125,788)	(100)	110,934	747
Other	226	4,357	—	(4,131)	(95)	4,357	—
Total net revenue	$ 4,758	$ 135,758	$ 24,512	$ (131,000)	(96)%	$ 111,246	454%

Total net revenue decreased 96% to $4.8 million in 2013 compared to 2012 and increased 454% to $135.8 million in 2012 compared to 2011.

Revenue for 2013 includes royalty revenue earned in 2013 of $1.9 million from GSK as a result of the launch of BREO® ELLIPTA® in the U.S. and RELVAR® ELLIPTA® in Japan. Amortization expense for intangible assets of $0.7 million is a reduction to royalty revenue. Revenue for 2012 includes the recognition of deferred revenue of $125.8 million from our global collaboration arrangement with Astellas for the development and commercialization of VIBATIV®. The deferred revenue recognized from Astellas was accelerated as a result of the termination of the Astellas'

agreement on January 6, 2012. In addition, revenue for 2012 includes the recognition of the upfront payment allocated to licensing of $4.4 million received under the collaborative arrangement with Merck. This collaborative arrangement with Merck was terminated in December 2013.

A portion of our upfront fees and certain contingent payments received from our collaborative arrangements have been deferred and are being amortized ratably into revenue or R&D expense over the estimated performance period. Future revenue will include the ongoing amortization of upfront and contingent payments earned. We periodically review and, if necessary, revise the estimated periods of performance pursuant to these contracts.

Research & Development

Our R&D expenses consist primarily of employee-related costs, external costs, and various allocable expenses. We budget total R&D expenses on an internal department level basis, we do not have project or program level reporting capabilities. We manage and report our R&D activities across the following four cost categories:

1) Employee-related costs, which include salaries, wages and benefits;

2) Stock-based compensation, which includes expenses associated with our stock option and other award plans;

3) External costs, which include clinical trial related expenses, other contract research fees, consulting fees, and contract manufacturing fees; and

4) Facilities and other, which include laboratory and office supplies, depreciation and other allocated expenses, which include general and administrative support functions, insurance and general supplies.

Our R&D expenses, as compared to prior years, were as follows:

	Year Ended December 31,			Change			
				2013		2012	
(In thousands)	2013	2012	2011	$	%	$	%
Employee-related	$ 37,846	$ 37,362	$ 35,541	$ 484	1%	$ 1,821	5%
External-related	46,868	43,155	30,812	3,713	9	12,343	40
Stock-based compensation	16,017	13,667	13,422	2,350	17	245	2
Facilities, depreciation and other allocated	24,450	23,714	23,793	736	3	(79)	*
Total R&D expenses	$ 125,181	$ 117,898	$ 103,568	$ 7,283	6%	$ 14,330	14%

* Change is less than 1%.

R&D expenses increased 6% to $125.2 million in 2013 compared to 2012 primarily due to higher external-related costs of $3.7 million and stock-based compensation costs of $2.4 million. The key Phase 2 clinical trials we were conducting in 2013 were our Phase 2 clinical studies in our MARIN program with TD-9855, a Phase 2b study in our LAMA program with TD-4208 and Phase 1 studies of TD-1607. In the comparable period in 2012 our key Phase 2 clinical trials primarily consisted of our Phase 2b studies in our program for opioid induced constipation with TD-1211 and one Phase 2 study in our MARIN program with TD-9855.

R&D expenses increased 14% to $117.9 million in 2012 compared to 2011 primarily due to increases in external-related costs due to our Phase 2 studies in our program for opioid-induced constipation with TD-1211 and our MARIN program with TD-9855, higher employee-related expenses and costs related to VIBATIV® advisory committee activities.

Under certain of our collaborative arrangements we received partial reimbursement of external costs and employee-related costs, which have been reflected as a reduction of R&D expenses of $7.0 million, $1.1 million and $0.8 million in 2013, 2012 and 2011.

Selling, General & Administrative

Selling, general and administrative expenses, as compared to the prior years, were as follows:

	Year Ended December 31,			Change			
				2013		2012	
(In thousands)	2013	2012	2011	$	%	$	%
Selling, general and administrative expenses	$ 48,440	$ 30,859	$ 30,681	$ 17,581	57%	$ 178	1%

Selling, general and administrative expenses increased 57% to $48.4 million in 2013 compared to 2012 primarily due to an increase in external legal and accounting fees in connection with our separation strategy, and selling costs resulting from our reintroduction of VIBATIV® into the U.S. wholesaler channel in August 2013 and employee-related expenses. Total external expenses related to the proposed company separation were $11.0 million for 2013.

Selling, general and administrative expenses remained relatively flat in 2012 compared to 2011. An increase in consulting services costs, as well as higher facility-related costs, were partially offset by a decrease in employee-related expenses, which was driven by lower stock-based compensation expense.

Stock-based compensation expense included in selling, general and administrative expenses was $9.7 million, $10.1 million and $11.5 million in 2013, 2012 and 2011.

Interest Income and Other Income (Expense), net

Interest and other income (expense), net, as compared to the prior years, were as follows:

	Year Ended December 31,			Change			
				2013		2012	
(In thousands)	2013	2012	2011	$	%	$	%
Interest income	$ 778	$ 460	$ 415	$ 318	69%	$ 45	11%
Other income (expense), net	$ 6,732	—	—	$ 6,732	—	—	—

Interest income increased 69% to $0.8 million in 2013 compared to 2012 primarily due to an increase in our cash, cash equivalents and marketable securities balances. Cash, cash equivalents and marketable securities increased primarily due to net proceeds of $281.6 million received from the January 2013 issuance of convertible subordinated notes and net proceeds of $153.0 million received from issuances of our common stock, which includes net proceeds of $126.0 million received from private placements of our common stock to an affiliate of GSK. These increases were partially offset by cash used in operations of $129.6 million, registrational and launch-related milestone payments to GSK of $85.0 million and payments on privately-negotiated capped call option transactions in connection with the issuance of the convertible subordinated notes of $36.8 million.

Interest income increased 11% to $0.5 million in 2012 compared to 2011 primarily due to an increase in our in cash, cash equivalents and marketable securities balances. Cash, cash equivalents and marketable securities increased primarily due to $229.3 million, net of issuance costs, received from the sales of our common stock to an affiliate of GSK in 2012.

Other income (expense), net was $6.7 million in 2013 compared to $0 in 2012 primarily due to $10.0 million received as a result of the termination of our royalty participation agreement with Elan in 2013. The increase was partially offset by other expense of $1.8 million from third party expenses relating to the aforementioned royalty participation agreement in 2013 and $1.4 million related to the

change in fair value of the capped call instruments related to our convertible subordinated notes issued in 2013.

Interest Expense

Interest expense, as compared to the prior years, was as follows:

	Year Ended December 31,			Change			
				2013		2012	
(In thousands)	2013	2012	2011	$	%	$	%
Interest expense	$ 9,348	$ 6,003	$ 6,022	3,345	56%	$ (19)	*%

Interest expense increased 56% to $9.3 million in 2013 compared to 2012 primarily due to the interest expense and amortization of debt issuance costs from our 2.125% convertible subordinated notes due 2023 issued in January 2013. Interest expense in 2012 and 2011 is comprised of interest expense and amortization of debt issuance costs from our 3% convertible subordinated notes due 2015 issued in January 2008, which were converted into shares of our common stock between June 30, 2013 and July 3, 2013.

Income Taxes

At December 31, 2013, we had net operating loss carryforwards for federal income taxes of $1,412.0 million and federal research and development tax credit carryforwards of $52.7 million. We recorded a valuation allowance to offset in full the benefit related to our deferred tax assets because realization of these benefits is uncertain.

We had unrecognized tax benefits of $57.4 million as of December 31, 2013 and $52.5 million as of December 31, 2012. None of our currently unrecognized tax benefits would affect our effective income tax rate if recognized, due to the valuation allowance that currently offsets our deferred tax assets.

Utilization of net operating loss and tax credit carryforwards may be subject to a substantial annual limitation due to the ownership change limitations provided by the Internal Revenue Code and similar state provisions. We conducted an analysis through 2013 to determine whether an ownership change had occurred since inception. The analysis indicated that two ownership changes occurred in prior years. However, notwithstanding the applicable annual limitations, we estimate that no portion of the net operating loss or credit carryforwards will expire before becoming available to reduce federal and state income tax liabilities. Annual limitations may result in expiration of net operating loss and tax credit carryforwards before some or all of such amounts have been utilized.

Liquidity and Capital Resources

Liquidity

Since our inception, we have financed our operations primarily through private placements and public offerings of equity and debt securities and payments received under collaborative arrangements. At December 31, 2013, we had $520.5 million in cash, cash equivalents and marketable securities, excluding $0.8 million in restricted cash that was pledged as collateral for certain of our leases. On January 24, 2013, we completed an underwritten public offering of $287.5 million aggregate principal amount of unsecured 2.125% convertible subordinated notes due 2023. The financing raised proceeds, net of issuance costs, of approximately $281.2 million, less $36.8 million of payments on privately-negotiated capped call option transactions in connection with the issuance of the notes. Also, during 2013, we issued and Glaxo Group Limited, an affiliate of GSK, purchased 3,504,970 shares of our common stock for an aggregate purchase price of approximately $126.0 million pursuant to its periodic

"top-up" rights under our governance agreement with GSK dated June 4, 2004, as amended. During 2013, we also made registrational and launch-related milestone payments to GSK of $85.0 million.

On June 4, 2013, we called for the redemption of all of our outstanding 3% Convertible Subordinated Notes due 2015 (the "2015 Notes"), pursuant to the redemption right in the indenture governing the 2015 Notes. Any 2015 Notes outstanding on July 5, 2013 were to be redeemed in cash for 100% of the principal amount, plus accrued and unpaid interest to, but excluding, the redemption date. The 2015 Notes were convertible at any time prior to 5:00 p.m. Eastern time on July 3, 2013 into shares of our common stock at a conversion rate of 38.6548 shares per $1,000 principal amount (equivalent to a conversion price of approximately $25.87 per share). All of the convertible subordinated notes, $172.5 million principal amount, were converted into 6,667,932 shares of our common stock between June 30, 2013 and July 3, 2013 and none were redeemed for cash.

We expect to incur substantial expenses as we continue our drug discovery and development efforts, particularly to the extent we advance our product candidates into and through clinical studies, which are very expensive. For example, TD-9855 in our MARIN program is in an ongoing Phase 2 study for fibromyalgia and in September 2013 Theravance reported positive top-line data from a Phase 2b study with TD-4208, our LAMA compound. Also, in July 2012, Theravance announced positive results from the key study in our Phase 2b program with TD-1211 in our Peripheral Mu Opioid Receptor Antagonist program for opioid-induced constipation. Though we are seeking to partner these programs, we may choose to progress one or more of these programs into later-stage clinical studies by ourselves, which could increase our anticipated operating expenses substantially. Furthermore, if we cannot identify a suitable commercialization partner for VIBATIV® in the U.S., we will not be able to leverage a commercialization partner's capabilities and infrastructure and we will incur all of the costs and expenses associated with our reintroduction of VIBATIV® in the U.S., including the creation of an independent sales and marketing organization with appropriate technical expertise, supporting infrastructure and distribution capabilities, expansion of medical affairs presence, manufacturing and third party vendor logistics and consultant support.

As part of the business separation announced in April 2013, we currently anticipate funding the new company with approximately $300 million at separation. We expect this initial cash will fund the new company's operations through significant potential corporate milestones for approximately the next two to three years after the completion of the spin-off, based on current operating plans and financial forecasts. Changes in our development or operating plans, the timing of, and our cash balance at the time of the spin-off, however, could affect the amount of cash available for the two companies at the time of separation and the initial cash funding needed to adequately capitalize both companies.

Pursuant to our LABA collaboration with GSK, we will be obligated to make milestone payments to GSK, which could total as much as $220.0 million if both a single-agent and a combination product or two different combination products are launched in multiple regions of the world. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and recognized a liability of $40.0 million as of December 31, 2013 and recorded an additional $15.0 million payment in January 2014. These milestone fees paid or owed to GSK were capitalized as finite-lived intangible assets, which are being amortized over their estimated useful life. We estimate the remaining potential milestone payments of $80.0 million could be payable by the end of 2014.

In 2011, we granted special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. As of December 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. If sufficient performance conditions are achieved in 2014, then we could recognize up to $9.5 million related to cash bonus expense in 2014.

Adequacy of cash resources to meet future needs

We believe that our cash, cash equivalents and marketable securities will be sufficient to meet our anticipated operating needs for at least the next twelve months based upon current operating plans and financials forecasts. If our current operating plans and financial forecasts change, we may require additional funding sooner in the form of public or private equity offerings or debt financings. Furthermore, if in our view favorable financing opportunities arise, we may seek additional funding at any time. However, future financing may not be available in amounts or on terms acceptable to us, if at all. This could leave us without adequate financial resources to fund our operations as currently planned. In addition, we regularly explore debt restructuring and/or reduction alternatives, including through tender offers, redemptions, repurchases or otherwise, all consistent with the terms of our debt agreements.

Cash Flows

Cash flows, as compared to the prior years, were as follows:

	Year Ended December 31,			Change	
(In thousands)	2013	2012	2011	2013	2012
Net cash used in operating activities	$ (129,602)	$ (127,513)	$ (88,338)	$ (2,089)	$ (39,175)
Net cash used in investing activities	$ (219,580)	$ (58,283)	$ (55,819)	$ (161,297)	$ (2,464)
Net cash provided by financing activities	$ 397,843	$ 235,867	$ 25,602	$ 161,976	$ 210,265

Cash Flows from Operating Activities

Cash used in operating activities is primarily driven by net loss, excluding the effect of non-cash charges or differences in the timing of cash flows and earnings recognition.

Net cash used in operating activities in 2013 was $129.6 million, which was primarily due to:

- $140.0 million used in operating expenses, after adjusting for non-cash related items of: $33.6 million consisting primarily of stock-based compensation expense of $25.7 million and depreciation and amortization expenses of $8.2 million;
- $8.0 million used for interest payments on convertible subordinated notes payable;
- $3.1 million used to increase inventories;
- $2.1 million used to increase receivable from collaborative arrangements related to royalty revenue and reimbursement of R&D services;
- $8.2 million increase for cash, net of third party expenses, for the termination of our royalty participation agreement;
- $7.5 million increase in accrued liabilities due to $5.9 million increase in accrued personnel-related expenses, accrued clinical and development expense, and other accrued liabilities, and $1.6 million increase in accounts payable primarily due to the timing of payments, and
- $6.5 million received in upfront fees under our collaborative arrangements.

Net cash used in operating activities in 2012 was $127.5 million, which was primarily due to:

- $118.4 million used in operating expenses, after adjusting for non-cash related items of $30.4 million consisting primarily of stock-based compensation expense of $23.8 million, depreciation and amortization expenses of $7.3 million;
- $5.2 million used for interest payments on convertible subordinated notes payable;

- $4.8 million used to increase inventories;
- $0.8 million used to increase receivable from collaborative arrangements related to reimbursement of R&D services
- $3.3 million used to decrease accrued liabilities due to a $1.8 million decrease in accrued personnel-related expenses, accrued clinical and development expense, and $1.5 million decrease in accounts payable primarily due to timing of payments; and
- $6.0 million received in upfront fees under our collaborative arrangements.

Net cash used in operating activities in 2011 was $88.3 million, which was primarily due to:

- $99.3 million used in operating expenses, after adjusting for non-cash related items of $34.9 million consisting primarily of stock-based compensation expense of $24.9 million, depreciation and amortization expenses of $7.6 million and rent expense of $2.4 million;
- $5.2 million used for interest payments on convertible subordinated notes payable;
- $2.3 million increase in prepaid expenses and other current assets;
- $8.4 million increase in accrued liabilities due to a $5.1 million increase in accrued personnel-related expenses, accrued clinical and development expense, and $3.3 million increase in accounts payable primarily due to timing of payments; and
- $4.0 million received in upfront fees under our collaborative arrangements.

Cash Flows from Investing Activities

Net cash used in investing activities in 2013 was $219.6 million, which was primarily due to $131.9 million in cash balances being invested in available-for-sale securities and $85.0 million used for milestone payments to GSK.

Net cash used in investing activities in 2012 was $58.3 million, which was primarily due to $55.9 million in cash balances being invested in short-term investments and long-term marketable securities.

Net cash used in investing activities in 2011 was $55.8 million, which was primarily due to $52.8 million in cash balances being invested in short-term investments and long-term marketable securities.

Cash Flows from Financing Activities

Net cash provided by financing activities in 2013 of $397.8 million was primarily due to the net proceeds of $281.6 million received from the January 2013 issuance of 2.125% convertible subordinated notes due in 2023 and net proceeds from the issuances of our common stock of $153.0 million, which includes net proceeds of $126.0 million received from private placements of our common stock to an affiliate of GSK. These increases were partially offset by $36.8 million of payments on privately-negotiated capped call option transactions in connection with the issuance of the notes.

Net cash provided by financing activities in 2012 of $235.9 million was primarily due to net proceeds from the issuances of our common stock of $236.4 million, which includes net proceeds of $229.3 million received from private placements of our common stock to an affiliate of GSK.

Net cash provided by financing activities in 2011 of $25.6 million was primarily due to net proceeds from the issuances of our common stock of $25.8 million, which includes net proceeds of $13.6 million received from private placements of our common stock to an affiliate of GSK.

Off-Balance Sheet Arrangements

We lease various real properties under an operating lease that generally requires us to pay taxes, insurance, maintenance, and minimum lease payments. This lease has options to renew.

We have not entered into any off-balance sheet financial arrangements and have not established any structured finance or special purpose entities. We have not guaranteed any debts or commitments of other entities or entered into any options on non-financial assets.

Commitments and Contingencies

We indemnify our officers and directors for certain events or occurrences, subject to certain limits. We may be subject to contingencies that may arise from matters such as product liability claims, legal proceedings, shareholder suits and tax matters, as such, we are unable to estimate the potential exposure related to these indemnification agreements. We have not recognized any liabilities relating to these agreements at December 31, 2013.

In 2011, we granted special long-term retention and incentive RSAs to members of senior management and special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential expense associated with this program is $28.2 million related to stock-based compensation expense and $38.2 million related to cash bonus expense, which would be recognized in increments based on achievement of the performance conditions. As of December 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. If sufficient performance conditions are achieved in 2014, then we would recognize up to $6.7 million in stock-based compensation expense associated with these RSAs and $9.5 million related to cash bonus expense in 2014.

Contractual Obligations and Commercial Commitments

In the table below, we set forth our enforceable and legally binding obligations and future commitments, as well as obligations related to all contracts that we are likely to continue, regardless of the fact that they were cancelable as of December 31, 2013. Some of the figures that we include in this table are based on management's estimate and assumptions about these obligations, including their duration, the possibility of renewal, anticipated actions by third parties, and other factors. Because these estimates and assumptions are necessarily subjective, the obligations we will actually pay in future periods may vary from those reflected in the table.

(In thousands)	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Convertible subordinated notes due 2023[1]	$ 342,739	$ 6,109	$ 12,219	$ 12,219	$ 312,192
Facility operating leases[2]	38, 251	4,859	11,713	12,426	9,253
Purchase obligations	8,188	7,402	786	—	—
Total	$ 389,178	$ 18,370	$ 24,718	$ 24,645	$ 321,445

(1) In January 2013, we completed an underwritten public offering of $287.5 million aggregate principal amount of unsecured 2.125% convertible subordinated notes due 2023, which includes the full exercise of the underwriters' over-allotment option for $37.5 million aggregate principal amount. The financing raised proceeds, net of issuance costs, of approximately $244.4 million. The notes are convertible into shares of our common stock at an initial conversion rate of 35.9903 shares per $1,000 principal amount of the notes, subject to adjustment in certain circumstances, which represents an initial conversion price of approximately $27.79 per share.

(2) As security for performance of certain obligations under the operating leases for our headquarters, we have issued letters of credit in the aggregate of approximately $0.8 million, collateralized by an equal amount of restricted cash.

Pursuant to our LABA collaboration with GSK, we will be obligated to make milestone payments to GSK, which could total as much as $220.0 million if both a single-agent and a combination product or two different combination products are launched in multiple regions of the world. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and recognized a liability of $40.0 million as of December 31, 2013 and recorded an additional $15.0 million payment in January 2014. These milestone fees paid or owed to GSK were capitalized as finite-lived intangible assets, which are being amortized over their estimated useful life. We estimate the remaining potential milestone payments of $80.0 million could be payable by the end of 2014.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risk, including changes to interest rates which are confined to our cash, cash equivalents, restricted cash and marketable securities. We have invested primarily in money market funds, federal agency notes, corporate debt securities and U.S. treasury notes. To reduce the volatility relating to these exposures, we have put investment and risk management policies and procedures in place. The securities in our investment portfolio are not leveraged, are classified as available-for-sale and, due to their very short-term nature, are subject to minimal interest rate risk. We currently do not engage in hedging activities. Because of the short-term maturities of our investments, we do not believe that an increase in market rates would have any significant negative impact on the realized value of our investment portfolio. Our outstanding note payable has a fixed interest rate and therefore, we have no exposure to interest rate fluctuations.

Most of our transactions are conducted in U.S. dollars, although we do conduct some preclinical activities and manufacture some active pharmaceutical ingredients with vendors located outside the United States. Some of these expenses are paid in U.S. dollars, and some are paid in the local foreign currency. If the exchange rates undergo a change of 10%, we do not believe that it would have a material impact on our results of operations or cash flows.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

THERAVANCE, INC.

Consolidated Balance Sheets

(In thousands, except per share data)

	December 31, 2013	December 31, 2012
Assets		
Current assets:		
Cash and cash equivalents	$ 143,510	$ 94,849
Short-term investments	321,615	153,640
Accounts receivable, net of allowances of $89 and $0 at December 31, 2013 and 2012	199	—
Receivables from collaborative arrangements (including amounts from a related party of $2,247 and $123 at December 31, 2013 and 2012)	3,181	1,064
Prepaid expenses and other current assets	4,287	4,066
Inventories	10,406	7,514
Total current assets	483,198	261,133
Marketable securities	55,374	95,194
Restricted cash	833	833
Property and equipment, net	10,238	9,154
Intangible assets, net	124,257	—
Other assets	7,355	2,268
Total assets	$ 681,255	$ 368,582
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 7,583	$ 5,377
Payable to a related party	40,000	—
Accrued personnel-related expenses	10,881	9,002
Accrued clinical and development expenses	9,714	6,550
Accrued interest on convertible subordinated notes	2,800	2,372
Other accrued liabilities	4,137	2,072
Deferred revenue	9,289	4,593
Total current liabilities	84,404	29,966
Convertible subordinated notes	287,500	172,500
Deferred rent	4,774	5,074
Deferred revenue	5,455	6,014
Commitments and contingencies (Notes 3, 10 and 12)		
Stockholders' equity:		
Preferred stock, $0.01 par value, 230 shares authorized, no shares issued and outstanding	—	—
Common stock, $0.01 par value; authorized: 200,000 shares; outstanding: 111,516 and 98,379 at December 31, 2013 and 2012	1,115	984
Class A common stock, $0.01 par value, 30,000 shares authorized, no shares issued and outstanding	—	—
Additional paid-in capital	1,803,048	1,488,447
Accumulated other comprehensive income	162	99
Accumulated deficit	(1,505,203)	(1,334,502)
Total stockholders' equity	299,122	155,028
Total liabilities and stockholders' equity	$ 681,255	$ 368,582

See accompanying notes to consolidated financial statements.

THERAVANCE, INC.

Consolidated Statements of Operations

(In thousands, except per share data)

	Year Ended December 31,		
	2013	2012	2011
Royalty revenue from a related party, net of intangible assets amortization of $743 in 2013 and $0 in 2012 and 2011	$ 1,202	$ —	$ —
Net revenue from collaborative arrangements (including amounts from a related party of $3,330 in 2013, $5,613 in 2012, and $9,658 in 2011)	3,556	135,758	24,512
Total net revenue	4,758	135,758	24,512
Operating expenses:			
Research and development	125,181	117,898	103,568
Selling, general and administrative	48,440	30,859	30,681
Total operating expenses	173,621	148,757	134,249
Loss from operations	(168,863)	(12,999)	(109,737)
Other income (expense), net	6,732	—	—
Interest income	778	460	415
Interest expense	(9,348)	(6,003)	(6,022)
Net loss	$ (170,701)	$ (18,542)	$ (115,344)
Basic and diluted net loss per share	$ (1.67)	$ (0.20)	$ (1.41)
Shares used to compute basic and diluted net loss per share	102,425	90,909	82,051

See accompanying notes to consolidated financial statements.

THERAVANCE, INC.

Consolidated Statements of Comprehensive Loss

(In thousands)

	Year Ended December 31,		
	2013	2012	2011
Net loss	$ (170,701)	$ (18,542)	$ (115,344)
Other comprehensive income (loss):			
Net unrealized gain (loss) on available-for-sale securities, net of tax	63	83	(17)
Comprehensive loss	$ (170,638)	$ (18,459)	$ (115,361)

See accompanying notes to consolidated financial statements.

THERAVANCE, INC.

Consolidated Statements of Stockholders' Equity (Net Capital Deficiency)

(In thousands)

	Common Stock		Class A Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Equity (Net Capital Deficiency)
	Shares	Amount	Shares	Amount				
Balance at December 31, 2010	70,950	$ 710	9,402	$ 94	$ 1,177,359	$ 33	$ (1,200,616)	$ (22,420)
Exercise of stock options, and Issuance of common stock in settlement of restricted stock units, stock awards and purchase plan	4,617	46	—	—	12,149	—	—	12,195
Issuance of common stock in private placements to a related party	574	5	—	—	13,613	—	—	13,618
Conversion of Class A common stock (Note 3)	9,402	94	(9,402)	(94)	—	—	—	—
Stock-based compensation	—	—	—	—	24,916	—	—	24,916
Net loss	—	—	—	—	—	—	(115,344)	(115,344)
Net unrealized loss on marketable securities	—	—	—	—	—	(17)	—	(17)
Balance at December 31, 2011	85,543	855	—	—	1,228,037	16	(1,315,960)	(87,052)
Exercise of stock options, and issuance of common stock in settlement of restricted stock units, stock awards and purchase plan	2,151	22	—	—	7,059	—	—	7,081
Issuance of common stock in private placement to a related party, net of expenses of $0.4 million	10,685	107	—	—	229,189	—	—	229,296
Stock-based compensation	—	—	—	—	24,162	—	—	24,162
Net loss	—	—	—	—	—	—	(18,542)	(18,542)
Net unrealized gain on marketable securities	—	—	—	—	—	83	—	83
Balance at December 31, 2012	98,379	984	—	—	1,488,447	99	(1,334,502)	155,028
Exercise of stock options, and issuance of common stock in settlement of restricted stock units, stock awards and purchase plan	2,964	29	—	—	26,962	—	—	26,991
Issuance of common stock in private placement to a related party	3,505	35	—	—	125,995	—	—	126,030
Stock-based compensation	—	—	—	—	25,858	—	—	25,858
Conversion of convertible subordinated notes due 2015	6,668	67	—	—	171,164	—	—	171,231
Capped call options associated with convertible subordinated notes due 2023	—	—	—	—	(35,378)	—	—	(35,378)
Net loss	—	—	—	—	—	—	(170,701)	(170,701)
Net unrealized gain on marketable securities	—	—	—	—	—	63	—	63
Balance at December 31, 2013	111,516	$ 1,115	—	$ —	$ 1,803,048	$ 162	$ (1,505,203)	$ 299,122

See accompanying notes to consolidated financial statements.

THERAVANCE, INC.

Consolidated Statements of Cash Flows

(In thousands)

	Year Ended December 31,		
	2013	2012	2011
Cash flows from operating activities			
Net loss	$ (170,701)	$ (18,542)	$ (115,344)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	8,203	7,326	7,583
Stock-based compensation	25,687	23,783	24,916
Change in fair value of capped-call derivative assets	1,422	—	—
Other non-cash items	17	187	18
Changes in operating assets and liabilities:			
Accounts receivables	702	—	—
Receivables from collaborative arrangements	(2,117)	(841)	(29)
Prepaid expenses and other current assets	36	(441)	2,288
Inventories	(3,100)	(4,822)	—
Other assets	(578)	—	—
Accounts payable	1,613	(1,480)	3,310
Accrued personnel-related expenses, accrued clinical and development expenses, and other accrued liabilities	5,850	(1,829)	5,124
Accrued interest on convertible subordinated notes	428	—	—
Deferred rent expense	(299)	(747)	2,429
Deferred revenue	3,235	(130,107)	(18,633)
Net cash used in operating activities	(129,602)	(127,513)	(88,338)
Cash flows from investing activities			
Purchases of property and equipment	(2,734)	(2,590)	(3,628)
Purchases of available-for-sale securities	(410,407)	(330,484)	(301,563)
Maturities of available-for-sale securities	255,861	224,902	231,476
Sales of available-for-sale securities	22,600	49,729	17,321
Increase in intangible assets	(85,000)	—	—
Release of restricted cash	—	60	—
Issuances of notes receivable	—	(140)	(140)
Payments received on notes receivable	100	240	715
Net cash used in investing activities	(219,580)	(58,283)	(55,819)
Cash flows from financing activities			
Payments on note payable and capital leases	—	(69)	(206)
Proceeds from issuances of common stock, net	153,021	236,377	25,808
Purchase of capped-call options	(36,800)	—	—
Proceeds from issuances of convertible subordinated notes, net of debt issuance costs	281,622	(441)	—
Net cash provided by financing activities	397,843	235,867	25,602
Net increase (decrease) in cash and cash equivalents	48,661	50,071	(118,555)
Cash and cash equivalents at beginning of period	94,849	44,778	163,333
Cash and cash equivalents at end of period	$ 143,510	$ 94,849	$ 44,778
Supplemental Disclosure of Cash Flow Information			
Cash paid for interest	$ 7,970	$ 5,177	$ 5,195
Supplemental Non-cash Financing Activities			
Conversion of convertible subordinated notes into common stock	$ 172,499	$ —	$ —

See accompanying notes to consolidated financial statements.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Description of Operations and Summary of Significant Accounting Policies

Description of Operations

Theravance, Inc. (Theravance, the Company, the Registrant or we and other similar pronouns) is a biopharmaceutical company with a pipeline of internally discovered product candidates and strategic collaborations with pharmaceutical companies. Theravance is focused on the discovery, development and commercialization of small molecule medicines across a number of therapeutic areas including respiratory disease, bacterial infections, and central nervous system (CNS)/pain.

Business Separation

In April 2013, Theravance announced that its Board of Directors approved plans to separate its businesses into two independent publicly traded companies. The company to be spun-off, Theravance Biopharma, Inc. (Theravance Biopharma), filed an initial Form 10 with the SEC on August 1, 2013 and filed amendments of its Form 10 with the SEC on September 27, 2013, October 29, 2013 and November 22, 2013. After the spin-off, Theravance will be responsible for all development and commercial activities under the LABA collaboration and the Strategic Alliance agreements with Glaxo Group Limited (GSK). Theravance will be eligible to receive the associated potential royalty revenues from FF/VI (RELVAR®/BREO® ELLIPTA®), UMEC/VI (ANORO™ ELLIPTA™) and potentially VI monotherapy and 15% of the potential royalty revenues from UMEC/VI/FF, MABA, and MABA/FF and other products that may be developed under the LABA collaboration and Strategic Alliance agreements. Theravance Biopharma will be a biopharmaceutical company focused on discovery, development and commercialization of small-molecule medicines in areas of significant unmet medical need. The result will be two independent, publicly traded companies with different business models enabling investors to align their investment philosophies with the strategic opportunities and financial objectives of the two independent companies. The consolidated financial statements do not reflect any adjustments resulting from the planned business separation.

Principles of Consolidation

The consolidated financial statements include the accounts of Theravance and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

Our consolidated financial statements are denominated in U.S. dollars. Accordingly, changes in exchange rates between the applicable foreign currency and the U.S. dollar will affect the translation of our foreign subsidiary's financial results into U.S. dollars for purposes of reporting our consolidated financial results. Monetary and non-monetary assets and liabilities are remeasured into U.S. dollars at the applicable period end exchange rate. Operating expenses are remeasured at average exchange rates in effect during each period, except for those expenses related to non-monetary assets which are remeasured at historical exchange rates. Gains or losses from remeasurement of foreign currency financial statements into U.S. dollars are included in our consolidated statements of operations and were insignificant for all periods presented, as was the effect of exchange rate changes on cash and cash equivalents.

Use of Management's Estimates

The preparation of consolidated financial statements in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

could differ materially from those estimates. On an ongoing basis, management evaluates its significant accounting policies and estimates. We base our estimates on historical experience and other relevant assumptions that we believe to be reasonable under the circumstances. These estimates also form the basis for making judgments about the carrying values of assets and liabilities when these values are not readily apparent from other sources.

Segment Reporting

We have determined that we operate in a single segment, which is the discovery (research), development and commercialization of human therapeutics. Revenues are generated primarily from our collaborative arrangements with GSK, located in Great Britain, Astellas Pharma Inc. ("Astellas") (through January 2012), located in Japan, and Merck (which agreement terminated in December 2013), located in the United States.

All property and equipment is maintained in the United States.

Cash and Cash Equivalents

We consider all highly liquid investments purchased with a maturity of three months or less on the date of purchase to be cash equivalents. Cash equivalents are carried at cost, which approximates fair value.

Under certain lease agreements and letters of credit, we have pledged cash and cash equivalents as collateral. Restricted cash related to such agreements was $0.8 million as of December 31, 2013 and 2012.

Investments in Marketable Securities

We invest in short-term investments and marketable securities, primarily corporate notes, government, government agency, and municipal bonds. We classify our marketable securities as available-for-sale securities and report them at fair value in cash equivalents, short-term investments or marketable securities on the consolidated balance sheets with related unrealized gains and losses included as a component of stockholders' equity. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity, which is included in interest income on the consolidated statements of operations. Realized gains and losses and declines in value judged to be other-than-temporary, if any, on available-for-sale securities are included in interest income. The cost of securities sold is based on the specific identification method. Interest and dividends on securities classified as available-for-sale are included in interest income.

We regularly review all of our investments for other-than-temporary declines in estimated fair value. Our review includes the consideration of the cause of the impairment, including the creditworthiness of the security issuers, the number of securities in an unrealized loss position, the severity and duration of the unrealized losses, whether we have the intent to sell the securities and whether it is more likely than not that we will be required to sell the securities before the recovery of their amortized cost basis. When we determine that the decline in estimated fair value of an investment is below the amortized cost basis and the decline is other-than-temporary, we reduce the carrying value of the security and record a loss for the amount of such decline.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

Fair Value of Financial Instruments

Financial instruments include cash equivalents, marketable securities, accounts receivable, related party receivables, accounts payable, accrued liabilities and convertible subordinated notes. Marketable securities are carried at estimated fair value. The carrying value of cash equivalents, accounts receivable, receivables from related party, accounts payable and accrued liabilities approximate their estimated fair value due to the relatively short-term nature of these instruments. The fair value of the convertible subordinated notes is described in Note 9, "Long-Term Debt."

Accounts Receivable

Trade accounts receivable are recorded net of allowances for wholesaler chargebacks related to government rebate programs, cash discounts for prompt payment and sales returns. Estimates for wholesaler chargebacks for government rebates, cash discounts and sales returns are based on contractual terms, historical trends and our expectations regarding the utilization rates for these programs. When appropriate, we record an allowance for doubtful accounts based upon our assessment of collectability. For the year ended December 31, 2013, we did not have any write-offs of accounts receivable. We perform ongoing credit evaluations of our customers and generally do not require collateral.

Concentration of Credit and Other Risks

We invest in a variety of financial instruments and, by our policy, limit the amount of credit exposure with any one issuer, industry or geographic area for investments other than instruments backed by the U.S. federal government.

Our accounts receivable at December 31, 2013, represent amounts due to us from distributors. The following table summarizes accounts receivable, net balances at December 31, 2013 by distributor:

Distributor	Accounts Receivable (In thousands)	Percentage of Total Accounts Receivable Balance
McKesson Corporation	$ 132	66%
AmerisourceBergen Drug Corporation	66	33
Other	1	1
Total	$ 199	100%

We depend on a single-source supplier of the API in VIBATIV® and one supplier to provide fill-finish services related to the manufacturing of VIBATIV®. If any of our suppliers were to limit or terminate production or otherwise fail to meet the quality or delivery requirements needed to supply VIBATIV® at levels to meet market demand, we could experience a loss of revenue, which could materially and adversely impact our results of operations.

Inventories

Inventories consist of raw materials, work-in-process and finished goods related to the production of VIBATIV® (telavancin). Raw materials include VIBATIV® API and other raw materials. Work-in-process and finished goods include third party manufacturing costs and labor and indirect costs

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

we incur in the production process. Included in inventories are raw materials and work-in-process that may be used as clinical products, which are charged to research and development (R&D) expense when consumed. In addition, under certain commercialization agreements, we may sell VIBATIV® packaged in unlabeled vials that are recorded in work-in-process. Inventories are stated at the lower of cost or market value. We determine the cost of inventory using the average-cost method for validation batches. We analyze our inventory levels quarterly and write down any inventory that is expected to become obsolete, that has a cost basis in excess of its expected net realizable value or for inventory quantities in excess of expected requirements.

Property and Equipment

Property, equipment and leasehold improvements are stated at cost and depreciated using the straight-line method as follows:

Leasehold improvements	Shorter of remaining lease terms or useful life
Equipment, furniture and fixtures	5 - 7 years
Software and computer equipment	3 years

Capitalized Software

We capitalize certain costs related to direct material and service costs for software obtained for internal use. Capitalized software costs are depreciated over 3 years.

Impairment of Long-Lived Assets

Long-lived assets include property and equipment. The carrying value of long-lived assets is reviewed for impairment whenever events or changes in circumstances indicate that the asset may not be recoverable. An impairment loss is recognized when the total of estimated future cash flows expected to result from the use of the asset and its eventual disposition is less than its carrying amount.

Bonus Accruals

We have short-term bonus programs for eligible employees. Bonuses are determined based on various criteria, including the achievement of corporate, departmental and individual goals. Bonus accruals are estimated based on various factors, including target bonus percentages per level of employee and probability of achieving the goals upon which bonuses are based.

In 2011, we granted special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. As of December 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized.

Deferred Rent

Deferred rent consists of the difference between cash payments and the recognition of rent expense on a straight-line basis for the buildings we occupy. Rent expense is being recognized ratably

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

over the life of the leases. Because our facility operating leases provide for rent increases over the terms of the leases, average annual rent expense during the first 1.5 years of the leases exceeded our actual cash rent payments. Also included in deferred rent are lease incentives of $2.6 million as of December 31, 2013, which is being recognized ratably over the life of the leases.

Revenue Recognition

Revenue is recognized when the four basic criteria of revenue recognition are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured. Determination of criteria (3) and (4) are based on management's judgments regarding the nature of the fee charged for products or services delivered and the collectability of those fees. Where the revenue recognition criteria are not met, we defer the recognition of revenue by recording deferred revenue until such time that all criteria are met.

Collaborative Arrangements and Multiple-Element Arrangements

Revenue from nonrefundable, up-front license or technology access payments under license and collaborative arrangements that are not dependent on any future performance by us is recognized when such amounts are earned. If we have continuing obligations to perform under the arrangement, such fees are recognized over the estimated period of continuing performance obligation.

We account for multiple element arrangements, such as license and development agreements in which a customer may purchase several deliverables, in accordance with FASB ASC Subtopic 605-25, "Multiple Element Arrangements." For new or materially amended multiple element arrangements, we identify the deliverables at the inception of the arrangement and each deliverable within a multiple deliverable revenue arrangement is accounted for as a separate unit of accounting if both of the following criteria are met: (1) the delivered item or items have value to the customer on a standalone basis and (2) for an arrangement that includes a general right of return relative to the delivered item(s), delivery or performance of the undelivered item(s) is considered probable and substantially in our control. We allocate revenue to each non-contingent element based on the relative selling price of each element. When applying the relative selling price method, we determine the selling price for each deliverable using vendor-specific objective evidence ("VSOE") of selling price, if it exists, or third-party evidence ("TPE") of selling price, if it exists. If neither VSOE nor TPE of selling price exist for a deliverable, we use the best estimated selling price for that deliverable. Revenue allocated to each element is then recognized based on when the basic four revenue recognition criteria are met for each element.

For multiple-element arrangements entered into prior to January 1, 2011, we determined the deliverables under our collaborative arrangements did not meet the criteria to be considered separate accounting units for the purposes of revenue recognition. As a result, we recognized revenue from non-refundable, upfront fees and development contingent payments ratably over the term of its performance under the agreements. These upfront or contingent payments received, pending recognition as revenue, are recorded as deferred revenue and are classified as a short-term or long-term liability on the consolidated balance sheets and amortized over the estimated period of performance. We periodically review the estimated performance periods of our contracts based on the progress of our programs.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

Where a portion of non-refundable upfront fees or other payments received are allocated to continuing performance obligations under the terms of a collaborative arrangement, they are recorded as deferred revenue and recognized as revenue or as an accrued liability and recognized as a reduction of research and development expenses ratably over the term of our estimated performance period under the agreement. We determine the estimated performance periods, and they are periodically reviewed based on the progress of the related program. The effect of any change made to an estimated performance period and, therefore revenue recognized, would occur on a prospective basis in the period that the change was made.

Under certain collaborative arrangements, we have been reimbursed for a portion of our research and development expenses. These reimbursements have been reflected as a reduction of research and development expense in our consolidated statements of operations, as we do not consider performing research and development services to be a part of our ongoing and central operations. Therefore, the reimbursement of research and developmental services and any amounts allocated to our research and development services are recorded as a reduction of research and development expense.

Amounts deferred under a collaborative arrangement in which the performance obligations are terminated will result in an immediate recognition of any remaining deferred revenue and accrued liability in the period that termination occurred, provided that all performance obligations have been satisfied.

We account for contingent payments in accordance with FASB Subtopic ASC 605-28 "Revenue Recognition—Milestone Method." We recognize revenue from milestone payments when (i) the milestone event is substantive and its achievability was not reasonably assured at the inception of the agreement and (ii) we do not have ongoing performance obligations related to the achievement of the milestone. Milestone payments are considered substantive if all of the following conditions are met: the milestone payment (a) is commensurate with either our performance to achieve the milestone or the enhancement of the value of the delivered item or items as a result of a specific outcome resulting from our performance to achieve the milestone, (b) relates solely to past performance, and (c) is reasonable relative to all of the deliverables and payment terms (including other potential milestone consideration) within the arrangement. See Note 3, "Collaborative Arrangements," for analysis of each milestone event deemed to be substantive or non-substantive.

In accordance with FASB Subtopic ASC 808-10, "Collaborative Arrangements," and pursuant to our agreement with Astellas, we recognized as revenue the net impact of transactions with Astellas related to VIBATIV® inventories including revenue specifically attributable to any sales, and cost of inventories either transferred or expensed as unrealizable.

Product Revenues

We sell VIBATIV® in the U.S. through a limited number of distributors, and title and risk of loss transfer upon receipt by these distributors. Healthcare providers order VIBATIV® through these distributors. For all product shipped in 2013, we are deferring the recognition of revenue until the product is sold through to healthcare providers, the end customers, due to the inherent uncertainties in estimating normal channel inventory at the distributors, and during which period we also provided extended payment terms and expanded return rights that allow distributors to return the product. As of December 31, 2013, we had deferred revenue of $0.9 million related to VIBATIV® shipments included in current liabilities in the consolidated balance sheet.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

Product sales are recorded net of estimated government-mandated rebates and chargebacks, distribution fees, estimated product returns and other deductions. We reflect such reductions in revenue as either an allowance to the related account receivable from the distributor, or as an accrued liability, depending on the nature of the sales deduction. Sales deductions are based on management's estimates that consider payer mix in target markets, industry benchmarks and experience to date. We monitor inventory levels in the distribution channel, as well as sales of VIBATIV® by distributors to healthcare providers, using product-specific data provided by the distributors. Product return allowances are based on amounts owed or to be claimed on related sales. These estimates take into consideration the terms of our agreements with customers, historical product returns of VIBATIV® experienced by Astellas, rebates or discounts taken, estimated levels of inventory in the distribution channel, the shelf life of the product, and specific known market events, such as competitive pricing and new product introductions. We update our estimates and assumptions each quarter and if actual future results vary from our estimates, we may adjust these estimates, which could have an effect on product sales and earnings in the period of adjustment.

Sales Discounts: We offer cash discounts to our customers, generally 2% of the sales price, as an incentive for prompt payment. We expect our customers to comply with the prompt payment terms to earn the cash discount. We account for cash discounts by reducing accounts receivable by the full amount and recognizing the discount as a reduction of revenue in the same period the related revenue is recognized.

Chargebacks and Government Rebates: For VIBATIV® sales in the U.S., we estimate reductions to product sales for qualifying federal and state government programs including discounted pricing offered to Public Health Service (PHS) as well as government-managed Medicaid programs. Our reduction for PHS is based on actual chargebacks that distributors have claimed for reduced pricing offered to such health care providers. Our accrual for Medicaid is based upon statutorily-defined discounts, estimated payer mix, expected sales to qualified healthcare providers, and our expectation about future utilization. The Medicaid accrual and government rebates that are invoiced directly to us are recorded in other accrued liabilities on the consolidated balance sheet. For qualified programs that can purchase our products through distributors at a lower contractual government price, the distributors charge back to us the difference between their acquisition cost and the lower contractual government price, which we record as an allowance against accounts receivable.

Distribution Fees and Product Returns: We have written contracts with our distributors that include terms for distribution-related fees. We record distribution-related fees based on a percentage of the product sales price. We offer our distributors a right to return product purchased directly from us, which is principally based upon the product's expiration date. Additionally, we have granted more expansive return rights to our distributors following our product launch of VIBATIV®. We will generally accept returns for expired product during the six months prior to and twelve months after the product expiration date on product that had been sold to our distributors. Product returned is generally not resalable given the nature of our products and method of administration. We have developed estimates for VIBATIV® product returns based upon historical VIBATIV® sales from our former collaborative partner, Astellas. We record distribution fees and product returns as an allowance against accounts receivable.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

Allowance for Doubtful Accounts: We maintain a policy to record allowances for potentially doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. As of December 31, 2013, there was no allowance for doubtful accounts.

Royalties: We recognize royalty revenue on licensee net sales of our products in the period in which the royalties are earned and reported to us and collectability is reasonably assured.

Intangible Assets

We capitalize fees paid to licensors related to agreements for approved products or commercialized products. We capitalize these fees as finite-lived intangible assets and amortize these intangible assets on a straight-line basis over their estimated useful lives once we begin recognizing the related royalty revenue. Consistent with our policy for classification of costs under the research and development collaborative arrangements, the amortization of these intangible assets will be recognized as a reduction of royalty revenue. We review our intangible assets for impairment when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. The recoverability of finite-lived intangible assets is measured by comparing the asset's carrying amount to the expected undiscounted future cash flows that the asset is expected to generate. The determination of recoverability typically requires various estimates and assumptions, including estimating the useful life over which cash flows will occur, their amount, and the asset's residual value, if any. We derive the required cash flow estimates from near-term forecasted product sales and long-term projected sales in the corresponding market.

Research and Development Costs

Research and development costs are expensed in the period that services are rendered or goods are received. Research and development costs consist of salaries and benefits, laboratory supplies and facility costs, as well as fees paid to third parties that conduct certain research and development activities on behalf of us, net of certain external research and development costs reimbursed under our collaborative arrangements.

Preclinical Study and Clinical Study Expenses

A substantial portion of our preclinical studies and all of our clinical studies have been performed by third-party contract research organizations (CROs). Some CROs bill monthly for services performed, while others bill based upon milestones achieved. We review the activities performed under the significant contracts each quarter. For preclinical studies, the significant factors used in estimating accruals include the percentage of work completed to date and contract milestones achieved. For clinical study expenses, the significant factors used in estimating accruals include the number of patients enrolled and percentage of work completed to date. Vendor confirmations are obtained for contracts with longer duration when necessary to validate our estimate of expenses. Our estimates are highly dependent upon the timeliness and accuracy of the data provided by our CROs regarding the status of each program and total program spending and adjustments are made when deemed necessary.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

Advertising Expenses

We expense the costs of advertising, including promotional expenses, as incurred. Advertising expenses were not significant in 2013 and were $0 in 2012 and 2011.

Fair Value of Stock-Based Compensation Awards

We use the Black-Scholes-Merton option pricing model to estimate the fair value of options granted under our equity incentive plans and rights to acquire stock granted under our employee stock purchase plan (ESPP). The Black-Scholes-Merton option valuation model requires the use of assumptions, including the expected term of the award and the expected stock price volatility. We use the "simplified" method as described in Staff Accounting Bulletin No. 107, "Share-Based Payment," for the expected option term because the usage of its historical option exercise data is limited due to post-IPO exercise restrictions. Beginning April 1, 2011, we used our historical volatility to estimate expected stock price volatility. Prior to April 1, 2011, we used peer company price volatility to estimate expected stock price volatility due to our limited historical common stock price volatility since our initial public offering in 2004.

Restricted Stock Units (RSUs) and Restricted Stock Awards (RSAs) are measured based on the fair market values of the underlying stock on the dates of grant.

Stock-based compensation expense was calculated based on awards ultimately expected to vest and was reduced for estimated forfeitures at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differed from those estimates. Our estimated annual forfeiture rates for stock options, RSUs and RSAs are based on our historical forfeiture experience.

The estimated fair value of stock options, RSUs and RSAs is expensed on a straight-line basis over the expected term of the grant and the estimated fair value of performance-contingent RSUs and RSAs is expensed using an accelerated method over the term of the award once we have determined that it is probable that performance milestones will be achieved. Compensation expense for RSUs and RSAs that contain performance conditions is based on the grant date fair value of the award. Compensation expense is recorded over the requisite service period based on management's best estimate as to whether it is probable that the shares awarded are expected to vest. We assess the probability of the performance milestones being met on a continuous basis.

Compensation expense for purchases under the ESPP is recognized based on the fair value of the common stock on the date of offering, less the purchase discount percentage provided for in the plan.

We have not recognized, and do not expect to recognize in the near future, any income tax benefit related to employee stock-based compensation expense as a result of the full valuation allowance on our deferred tax assets including deferred tax assets related to our net operating loss carryforwards.

Other Income (Expense), net

In May 2013, we entered into a royalty participation agreement with Elan Corporation, plc ("Elan"). The closing of the transaction was subject to closing conditions, including the approval of the transaction by Elan's shareholders. Elan's shareholders did not approve the transaction at an Extraordinary General Meeting. Subsequently, we terminated the agreement and, as a result, Elan paid us a $10.0 million termination fee in June 2013, which is reflected in other income on the consolidated

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. Description of Operations and Summary of Significant Accounting Policies (Continued)

statements of operations. Other expense is comprised of third party expenses related to the aforementioned royalty participation agreement and the change in the estimated fair value of the capped-call instruments related to our convertible subordinated notes issued in January 2013, which is reflected in other expense.

Income Taxes

We utilize the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax basis of assets and liabilities and are measured using enacted tax rates and laws that will be in effect when the differences are expected to reverse. A valuation allowance is provided when it is more likely than not that some portion or all of a deferred tax asset will not be realized.

None of our currently unrecognized tax benefits would affect our effective income tax rate if recognized, due to the valuation allowance that currently offsets our deferred tax assets. We do not anticipate the total amount of unrecognized income tax benefits relating to uncertain tax positions existing at December 31, 2013 will significantly increase or decrease in the next 12 months.

We assess all material positions taken in any income tax return, including all significant uncertain positions, in all tax years that are still subject to assessment or challenge by relevant taxing authorities. Assessing an uncertain tax position begins with the initial determination of the position's sustainability and is measured at the largest amount of benefit that is greater than 50% likely to be realized upon ultimate settlement. As of each balance sheet date, unresolved uncertain tax positions must be reassessed, and we will determine whether: the factors underlying the sustainability assertion have changed and whether the amount of the recognized tax benefit is still appropriate.

The recognition and measurement of tax benefits requires significant judgment. Judgments concerning the recognition and measurement of a tax benefit might change as new information becomes available.

Comprehensive Loss

Comprehensive loss is comprised of net loss and other comprehensive income (loss). Other comprehensive income (loss) consists of changes in unrealized gains and losses on our available-for-sale securities, net of tax.

Related Parties

Transactions with GSK are described in Note 3, "Collaborative Arrangements".

Robert V. Gunderson, Jr. is a director of the Company. We have engaged Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, of which Mr. Gunderson is a partner, as our primary legal counsel. Fees incurred in the ordinary course of business were $3.2 million in 2013, $1.2 million in 2012, and $0.3 million in 2011.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

2. Net Loss per Share

Basic net loss per share is computed by dividing net loss by the weighted-average number of shares of common stock outstanding, less RSAs subject to forfeiture. Diluted net loss per share is computed by dividing net loss by the weighted-average number of shares of common stock outstanding, less RSAs subject to forfeiture, plus all additional common shares that would have been outstanding, assuming dilutive potential common shares had been issued for other dilutive securities.

For the years ended December 31, 2013, 2012 and 2011, diluted and basic net loss per share were identical since potential common shares were excluded from the calculation, as their effect was anti-dilutive.

The computations for basic and diluted net loss per share were as follows:

	Year Ended December 31,		
(In thousands, except for per share data)	2013	2012	2011
Numerator:			
Net loss	$ (170,701)	$ (18,542)	$ (115,344)
Denominator:			
Weighted-average shares of stock outstanding	104,789	93,410	84,493
Less: unvested RSAs	(2,364)	(2,501)	(2,442)
Weighted-average shares used to compute basic and diluted net loss per share	102,425	90,909	82,051
Net loss per share:			
Basic and diluted net loss per share	$ (1.67)	$ (0.20)	$ (1.41)

Anti-dilutive Securities

The following common equivalent shares were not included in the computation of diluted net loss per share because their effect was anti-dilutive:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Shares issuable under Equity Incentive Plans and ESPP	4,095	5,367	5,464
Shares issuable upon the conversion of convertible subordinated notes	2,780	6,668	6,668
Total anti-dilutive securities	6,875	12,035	12,132

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements

Revenues from Collaborative Arrangements

We recognized total net revenue as follows:

(In thousands)	Year Ended December 31, 2013	2012	2011
GSK	$ 4,532	$ 5,613	$ 9,658
Astellas	—	125,788	14,854
Other	226	4,357	—
Total net revenue	$ 4,758	$ 135,758	$ 24,512

GSK

LABA Collaboration

In November 2002, we entered into our long-acting beta$_2$ agonist (LABA) collaboration with GSK to develop and commercialize once-daily LABA products for the treatment of chronic obstructive pulmonary disease (COPD) and asthma. For the treatment of COPD, the collaboration has developed two combination products: (1) RELVAR®/BREO® ELLIPTA® (FF/VI), a once-daily combination medicine consisting of a LABA, vilanterol (VI), and an inhaled corticosteroid (ICS), fluticasone furoate (FF) and (2) ANORO™ ELLIPTA™ (UMEC/VI), a once-daily medicine combining a long-acting muscarinic antagonist (LAMA), umeclidinium bromide (UMEC), with a LABA, VI. For the treatment of asthma, RELVAR® ELLIPTA® is approved in multiple regions outside of North America and the collaboration is further developing FF/VI for the U.S.

In the event that a product containing VI is successfully developed and commercialized, we will be obligated to make milestone payments to GSK, which could total as much as $220.0 million if both a single-agent and a combination product or two different combination products are launched in multiple regions of the world. Of these potential payments to GSK for registrational and launch-related milestone fees, we have paid a total of $85.0 million and accrued a liability of $40.0 million as of December 31, 2013 and recorded an additional $15.0 million payment in January 2014. These milestone fees paid or owed to GSK were capitalized as finite-lived intangible assets, which are being amortized over their estimated useful life. We estimate the remaining potential milestone payments of $80.0 million could be payable by the end of 2014.

Total milestone fees paid of $85.0 million as of December 31, 2013 resulted from the following:

- In May 2013, the U.S. Food and Drug Administration (FDA) approved BREO® ELLIPTA® as an inhaled long-term, once-daily maintenance treatment of airflow obstruction in patients with COPD, including chronic bronchitis and/or emphysema. It is also indicated to reduce exacerbations of COPD in patients with a history of exacerbations.

- In September 2013, the Japanese Ministry of Health, Labour and Welfare (MHLW) approved RELVAR® ELLIPTA® for the treatment of bronchial asthma in cases where concurrent use of inhaled corticosteroid and long-acting inhaled beta$_2$ agonist is required.

- In October 2013, BREO® ELLIPTA® was launched in the U.S. for the treatment of COPD.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements (Continued)

- In November 2013, the European Commission granted marketing authorization for RELVAR® ELLIPTA® for the regular treatment of asthma and the systematic treatment of COPD.

Total milestone fees accrued as liabilities of $40.0 million as of December 31, 2013 resulted from the following:

- In December 2013, RELVAR® ELLIPTA® was launched in Japan for the treatment of bronchial asthma.

- In December 2013, the U.S. FDA approved ANORO™ ELLIPTA™ as a combination anticholinergic/long-acting beta$_2$-adrenergic agonist (LABA) indicated for the long-term, once-daily, maintenance treatment of airflow obstruction in patients with chronic obstructive pulmonary disease (COPD), including chronic bronchitis and/or emphysema.

Total milestone fees recorded of $15.0 million in January 2014 resulted from the following:

- In January 2014, RELVAR® ELLIPTA® was launched in the European Union.

We are entitled to receive annual royalties from GSK on sales of RELVAR®/BREO® ELLIPTA® as follows: 15% on the first $3.0 billion of annual global net sales and 5% for all annual global net sales above $3.0 billion. Sales of single-agent LABA medicines and combination medicines would be combined for the purposes of this royalty calculation. For other products combined with a LABA from the LABA collaboration, such as ANORO™ ELLIPTA™, royalties are upward tiering and range from 6.5% to 10%.

2004 Strategic Alliance

In March 2004, we entered into our strategic alliance with GSK (the Strategic Alliance agreement and the LABA collaboration are together referred to herein as the GSK Agreements). Under this alliance, GSK received an option to license exclusive development and commercialization rights to product candidates from certain of our discovery programs on pre-determined terms and on an exclusive, worldwide basis. Upon GSK's decision to license a program, GSK is responsible for funding all future development, manufacturing and commercialization activities for product candidates in that program. In addition, GSK is obligated to use diligent efforts to develop and commercialize product candidates from any program that it licenses. If the program is successfully advanced through development by GSK, we are entitled to receive clinical, regulatory and commercial milestone payments and royalties on any sales of medicines developed from the program. If GSK chooses not to license a program, we retain all rights to the program and may continue the program alone or with a third party. GSK has no further option rights on any of our research or development programs under the strategic alliance.

In 2005, GSK licensed our bifunctional muscarinic antagonist-beta$_2$ agonist (MABA) program for the treatment of COPD, and in October 2011, we and GSK expanded the MABA program by adding six additional Theravance-discovered preclinical MABA compounds (the "Additional MABAs"). GSK's development, commercialization, milestone and royalty obligations under the strategic alliance remain the same with respect to GSK961081 ('081), the lead compound in the MABA program. GSK is obligated to use diligent efforts to develop and commercialize at least one MABA within the MABA program, but may terminate progression of any or all Additional MABAs at any time and return them to us, at which point we may develop and commercialize such Additional MABAs alone or with a third

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements (Continued)

party. Both GSK and we have agreed not to conduct any MABA clinical studies outside of the strategic alliance so long as GSK is in possession of the Additional MABAs. If a single-agent MABA medicine containing '081 is successfully developed and commercialized, we are entitled to receive royalties from GSK of between 10% and 20% of annual global net sales up to $3.5 billion, and 7.5% for all annual global net sales above $3.5 billion. If a MABA medicine containing '081 is commercialized as a combination product, such as '081/FF, the royalty rate is 70% of the rate applicable to sales of the single-agent MABA medicine. For single-agent MABA medicines containing an Additional MABA, we are entitled to receive royalties from GSK of between 10% and 15% of annual global net sales up to $3.5 billion, and 10% for all annual global net sales above $3.5 billion. For combination products containing an Additional MABA, such as a MABA/ICS combination, the royalty rate is 50% of the rate applicable to sales of the single-agent MABA medicine. If a MABA medicine containing '081 is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $125.0 million for a single-agent medicine and up to $250.0 million for both a single-agent and a combination medicine. If a MABA medicine containing an Additional MABA is successfully developed and commercialized in multiple regions of the world, we could earn total contingent payments of up to $129.0 million.

Agreements Entered into with GSK in Connection with the Spin-Off

In conjunction with the planned spin-off of Theravance Biopharma, on March 3, 2014, we, Theravance Biopharma and GSK entered into a series of agreements clarifying how the companies will implement the spin-off and operate following the spin-off. We, Theravance Biopharma and GSK entered into a three-way master agreement providing for GSK's consent to the spin-off provided certain conditions are met. In addition, we and GSK also entered into amendments of our LABA collaboration and Strategic Alliance agreements, and Theravance Biopharma and GSK entered into a governance agreement, a registration rights agreement and an extension agreement. The three-way master agreement is currently effective, but will terminate if the spin-off is not effected by June 30, 2014, and the other agreements will become effective upon the spin-off, provided that the spin-off is effected on or before June 30, 2014.

The amendments to the GSK Agreements do not change the economics or royalty rates. The amendments to the GSK Agreements do provide that GSK's diligent efforts obligations regarding commercialization matters under both agreements will change upon regulatory approval in either the United States or the European Union of UMEC/VI/FF or a MABA in combination with FF. Upon such regulatory approval, GSK's diligent efforts obligations as to commercialization matters under the GSK Agreements will have the objective of focusing on the best interests of patients and maximizing the net value of the overall portfolio of products under the collaboration agreement and strategic alliance agreement. Since GSK's commercialization efforts following such regulatory approval will be guided by a portfolio approach across products in which we will retain our full interests upon the spin-off and also products in which we will have retained only a portion of our interests upon the planned spin-off transaction, GSK's commercialization efforts may have the effect of reducing the overall value of our remaining interests in the GSK Agreements after the spin-off.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements (Continued)

Purchases of Common Stock under the Company's Governance Agreement and Common Stock Purchase Agreements with GSK

Prior to 2013, affiliates of GSK purchased an aggregate of 26,411,103 shares of our common stock. In 2013, GSK purchased 3,504,970 shares of our common stock pursuant to its periodic "top-up" rights under our Amended and Restated Governance Agreement, dated as of June 4, 2004, as amended, among us, GSK and certain GSK affiliates, for a total investment of $126.0 million.

GSK Contingent Payments and Revenue

The potential future contingent payments receivable related to the MABA program of $363.0 million are not deemed substantive milestones due to the fact that the achievement of the event underlying the payment predominantly relates to GSK's performance of future development, manufacturing and commercialization activities for product candidates after licensing the program.

Net revenue recognized from GSK under the LABA collaboration and strategic alliance agreements was as follows:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Royalty revenue	$ 1,945	$ —	$ —
Amortization of intangible assets	(743)	—	—
Net royalty revenue	1,202	—	—
LABA collaboration[1]	1,815	3,629	4,718
Strategic alliance agreement	—	—	1,858
Strategic alliance—MABA program license[2]	1,515	1,984	3,082
Total net revenue from GSK	$ 4,532	$ 5,613	$ 9,658

(1) We revised the estimated performance period for the LABA program based on its progress in the fourth quarter of 2011, resulting in an increase to net loss of $0.4 million for the year ended December 31, 2011. Deferred revenue under this agreement was fully recognized in 2013.

(2) We revised the estimated performance period for the MABA program based on its progress as follows: (i) in the fourth quarter of 2011, resulting in an increase to net loss of $0.2 million for the year ended December 31, 2011, (ii) in the fourth quarter of 2012, resulting in an increase to net loss of $0.1 million for the year ended December 31, 2012 and (iii) in the fourth quarter of 2013, resulting in an increase to net loss of $0.1 million for the year ended December 31, 2013. We do not expect that these revisions will have a material impact on future revenue recognized under this program.

Merck

Research Collaboration and License Agreement

In October 2012, we entered into a research collaboration and license agreement (the "Research Collaboration and License Agreement") with Merck, known as MSD outside the United States and

3. Collaborative Arrangements (Continued)

Canada, to discover, develop and commercialize novel small molecule therapeutics directed towards a target being investigated for the treatment of hypertension and heart failure. Under the agreement, we granted Merck a worldwide, exclusive license to our therapeutic candidates. We received a $5.0 million upfront payment in November 2012. Also, we received funding for research and were eligible for potential future contingent payments totaling up to $148.0 million for the first indication and royalties on worldwide annual net sales of any products derived from the collaboration. The initial research term was twelve months, with optional extensions by mutual agreement. Merck had the right to terminate the agreement at any time and provided Theravance with notice of termination in September 2013. The agreement was terminated in December 2013.

Under the Research Collaboration and License Agreement, the significant deliverables were determined to be the license, research services and committee participation. We determined that the license represents a separate unit of accounting because the license has standalone value. The license, which includes rights to our underlying technologies for our therapeutic candidates, permit Merck to perform all efforts necessary to use our technologies to bring a therapeutic candidate through development and, upon regulatory approval, commercialization. We based the best estimate of selling price on potential future cash flows under the arrangement over the estimated development period. We determined that the research services represent a separate unit of accounting and based the best estimate of selling price on the nature and timing of the services to be performed. We determined that the committee participation represents a separate unit of accounting as Merck could negotiate for and/or acquire these services from other third-parties and based the best estimate of selling price on the nature and timing of the services to be performed.

The $5.0 million upfront payment received in November 2012 was allocated to the three units of accounting based on the relative selling price method as follows: $4.4 million to the license, $0.4 million to the research services and $0.2 million to the committee participation. We recognized revenue of $4.4 million from the license in 2012 as the technical transfer activities were complete and the associated unit of accounting was deemed delivered. The amount of the upfront payment allocated to the research services was deferred and is being recognized as a reduction of research and development expense as the underlying services are performed, since the nature of the research services is more appropriately characterized as research and development expense consistent with the research reimbursements being received. The amount of the upfront payment allocated to the committee participation was deferred and recognized as revenue over the estimated performance period.

Due to the notice of termination, we revised the estimated performance period resulting in an increase in revenue of $206,000 in 2013. Revenue recognized from Merck under the collaboration agreement was $226,000 in 2013.

Clinigen Group

Commercialization Agreement

In March 2013, we entered into a commercialization agreement (the "Clinigen Commercialization Agreement") with Clinigen Group plc (Clinigen) to commercialize VIBATIV® for the treatment of hospital acquired nosocomial pneumonia, including ventilator-associated pneumonia, known or suspected to be caused by methicillin resistant *Staphylococcus aureus* (MRSA) when other alternatives are not suitable. Under the agreement, we granted Clinigen exclusive commercialization rights in the European Union and certain other European countries (including Switzerland and Norway). We

3. Collaborative Arrangements (Continued)

received a $5.0 million upfront payment in March 2013. Also, we are eligible to receive tiered royalty payments on net sales of VIBATIV®, ranging from 20% to 30%. We are responsible, either directly or through our vendors or contractors, for supplying at Clinigen's expense both API and finished drug product for Clinigen's commercialization activities. The agreement has a term of at least 15 years, with an option to extend exercisable by Clinigen. However, Clinigen may terminate the agreement at any time after it has initiated commercialization upon 12 months' advance notice.

Under the Clinigen Commercialization Agreement, the significant deliverables were determined to be the license, committee participation and manufacturing supply. We determined that the license represents a separate unit of accounting as the license, which includes rights to our underlying technologies for VIBATIV®, has standalone value because the rights conveyed permit Clinigen to perform all efforts necessary to use our technologies to bring the compound through commercialization. We based the best estimate of selling price for the license on potential future cash flows under the arrangement over the estimated commercialization period. We determined that the committee participation represents a separate unit of accounting as Clinigen could negotiate for and/or acquire these services from other third parties, and we based the best estimate of selling price on the nature and timing of the services to be performed. We based the best estimate of selling price for the manufacturing supply on a fully burdened cost to purchase and transfer the underlying API and finished goods from our third party contract manufacturer.

The $5.0 million upfront payment received in 2013 was allocated to two units of accounting based on the relative selling price method as follows: $4.9 million to the license and $0.1 million to the committee participation. We did not recognize any revenue from the license and committee participation as the technical transfer activities were not completed as of December 31, 2013 and the associated units of accounting were not delivered. The amount of the upfront payment allocated to the committee participation was deferred and will be recognized as revenue over the estimated performance period. Amounts received under a future separate supply agreement for API and finished goods, which will be manufactured by our third party contract manufacturers, will be recognized as revenue to the extent of future API and finished goods inventory sales.

R-Pharm CJSC

Development and Commercialization Agreements

In October 2012, we entered into two development and commercialization agreements with R-Pharm CJSC (R-Pharm): one to develop and commercialize VIBATIV® (the "VIBATIV® Development and Commercialization Agreement") and the other to develop and commercialize TD-1792 (the "TD-1792 Development and Commercialization Agreement"), one of our investigational glycopeptide-cephalosporin heterodimer antibiotics for the treatment of Gram-positive infections. Under each agreement, we granted R-Pharm exclusive development and commercialization rights in Russia, Ukraine, other member countries of the Commonwealth of Independent States, and Georgia. We received $1.1 million in upfront payments for each agreement. Also, we are eligible to receive potential future contingent payments totaling up to $10.0 million for both agreements and royalties on net sales by R-Pharm of 15% from TD-1792 and 25% from VIBATIV®. The contingent payments are not deemed substantive milestones due to the fact that the achievement of the event underlying the payment predominantly relates to R-Pharm's performance of future development and commercialization activities.

3. Collaborative Arrangements (Continued)

TD-1792

Under the TD-1792 Development and Commercialization Agreement, the significant deliverables were determined to be the license, committee participation and a contingent obligation to supply R-Pharm with API compound at R-Pharm's expense, either directly or through our contract manufacturer. We determined that the license represents a separate unit of accounting as the license, which includes rights to our underlying technologies for TD-1792, has standalone value because the rights conveyed permit R-Pharm to perform all efforts necessary to use our technologies to bring the compounds through development and, upon regulatory approval, commercialization. Also, we determined that the committee participation represents a separate unit of accounting as R-Pharm could negotiate for and/or acquire these services from other third parties, and we based the best estimate of selling price on the nature and timing of the services to be performed. In March 2013, we entered into a supply agreement for TD-1792 API compound under which we will sell our existing API compound to R-Pharm. Upon execution of this supply agreement, we determined that the supply agreement represents a separate unit of accounting under the development and commercialization arrangement and based the best estimate of selling price for the supply agreement on our fully burdened cost to manufacture the underlying API.

The $1.1 million upfront payment for the TD-1792 agreement was allocated to two units of accounting based on the relative selling price method as follows: $0.9 million to the license and $0.1 million to the committee participation. The amount allocated to the license was deferred and will be recognized as revenue upon completion of technical transfer for the underlying license. The amount allocated to committee participation was deferred and is being recognized as revenue over the estimated performance period.

Amounts to be received under the supply agreement described above will be recognized as revenue to the extent R-Pharm purchases API compound from us.

VIBATIV®

Under the VIBATIV® Development and Commercialization Agreement, the significant deliverables were determined to be the license, committee participation and a contingent obligation to supply R-Pharm with API compound at R-Pharm's expense, subject to entering into a future supply agreement. We determined that the license represents a separate unit of accounting as the license, which includes rights to our underlying technologies for VIBATIV®, has standalone value because the rights conveyed permit R-Pharm to perform all efforts necessary to use our technologies to bring the compounds through development and, upon regulatory approval, commercialization. We based the best estimate of selling price for the license on potential future cash flows under the arrangement over the estimated performance period. We determined that the committee participation represents a separate unit of accounting as R-Pharm could negotiate for and/or acquire these services from other third parties, and we based the best estimate of selling price on the nature and timing of the services to be performed.

The $1.1 million upfront payment for the VIBATIV® agreement was allocated to two units of accounting based on the relative selling price method as follows: $1.0 million to the license and $33,000 to the committee participation. The amount allocated to the license was deferred and will be recognized as revenue upon completion of technical transfer. The amount allocated to committee participation was deferred and is being recognized as revenue over the estimated performance period.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements (Continued)

Alfa Wassermann

Development and Collaboration Arrangement

In October 2012, we entered into a development and collaboration arrangement with Alfa Wassermann società per azioni (S.p.A.) ("Alfa Wassermann") for velusetrag under which the parties agreed to collaborate in the execution of a two-part Phase 2 program to test the efficacy, safety and tolerability of velusetrag in the treatment of patients with gastroparesis (a medical condition consisting of a paresis (partial paralysis) of the stomach, resulting in food remaining in the stomach for a longer time than normal). Alfa Wassermann has an exclusive option to develop and commercialize velusetrag in the European Union, Russia, China, Mexico and certain other countries, while we retain full rights to velusetrag in the United States, Canada, Japan and certain other countries. We are entitled to receive funding for the Phase 2a study and a subsequent Phase 2b study if the parties agree to proceed. If Alfa Wassermann exercises its license option at the completion of the Phase 2 program, then we are entitled to receive a $10.0 million option fee. If velusetrag is successfully developed and commercialized, we are entitled to receive potential future contingent payments totaling up to $53.5 million, and royalties on net sales by Alfa Wassermann ranging from the low teens to 20%.

Former Collaborative Arrangement with Astellas

License, Development and Commercialization Agreement

In November 2005, we entered into a global collaboration arrangement with Astellas for the license, development and commercialization of VIBATIV®. Under this agreement, Astellas paid us non-refundable cash payments totaling $191.0 million. In January 2012, Astellas exercised its right to terminate the collaboration agreement. The rights previously granted to Astellas ceased upon termination of the agreement, and Astellas stopped all promotional sales efforts. Pursuant to the terms of the agreement, Astellas is entitled to a ten-year, 2% royalty on future net sales of VIBATIV®. As such, we recognized as revenue $125.8 million of deferred revenue related to Astellas in 2012, and we are no longer eligible to receive any further milestone payments from Astellas.

Net revenue recognized from Astellas under the former collaborative arrangement was as follows:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Recognition of deferred revenue	$ —	$ 125,819	$ —
Amortization of deferred revenue	—	—	12,975
Royalties from net sales of VIBATIV®	—	—	2,422
Proceeds from VIBATIV® delivered to Astellas	—	—	1,171
Cost of VIBATIV® delivered to Astellas	—	—	(1,177)
Cost of unrealizable VIBATIV® inventories	—	—	(537)
Astellas-labeled product sales allowance	—	(31)	—
Total net revenue from Astellas	$ —	$ 125,788	$ 14,854

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Collaborative Arrangements (Continued)

Reimbursement of R&D Costs

Under the GSK, Merck, Alfa Wasserman, R-Pharm and Astellas collaboration arrangements, we are entitled to reimbursement of certain R&D costs. Our policy is to account for the reimbursement payments by its collaboration partners as reductions to R&D expense.

The following table summarizes the reductions to R&D expenses related to the reimbursement payments:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
GSK	$ 473	$ 168	$ 449
Merck	4,937	756	—
Alfa Wasserman	1,500	185	—
R-Pharm	86	—	—
Astellas	—	—	390
Total reduction to R&D expense	$ 6,996	$ 1,109	$ 839

4. Available-for-Sale Securities

The classification of available-for-sale securities in the consolidated balance sheets is as follows:

(In thousands)	December 31, 2013	December 31, 2012
Cash and cash equivalents	$ 125,009	$ 86,298
Short-term investments	321,615	153,640
Marketable securities	55,374	95,194
Restricted cash	833	833
Total	$ 502,831	$ 335,965

The estimated fair value of available-for-sale securities is based on quoted market prices for these or similar investments that were based on prices obtained from a commercial pricing service. Available-for-sale securities are summarized below:

	December 31, 2013			
(In thousands)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
U.S. government securities	$ 42,104	$ 55	$ (1)	$ 42,158
U.S. government agencies	141,278	61	(8)	141,331
U.S. corporate notes	94,923	54	—	94,977
U.S. commercial paper	102,021	2	(1)	102,022
Money market funds	122,343	—	—	122,343
Total	$ 502,669	$ 172	$ (10)	$ 502,831

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

4. Available-for-Sale Securities (Continued)

	December 31, 2012			
(In thousands)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
U.S. government securities	$ 27,197	$ 10	$ (2)	$ 27,205
U.S. government agencies	115,397	85	(16)	115,466
U.S. corporate notes	91,544	32	(10)	91,566
U.S. commercial paper	23,082	—	—	23,082
Money market funds	78,646	—	—	78,646
Total	$ 335,866	$ 127	$ (28)	$ 335,965

At December 31, 2013, all of the available-for-sale securities had contractual maturities within two years and the average duration of marketable securities was approximately seven months. We do not intend to sell the investments that are in an unrealized loss position, and it is unlikely that we will be required to sell the investments before recovery of their amortized cost basis, which may be maturity. We have determined that the gross unrealized losses on our marketable securities at December 31, 2013 were temporary in nature. All marketable securities with unrealized losses at December 31, 2013 have been in a loss position for less than twelve months.

During 2013, 2012, and 2011, we sold available-for-sale securities totaling $22.6 million, $49.7 million and $17.3 million, and the related realized gains and losses were not significant in any of those periods.

5. Fair Value Measurements

We define fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

Our valuation techniques are based on observable and unobservable inputs. Observable inputs reflect readily obtainable data from independent sources, while unobservable inputs reflect our market assumptions. We classify these inputs into the following hierarchy:

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 whose inputs are observable or whose significant value drivers are observable.

Level 3—Unobservable inputs and little, if any, market activity for the assets.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

5. Fair Value Measurements (Continued)

Our available-for-sale securities are measured at fair value on a recurring basis and our convertible subordinated notes are not measured at fair value on a recurring basis. The estimated fair values were as follows:

Types of Instruments (In thousands)	Estimated Fair Value Measurements at Reporting Date Using: Quoted Prices in Active Markets for Identical Assets Level 1	Significant Other Observable Inputs Level 2	Significant Unobservable Inputs Level 3	Total
Assets at December 31, 2013:				
U.S. government securities	$ 42,158	$ —	$ —	$ 42,158
U.S. government agency securities	98,236	43,095	—	141,331
U.S. corporate notes	61,591	33,386	—	94,977
U.S. commercial paper	3,499	98,523	—	102,022
Money market funds	122,343	—	—	122,343
Total assets measured at estimated fair value	$ 327,827	$ 175,004	$ —	$ 502,831
Liabilities at December 31, 2013:				
Convertible subordinated notes due 2023	$ —	$ 408,250	$ —	$ 408,250

Types of Instruments (In thousands)	Estimated Fair Value Measurements at Reporting Date Using: Quoted Prices in Active Markets for Identical Assets Level 1	Significant Other Observable Inputs Level 2	Significant Unobservable Inputs Level 3	Total
Assets at December 31, 2012:				
U.S. government securities	$ 27,205	$ —	$ —	$ 27,205
U.S. government agency securities	56,969	58,497	—	115,466
U.S. corporate notes	40,472	51,094	—	91,566
U.S. commercial paper	—	23,082	—	23,082
Money market funds	78,646	—	—	78,646
Total assets measured at estimated fair value	$ 203,292	$ 132,673	$ —	$ 335,965
Liabilities at December 31, 2012:				
Convertible subordinated notes due 2015	$ —	$ 194,050	$ —	$ 194,050

At December 31, 2013, securities with a total fair value of $6.8 million were measured using Level 1 inputs in comparison to December 31, 2012, at which time the securities had a fair value of $7.0 million and were measured using Level 2 inputs. The transfer to Level 1 from Level 2 was primarily the result of increased trading volume of the securities at and around December 31, 2013, compared to December 31, 2012.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

5. Fair Value Measurements (Continued)

At December 31, 2013, securities with a total fair value of $2.9 million were measured using Level 2 inputs in comparison to December 31, 2012, at which time the securities had a fair value of $2.9 million and were measured using Level 1 inputs. The transfer to Level 2 from Level 1 was primarily the result of decreased trading volume of the securities at and around December 31, 2013, compared to December 31, 2012.

At December 31, 2012, there were no transfers from Level 1 to Level 2 or from Level 2 to Level 1 in comparison to December 31, 2011.

6. Inventories

Inventories are as follows:

	December 31,	
(In thousands)	2013	2012
Raw materials	$ 5,138	$ 5,668
Work-in-process	360	1,846
Finished goods	4,908	—
Total inventories	$ 10,406	$ 7,514

7. Property and Equipment

Property and equipment consists of the following:

	December 31,	
(In thousands)	2013	2012
Computer equipment	$ 3,084	$ 3,027
Software	5,391	5,073
Furniture and fixtures	3,890	3,829
Laboratory equipment	31,910	29,229
Leasehold improvements	17,769	17,416
	62,044	58,574
Less accumulated depreciation and amortization	(51,806)	(49,420)
Property and equipment, net	$ 10,238	$ 9,154

Depreciation expense was $2.7 million in 2013, $3.3 million in 2012, and $3.8 million in 2011. The change in accumulated depreciation is net of asset retirements. In 2012, we recognized a write-off of $0.2 million related to assets that could no longer be used in operations.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

8. Intangible Assets

Intangible assets, which consist of registrational and launch-related milestone fees paid or owed to GSK, were as follows:

	December 31, 2013			
(In thousands)	Weighted Average Remaining Amortization Period (Years)	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
FDA approval and launch of BREO® ELLIPTA® in the U.S.	15.7	$ 60,000	$ (632)	$ 59,368
MHLW approval and launch of RELVAR® ELLIPTA® in Japan	14.9	20,000	(111)	19,889
European Commission approval of RELVAR® ELLIPTA®	15	15,000	—	15,000
FDA approval of ANORO™ ELLIPTA™ in the U.S.	15.2	30,000	—	30,000
Total intangible assets		$ 125,000	$ (743)	$ 124,257

Additional information regarding these milestone fees is included in Note 3 "Collaborative Arrangements." Amortization expense for the BREO® ELLIPTA® intangible asset for the U.S. region and the RELVAR® ELLIPTA® intangible asset for the Japan region began in the fourth quarter of 2013 and is recorded as a reduction in revenue from collaborative arrangements. Estimated annual amortization expense of intangible assets is $7.1 million for 2014, $8.1 million for each of the years from 2015 to 2018 and $84.7 million thereafter.

9. Long-Term Debt

Long-term debt is as follows:

	December 31,	
(In thousands)	2013	2012
Convertible Subordinated Notes Due 2015	$ —	$ 172,500
Convertible Subordinated Notes Due 2023	287,500	—
Total long-term debt	$ 287,500	$ 172,500

Convertible Subordinated Notes Due 2015

In January 2008, we completed an underwritten public offering of $172.5 million aggregate principal amount of unsecured 3% Convertible Subordinated Notes due January 15, 2015 (2015 Notes). The financing raised proceeds, net of issuance costs, of $166.7 million. On June 4, 2013, we called for the redemption of all outstanding 2015 Notes, $172.5 million principal amount, pursuant to the redemption right in the indenture governing the 2015 Notes. Any 2015 Notes outstanding on July 5, 2013 were to be redeemed in cash for 100% of the principal amount, plus accrued and unpaid interest to, but excluding, the redemption date. The 2015 Notes were convertible at any time prior to 5:00 p.m. Eastern time on July 3, 2013 into shares of our common stock at a conversion rate of 38.6548 shares per $1,000 principal amount (equivalent to a conversion price of approximately $25.87 per share). All of the convertible subordinated notes, $172.5 million principal amount, were converted into 6,667,932 of our common stock between June 30, 2013 and July 3, 2013 and none were redeemed for cash. As a

9. Long-Term Debt (Continued)

result of the conversion, unamortized debt issuance costs of $1.3 million was reclassified from other long-term assets to additional paid-in capital in the third quarter of 2013.

Amortization of the debt issuance costs ceased upon the conversion of the 2015 Notes. Amortization expense was $0.4 million in 2013 and $0.8 million in 2012 and 2011.

Convertible Subordinated Notes Due 2023

In January 2013, we completed an underwritten public offering of $287.5 million aggregate principal amount of unsecured convertible subordinated notes, which will mature on January 15, 2023. The financing raised proceeds, net of issuance costs, of approximately $281.2 million, less $36.8 million to purchase two privately-negotiated capped call option transactions in connection with the issuance of the notes. The notes bear interest at the rate of 2.125% per year, that is payable semi-annually in arrears, in cash on January 15 and July 15 of each year, beginning on July 15, 2013. The issuance costs, which are included in other long-term assets, are being amortized over the life of the notes. Unamortized issuance costs totaled $5.8 million as of December 31, 2013. Amortization expense was $0.5 million in 2013.

The notes are convertible, at the option of the holder, into shares of our common stock at an initial conversion rate of 35.9903 shares per $1,000 principal amount of the notes, subject to adjustment in certain circumstances, which represents an initial conversion price of approximately $27.79 per share. Holders of the notes will be able to require us to repurchase some or all of their notes upon the occurrence of a fundamental change at 100% of the principal amount of the notes being repurchased plus accrued and unpaid interest. We may not redeem the notes prior to their stated maturity date.

In connection with the offering of the notes, we entered into two privately-negotiated capped call option transactions with a single counterparty. The capped call option transaction is an integrated instrument consisting of a call option on our common stock purchased by us with a strike price equal to the conversion price of $27.79 per share for the underlying number of shares and a cap price of $38.00 per share. The cap component is economically equivalent to a call option sold by us for the underlying number of shares with a strike price of $38.00 per share. As an integrated instrument, the settlement of the capped call coincides with the due date of the convertible debt. At settlement, we will receive from our hedge counterparty a number of our common shares that will range from zero, if the stock price is below $27.79 per share, to a maximum of 2,779,659 shares, if the stock price is above $38.00 per share. However, if the market price of our common stock, as measured under the terms of the capped call transactions, exceeds $38.00 per share, there is no incremental anti-dilutive benefit from the capped call. The aggregate cost of the capped call options was $36.8 million.

The terms of the capped call option agreements include a provision under which we would have been required to make cash payments to the counterparty if the debt offering did not close. As a result of this provision, the capped calls were recorded as derivative assets between the trade dates and the date of the closing of the debt offering, at which time the cash settlement provision was no longer applicable. Upon the closing of the debt offering, the capped call transactions met the criteria for classification as an equity instrument, and we reclassified the carrying value of the capped call derivative assets to stockholders' equity. The change in fair value between the trade dates and the date at which the capped call derivative assets were reclassified to stockholders' equity was $1.4 million, which was recorded as other income (expense), net, in our consolidated statement of operations in 2013.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation

Equity Incentive Plans

In May 2012, we adopted the 2012 Equity Incentive Plan (2012 Plan). The number of shares of our common stock available for issuance under the 2012 Plan is equal to 6,500,000 shares plus up to 12,667,411 additional shares that may be added to the 2012 Plan in connection with the forfeiture, repurchase, cash settlement or termination of awards outstanding under the 2004 Equity Incentive Plan (2004 Plan), the 2008 New Employee Equity Incentive Plan, the 1997 Stock Plan and the Long-Term Stock Option Plan (collectively, the "Prior Plans") as of December 31, 2011. While a maximum of 12,667,411 shares could be added to the 2012 Plan from the Prior Plans, this assumes that all the awards outstanding on December 31, 2011 will be forfeited, repurchased, cash settled or terminated. Therefore, the actual number that may be added to the 2012 Plan share reserve will likely be lower. No additional awards have been or will be made after May 15, 2012 under the 2004 Plan. Stock options and stock appreciation rights (SARs) will reduce the 2012 Plan reserve by one share for every share granted, and stock awards other than options and SARs granted will reduce the 2012 Plan share reserve by 1.45 shares for every share granted. The 2012 Plan share reserve was also reduced by the number of stock awards granted under the 2004 Plan on or after January 1, 2012, using the same ratios described. As of December 31, 2013, total shares remaining available for issuance under the 2012 Plan were 3,152,390.

The 2012 Plan provides for the grant of incentive stock options, nonstatutory stock options, restricted stock awards, stock unit awards and SARs to employees, non-employee directors and consultants. Stock options may be granted with an exercise price not less than the fair market value of the common stock on the grant date. Stock options granted to employees generally have a maximum term of 10 years and vest over a four year period from the date of grant; 25% vest at the end of one year, and 75% vest monthly over the remaining three years. We may grant options with different vesting terms from time to time. Unless an employee's termination of service is due to disability or death, upon termination of service, any unexercised vested options will be forfeited at the end of three months or the expiration of the option, whichever is earlier.

Employee Stock Purchase Plan

Under the 2004 Employee Stock Purchase Plan (ESPP), our non-officer employees may purchase common stock through payroll deductions at a price equal to 85 percent of the lower of the fair market value of the stock at the beginning of the offering period or at the end of each applicable purchase period. The ESPP provides for consecutive and overlapping offering periods of 24 months in duration, with each offering period composed of four consecutive six-month purchase periods. The purchase periods end on either May 15th or November 15th. ESPP contributions are limited to a maximum of 15 percent of an employee's eligible compensation.

Our ESPP plan also includes a feature that provides for a new offering period to begin when the fair market value of our common stock on any purchase date during an offering period falls below the fair market value of our common stock on the first day of such offering period. This feature is called a reset. We had resets for new twenty-four month offering periods starting on May 16, 2008, November 16, 2008, May 16, 2010, November 16, 2011, May 16, 2012 and November 16, 2012. We applied modification accounting to determine the incremental fair value associated with the ESPP resets and recognized the related incremental stock- based compensation expense.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation (Continued)

As of December 31, 2013, a total of 2,025,000 shares of common stock were approved and authorized for issuance under the ESPP. Through December 31, 2013, we had issued 1,740,861 shares under the ESPP at an average price of $11.29 per share. As of December 31, 2013, total shares remaining available for issuance under the ESPP were 284,139. As a result of our announcement that our Board of Directors had approved plans to separate our businesses into two independent publicly traded companies, all monies remaining after the purchase on November 15, 2013 were refunded to employees. It was also determined that ESPP shares relating to purchase periods ending after November 15, 2013 were not probable of vesting. Therefore, $0.8 million of compensation expense relating to purchase periods ending after November 15, 2013 was reversed in the fourth quarter of 2013, and any remaining unamortized compensation expense relating to these purchase periods will not be recognized. ESPP was suspended after the November 15, 2013 purchase period.

Performance-Contingent RSAs

Over the past three years, the Compensation Committee of the Company's Board of Directors (the "Compensation Committee") has approved grants of performance-contingent RSAs to senior management and a non-executive officer. Generally, these awards have dual triggers of vesting based upon the achievement of certain performance goals by a pre-specified date, as well as a requirement for continued employment. When the performance goals are deemed achieved for these types of awards, time-based vesting and, as a result, recognition of stock-based compensation expense commence.

Included in these performance-contingent RSAs is the grant of 1,290,000 special long-term retention and incentive performance-contingent RSAs to senior management approved by the Compensation Committee in 2011. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential expense associated with this program is $28.2 million related to stock-based compensation expense, which would be recognized in increments based on achievement of the performance conditions. As of December 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no compensation expense has been recognized. If sufficient performance conditions are achieved in 2014, then we would recognize up to $6.7 million in stock-based compensation expense associated with these RSAs.

Performance-Contingent RSUs

The Compensation Committee of the Company's Board of Directors has approved grants of performance-contingent RSUs to employees. These awards have dual triggers of vesting based upon the successful achievement of certain corporate operating milestones in specified timelines, as well as a requirement for continued employment. When the performance goals are deemed to be probable of achievement for these types of awards, time-based vesting and, as a result, recognition of stock-based compensation expense commences.

Director Compensation Program

Our non-employee directors receive compensation for services provided as a director. Each member of our Board who is not an employee receives an annual retainer as well as a fee for each

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation (Continued)

board and committee meeting attended. Commencing on April 27, 2011, chairpersons of the various committees of the Board, the Audit Committee, the Compensation Committee, Nominating/Corporate Governance Committee and the Science and Technology Advisory Committee receive a fixed retainer. The lead independent director also receives a fixed retainer.

Each of our independent directors receives periodic automatic grants of equity awards under a program implemented under the 2004 Plan. These grants are non-discretionary. Only our independent directors or affiliates of such directors are eligible to receive automatic grants under the 2004 Plan. Under the program, as amended in July 2010, each individual who first becomes an independent director will, on the date such individual joins the Board, automatically be granted (i) a one-time grant of RSUs covering 6,000 shares of our common stock and (ii) a one-time nonstatutory stock option grant covering 6,000 shares of our common stock.

These initial equity grants vest monthly over the director's first two years of service. In addition, on the date of joining the Board, the new director will also receive the standard annual equity awards (if joining on the date of the Company's Annual Meeting of Stockholders) or pro-rated annual equity awards (if joining on any other date). The pro-ration is based upon the number of months of service the new board member will provide during the 12-month period ending on the one-year anniversary of the most recent annual meeting of stockholders. Annually, upon his or her re-election to the Board at the Annual Meeting of Stockholders, each independent director is automatically granted both an RSU covering 6,000 shares of our common stock and a nonstatutory stock option covering 6,000 shares of our common stock. These standard annual equity awards vest monthly over the twelve month period of service following the date of grant. In addition, all automatic equity awards vest in full if the Company is subject to a change in control or the Board member dies while in service.

Stock-Based Compensation Expense

Stock-based compensation expense is included in the consolidated statements of operations as follows:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Research and development	$ 16,017	$ 13,667	$ 13,422
Selling, general and administrative	9,670	10,116	11,494
Total stock-based compensation expense	$ 25,687	$ 23,783	$ 24,916

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation (Continued)

Stock-based compensation expense included in the consolidated statements of operations by award type is as follows:

(In thousands)	Year Ended December 31, 2013	2012	2011
Employee stock options	$ 4,132	$ 3,417	$ 4,528
Employee RSUs	10,174	10,803	10,876
Employee RSAs	9,723	7,602	5,498
Employee performance RSUs	61	743	2,414
Employee performance RSAs	1,061	366	—
Non-employee options and RSUs	—	—	307
ESPP	536	852	1,293
Total stock-based compensation expense	$ 25,687	$ 23,783	$ 24,916

Total stock-based compensation expense capitalized to inventory was $0.2 million for 2013, $0.4 million for 2012, and $0 for 2011.

As of December 31, 2013, the unrecognized stock-based compensation cost, net of expected forfeitures, and the estimated weighted-average amortization period, using the straight-line attribution method, was as follows:

(In thousands, except amortization period)	Unrecognized Compensation Cost	Weighted-average amortization period (years)
Stock options	$ 16, 916	3.1
RSUs	15,473	2.4
RSAs	23,296	2.5
Performance RSUs	4	0.1
Performance RSAs	627	2.9
Total unrecognized stock-based compensation expense	$ 56,316	

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation (Continued)

Compensation Awards

The following table summarizes equity award activity under the 2012 Plan and Prior Plans and related information:

(In thousands, except per share data)	Number of Shares Subject to Outstanding Options	Weighted-average Exercise Price of Outstanding Options	Number of Shares Subject to Outstanding RSUs	Weighted-average Fair Value per Share at Grant	Number of Shares Outstanding Subject to Vesting or Performance Conditions with Vesting	Weighted-average Fair Value per Share at Grant
Balance at December 31, 2010	7,654	$ 16.91	1,897	$ 12.45	33	$ 26.10
Granted	629	21.98	471	24.96	2,483	24.61
Exercised	(1,265)	8.87	—	—	—	—
Released RSUs/RSAs	—	—	(797)	13.89	(74)	24.96
Forfeited	(127)	29.15	(29)	15.35	—	—
Balance at December 31, 2011	6,891	18.62	1,542	15.47	2,442	24.62
Granted	335	21.91	528	18.45	447	18.11
Exercised	(947)	7.98	—	—	—	—
Released RSUs/RSAs	—	—	(752)	14.19	(388)	24.77
Forfeited	(159)	24.43	(78)	18.48	—	—
Balance at December 31, 2012	6,120	20.30	1,240	17.32	2,501	23.43
Granted	820	35.54	572	23.47	510	23.25
Exercised	(1,977)	14.04	—	—	—	—
Released RSUs/RSAs	—	—	(630)	15.38	(452)	21.64
Forfeited	(139)	25.69	(67)	18.14	(194)	24.37
Balance at December 31, 2013	4,824	25.30	1,115	21.53	2,365	23.66

As of December 31, 2013, the aggregate intrinsic value of the options outstanding was $51.2 million and the aggregate intrinsic value of the options exercisable was $45.3 million.

The total intrinsic value of the options exercised was $41.4 million in 2013, $15.2 million in 2012, and $17.1 million in 2011. The total estimated fair value of options vested was $3.7 million in 2013, $4.1 million in 2012, and $6.4 million in 2011.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Stock-Based Compensation (Continued)

Valuation Assumptions

We based the range of weighted-average estimated values of employee stock option grants and rights granted under the employee stock purchase plan, as well as the weighted-average assumptions used in calculating these values, on estimates at the date of grant, as follows:

	Year Ended December 31,		
	2013	2012	2011
Employee stock options			
Risk-free interest rate	0.76% - 2.02%	0.74% - 1.17%	1.10% - 2.57%
Expected life (in years)	5 - 6	5 - 6	5 - 6
Volatility	58% - 60%	55% - 60%	49% - 55%
Dividend yield	—%	—%	—%
Weighted-average estimated fair value of stock options granted	$19.96	$11.50	$11.11
Employee stock purchase plan issuances			
Risk-free interest rate	0.09% - 0.26%	0.14% - 0.29%	0.05% - 0.54%
Expected life (in years)	0.5 - 2	0.5 - 2	0.5 - 2
Volatility	56% - 61%	51% - 64%	48% - 59%
Dividend yield	—%	—%	—%
Weighted-average estimated fair value of ESPP issuances	$16.44	$8.07	$9.46

Range of Stock Option Exercise Prices

As of December 31, 2013, all outstanding options to purchase our common stock are summarized in the following table (in thousands, except years and per share data):

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Number Outstanding	Weighted-average Remaining Contractual Life in Years	Weighted-average Exercise Prices	Options Exercisable	Weighted-average Remaining Contractual Life in Years	Weighted-average Exercise Price
$3.10 - $9.69	280	0.5	$ 8.99	280	0.5	$ 8.99
$9.70 - $16.00	557	3.1	14.77	551	3.1	14.80
$16.01 - $19.80	936	3.8	18.26	785	3.1	18.24
$19.81 - $24.71	467	6.7	22.08	271	5.6	22.00
$24.72 - $29.70	987	3.2	28.23	939	2.9	28.31
$29.71 - $35.00	916	3.6	33.34	893	3.4	33.39
$35.01 - $41.53	681	9.7	37.46	8	3.1	35.46
Total	4,824	4.5	25.30	3,727	3.1	23.51

Stockholders' Equity

In 2013, approximately 2.0 million awards were exercised at a weighted-average exercise price of $14.04 per share, for total cash proceeds of approximately $27.7 million.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. Income Taxes

Due to ongoing operating losses and the inability to recognize any income tax benefit, there is no provision for income taxes for any periods presented.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of our deferred tax assets are as follows:

(In thousands)	December 31, 2013	December 31, 2012
Deferred tax assets:		
Net operating loss carryforwards	$ 479,000	$ 411,000
Deferred revenues	6,000	4,000
Capitalized research and development expenditures	30,000	35,000
Research and development tax credit carryforwards	44,000	38,000
Other	32,000	33,000
Total deferred tax assets	591,000	521,000
Valuation allowance	(591,000)	(521,000)
Net deferred tax assets	$ —	$ —

The differences between the U.S. federal statutory income tax rate to our effective tax rate are as follows:

	Year Ended December 31, 2013	2012	2011
U.S. federal statutory income tax rate	34.00%	34.00%	34.00%
Federal and state research credits	3.63	(4.21)	1.67
Non-deductible executive compensation	(0.07)	(13.24)	—
Stock-based compensation	0.28	(1.36)	(0.32)
Expiration of net operating loss	—	(1.81)	(0.42)
Other	(2.51)	(2.09)	0.75
Change in valuation allowance	(35.33)	(11.29)	(35.68)
Effective tax rate	(0.00)%	(0.00)%	(0.00)%

Realization of deferred tax assets is dependent on future taxable income, if any, the timing and the amount of which are uncertain. Accordingly, the deferred tax assets have been fully offset by a valuation allowance. The valuation allowance increased by $70.1 million in 2013, $3.0 million in 2012 and $50.0 million in 2011.

As of December 31, 2013, we had federal net operating loss carryforwards of approximately $1,412.0 million, which will expire from 2018 through 2033, and federal research and development tax credit carryforwards of approximately $52.7 million, which will expire from 2018 through 2033. We also had state net operating loss carryforwards of approximately $890.9 million expiring in the years 2014 through 2033 and state research tax credits of approximately $57.9 million, which do not expire.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. Income Taxes (Continued)

The net operating loss deferred tax asset balances as of December 31, 2013 and 2012 do not include excess tax benefits from stock option exercises. Stockholders' equity will be credited if and when such excess tax benefits are ultimately realized.

Utilization of net operating loss and tax credit carryforwards may be subject to a substantial annual limitation due to ownership change limitations provided by the Internal Revenue Code and similar state provisions. Annual limitations may result in expiration of net operating loss and tax credit carryforwards before some or all of such amounts have been utilized.

Our policy is to recognize interest and/or penalties related to income tax matters in income tax expense. As of December 31, 2013 and 2012, we had no accrued interest or penalties due to our net operating losses available to offset any tax adjustment.

We conducted an analysis through 2013 to determine whether an ownership change had occurred since inception. The analysis indicated that two ownership changes occurred in prior years. However, notwithstanding the applicable annual limitations, no portion of the net operating loss or credit carryforwards are expected to expire before becoming available to reduce federal and state income tax liabilities.

Uncertain Tax Positions

A reconciliation of the beginning and ending balances of the total amounts of unrecognized tax benefits are as follows (in thousands):

Unrecognized tax benefits as of December 31, 2010	$ 42,600
Gross decrease for tax positions for prior years	—
Gross increase in tax positions for current year	4,300
Unrecognized tax benefits as of December 31, 2011	46,900
Gross decrease for tax positions for prior years	—
Gross increase in tax positions for current year	5,600
Unrecognized tax benefits as of December 31, 2012	52,500
Gross decrease for tax positions for prior years	(565)
Gross increase in tax positions for current year	5,485
Unrecognized tax benefits as of December 31, 2013	$ 57,420

If we eventually are able to recognize these uncertain positions, most of the $57.4 million of the unrecognized benefit would reduce our effective tax rate, except for excess tax benefits related to stock-based payments. We currently have a full valuation allowance against our deferred tax assets, which would impact the timing of the effective tax rate benefit should any of these uncertain positions be favorably settled in the future. We do not believe it is reasonably possible that our unrecognized tax benefits will significantly change within the next twelve months.

We are subject to taxation in the U.S. and various state jurisdictions. The tax years 1996 and forward remain open to examination by the federal and most state tax authorities due to net operating loss and overall credit carryforward positions.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

12. Commitments and Contingencies

Operating Leases and Subleases

We lease approximately 150,000 square feet of office and laboratory space in two buildings in South San Francisco, California, under a non-cancelable operating lease that ends in May 2020. We may extend the terms of this lease for two additional five-year periods. Future minimum lease payments under this lease, exclusive of executory costs, at December 31, 2013, were as follows:

(In thousands)	
Years ending December 31:	
2014	$ 4,859
2015	5,770
2016	5,943
2017	6,121
2018	6,305
Thereafter	9,253
Total	$ 38,251

Expenses and income associated with operating leases were as follows:

	Year Ended December 31,		
(In thousands)	2013	2012	2011
Rent expense	$ 5,972	$ 5,720	$ 6,702
Sublease income	$ —	$ (160)	$ (637)

Purchase Obligations

As of December 31, 2013, we had outstanding purchase obligations on commercially reasonable terms, primarily for services under contract research, development and clinical and commercial supply agreements totaling $0.8 million.

Special Long-Term Retention and Incentive Equity Awards Program

In 2011, we granted special long-term retention and incentive cash bonus awards to certain employees. The awards have dual triggers of vesting based upon the achievement of certain performance conditions over a six-year timeframe from 2011 through December 31, 2016 and continued employment. The maximum potential cash bonus expense associated with this program is $38.2 million, which would be recognized in increments based on the probable achievement of the performance conditions. As of December 31, 2013, we determined that the achievement of the requisite performance conditions was not probable and, as a result, no bonus expense has been recognized. If sufficient performance conditions are probable of being achieved in 2014, then we could recognize up to $9.5 million cash bonus expense in 2014.

THERAVANCE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

12. Commitments and Contingencies (Continued)

Guarantees and Indemnifications

We indemnify our officers and directors for certain events or occurrences, subject to certain limits. We believe the fair value of these indemnification agreements is minimal. Accordingly, we have not recognized any liabilities relating to these agreements as of December 31, 2013.

13. Subsequent Events

Sale of Stock

On February 14, 2014, we entered into an agreement with GSK pursuant to which GSK agreed to purchase through an affiliate, in a private placement, 342,229 shares of our common stock at $37.55 per share, for an aggregate purchase price of approximately $12.9 million, pursuant to its rights under our governance agreement with GSK dated June 4, 2004, as amended.

SUPPLEMENTARY FINANCIAL DATA (UNAUDITED)
(In thousands, except per share amounts)

The following table presents certain unaudited consolidated quarterly financial information for the eight quarters in the period ended December 31, 2013. This information has been prepared on the same basis as the audited consolidated financial statements and includes all adjustments (consisting only of normal recurring adjustments) necessary to present fairly the unaudited quarterly results of operations set forth herein.

	For the Quarters Ended[1]			
	March 31	June 30	September 30	December 31
	(In thousands except per share data)			
2013:				
Total net revenue	$ 1,344	$ 1,327	$ 439	$ 1,648
Operating expenses	(34,731)	(43,113)	(45,677)	(50,098)
Loss from operations	(33,387)	(41,786)	(45,238)	(48,450)
Net loss	(37,360)	(36,429)	(46,985)	(49,928)
Basic and diluted net loss per common share	$ (0.39)	$ (0.37)	$ (0.44)	$ (0.46)
2012:				
Total net revenue	$ 127,099	$ 1,430	$ 1,430	$ 5,799
Operating expenses	(41,059)	(37,139)	(34,780)	(35,778)
Income (loss) from operations	86,040	(35,709)	(33,350)	(29,979)
Net income (loss)	84,594	(37,120)	(34,692)	(31,323)
Basic net income (loss) per common share	$ 1.01	$ (0.42)	$ (0.37)	$ (0.33)
Diluted net income (loss) per common share	$ 0.93	$ (0.42)	$ (0.37)	$ (0.33)

(1) Amounts were computed independently for each quarter, and the sum of the quarters may not total the annual amounts.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Theravance, Inc.

We have audited the accompanying consolidated balance sheets of Theravance, Inc. as of December 31, 2013 and 2012, and the related consolidated statements of operations, comprehensive loss, stockholders' equity (net capital deficiency) and cash flows for each of the three years in the period ended December 31, 2013. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Theravance, Inc. at December 31, 2013 and 2012, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2013, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Theravance Inc.'s internal control over financial reporting as of December 31, 2013, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (1992 framework) and our report dated March 3, 2014 expressed an unqualified opinion therein.

/s/ ERNST & YOUNG LLP

Redwood City, California
March 3, 2014

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Not applicable.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures.

We conducted an evaluation as of December 31, 2013, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, which are defined under SEC rules as controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files under the Securities Exchange Act of 1934 (Exchange Act) is recorded, processed, summarized and reported within required time periods. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) of the Exchange Act. Internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on criteria established in the *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (1992 framework). Management's assessment included evaluation of such elements as the design and operating effectiveness of key financial reporting controls, process documentation, accounting policies, and our overall control environment. Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2013.

Our independent registered public accounting firm, Ernst & Young LLP, has audited our internal control over financial reporting as of December 31, 2013. Their attestation report on the audit of our internal control over financial reporting is included below.

Limitations on the Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefit of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within Theravance have been detected. Also, projections of any evaluation of

effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) identified in connection with the evaluation required by paragraph (d) of Rule 13a-15 of the Exchange Act, which occurred during the fourth fiscal quarter of the year ended December 31, 2013 which has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Theravance, Inc.

We have audited Theravance, Inc.'s internal control over financial reporting as of December 31, 2013, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (1992 framework) (the COSO criteria). Theravance, Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Theravance, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2013, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Theravance, Inc. as of December 31, 2013 and 2012, and the related consolidated statements of operations, comprehensive loss, stockholders' equity (net capital deficiency) and cash flows for each of the three years in the period ended December 31, 2013 of Theravance, Inc. and our report dated March 3, 2014, expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP

Redwood City, California
March 3, 2014

ITEM 9B. OTHER INFORMATION

In late February 2014 Dr. Arnold J. Levine, a member of the Board of Directors of the Company, informed the Company that he does not intend to stand for reelection at the Company's 2014 annual stockholders meeting.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

For the information required by this Item, see "Questions and Answers About this Proxy Material and Voting", "Election of Directors", "Nominees", "Audit Committee", "Meetings of the Board of Directors", "Code of Business Conduct", "Executive Officers", and "Section 16(a) Beneficial Ownership Reporting Compliance" in the Proxy Statement to be filed with the SEC, which sections are incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

For the information required by this Item, see "2013 Director Compensation", "Compensation of Named Executive Officers", "Compensation Committee Report" and "Compensation Committee Interlocks and Insider Participation" in the Proxy Statement to be filed with the SEC, which sections are incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

For the information required by this Item, see "Security Ownership of Certain Beneficial Owners and Management" and "Securities Authorized for Issuance Under Equity Compensation Plans" in the Proxy Statement to be filed with the SEC, which sections are incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

For the information required by this Item, see "Independence of the Board of Directors" and "Review, Approval or Ratification of Transactions with Related Persons" in the Proxy Statement to be filed with the SEC, which sections are incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

For the information required by this Item, see "Ratification of Selection of Independent Registered Public Accounting Firm" and "Pre-Approval Policies and Procedures" in the Proxy Statement to be filed with the SEC, which sections are incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Annual Report on Form 10-K:

1. Financial Statements:

The following financial statements and schedules of the Registrant are contained in Part II, Item 8, "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K:

2. Financial Statement Schedules:

Schedule II-Valuation and Qualifying Accounts

All other schedules not included have been omitted because of the absence of conditions under which they are required or because the required information, where material, is shown in the financial statements, financial notes or supplementary financial information.

(b) Exhibits required by Item 601 of Regulation S-K

The information required by this Item is set forth on the exhibit index that follows the signature page of this report.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

THERAVANCE, INC.

Date: March 3, 2014

By: /s/ RICK E WINNINGHAM

Rick E Winningham
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Rick E Winningham and Michael W. Aguiar, each of whom may act without joinder of the other, as their true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for such person and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to the annual report on Form 10-K, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ RICK E WINNINGHAM Rick E Winningham	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 3, 2014
/s/ MICHAEL W. AGUIAR Michael W. Aguiar	Senior Vice President, Finance and Chief Financial Officer (Principal Financial and Accounting Officer)	March 3, 2014
/s/ HENRIETTA HOLSMAN FORE Henrietta Holsman Fore	Director	March 3, 2014
/s/ ROBERT V. GUNDERSON, JR. Robert V. Gunderson, Jr.	Director	March 3, 2014

Signature	Title	Date
/s/ ARNOLD J. LEVINE, PH.D.		
Arnold J. Levine, Ph.D.	Director	March 3, 2014
/s/ BURTON G. MALKIEL, PH.D.		
Burton G. Malkiel, Ph.D.	Director	March 3, 2014
/s/ PETER S. RINGROSE, PH.D.		
Peter S. Ringrose, Ph.D.	Director	March 3, 2014
/s/ WILLIAM H. WALTRIP		
William H. Waltrip	Director	March 3, 2014
/s/ GEORGE M. WHITESIDES, PH.D.		
George M. Whitesides, Ph.D.	Director	March 3, 2014
/s/ WILLIAM D. YOUNG		
William D. Young	Director	March 3, 2014

SCHEDULE II

SUPPLEMENTARY CONSOLIDATED FINANCIAL STATEMENT SCHEDULE
VALUATION AND QUALIFYING ACCOUNTS
For the Year Ended December 31, 2013
(In thousands)

Description	Balance at Beginning of Year	Additions		Deductions From Allowance Accounts	Balance at End of Year
		Charged to Costs and Expenses	Charged to Other Accounts(1)		
Year Ended December 31, 2013					
Accounts Receivable Allowances	$ —	$ —	$ 89	$ —	$ 89
	$ —	$ —	$ 89	$ —	$ 89

(1) Allowances are for sales returns, cash discounts and government chargebacks.

Exhibits

Exhibit Number	Description	Incorporated by Reference	
		Form	Filing Date/Period End Date
3.3	Amended and Restated Certificate of Incorporation	S-1	7/26/04
3.4	Certificate of Amendment of Restated Certificate of Incorporation	10-Q	3/31/07
3.5	Amended and Restated Bylaws (as amended by the board of directors April 25, 2007)	10-Q	9/30/08
4.1	Specimen certificate representing the common stock of the registrant	10-K	12/31/06
4.2	Amended and Restated Rights Agreement between the registrant and The Bank of New York, as Rights Agent, dated as of June 22, 2007	10-Q	6/30/07
4.3	Indenture dated as of January 23, 2008 by and between Theravance, Inc. and The Bank of New York Trust Company, N.A., as trustee	8-K	1/23/08
4.4	Form of 3.0% Convertible Subordinated Note Due 2015 (included in Exhibit 4.3)		
4.5	Amendment to Amended and Restated Rights Agreement between the registrant and The Bank of New York Mellon Corporation, as Rights Agent, dated November 21, 2008	8-K	11/25/08
10.1+	1997 Stock Plan	S-1	6/10/04
10.2+	Long-Term Stock Option Plan	S-1	6/10/04
10.3+	2004 Equity Incentive Plan, as amended by the board of directors February 10, 2010 and approved by stockholders April 27, 2010 and forms of equity award	10-K	12/31/11
10.4	Employee Stock Purchase Plan, as amended April 27, 2010	10-Q	6/30/10
10.5+	Change in Control Severance Plan, as amended and restated on July 27, 2007	10-Q	6/30/08
10.6	Amended and Restated Lease Agreement, 951 Gateway Boulevard, between the registrant and HMS Gateway Office L.P., dated January 1, 2001	S-1	6/10/04
10.7	Lease Agreement, 901 Gateway Boulevard, between the registrant and HMS Gateway Office L.P., dated January 1, 2001	S-1	6/10/04
10.8*	Collaboration Agreement between the registrant and Glaxo Group Limited, dated as of November 14, 2002	10-Q	9/30/13
10.9+	Form of Indemnification Agreement for directors and officers of the registrant	S-1	6/10/04
10.10	Class A Common Stock Purchase Agreement between the registrant and SmithKline Beecham Corporation, dated as of March 30, 2004	S-1	6/10/04
10.11	Amended and Restated Investors' Rights Agreement by and among the registrant and the parties listed therein, dated as of May 11, 2004	S-1	6/10/04
10.12	Amended and Restated Governance Agreement by and among the registrant, SmithKline Beecham Corporation and GlaxoSmithKline dated as of June 4, 2004	S-1	7/26/04

Exhibit Number	Description	Incorporated by Reference	
		Form	Filing Date/Period End Date
10.13*	Strategic Alliance Agreement between the registrant and Glaxo Group Limited, dated as of March 30, 2004		
10.14*	License Agreement between the registrant and Janssen Pharmaceutica, dated as of May 14, 2002	S-1	9/29/04
10.15+	Offer Letter with Rick E Winningham dated August 23, 2001	S-1	6/10/04
10.16	Form of Class A Common Stock Purchase Agreement between the registrant and GSK	S-1	9/29/04
10.17+	Offer Letter with Michael W. Aguiar dated as of January 31, 2005	10-K	12/31/04
10.18+	Form of Notice of Grant and Stock Option Agreement under 2004 Equity Incentive Plan	10-K	12/31/04
10.19+	Form of Notice of Restricted Stock Award and Restricted Stock Agreement under 2004 Equity Incentive Plan (form in effect through 2010)	10-Q	6/30/07
10.20+	Description of Cash Bonus Program, as amended	10-K	12/31/09
10.21*	License, Development and Commercialization Agreement between the registrant and Astellas Pharma Inc. dated November 7, 2005	S-3	1/30/06
10.22*	Amendment to License, Development and Commercialization Agreement between the registrant and Astellas Pharma Inc. dated as of July 18, 2006	10-Q	9/30/06
10.23+	Offer letter with Leonard Blum dated July 27, 2007	10-Q	9/30/07
10.24+	Amended and Restated 2008 New Employee Equity Incentive Plan and forms of equity award	10-K	12/31/11
10.25+	Amendment to Offer Letter between the registrant and Leonard Blum dated July 23, 2008	10-K	12/31/08
10.26+	Amendment to Offer Letter between the registrant and Rick E Winningham dated December 23, 2008	10-K	12/31/08
10.27+	Amendment to Change in Control Severance Plan effective December 16, 2009	10-K	12/31/09
10.28+	2010 Change in Control Severance Plan adopted December 16, 2009	10-K	12/31/09
10.29	First Amendment to Lease for 901 Gateway Boulevard effective as of June 1, 2010 between ARE-901/951 Gateway Boulevard, LLC and the registrant	10-Q	6/30/10
10.30	First Amendment to Lease for 951 Gateway Boulevard effective as of June 1, 2010 between ARE-901/951 Gateway Boulevard, LLC and the registrant	10-Q	6/30/10
10.31	Common Stock Purchase Agreement among the registrant, Glaxo Group Limited and GlaxoSmithKline LLC, dated as of November 29, 2010	8-K	11/29/10
10.32	Second Amendment to Amended and Restated Governance Agreement among the registrant, Glaxo Group Limited, GlaxoSmithKline plc and GlaxoSmithKline LLC, dated as of November 29, 2010	8-K	11/29/10

Exhibit Number	Description	Incorporated by Reference	
		Form	Filing Date/Period End Date
10.33+	Form of Amendment to Restricted Stock Unit Agreements between the registrant and each current member of the Board of Directors outstanding as of December 31, 2010	10-K	12/31/10
10.34*	Amendment to Strategic Alliance Agreement dated October 3, 2011	10-K	12/31/11
10.35	Common Stock Purchase Agreement, dated April 2, 2012, by and among Theravance, Inc., Glaxo Group Limited and GlaxoSmithKline LLC	8-K	4/2/12
10.36+	Form of Notice of Performance-Contingent Restricted Stock Award and Restricted Stock Award Agreement under 2004 Equity Incentive Plan (executive officer form)	10-Q	3/30/12
10.37+	Form of Notice of Performance-Contingent Restricted Stock Award and Restricted Stock Award Agreement under 2004 Equity Incentive Plan	10-Q	3/30/12
10.38+	2012 Equity Incentive Plan, as approved by the board of directors February 8, 2012 and approved by stockholders May 15, 2012 and forms of equity award	10-Q	6/30/12
10.39*	Technology Transfer and Supply Agreement, dated as of May 22, 2012 between Theravance, Inc. and Hospira Worldwide, Inc.	10-Q	6/30/12
10.40	Base Capped Call Transaction dated January 17, 2013	8-K	1/23/13
10.41	Additional Capped Call Transaction dated January 18, 2013	8-K	1/23/13
10.42*	Commercialization Agreement with Clinigen Group plc dated March 8, 2013	10-Q	3/31/13
21.1	List of Subsidiaries	10-K	12/31/05
23.1	Consent of Independent Registered Public Accounting Firm		
24.1	Power of Attorney (see signature page to this Annual Report on Form 10-K)		
31.1	Certification of Chief Executive Officer Pursuant to Rule 13a-14 under the Securities Exchange Act of 1934		
31.2	Certification of Chief Financial Officer Pursuant to Rule 13a-14 under the Securities Exchange Act of 1934		
32	Certifications Pursuant to 18 U.S.C. Section 1350		
101^	The following materials from Registrant's Annual Report on Form 10-K for the year ended December 31, 2013, formatted in Extensible Business Reporting Language (XBRL) includes: (i) Consolidated Balance Sheets at December 31, 2013 and 2012, (ii) Consolidated Statements of Income for the years ended December 31, 2013, 2012, and 2011, (iii) Consolidated Statements of Comprehensive Loss for the years ended December 31, 2013, 2012 and 2011, (iv) Consolidated Statements of Stockholders' Equity for the years ended December 31, 2013, 2012 and 2011, (v) Consolidated Statements of Cash Flows for years ended December 31, 2013, 2012 and 2011, and (vi) Notes to Consolidated Financial Statements.		

+ Management contract or compensatory plan or arrangement required to be filed pursuant to Item 15(b) of Form 10-K.

* Confidential treatment has been requested for certain portions which are omitted in the copy of the exhibit electronically filed with the Securities and Exchange Commission. The omitted information has been filed separately with the Securities and Exchange Commission pursuant to Theravance Inc.'s application for confidential treatment.

^ XBRL information is furnished and not filed or a part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Exchange Act of 1933, as amended, is deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, as amended, and otherwise is not subject to liability under these sections.

Exhibit 10.13

[*]=CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

STRATEGIC ALLIANCE AGREEMENT

by and between

THERAVANCE, INC.

and

GLAXO GROUP LIMITED

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[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

List of Schedules

Schedule 1.36	Existing Discovery Programs
Schedule 1.66	Long Acting Muscarinic Antagonist Respiratory Discovery Criteria
Schedule 1.72	Muscarinic Antagonist-Beta Agonist Respiratory Discovery Criteria
Schedule 6.1.2(A)	Class A Common Stock Purchase Agreement
Schedule 6.1.3(A)	Governance Agreement

STRATEGIC ALLIANCE AGREEMENT

This STRATEGIC ALLIANCE AGREEMENT ("Agreement") dated March 30, 2004, is made by and between THERAVANCE, INC., a Delaware corporation, and having its principal office at 901 Gateway Boulevard, South San Francisco, California 94080 ("Theravance"), and GLAXO GROUP LIMITED, a United Kingdom corporation, and having its principal office at Glaxo Wellcome House, Berkeley Avenue, Greenford, Middlesex, UB6 0NN, United Kingdom ("GSK"). Theravance and GSK may be referred to as a "Party" or together, the "Parties".

RECITALS

WHEREAS, GSK and Theravance have previously entered into a Collaboration Agreement dated as of November 14, 2002 (the "LABA Collaboration Agreement"); and

WHEREAS, Theravance is engaged in drug discovery for other compounds outside the LABA Collaboration Agreement;

WHEREAS, GSK desires to receive from Theravance and Theravance desires to grant to GSK the right to Develop and Commercialize other compounds discovered by Theravance on an exclusive, worldwide basis in accordance with the terms and conditions of this Agreement;

WHEREAS, GSK and Theravance are willing to undertake research, Development and Commercialization activities and investment and to coordinate such activities and investment as provided by this Agreement with respect to the Alliance Products; and

WHEREAS, GSK and Theravance believe that a strategic alliance pursuant to this Agreement for the performance of research, Development and Commercialization of Alliance Products in which Theravance conducts experimental and research work in certain program areas to discover chemical entities suitable for development and GSK, at its option, undertakes the development and commercialization of such chemical entities would be desirable and compatible with their respective business objectives.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, covenants and agreements contained herein, Theravance and GSK, intending to be legally bound, hereby agree as follows:

ARTICLE 1
DEFINITIONS

For purposes of this Agreement, the following initially capitalized terms, whether used in the singular or plural, shall have the following meanings:

1.1 "Alliance" shall mean the Parties' strategic alliance pursuant to this Agreement.

1.2 "Alliance Product" means any Theravance Compound for which GSK has exercised its Opt-In Right subject to and in accordance with the terms of this Agreement, which such Alliance Product can be used as a single agent and/or in combination with other therapeutically active components for human pharmaceutical applications. The term "Alliance Product" shall also include any formulation of excipients, stabilizers, propellants, or other components necessary to prepare and deliver a pharmaceutically effective dose of such Theravance Compound and [*].

1.3 "Alliance Program" shall mean any Discovery Program for which GSK has exercised its Opt-In Right.

1.4 "Alliance Program Acceptance Date" shall have the meaning set forth in Section 13.1.1.

[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

1.5 "Additional Respiratory Discovery Program" shall mean any new, additional Respiratory Discovery Program initiated between the Effective Date and the expiration of the Research Term. The foregoing shall be without prejudice to the possibility that other additional Discovery Programs in other therapeutic areas may be initiated by Theravance as contemplated by Sections 1.36 and 4.1.4.

1.6 "Adverse Drug Experience" means any of: an "adverse drug experience," a "life-threatening adverse drug experience," a "serious adverse drug experience," or an "unexpected adverse drug experience," as those terms are defined at either 21 C.F.R.(S)312.32 or 21 C.F.R.(S)314.80.

1.7 "Affiliate" of a Party means any Person, whether de jure or de facto, which directly or indirectly controls, is controlled by, or is under common control with such Person for so long as such control exists, where "control" means the decision-making authority as to such Person and, further, where such

control shall be presumed to exist where a Person owns more than fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affairs of the entity.

1.8 “API Compound” means bulk quantities of each active pharmaceutical ingredient compound of a particular Alliance Product prior to the commencement of secondary manufacturing.

1.9 “Breaching Alliance Program” shall have the meaning set forth in Section 14.2.

1.10 “Breaching Party” shall have the meaning set forth in Section 14.2.

1.11 “Business Day” means any day on which banking institutions in both New York City, New York, United States and London, England are open for business.

1.12 “Calendar Month” means for each Calendar Year, each of the one-month periods.

1.13 “Calendar Quarter” means for each Calendar Year, each of the three month periods ending March 31, June 30, September 30 and December 31; provided, however, that the first calendar quarter for the first Calendar Year shall extend from the Effective Date to the end of the first complete calendar quarter thereafter.

1.14 “Calendar Year” means, for the first calendar year, the period commencing on the Effective Date and ending on December 31 of the calendar year during which the Effective Date occurs, and each successive period beginning on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.15 “Change in Control” means, with respect to a Party, any transaction or series of related transactions following which continuing stockholders of such Party hold less than 50% of the outstanding voting securities of either such Party or the entity surviving such transaction.

1.16 “Claim” means all charges, complaints, actions, suits, proceedings, hearings, investigations, claims and demands.

1.17 “Closing Condition” shall have the meaning set forth in Section 15.14.

1.18 “Combination Product” means an Alliance Product that contains one or more therapeutically active agents in addition to the Theravance Compound.

1.19 “Commercial Conflict” means a situation where Theravance determines that GSK’s decision related to Development or Commercialization of an Alliance Product is likely to result in [*], and that such decision is not based on [*] but primarily [*] whereby GSK is likely to achieve [*].

1.20 “Commercial Failure” means failure of an Alliance Product for reasons other than Technical Failure, based on the determination that such product will result in [*] that is materially worse than [*] based on GSK’s normal and customary procedures for determining [*]. The [*] of an Alliance Product will be based on [*] from such product not taking into account [*].

[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

1.21 “Commercialization” means any and all activities directed to marketing, promoting, distributing, offering for sale and selling an Alliance Product, importing an Alliance Product (to the extent applicable) and conducting Phase IV Studies. When used as a verb, “Commercialize” means to engage in Commercialization.

1.22 “Competing Product” means a product that is intended for the treatment of the same disease as an Alliance Product and which is not an Alliance Product.

1.23 “Confidential Information” means all secret, confidential or proprietary information, data or Know-How (including GSK Know-How and Theravance Know-How) whether provided in written, oral, graphic, video, computer or other form, provided by one Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) pursuant to this Agreement or generated pursuant to this Agreement, including but not limited to, information relating to the Disclosing Party’s existing or proposed research, development efforts, patent applications, business or products, the terms of this Agreement and any other materials that have not been made available by the Disclosing Party to the general public. Confidential Information shall not include any information or materials that the Receiving Party can document with competent written proof:

1.23.1 were already known to the Receiving Party (other than under an obligation of confidentiality), at the time of disclosure by the Disclosing Party;

1.23.2 were generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

1.23.3 became generally available to the public or otherwise part of the public domain after its disclosure or development, as the case may be, and other than through any act or omission of a Party in breach of such Party’s confidentiality obligations under this Agreement;

1.23.4 were disclosed to a Party, other than under an obligation of confidentiality, by a Third Party who had no obligation to the Disclosing Party not to disclose such information to others; or

1.23.5 were independently discovered or developed by or on behalf of the Receiving Party without the use of the Confidential Information belonging to the other Party.

1.24 “Co-Promote” shall mean, as applied to Theravance, to promote and detail Alliance Products through its own sales force and to otherwise engage in activities as contemplated and/or mutually agreed by the Parties under Section 5.3.

1.25 “Co-Promotion Option” shall have the meaning set forth in Section 5.3.2(a).

1.26 “Country” means any generally recognized sovereign entity.

1.27 “Creditable taxes” shall have the meaning set forth in Section 6.9.2.

1.28 “Date of Final Delivery of Opt-In Data” shall have the meaning set forth in Sections 4.2.1(a), 4.2.2(a) and 4.2.2(b).

1.29 “Designated Foreign Filings” shall have the meaning set forth in Section 13.1.2(b).

1.30 “Development Candidate Data” means the material, data and supporting documentation relating to a Respiratory Compound prepared by Theravance and delivered to GSK which demonstrates that such compound meets the applicable Respiratory Discovery Criteria. The Development Candidate Data will be presented in sufficient detail to enable GSK, to determine whether or not to exercise its Opt-In Right with respect to such Respiratory Compound in accordance with Section 4.2.1.

1.31 “Development” or “Develop” means preclinical and clinical drug development activities, including, among other things: test method development and stability testing, toxicology, formulation, process development, manufacturing scale-up, development-stage manufacturing, current Good Manufacturing Practices audits, current Good Clinical Practices audits, current Good Laboratory Practices audits, analytical method validation, manufacturing process validation, cleaning validation, scale-up and post approval changes, quality assurance/quality control development, statistical analysis and report writing, preclinical and clinical studies, regulatory filing submission and approval, and regulatory affairs related to the foregoing. When used as a verb, “Develop” means to engage in Development.

1.32 “Development Milestone” shall have the meaning set forth in Section 6.2.1

1.33 “Development Plan” means the outline plan for each Alliance Product in an Alliance Program designed to achieve the Development for such Alliance Product, including, without limitation, the nature, number and schedule of Development activities as such may be amended in accordance with the terms of this Agreement.

1.34 “Diligent Efforts” means the carrying out of obligations in a sustained manner consistent with the efforts a Party devotes (or would devote) to [*] conditions then prevailing, including [*], with the objective of [*] and the other terms and conditions of this Agreement. Diligent Efforts requires that: (i) each Party [*] and monitor such progress on an on-going basis, (ii) each Party [*] for carrying out such obligations, and (iii) each Party [*] designed to advance progress with respect to such objectives.

1.35 “Disclosing Party” shall have the meaning set forth in Section 1.23.

1.36 “Discovery Program” means [*] that exists as of the Effective Date or is initiated during the Research Term having the goal of discovering compounds [*] and, for non-respiratory programs, completing early Development of any such discovered compounds. A list of existing Discovery Programs as of the Effective Date is attached as Schedule 1.36. Theravance shall notify GSK of the initiation of any additional Discovery Program during the Research Term in accordance with Section 4.1.4.

1.37 “Effective Date” means the first business day following the date on which the last of the conditions contained in Section 15.14 of this Agreement has been satisfied.

1.38 “European Union” or “Europe” means collectively the Countries of the European Union.

1.39 “FDA” means the United States Food and Drug Administration and any successor agency thereto.

1.40 “Filing for Regulatory Approval” shall have the meaning set forth in Section 6.2.2.

1.41 “First Commercial Sale” means the first shipment of commercial quantities of any Alliance Product sold to a Third Party by a Party or its sublicensees in any Country after receipt of Marketing Authorization Approval for such Alliance Product in such Country. Sales for test marketing, sampling and promotional uses, clinical trial purposes or compassionate or similar uses shall not be considered to constitute a First Commercial Sale.

1.42 “First Theravance Compound” shall have the meaning set forth in Sections 4.2.1(a), 4.2.2(a) and 4.2.2(b).

1.43 “Force Majeure Event” shall have the meaning set forth in Section 15.3

1.44 “Governmental Authority” means any court, tribunal, arbitrator, agency, legislative body, commission, official or other instrumentality of (i) any government of any Country, (ii) a federal, state, province, county, city or other political subdivision thereof or (iii) any supranational body, including without limitation the European Agency for the Evaluation of Medicinal Products.

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1.45 “GSK Invention” means an Invention that is invented by an employee or agent of GSK solely or jointly with a Third Party.

1.46 “GSK Know-How” means all present and future information directly relating to the Alliance Products including without limitation all data, records, and regulatory filings relating to Alliance Products, that is required for Theravance to perform its obligations or exercise its rights under this Agreement, and

which during the Term are in GSK's or any of its Affiliates' possession or control and are or become owned by, or otherwise may be licensed to (provided there is no restriction on GSK thereof), GSK. GSK Know-How does not include any GSK Patents.

1.47 "GSK Patents" means all present and future patents and patent applications including United States provisional applications and any continuations, continuations-in-part, divisionals, registrations, confirmations, revalidations, reissues, Patent Cooperation Treaty applications, certificates of addition, utility models, design patents, petty patents as well as all other intellectual property related to the application or patent including extensions or restorations of terms thereof, pediatric use extensions, supplementary protection certificates or any other such right covering Alliance Product(s) or the GSK Inventions which are or become owned by GSK or GSK's Affiliates, or as to which GSK or GSK's Affiliates otherwise are or become licensed, now or in the future, where GSK has the right to grant the sublicense rights granted to Theravance under this Agreement, which such patent rights cover the making, having made, use, offer for sale, sale or importation of the Alliance Products. For the avoidance of doubt, GSK Patents shall include GSK's interest in any patents covering Joint Inventions.

1.48 "GSK Property" shall have the meaning set forth in Section 14.5.2(b)(iv).

1.49 "GSK's Percentage Interest" means the percentage of voting power, determined on the basis of the number of shares of Voting Stock actually outstanding, that is controlled directly or indirectly by GSK and its Affiliates.

1.50 "Hatch-Waxman Certification" shall have the meaning set forth in Section 13.3.

1.51 "Housemark" means the name and logo of GSK or Theravance or any of their respective Affiliates as identified by one Party to the other from time to time.

1.52 "Indemnified Party" shall have the meaning set forth in Section 12.3.1.

1.53 "Indemnifying Party" shall have the meaning set forth in Section 12.3.1.

1.54 "Initial Due Diligence Commencement Date" shall have the meaning set forth in Sections 4.2.1(a), 4.2.2(a) and 4.2.2(b).

1.55 "Initiation of a Phase I Study" shall have the meaning set forth in Section 6.2.2.

1.56 "Initiation of a Phase III Study" shall have the meaning set forth in Section 6.2.2.

1.57 "Interim Period" shall have the meaning set forth in Section 4.3.2.

1.58 "Invention" means any discovery (whether patentable or not) invented during the Term as a result of research, Development or manufacturing activities and specifically related to an Alliance Product hereunder.

1.59 "Investigational Authorization" means, with respect to a Country, the regulatory authorization required to investigate an Alliance Product in such Country as granted by the relevant Governmental Authority.

1.60 "Joint Invention" means an Invention that is invented jointly by employees and/or agents of both Theravance and GSK hereunder and the patent rights in such Invention.

1.61 "Joint Program Committee" shall have the meaning set forth in Section 3.3.

1.62 "Joint Steering Committee" shall have the meaning set forth in Section 3.2.

1.63 "Launch" shall have the meaning set forth in Section 6.2.2.

1.64 "Laws" means all laws, statutes, rules, regulations (including, without limitation, current Good Manufacturing Practice Regulations as specified in 21 C.F.R. (S) 210 and 211; Investigational New Drug Application regulations at 21 C.F.R. (S) 312; NDA regulations at 21 C.F.R. (S) 314, relevant provisions of the Federal Food, Drug and Cosmetic Act, and other laws and regulations enforced by the FDA), ordinances and other pronouncements having the binding effect of law of any Governmental Authority.

1.65 "Litigation Condition" shall have the meaning set forth in Section 12.3.2.

1.66 "Long Acting Muscarinic Antagonist Respiratory Discovery Criteria" shall have the meaning set forth in Schedule 1.66.

1.67 "Losses" means any and all damages (including all incidental, consequential, statutory and treble damages), awards, deficiencies, settlement amounts, defaults, assessments, fines, dues, penalties, costs, fees, liabilities, obligations, taxes, liens, losses, lost profits and expenses (including without limitation court costs, interest and reasonable fees of attorneys, accountants and other experts) incurred by or awarded to Third Parties and required to be paid to Third Parties with respect to a Claim by reason of any judgment, order, decree, stipulation or injunction, or any settlement entered into in accordance with the provisions of this Agreement, together with all documented out-of-pocket costs and expenses incurred in complying with any judgments, orders, decrees, stipulations and injunctions that arise from or relate to a Claim of a Third Party.

1.68 "Major Market Country" means each of the United States, Canada, Japan, France, United Kingdom, Italy, Germany and Spain.

1.69 "Marketing Authorization" means, with respect to a Country, the regulatory authorization required to market and sell an Alliance Product in such Country as granted by the relevant Governmental Authority.

1.70 "Marketing Authorization Approval" means approval by a Governmental Authority for sale of a pharmaceutical product for human use, including any applicable pricing, final labeling or reimbursement approvals.

1.71 “Marketing Plan” means for each relevant Alliance Product the global plan prepared by GSK identifying the core strategic, commercial and promotional claims and objectives for the specific Alliance Product as reviewed under Section 5.1.

1.72 “Muscarinic Antagonist-Beta Agonist Respiratory Discovery Criteria” shall have the meaning set forth in Schedule 1.72.

1.73 “NDA” means a new drug application or supplemental new drug application or any amendments thereto submitted to the FDA in the United States.

1.74 “NDA Acceptance” shall mean the written notification by the FDA that the NDA has met all the criteria for filing acceptance pursuant to 21 C.F.R. (S)314.101.

1.75 “Net Sales” means [*] GSK, its Affiliates or their licensees (or such licensees’ Affiliates) to a Third Party, less the following to the extent borne by the seller and not taken into account in determining gross sales price: (a) [*]; (b) [*] which [*] (c) [*]; (d) any other adjustments required [*]. Net Sales shall exclude Samples distributed in the usual course of business.

1.76 “Net Sales Report” shall have the meaning set forth in Section 6.4.2.

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1.77 “Non-validated Target” means a biological drug target against which no drug has received Marketing Authorization Approval.

1.78 “Officers” shall have the meaning set forth in Section 3.2.5.

1.79 “Opt-In Right” shall have the meaning set forth in Section 4.2.

1.80 “OUS Filings” shall have the meaning set forth in Section 13.1.1.

1.81 “Patent Infringement Claim” shall have the meaning set forth in Section 13.2.1.

1.82 “Patent Infringement Notice” shall have the meaning set forth in Section 13.2.2.

1.83 “PCT” shall have the meaning set forth in Section 13.1.1.

1.84 “Person” means any natural person, corporation, general partnership, limited partnership, limited liability company, joint venture, proprietorship or other business organization.

1.85 “Phase I Studies” means that portion of the Development Plan or Development relating to each Alliance Product which provides for the first introduction into humans of such Alliance Product including small scale clinical studies conducted in normal volunteers to obtain information on such Alliance Product’s safety, tolerability, pharmacological activity, pharmacokinetics, drug metabolism and mechanism of action, as well as early evidence of effectiveness.

1.86 “Phase II Studies” means that portion of the Development Plan or Development relating to each Alliance Product which provides for well controlled clinical trials of such Alliance Product in patients, including clinical studies conducted in patients with the disease or condition, and designed to evaluate clinical efficacy and safety for such Alliance Product for one or more indications, and/or to obtain an indication of the dosage regimen required.

1.87 “Phase IIa Study” means a controlled study conducted in patients with the disease or condition designed to evaluate clinical efficacy and safety for such Alliance Product for one or more indications using generally accepted primary clinical endpoint(s). For the avoidance of doubt, a Phase IIa Study shall not be a study designed [*].

1.88 “Phase IIb Study” means the definitive study or studies in patients with the disease or condition designed to evaluate clinical efficacy and safety for such Alliance Product for one or more indications, and/or to obtain the dosage regimen required for subsequent Phase III Studies.

1.89 “Phase III Studies” means that portion of the Development Plan or Development relating to each Alliance Product which provides for large scale, pivotal, clinical studies conducted in a sufficient number of patients and whose primary objective is to obtain a definitive evaluation of the therapeutic efficacy and safety of the Alliance Product in patients for the particular indication in question that is needed to evaluate the overall risk-benefit profile of the Alliance Product and to provide adequate basis for obtaining requisite regulatory approval(s) and product labeling.

1.90 “Phase IV Studies” means a study or studies for an Alliance Product that is initiated after receipt of a Marketing Authorization for an Alliance Product and is principally intended to support the marketing and Commercialization of such Alliance Product, including without limitation investigator initiated trials, clinical experience trials and studies conducted to fulfill local commitments made as a condition of any Marketing Authorization.

1.91 “POC Validated Target Data” means the material, data and supporting documentation relating to achievement of clinical proof of concept by a Theravance Compound, prepared by Theravance and delivered to GSK in sufficient detail and which enables GSK to determine whether or not to exercise its Opt-In Right with respect to such Discovery Program in accordance with Section 4.2.2(a).

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1.92 “POC Non-Validated Target Data” means the material, data and supporting documentation relating to achievement of clinical proof of concept by a Theravance Compound, prepared by Theravance and delivered to GSK in sufficient detail and which enables GSK to determine whether or not to exercise its Opt-In Right with respect to such Discovery Program in accordance with Section 4.2.2(b).

1.93 “Product Supplier” means any manufacturer, packager or processor of an Alliance Product for development, marketing and sale.

1.94 “Promotional Materials” means the core written, printed, video or graphic advertising, promotional, educational and communication materials (other than Alliance Product labeling) for marketing, advertising and promotion of the Alliance Products.

1.95 “Receiving Party” shall have the meaning set forth in Section 1.23.

1.96 “Recording Party” shall have the meaning set forth in Section 6.10.

1.97 “Respiratory Compound” means a compound discovered by Theravance intended for the treatment of respiratory disease [*] and that meets the Respiratory Discovery Criteria.

1.98 Respiratory Discovery Criteria” means the requirements that a compound within a Respiratory Discovery Program must meet before the Development Candidate Data is then delivered to GSK under Section 4.2.1. The Long-Acting Muscarinic Antagonist Compound Criteria and the Muscarinic Antagonist—Beta Agonist Bronchodilator Compound Criteria are each attached hereto as Schedule 1.66 and 1.72, respectively. The Respiratory Discovery Criteria for any Additional Respiratory Discovery Program initiated pursuant to the Alliance formed under this Agreement will be (i) comparable in scope and detail with the criteria set forth in Schedules 1.66 and 1.72 hereto, and (ii) established by mutual written agreement of the Parties at the time of notification of initiation of such Additional Respiratory Discovery Program by Theravance to GSK pursuant to Section 4.1.

1.99 “Respiratory Discovery Program” shall mean any Theravance Discovery Program having the goal of [*].

1.100 “Research Term” shall have the meaning set forth in Section 3.1.1.

1.101 “Reversion Program” shall have the meaning set forth in Sections 4.2.1(a), 4.2.2(a) and 4.2.2(b)(i).

1.102 “ROW” means Countries other than the Major Market Countries.

1.103 “Samples” means Alliance Product packaged and distributed as a complimentary trial for use by patients in the Territory.

1.104 “Specific Alliance Product Development & Commercialization Appendix” shall have the meaning set forth in Sections 4.2.1(a), 4.2.2(a)(i) and 4.2.2(b)(i).

1.105 “Subsequent Theravance Compound” shall have the meaning set forth in Sections 4.2.1(b), 4.2.2(a)(ii) and 4.2.2(b)(ii).

1.106 “Successful completion of a Phase II Study” shall have the meaning set forth in Section 6.2.2.

1.107 “Taxes” shall have the meaning set forth in Section 6.9.1.

1.108 “Technical Failure” means the discontinuation of Development of an Alliance Product for [*] reasons, such as but not limited to [*] the inability to [*], or demonstration of [*] currently marketed products, or inability to produce [*] with acceptable [*].

1.109 “Technology Transfer Package” means all Theravance Confidential Information and Theravance Know-How relating to: (1) the lead Theravance Compound in the relevant Alliance Program, as well as any back-up and follow up Theravance Compound for which Theravance in good faith believes there is sufficient in vivo data and which are part of such Alliance Program; (2) where applicable, all information regarding the bulk drug substance and finished dosage form(s) and methods of manufacturing the same, including without limitation analytical methods; and (3) the full disclosure of all information relating to the lead Theravance Compound and any such back-up Theravance Compound (including, where applicable and without limitation, clinical and protocol results, analytical methodologies, bulk and final product manufacturing processes, batch records, pre-formulation studies, reports summarizing development pharmaceutics, vendor information, validation documentation, regulatory documentation, patent information), regulatory filings, transfer of information related to regulatory information and filings, pre-clinical and clinical data, adverse event data, regulatory correspondence (including records of meetings and telephone conversations), analyses, and manufacturing data.

1.110 “Term” means, on a Country-by-Country and Alliance Product-by-Alliance Product basis, the period from the Effective Date until the later of (a) the expiration or termination of the last Valid Claim of a Patent Right covering the Alliance Compound in such Country, or (b) fifteen (15) years from First Commercial Sale in such Country, unless this Agreement is terminated earlier in accordance with Article 14.

1.111 “Terminated Alliance Product” means a Terminated Development Alliance Product or a Terminated Commercialized Alliance Product.

1.112 “Terminated Commercialized Alliance Product” shall have the meaning set forth in Section 14.4.

1.113 “Terminated Development Alliance Product” shall have the meaning set forth in Section 14.3.

1.114 “Terminated Non-Respiratory Commercialized Alliance Product” shall have the meaning set forth in Section 14.5.3(a).

1.115 “Terminated Non-Respiratory Development Alliance Product” shall have the meaning set forth in Section 14.5.2(a).

1.116 “Terminated Respiratory Commercialized Alliance Product” shall have the meaning set forth in Section 14.5.3(b).

1.117. “Terminated Respiratory Development Alliance Product” shall have the meaning set forth in Section 14.5.2(b).

1.118 “Territory” means worldwide.

1.119 “Theravance Compound” means a chemical entity, including all of [*], that results from a Discovery Program.

1.120 “Theravance Invention” means an Invention that is invented by an employee or agent of Theravance solely or jointly with a Third Party.

1.121 “Theravance Know-How” means all present and future information directly relating to an Alliance Product that is required for GSK to perform its obligations or exercise its rights under this Agreement and which up until five (5) years after the First Commercial Sale of such Alliance Product is in Theravance’s or any of its Affiliates’ possession or control and is or are, or becomes owned by, or otherwise may be licensed (provided there are no restrictions on Theravance thereof) by, Theravance. Theravance Know-How does not include any Theravance Patents.

1.122 “Theravance Patents” means all present and future patents and patent applications including United States provisional applications and any continuations, continuations-in-part, divisionals, registrations, confirmations, revalidations, reissues, Patent Cooperation Treaty applications, certificates of addition, utility models, design patents, petty patents as well as all other intellectual property related to the application or patent including extensions or restorations of terms thereof, pediatric use extensions, supplementary protection certificates or any other such right covering an Alliance Product(s) or the Theravance Inventions which are or become owned by Theravance or Theravance’s Affiliates, or as to which Theravance or Theravance’s Affiliates are or become licensed, now or in the future, with the right to grant the sublicense rights granted to GSK under this Agreement, which patent rights cover the making, having made, use, offer for sale, sale or importation of the Alliance Product(s). For the avoidance of doubt, Theravance Patents shall include Theravance’s interest in any patents covering Joint Inventions.

1.123 “Third Party” means a Person who is not a Party or an Affiliate of a Party.

1.124 “Third Party Claim” shall have the meaning set forth in Section 12.3.1.

1.125 “Top-Up Fees” shall have the meaning set forth in Section 4.3.2

1.126 “Trademarks” shall have the meaning set forth in Section 2.3.1.

1.127 “United States” means the United States, its territories and possessions.

1.128 “Valid Claim” means any claim(s) pending in a patent application or in an unexpired patent which has not been held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not has been admitted to be invalid or unenforceable through reissue or disclaimer.

1.129 “Validated Target” means a biological drug target against which any drug has received Marketing Authorization Approval.

1.130 “Voting Stock” means the outstanding securities of Theravance having the right to vote generally in any election of Directors to the Board of Directors of Theravance.

1.131 “Weighted Average Sales Price” means the average sales price calculated by [*], where applicable.

1.132 “Withholding Party” shall have the meaning set forth in Section 6.9.1.

ARTICLE 2
RIGHTS AND OBLIGATIONS

2.1 *License Grants from Theravance to GSK.*

2.1.1 *Development License.* Effective only upon a Theravance Compound becoming an Alliance Product and on an Alliance Product-by-Alliance Product basis, and subject to the terms of this Agreement, including without limitation Section 2.2, Theravance grants to GSK, and GSK accepts, an exclusive (except as to Theravance and its Affiliates) license under the Theravance Patents and Theravance Know-How to make, have made, use and Develop Alliance Products for Commercialization in the Territory.

2.1.2 *Commercialization License.* Subject to the terms of this Agreement, including without limitation Section 2.2 and Theravance’s Co-Promotion rights in Section 5.3.2, Theravance hereby grants to GSK, and GSK accepts, an exclusive license under the Theravance Patents and Theravance Know-How to make, have made, use, sell, offer for sale and import Alliance Products in the Territory.

2.1.3 *Manufacturing License.* Subject to the terms of this Agreement, including without limitation Section 2.2, Theravance grants to GSK an exclusive license under the Theravance Patents and Theravance Know-How to make and have made API Compound or formulated Alliance Product in the Territory.

2.1.4 *Licenses to Third Parties.* The licenses granted to GSK under Sections 2.1.1, 2.1.2 and 2.1.3 shall not prevent Theravance from granting licenses to Third Parties under Theravance Patents and Theravance Know-How for a purpose other than the research in connection with or the Development, manufacture or Commercialization of an Alliance Product. For the avoidance of doubt, in no event shall any such license to a Third Party as contemplated by the preceding sentence of this Section 2.1.4 conflict with the terms and provisions of this Agreement, including but not limited to Theravance's obligations, and GSK's concomitant rights, in respect of the delivery up of any Discovery Program, and GSK's Opt-In Rights thereof, as more particularly set forth in Article 4.

2.2 *Sublicensing and Subcontracting.* GSK may sublicense or subcontract its rights to Develop, Manufacture or Commercialize the Alliance Products in whole or in part to one or more of its Affiliates, provided that the rights sublicensed or subcontracted to such Affiliate shall automatically terminate upon any event in connection with which such Affiliate ceases to be an Affiliate of GSK. GSK may also sublicense or subcontract any of GSK's rights to Develop or Manufacture the Alliance Products, in whole or in part, to one or more Third Parties. In the event GSK wishes to sublicense or subcontract any of GSK's rights to Commercialize the Alliance Products, in whole or in part, to one or more Third Parties, GSK shall obtain the prior written consent of Theravance, such consent not to be unreasonably withheld, provided always that no such restriction shall apply in respect of those countries of the Territory wherein GSK is or has been required under applicable local laws to appoint a Third Party as its distributor or marketing partner. GSK shall secure all appropriate covenants, obligations and rights from any such sublicensee or subcontractor granted by it under this Agreement, including, but not limited to, intellectual property rights and confidentiality obligations in any such agreement or other relationship, to ensure that such sublicensee can comply with all of GSK's covenants and obligations to Theravance under this Agreement. GSK's rights to sublicense, subcontract or otherwise transfer its rights granted under Section 2.1 are limited to those expressly set forth in this Section 2.2.

2.3 *Trademarks and Housemarks.*

2.3.1 *Trademarks.* The Alliance Products shall be Commercialized under trademarks (the "Trademarks") and trade dress selected by the Joint Program Committee and approved by the Joint Steering Committee. Prior to any such proposed Trademark(s) being submitted to the Joint Program Committee, GSK shall be responsible for undertaking their preliminary selection. GSK shall exclusively own all Trademarks, and shall be responsible for the procurement, filing and maintenance of trademark registrations for such Trademarks and all costs and expenses related thereto. GSK shall also exclusively own all trade dress and copyrights associated with the Alliance Products. Nothing herein shall create any ownership rights of Theravance in and to the Trademarks or the copyrights and trade dress associated with the Alliance Products.

2.3.2 *Housemarks.* Each Party shall enter into appropriate licenses and covenants in respect of its or its Affiliates' use of the other Party's Housemarks at such time as the Joint Steering Committee determines prior to Commercialization of the applicable Alliance Product. Such licenses shall ensure that each Party

acknowledges the goodwill and reputation that has been associated with the other Party's Housemarks over the years, and shall use such Housemarks in a manner that maintains and promotes such goodwill and reputation and is consistent with trademark guidelines. Further, such licenses shall ensure that each Party shall take all reasonable precautions and actions to protect the goodwill and reputation that has inured to the other Party's Housemarks, shall refrain from doing any act that is reasonably likely to impair the reputation of such Housemarks, and shall cooperate fully to protect such Housemarks.

ARTICLE 3
GOVERNANCE OF RESEARCH, DEVELOPMENT AND COMMERCIALIZATION OF ALLIANCE PRODUCTS

3.1 *Discovery Programs.* Subject to the terms of this Agreement, GSK will have an option to obtain exclusive rights to any Discovery Program that exists or that is initiated during the Research Term. For the avoidance of doubt, in respect of any new Discovery Program that is initiated by Theravance during the Research Term, the provisions of Article 4 shall apply in respect of both Theravance's obligation to offer such Discovery Program to the Alliance and GSK's Opt-In Rights in relation thereto, even if at the time such Discovery Program is actually ready to be offered by Theravance to GSK under Section 4.2 the Research Term may have then expired.

3.1.1 *Research Term.* Subject to the terms of this Agreement, Theravance shall have sole responsibility for the conduct of all activities under each Discovery Program. The Research Term (the "Research Term") will be the period beginning on the Effective Date and ending on September 1, 2007 unless (i) terminated earlier in accordance with the provisions of this Agreement or (ii) extended by mutual agreement of the Parties or (iii) automatically extended for an additional five (5) year period commencing on September 1, 2007 if, pursuant to the Governance Agreement to be entered into between the Parties in the form attached hereto as Schedule 6.1.3(A), GSK's Percentage Interest exceeds fifty per cent (50%) at the Call/Put Termination Date (as defined in the Governance Agreement). If however, pursuant to the Governance Agreement, GSK's Percentage Interest is 50.1% or greater and thereafter GSK breaches its obligation not to dispose of beneficial ownership of Voting Stock prior to September 1, 2012, the Research Term shall end simultaneously with such breach and accordingly all of GSK's future Opt-In Rights to Theravance's Discovery Programs on or after such date of breach (but not, for the avoidance of doubt, any pre-existing Alliance Program in respect of which GSK has already exercised its Opt-In Right) shall terminate forthwith.

3.2 *Joint Steering Committee.*

3.2.1 *Purpose.* The purposes of the Joint Steering Committee shall be (i) to determine the overall strategy for this alliance between the Parties and (ii) to coordinate the Parties' activities hereunder. The Parties intend that their respective organizations will work together and will use Diligent Efforts to assure success of the alliance.

3.2.2 *Members; Officers.* Within thirty (30) days after the Effective Date, the Parties shall establish a joint steering committee (the "Joint Steering Committee"), which shall consist of eight (8) members, four (4) of whom shall be designated by each of GSK and Theravance and shall have appropriate expertise, with at least one (1) member from GSK being its Senior Vice-President, Drug Discovery, and one member from Theravance being its Executive Vice President, Research. Subject to the foregoing requirement, each of GSK and Theravance may replace its other representatives on the Joint Steering Committee at any time upon written notice to the other Party. A Party may designate a substitute to temporarily attend and perform the functions of such Party's designee at any meeting of the Joint Steering Committee. GSK and Theravance each may, on advance written notice to the other Party, invite non-member representatives of such Party to attend meetings of the Joint Steering Committee. The Joint Steering Committee shall be chaired on an annual rotating basis by a representative of either Theravance or GSK, as applicable, on the Joint Steering Committee, with Theravance providing the first such chairperson. The chairperson shall appoint a secretary of the Joint Steering Committee, who shall be a representative of the other Party and who shall serve for the same annual term as such chairperson.

3.2.3 *Responsibilities.* The Joint Steering Committee shall perform the following functions:

(a) Review the status and progress of all Discovery Programs (through updates provided to the Joint Steering Committee by Theravance as contemplated and required by Section 4.1), including any additional work related to any Discovery Program as contemplated by Sections 4.2.1(b) and 4.2.2(b);

(b) Oversee the Development and Commercialization of the Alliance Products pursuant to the terms of this Agreement;

(c) Review the Development Plans and the Marketing Plans for Alliance Products and any material amendments to the Development Plans and Marketing Plans;

(d) At each meeting of the Joint Steering Committee, review Net Sales for the year-to-date as available;

(e) Review the progress of any Joint Program Committee;

(f) Review the Trademarks selected under Section 2.3;

(g) Subject to GSK's termination rights under and in accordance with Article 14, review and approve "go/no-go" decisions and other matters referred to the Joint Steering Committee, including, without limitation, the continued Development of a particular Alliance Product except that, notwithstanding the foregoing, GSK shall always be required, through the Joint Steering Committee, to notify Theravance of, and obtain Theravance's consent (such consent not to be unreasonably withheld) to:

(i) any anticipated and/or actual cumulative delay of more than [*] months between each key progression point in the Development of a particular Alliance Product (where "key progression point in the Development of a particular Alliance Product" for this purpose shall mean the planned initiation of either a Phase I Study, a Phase II Study or a Phase III Study for such Alliance Product, as applicable); and

(ii) any GSK wish to cease Development of a lead Theravance Compound in an Alliance Program (other than for Technical Failure) where, instead of termination of the relevant Alliance Program under Section 14, GSK wishes to progress Development of the relevant back-up Theravance Compound in such Alliance Program and such proposed activity will or is likely to result in a corresponding delay in Development within such Alliance Program of more than [*] months;

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(h) Oversee life cycle management of, and intellectual property protection for, the Alliance Products;

(i) In accordance with the procedures established in Section 3.2.5, resolve disputes, disagreements and deadlocks unresolved by the Joint Program Committee; and

(j) Have such other responsibilities as may be assigned to the Joint Steering Committee pursuant to this Agreement or as may be mutually agreed upon by the Parties from time to time.

3.2.4 *Meetings.* The Joint Steering Committee shall meet at least quarterly during every Calendar Year (of which at least two such meetings shall be face-to-face meetings), and more or less frequently (i) as mutually agreed by the Parties or (ii) as required to resolve disputes, disagreements or deadlocks in the Joint Program Committee, on such dates, and at such places and times, as such Parties shall agree; provided that the Parties shall endeavor to have the first meeting of the Joint Steering Committee within thirty (30) days after the establishment of the Joint Steering Committee. The Joint Steering Committee shall arrange to meet in person or convene otherwise to review any Development Plans or Marketing Plans, if any, submitted to the Joint Steering Committee in each Calendar Year so that such plans will be reviewed within thirty (30) days following submission to the Joint Steering Committee. To the extent any such Development Plans or Marketing Plans need to be reformulated by the Joint Program Committee, such plans shall be reviewed by the Joint Steering Committee as soon as reasonably practicable after resubmission of same. Meetings of the Joint Steering Committee that are held in person shall alternate between offices of GSK and Theravance, or such other place as the Parties may agree. In addition to face to face meetings the Joint Steering Committee may also be held by means of telecommunications or, video conferences as deemed appropriate by the Parties.

3.2.5 *Decision-Making.*

(a) The Joint Steering Committee may make decisions with respect to any subject matter that is subject to the Joint Steering Committee's decision-making authority and functions as set forth in Section 3.2.3. Except as specified in Section 3.2.5(b), all decisions of the Joint Steering Committee shall be made by consensus, with the representatives from each Party presenting a unified position on behalf of such Party. The Joint Steering Committee shall use Diligent Efforts to resolve the matters within its roles and functions or otherwise referred to it.

(b) With respect to any issue, if the Joint Steering Committee cannot reach consensus within ten (10) Business Days after the matter has been brought to the Joint Steering Committee's attention, then such issue shall be referred to the Chief Executive Officer of Theravance and either the Chairman of GSK R&D (if the issue relates to a discovery and/or development matter) or the Chief Executive Officer of GSK (if the issue relates to a commercial matter) (collectively, the "Officers") for resolution. The Parties accept that the use of the Officers for resolution of any unresolved issues will be on an exceptional basis. In the event that the use of the Officers occurs on more than two occasions in any consecutive twelve (12) month period and such disputes are not related to Commercial Conflict issues, then GSK will from then on retain the final vote within the Joint Steering Committee for all issues other than Commercial Conflict. If the Officers are unable to reach consensus within thirty (30) days after the matter has been referred to them, the final decision on such disputed issue will reside with GSK; provided, however, that if the disputed issue involves [*], then the final decision will be made by a mutually acceptable Third Party mediator. Either Party can initiate such mediation on [*] to the other Party. The Parties will use best efforts to agree on a mediator within such [*] day [*]. Such mediation will occur as promptly as practicable following selection of the mediator and will be held in [*]. The decision of the mediator will be final and binding on the Parties; provided that either Party shall retain all rights to bring an action against the other for damages and other monetary relief related to or arising out of the issue decided by the mediator.

[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

3.3 *Joint Program Committee.*

3.3.1 *Purpose.* The purposes of each Joint Program Committee shall be to manage the Parties' day-to-day activities hereunder with respect to each corresponding Alliance Program. For the avoidance of doubt, there will be a separate Joint Program Committee for each Alliance Program (unless, in certain circumstances, the Parties mutually agree upon the appropriateness of combining two or more Joint Program Committees).

3.3.2 *Members; Officers.* Within ten (10) days after each relevant Theravance Compound in a Discovery Program is accepted by GSK as an Alliance Product, the Parties shall establish a Program Committee for such Alliance Product (the "Joint Program Committee"), and GSK and Theravance shall designate an equal number of representatives, up to a maximum total of eight (8) members on such Joint Program Committee, with a maximum of four (4) from each Party. Each of GSK and Theravance may replace any or all of its representatives on the Joint Program Committee at any time upon written notice to the other Party. Such representatives shall include individuals who have the relevant experience and expertise for the next twelve months as included in the Development Plan for the relevant Alliance Product. A Party may designate a substitute to temporarily attend and perform the functions of such Party's designee at any meeting of the Joint Program Committee. GSK and Theravance each may, on advance written notice to the other Party, invite non-member representatives of such Party to attend meetings of the Joint Program Committee. The Joint Program Committee shall be chaired by a representative of GSK. The chairperson shall appoint a secretary of the Joint Program Committee, who shall be a representative of Theravance.

3.3.3 *Responsibilities.* Each Joint Program Committee shall perform the following functions:

(a) Review the Development Plan(s) in relation to the relevant Alliance Product as prepared by GSK;

(b) On an annual rolling basis beginning within six months of the establishment of the Joint Program Committee, update and amend any initial Development Plan and review the Development Plan for the relevant Alliance Product for the following Calendar Year so that it can immediately thereafter submit such proposed Development Plan to the Joint Steering Committee for review;

(c) At each meeting of the Joint Program Committee, review and recommend to the Joint Steering Committee any material amendments or modifications to the Development Plan(s) for such Alliance Product;

(d) Review and recommend to the Joint Steering Committee "go/no-go" decisions for the Development of the relevant Alliance Product;

(e) Review the Marketing Plans where appropriate;

(f) Review and recommend to the Joint Steering Committee any material amendments or modifications to the Marketing Plans;

(g) Discuss the state of the markets for the relevant Alliance Product and opportunities and issues concerning the Commercialization of such Alliance Product, including consideration of marketing and promotional strategy, marketing research plans, labeling, Alliance Product positioning and Alliance Product profile issues;

(h) At each meeting of the Joint Program Committee, review the status of all Studies conducted on the relevant Alliance Product and any results therefrom;

(i) At each meeting of the Joint Program Committee, review Net Sales in relation to the relevant Alliance Product for the year-to-date, as available; and

(j) Have such other responsibilities as may be assigned to the Joint Program Committee pursuant to this Agreement or as may be mutually agreed upon by the Parties through the Joint Steering Committee from time to time.

3.3.4 *Meetings.* The Joint Program Committee shall meet at least once during every Calendar Quarter, and more frequently as GSK and Theravance mutually agree on such dates, and at such places and times, as such Parties shall agree; provided that the Parties shall endeavor to have the first meeting of the Joint Program Committee as a face to face meeting within thirty (30) days after the establishment of the Joint Program Committee. Meetings of the Joint Program Committee that are held in person shall alternate between the offices of GSK and Theravance, or such

other place as the Parties may agree and such face to face meetings shall occur no less than twice a year. The remaining meetings may be held by means of telecommunications or video conferences as deemed appropriate. Following Commercialization of the relevant Alliance Product in the first Major Market, the Joint Program Committee shall meet twice a year with only one annual face to face meeting required.

3.3.5 *Decision-Making.* The Joint Program Committee may make decisions with respect to any subject matter that is subject to the Joint Program Committee's decision-making authority and functions as set forth in Section 3.3.3. All decisions of the Joint Program Committee shall be made by consensus, with the representatives from each Party presenting a unified position on behalf of such Party. If the Joint Program Committee cannot reach consensus within ten (10) Business Days after it has first met and attempted to reach such consensus, the matter shall be referred on the eleventh (11^{th}) Business Day to the Joint Steering Committee for resolution.

3.4 *Minutes of Committee Meetings.* Definitive minutes of all committee meetings shall be finalized no later than thirty (30) days after the meeting to which the minutes pertain as follows:

3.4.1 *Distribution of Minutes.* Within ten (10) days after a committee meeting, the secretary of such committee shall prepare and distribute to all members of such committee draft minutes of the meeting. Such minutes shall provide a list of any issues yet to be resolved, either within such committee or through the relevant resolution process.

3.4.2 *Review of Minutes.* The Party members of each committee shall have ten (10) days after receiving such draft minutes to collect comments thereon and provide them to the secretary of such committee.

3.4.3 *Discussion of Comments.* Upon the expiration of such second ten (10) day period, the Parties shall have an additional ten (10) days to discuss each other's comments and finalize the minutes. The secretary and chairperson(s) of such committee shall each sign and date the final minutes. The signature of such chairperson(s) and secretary upon the final minutes shall indicate each Party's assent to the minutes.

3.5 *Expenses.* Each Party shall be responsible for all travel and related costs and expenses for its members and other representatives to attend meetings of, and otherwise participate on, a committee.

3.6 *General Guidelines and Initial Coordination Efforts.* In all matters related to the collaboration established by this Agreement, the Parties shall strive to balance as best they can the legitimate interests and concerns of the Parties and to maximize the economic potential of Alliance Products. In all matters relating to this Agreement, the Parties shall seek to comply with good pharmaceutical and environmental practices. The Parties intend, following the Effective Date, to organize meetings of internal staff to communicate and explain the provisions of this Agreement to ensure the efficient and timely Development and Commercialization of the Alliance Products.

ARTICLE 4
DELIVERY OF THERAVANCE COMPOUNDS AND DEVELOPMENT OF ALLIANCE PRODUCTS

4.1 *Delivery of Theravance Compounds.* During the Research Term it is Theravance's goal to discover and deliver to the Alliance:

(i) in the case of each Respiratory Discovery Program, a lead Respiratory Compound and a back-up Respiratory Compound, each in a different structural class, each of which meets the relevant Respiratory Discovery Criteria established by the Parties for such compounds;

(ii) in the case of each non-respiratory Discovery Program directed at a Validated Target, a Theravance Compound that has successfully completed a Phase IIa Study and, excepting the following two Existing Discovery Programs: [*] (as more particularly referred to in Schedule 1.36), a back-up compound at Development Candidate stage in a different structural class; and

(iii) in the case of each non-respiratory Discovery Program directed at a Non-validated Target, a Theravance Compound that has successfully completed the Phase IIb Study and a back-up compound at Development Candidate Stage in a different structural class.

In relation to its achievement of the foregoing goals, Theravance shall use Diligent Efforts at all times, it being understood, however, that Theravance shall maintain at all times sole decision making authority with respect to its Discovery Programs, including without limitation decisions relating to initiation and termination of Discovery Programs, and staffing and resource allocation between and among Discovery Programs. Through the Joint Steering Committee, Theravance shall provide GSK with updates of the status and progress of each Existing Discovery Program and any Additional Discovery Program that has been initiated, or whose initiation is at such time under consideration and shall consider any comments and further input from GSK in relation to same.

4.1.2 *Theravance Funding Responsibility.* Theravance shall bear all costs and expenses associated with any Discovery Program.

4.1.3 *GSK Assistance.* Without prejudice to the foregoing, GSK will endeavor to provide Theravance, upon Theravance's request, and at GSK's sole discretion, such assistance as may be reasonably required by Theravance to achieve this objective, which such assistance may include providing directly or through GSK's vendors, assistance in (i) [*], (ii) [*], (iii) [*], (iv) [*], and (v) [*].

4.1.4. *Additional Discovery Programs.* Theravance shall use Diligent Efforts at all times to initiate at least three new full Discovery Programs during the Research Term. Theravance shall inform GSK, through the Joint Steering Committee, of the initiation of any Additional Discovery Program and the Parties, through the Joint Steering Committee, shall also mutually agree at that point whether or not such Additional Discovery Program is directed at Validated or Non-Validated Targets. For the avoidance of doubt, the Parties agree that Theravance's existing programs set forth on Schedule 1.36 are each Discovery Programs directed at Validated Targets.

4.2 *GSK Opt-In Rights.* GSK shall have the exclusive option (in each case, an "Opt-in Right") on a Discovery Program-by-Discovery Program basis, to Develop and Commercialize any Theravance Compound arising out of each such Discovery Program pursuant to the terms and conditions of this Agreement, and as more fully set forth below in this Section 4.2. For the avoidance of doubt, GSK may exercise its Opt-In Right at any time up through the applicable sixty (60) day periods following the Date of Final Delivery of Opt-In Data set forth in Sections 4.2.1 and 4.2.2.

4.2.1 *Existing and Additional Respiratory Discovery Programs.*

(a) At the appropriate time in respect of each Existing or Additional Respiratory Discovery Program, and upon the provision to GSK of at least two (2) days advance written notice, Theravance shall deliver on such date ("Initial Due Diligence Commencement Date") and to GSK's appointed designee (in a manner and format to be specified by GSK), all available Development Candidate Data on the first Theravance Compound ("First Theravance Compound") in an Existing or Additional Respiratory Discovery Program (it being recognized, and it being in the contemplation of the Parties, that not all but a substantial amount of Development Candidate Data on the First Theravance Compound in the relevant Discovery Program will be made available at this point). At such time, and in light of GSK's funding obligations under Section 4.3.2, Theravance shall also deliver up to GSK an outline budget of its proposed expenditures in relation to such Discovery Program for the next one hundred and twenty (120) days) (which such proposed expenditures shall be proposed net external expenditures only, including any planned Third Party contracting and future committed expenditures, but shall not, for the avoidance of doubt include the internal salary costs of Theravance employees). If such outline budget is [*] or less, it shall remain in Theravance's sole discretion; provided, however, GSK shall be permitted to bring to Theravance's attention areas of potential cost savings or comparable efficiencies and Theravance will reasonably consider any recommendations by GSK in this regard. To the extent that the outline budget exceeds [*], the Parties shall as promptly as possible meet and attempt to mutually agree either to changes in the schedule of activities such that the total budget for the relevant period does not exceed [*] or alternatively, if GSK agrees that the circumstances warrant activities that justify a budget in excess of such amount, a higher maximum budget. If the Parties cannot reach mutual agreement on any excess budgeted amounts then GSK shall not be obligated to pay for such excess budgeted amounts under Section 4.3.2. Within a further sixty days of the Initial Due Diligence Commencement Date, Theravance shall deliver to GSK final and complete Development Candidate Data in respect of such First Theravance Compound ("Date of Final Delivery of Opt-In Data"). To facilitate GSK's review throughout the aforesaid periods, Theravance shall deliver all such materials to GSK in a diligent, prompt and timely manner and shall respond promptly and fully to any GSK requests and/or queries raised as part of such review. It is hereby anticipated and acknowledged by the Parties that such process as contemplated hereunder shall take the form of as many face-to-face meetings between the Parties as GSK shall reasonably request of Theravance. GSK shall also notify Theravance of its most likely plans for Development in respect of such Alliance Program and such intent shall form the basis of the first Development Plan to be drawn up pursuant to Section 3.3.3. It is anticipated that the Parties will also endeavor to agree, where appropriate, any specific and/or additional terms related to GSK's proposed future Development and Commercialization activities in relation to such Alliance Program, particularly where appropriate provisions are not contained in this Agreement or, if such provisions are contained in this Agreement, such provisions are not, for whatever reason, relevant. It is further envisaged that such specific and/or additional terms will then be appended to this Agreement as a Specific Alliance Product Development & Commercialization Appendix. Within a further sixty (60) days after the Date of Final Delivery of Opt-In Data, GSK shall notify Theravance in writing as to whether or not it is exercising its Opt-In Right with respect to such Discovery Program. If GSK notifies Theravance in writing of its wish to exercise its Opt-In Right in respect of such Discovery Program, such notice of exercise shall not take effect until the date of satisfaction of the Alliance Program Closing Condition (the "Effective Date of GSK's Exercise of its Opt-In Right"). On the Effective Date of GSK's Exercise of its Opt-In Right, (i) such Discovery Program for which GSK has notified Theravance of its wish to exercise its Opt-In Right shall become an Alliance Program; (ii) any payment and/or compensation that becomes payable by GSK to Theravance as a consequence, including but not limited to the payment of an Opt-In Fee and/or any relevant Development Milestone, shall be paid by GSK to Theravance (subject to and in accordance with the further provisions of Article 6); and (iii) Theravance shall promptly deliver to GSK at no cost to GSK the Technology Transfer Package. If GSK elects not to exercise its Opt-In Right for such Discovery Program, or if the Alliance Program Closing Condition is not satisfied or is terminated pursuant to Section 15.15, the Discovery Program will revert in full to Theravance (a "Reversion Program") and Theravance will be entitled to pursue development of all compounds from such Reversion Program outside the Alliance alone or with a Third Party.

(b) If at the Date of Final Delivery of Opt-In Data, only data related to the First Theravance Compound is available, then, without prejudice to GSK's exercise of its Opt-In Right with respect to such Discovery Program in accordance with Section 4.2.1(a) (including but not limited to the specified process and timelines related thereto), Theravance shall, at Theravance's expense, diligently work toward the goal of delivering up to GSK within a further [*] days from the Date of Final Delivery of Opt-In Data further discovery data related to such Discovery Program including but not limited to data related to any back-up Respiratory Compound which meets the relevant Respiratory Discovery Criteria ("Subsequent Theravance Compound(s)"). Further, if Development of the First Theravance Compound is subsequently discontinued and/or terminated by GSK for reasons of Technical Failure and for whatever reason no Subsequent Theravance Compound(s) in such Discovery Program exists or has been made available to GSK by Theravance or does not meet the relevant Respiratory Discovery Criteria on or before the expiration of [*] days from the Date of Final Delivery of Opt-In Data, then the next payment to be made by GSK to Theravance under this Agreement (whether an Opt-In Fee, Development Milestone or any other payment) shall [*].

(c) If GSK elects not to exercise its Opt-In Right for any Discovery Program under Section 4.2.1, it will no longer have any Opt-In Right for any subsequent Theravance Compound arising out of the same Discovery Program.

4.2.2 *Non-respiratory Discovery Programs.*

(a) *Discovery Programs Directed at Validated Targets*

(i) At the appropriate time in respect of each non-respiratory, Validated Target Discovery Program, and upon the provision to GSK of at least two (2) days advance written notice, Theravance shall deliver on such date ("the Initial Due Diligence Commencement Date") and to GSK's appointed designee (in a manner and format to be specified by GSK), all available POC Validated Target Data on the first Theravance Compound ("First Theravance Compound") in such non-respiratory, validated target Discovery Program (it being recognized, and it being in the contemplation of the Parties, that not all but a substantial amount of POC Validated Target Data on the First Theravance Compound in such non-respiratory, validated target Discovery Program will be made available at this point). At such time, and in light of GSK's funding obligations under Section 4.3.2, Theravance shall also deliver up to GSK an outline budget of its proposed expenditures in relation to such Discovery Program for the next one hundred and twenty (120) days) (which such proposed expenditures shall be proposed net external expenditures only, including any planned Third Party contracting and future committed expenditures, but shall not, for the avoidance of doubt include the internal salary costs of Theravance employees). If such outline budget is [*] or less, it shall remain in Theravance's sole discretion; provided, however, GSK shall be permitted to bring to Theravance's attention areas of potential cost savings or comparable efficiencies and Theravance will reasonably consider any recommendations by GSK in this regard. To the extent that the outline budget exceeds [*], the Parties shall as promptly as possible meet and attempt to mutually agree either to changes in the schedule of activities such that the total budget for the relevant period does not exceed [*] or alternatively, if GSK agrees that the circumstances warrant activities that justify a budget in excess of such amount, a higher maximum budget. If the Parties cannot reach mutual agreement on any excess budgeted amounts then GSK shall not be obligated to pay for such excess budgeted amounts under Section 4.3.2. Within a further sixty days of the Initial Due Diligence Commencement Date, Theravance shall deliver to GSK final and complete POC Validated Target Data in respect of such First Theravance Compound ("Date of Final Delivery of Opt-In Data"). To facilitate GSK's review throughout the aforesaid periods, Theravance shall deliver all such materials to GSK in a diligent, prompt and timely manner and shall respond promptly and fully to any GSK requests and/or queries raised as part of such review. It is hereby anticipated and acknowledged by the Parties that such process as contemplated hereunder shall take the form of as many face-to-face meetings between the Parties as GSK shall reasonably request of Theravance. GSK shall also notify Theravance of its most likely plans for Development in respect of such Alliance Program and such intent shall form the basis of the first Development Plan to be drawn up pursuant to Section 3.3.3. It is anticipated that, within such sixty (60) day period the Parties will also endeavor to agree, where appropriate, any specific and/or additional terms related to GSK's proposed future Development and Commercialization activities in relation to such Alliance Program, particularly where appropriate provisions are not contained in this Agreement or, if such provisions are contained in this Agreement, such provisions are not, for whatever reason, relevant. It is further envisaged that such specific and/or additional terms will then be appended to this Agreement as a Specific Alliance Product Development & Commercialization Appendix. Within a further sixty (60) days after Date of Final Delivery of Opt-In Data, GSK shall notify Theravance in writing as to whether or not it is exercising its Opt-In Right with respect to such Discovery Program. If GSK notifies Theravance in writing of its wish to exercise its Opt-In Right in respect of such Discovery Program, such notice of exercise shall not take effect until the date of satisfaction of the Alliance Program Closing Condition (the "Effective Date of GSK's Exercise of its Opt-In Right"). On the Effective Date of GSK's Exercise of its Opt-In Right, (i) such Discovery Program for which GSK has notified Theravance of its wish to exercise its Opt-In Right shall become an Alliance Program; (ii) any payment and/or compensation that becomes payable by GSK to Theravance as a consequence, including but not limited to the payment of an Opt-In Fee and/or any relevant Development Milestone, shall be paid by GSK to Theravance (subject to and in accordance with the further provisions of Article 6); and (iii) Theravance shall promptly deliver to GSK at no cost to GSK the Technology Transfer Package. If GSK elects not to exercise its Opt-In Right for such Discovery Program, or if the Alliance Program Closing Condition is not satisfied or is terminated pursuant to Section 15.15, the Discovery Program will become a Reversion Program (a "Reversion Program") and Theravance will be entitled to pursue development of all compounds from such Reversion Program outside the Alliance alone or with a Third Party.

(ii) Subject to the exclusion contained in Section 4.1(ii), if at the Date of Final Delivery of Opt-In Data, only data related to the First Theravance Compound is available, then, without prejudice to GSK's exercise of its Opt-In Right with respect to such Discovery Program in accordance with Section 4.2.2(a)(i) (including but not limited to the specified process and timelines related thereto), Theravance shall, at Theravance's expense, diligently work toward the goal of delivering up to GSK within a further [*] days from the Date of Final Delivery of Opt-In Data further discovery data related to such Discovery Program including but not limited to data related to any back-up Non-respiratory Compound ("Subsequent Theravance Compound(s)"). Further, if Development of the First Theravance Compound is subsequently discontinued and/or terminated by GSK for reasons of Technical Failure and for whatever reason no Subsequent Theravance Compound(s) in such Discovery Program exists or has been made available to GSK by Theravance on or before the expiration of [*] days from the Date of Final Delivery of Opt-In Data, then the next payment to be made by GSK to Theravance under this Agreement (whether an Opt-In Fee, Development Milestone or any other payment) shall [*].

(iii) If GSK elects not to exercise its Opt-In Right for any Discovery Program under Section 4.2.2(a)(i), it will no longer have any Opt-In Right for any subsequent Theravance Compound arising out of the same Discovery Program.

(b) *Discovery Programs Directed at Non-validated Targets.*

(i) At the appropriate time in respect of each non-respiratory, Non-Validated Target Discovery Program, and upon the provision to GSK of at least two (2) days advance written notice, Theravance shall deliver on such date ("the Initial Due Diligence Commencement Date") and to GSK's appointed designee (in a manner and format to be specified by GSK), all available POC Non-Validated Target Data on the first Theravance Compound ("First Theravance Compound") in such non-respiratory, non-validated target Discovery Program (it being recognized, and it being in the contemplation of the Parties, that not all but a substantial amount of POC Non-Validated Target Data on the First Theravance Compound in such non-respiratory, non-validated target Discovery Program will be made available at this point). At such time, and in light of GSK's funding obligations under Section 4.3.2, Theravance shall also deliver up to GSK an outline budget of its proposed expenditures in relation to such Discovery Program for the next one hundred and twenty (120) days) (which such proposed expenditures shall be proposed net external expenditures only, including any planned Third Party contracting and future committed expenditures, but shall not, for the avoidance of doubt include the internal salary costs of Theravance employees). If such outline budget is [*] or less, it shall remain in Theravance's sole discretion; provided, however, GSK shall be permitted to bring to Theravance's attention areas of potential cost savings or comparable efficiencies and Theravance will reasonably consider any recommendations by GSK in this regard. To the extent that the outline budget exceeds [*], the Parties shall as promptly as possible meet and attempt to mutually agree either to changes in the schedule of activities such that the total budget for the relevant period does not exceed [*] or alternatively, if GSK agrees that the circumstances warrant activities that justify a budget in excess of such amount, a higher maximum budget. If the Parties cannot reach mutual agreement on any excess budgeted amounts then GSK shall not be obligated to pay for such excess budgeted amounts under Section 4.3.2. Within a further sixty days of the Initial Due Diligence Commencement Date, Theravance shall deliver to GSK final and complete POC Non-Validated Target Data in respect of such First Theravance Compound ("Date of Final Delivery of Opt-In Data"). To facilitate GSK's review throughout the aforesaid periods, Theravance shall deliver all such materials to GSK in a diligent, prompt and timely manner and shall respond promptly and fully to any GSK requests and/or queries raised as part of such review. It is hereby anticipated and acknowledged by the Parties that such process as contemplated hereunder shall take the form of as many face-to-face meetings between the Parties as GSK shall reasonably request of Theravance. GSK shall also notify Theravance of its most likely plans for Development in respect of such Alliance Program and such intent shall form the basis of the first Development Plan to be drawn up pursuant to Section 3.3.3. It is anticipated that, within such sixty (60) day period the Parties will also endeavor to agree, where appropriate, any specific and/or additional terms related to GSK's proposed future Development and Commercialization activities in relation to such Alliance Program, particularly where appropriate provisions are not contained in this Agreement or, if such provisions are contained in this Agreement, such provisions are not, for whatever reason, relevant. It is further envisaged that such specific and/or additional terms will then be appended to this Agreement as a Specific Alliance Product Development & Commercialization Appendix. Within a further sixty (60) days after Date of Final Delivery of Opt-In Data, GSK shall notify Theravance in writing as to whether or not it is exercising its Opt-In Right with respect to such Discovery Program. If GSK notifies Theravance in writing of its wish to exercise its Opt-In Right in respect of such Discovery Program, such notice of exercise shall not take effect until the date of satisfaction of the Alliance Program Closing Condition (the "Effective Date of GSK's Exercise of its Opt-In Right"). On the Effective Date of GSK's Exercise of its Opt-In Right, (i) such Discovery Program for which GSK has notified Theravance of its wish to exercise its Opt-In Right shall become an Alliance Program; (ii) any payment and/or compensation that becomes payable by GSK to Theravance as a consequence, including but not limited to the payment of an Opt-In Fee and/or any relevant Development Milestone, shall be paid by GSK to Theravance (subject to and in accordance with the further provisions of Article 6); and (iii) Theravance shall promptly deliver to GSK at no cost to GSK the Technology Transfer Package. If GSK elects not to exercise its Opt-In Right for such Discovery Program, or if the Alliance Program Closing Condition is not satisfied or is terminated pursuant to Section 15.15, the Discovery Program will become a Reversion Program (a "Reversion Program") and Theravance will be entitled to pursue development of all compounds from such Reversion Program outside the Alliance alone or with a Third Party.

(ii) If at the Date of Final Delivery of Opt-In Data, only data related to the First Theravance Compound is available, then, without prejudice to GSK's exercise of its Opt-In Right with respect to such Discovery Program in accordance with Section 4.2.2(b)(i) (including but not limited to the specified process and timelines related thereto), Theravance shall, at Theravance's expense, diligently work toward the goal of delivering up to GSK within a further [*] days from the Date of Final Delivery of Opt-In Data further discovery data related to such Discovery Program including but not limited to data related to any back-up Non-respiratory Compound ("Subsequent Theravance Compound(s)"). Further, if Development of the First Theravance Compound is subsequently discontinued and/or terminated by GSK for reasons of Technical Failure and for whatever reason no Subsequent Theravance Compound(s) in such Discovery Program exists or has been made available to GSK by Theravance on or before the expiration of [*] days from the Date of Final Delivery of Opt-In Data, then the next payment to be made by GSK to Theravance under this Agreement (whether an Opt-In Fee, Development Milestone or any other payment) shall [*].

(iii) If GSK elects not to exercise its Opt-In Right for any Discovery Program under Section 4.2.2(b)(i), it will no longer have any Opt-In Right for any subsequent Theravance Compound arising out of the same Discovery Program.

4.2.3 *Early Opt-In* Nothing contained herein shall prevent GSK from exercising an Opt-In Right with respect to a Discovery Program at any time earlier than set forth in Sections 4.2.1 and 4.2.2 in which case such Discovery Program shall become an Alliance Program. Should GSK determine that it would like to consider exercising its Opt-In Right with respect to a Discovery Program prior to the expected or anticipated Initial Due Diligence Date, GSK shall notify Theravance through the Joint Steering Committee and the parties shall use their reasonable efforts to mutually agree on the information requirements and timetables applicable to such a decision.

4.3 *Obligations for Development.*

4.3.1 *General; GSK.* GSK will, subject to the other terms of this Agreement (including Section 3.2.3(g)), endeavor to move Alliance Products forward in Development from each Discovery Program for which GSK has exercised an Opt-In Right provided always that it is understood and hereby acknowledged by the Parties that any GSK decision to pursue Development of [*] shall not, for the avoidance of doubt, constitute a breach of GSK's Diligent Efforts obligations under this Agreement. GSK shall have the overall responsibility for, and use Diligent Efforts in, the performance of all such Development activities which shall include, where applicable, relevant regulatory filings (as contemplated under Article 8) for any such Alliance Product moved forward in Development. Further, GSK shall use Diligent Efforts to advance such Alliance Product through Development in accordance with the Go/No-Go checkpoints identified in the then current Development Plan for such Alliance Product. GSK shall also use Diligent Efforts to develop an optimal formulation of such Alliance Product.

4.3.2 *GSK Funding Responsibility.* As of the Effective Date of GSK's Exercise of its Opt-In Right with respect to any Alliance Program, GSK shall bear all subsequent costs and expenses associated with the Development of Alliance Products from such Alliance Program (excepting at all times, for the avoidance of doubt, any costs related to any Theravance continuing work on Subsequent Theravance Compounds in relation to such Alliance Program as contemplated by Sections 4.2.1(b), 4.2.2(a)(ii) and 4.2.2(b)(ii), which such costs shall be excluded from such computation). Further, if GSK elects to exercise its Opt-In Right for any Discovery Program and, subject to satisfaction under Section 15.15 of the Alliance Program Closing Condition, the Discovery Program thereby becomes an Alliance Program then, during the period [*] (the "Interim Period"), and recognizing the increase in the value of the licences granted hereunder as a result of the work performed by Theravance in the Interim Period, the Opt-In Fee payable under Section 6.1.4 will [*] (the "Top-Up Fees") and GSK shall reimburse Theravance for such Top-Up Fees provided always that unless otherwise agreed by the Parties the amount of any such Top-Up Fees shall be strictly in accordance with the budget established by the Parties pursuant to Sections 4.2.1 (a), 4.2.2 (a)(i) or 4.2.2(b)(i), as applicable. Notwithstanding the foregoing, the Parties hereby acknowledge and recognize that the timing of GSK's payment to Theravance of the aforesaid Top-Up Fees may not necessarily be simultaneous with the timing of GSK's payment of the relevant Opt-In Fee, since the payment of the Top-Up Fees by GSK will require prior submission from Theravance to GSK of an appropriate and suitable invoice for monies spent and GSK shall have thirty (30) days to reimburse Theravance from the date of GSK's receipt of said invoice.

4.3.3 *Decisions with Respect to Alliance Products.*

(a) GSK shall have the sole discretion with respect to Development decisions for Alliance Products subject to and in accordance with Sections 3.2.5, 3.3.5, and 4.3.1.

(b) GSK will provide the Joint Program Committee with (i) a notification within thirty (30) days of the initiation (i.e. the first person dosed) of any Study involving an Alliance Product, and (ii) a "top line results" report within sixty (60) days following the last person dosed/last visit in any Study involving an Alliance Product.

4.3.4 *Development Timelines.* It is hereby acknowledged that the Parties' mutual strategic objective is to move Alliance Products into Development and subsequent Commercialization at the earliest opportunity. GSK will consult with the Joint Program Committee and will share, modify and further develop all applicable Development Plans and timelines in that forum. GSK will use Diligent Efforts to secure the necessary resources and will keep the Joint Program Committee informed on the progress of individual studies and activities relating to Alliance Products in accordance with Section 3.2.3.

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4.4 *Activity Outside of the Alliance.* The Parties acknowledge that the research, Development and Commercialization objectives of this Alliance are intended to be complementary to GSK's other research, development and commercialization efforts outside this Alliance. Accordingly, the Parties agree that GSK shall be free to discover and develop other compounds for the treatment of diseases targeted by Alliance Products outside of this Agreement, subject to GSK's obligations hereunder with respect to any Alliance Product for which GSK has exercised its Opt-In Right.

ARTICLE 5
COMMERCIALIZATION

5.1 *Global Marketing Plans.*

5.1.1 *General.* The Joint Program Committee shall be responsible for reviewing a Global Marketing Plan for each Alliance Product ("Marketing Plan"). Each Marketing Plan shall define the goals and objectives for Commercializing the Alliance Products in the pertinent Calendar Year consistent with the applicable Development Plan.

5.1.2 *Contents of Each Marketing Plan.* The Marketing Plan for each Alliance Product shall be prepared during the Calendar Year wherein, and where applicable, Phase III Studies for such Alliance Product have commenced and shall be a rolling, three-year plan, updated annually and shall contain at a minimum and as appropriate to current knowledge:

(a) Results of market research and strategy, including market size, dynamics, growth, customer segmentation, customer targeting, competitive analysis and global Alliance Product positioning;

(b) Annual sales forecasts for Major Market Countries;

(c) For each major Market Country (as available): sales plans, which will include target number of sales representatives, detail order and target number of details;

(d) Core, global advertising and promotion programs and strategies, including literature, media plans, symposia and speaker programs; and

(e) Core Phase III/Phase IIIb Studies to be conducted.

5.2 *Obligations for Commercialization.* GSK shall use Diligent Efforts to Commercialize the Alliance Products.

5.3 *Commercialization.*

5.3.1 *GSK Responsibility.* Subject to Section 5.3.2:

(a) GSK shall have the sole right and responsibility for Commercialization of Alliance Products for distribution and sale. GSK shall bear all costs and expenses associated with the Commercialization of Alliance Products for sale or distribution;

(b) GSK shall have the sole right and responsibility to distribute, sell, record sales and collect payments for Alliance Products;

(c) GSK shall have the sole right and responsibility for establishing and modifying the terms and conditions with respect to the sale of Alliance Products, including, without limitation, the price or prices at which the Alliance Products will be sold, any discount applicable to payments or receivables, all managed care contracting issues and any other similar matters; and

(d) GSK will be responsible for storage, order receipt, order fulfillment, shipping and invoicing of Alliance Products.

5.3.2 *Limited Co-Promotion in the United States.* Theravance may elect to Co-Promote in the United States an Alliance Product where such Alliance Product is primarily targeted to specialist and/or hospital-based healthcare providers in the United States in the manner and to the extent set forth below. The limited right to Co-Promote as set forth herein is non-exclusive, and also may not be sublicensed or sub-contracted by Theravance to a Third Party.

(a) *Co-Promotion Option.* Theravance will notify GSK in writing if it wishes to Co-Promote an Alliance Product, not later than the date of the filing of the New Drug Application for an Alliance Product in the United States. If GSK is willing to progress discussions, the parties will then meet as soon as practicable to further discuss and agree in good faith suitable terms provided always that any such proposed arrangement shall always be [*]. Any such terms that are agreed shall be documented separately, executed by the Parties and/or their Affiliate(s), as applicable, and a copy thereof appended to this Agreement.

(b) *Co-Promotion Plan.* The Co-Promotion Plan will be an amendment to the Marketing Plan and will be finalized not later than six (6) months before launch in the United States.

5.3.3 *Semi-Annual Reports.* GSK shall provide the Joint Program Committee reports semi-annually. Such reports shall set forth in summary form the results of GSK's Commercialization activities performed during such semi-annual period in the Major Markets.

5.3.4 *Exports to the United States.* To the extent permitted by Law, the Parties shall use Diligent Efforts to prevent the Alliance Products distributed for sale in a particular Country other than the United States from being exported to the United States for sale.

ARTICLE 6
FINANCIAL PROVISIONS

6.1 *Option Fee; Equity Investment; Governance Agreement; Opt-In Fee.*

6.1.1 *Option Fee.* In partial consideration for the right to Opt-In for Discovery Programs hereunder, GSK shall on the Effective Date, pay to Theravance a non-refundable amount of Twenty Million United States Dollars (U.S. $20,000,000).

6.1.2 *Equity Investment.* On the Effective Date, GSK shall purchase nine million nine hundred thousand (9,900,000) newly issued shares of Theravance Class A Common Stock at a price of U.S. $11.00 per share for total consideration of One Hundred Eight Million Nine Hundred Thousand United States Dollars (U.S. $108,900,000.00). Such purchase will be made pursuant to the Stock Purchase Agreement attached hereto as Schedule 6.1.2(A).

Simultaneously with the foregoing payment and investment by GSK, all outstanding Theravance Preferred Stock not owned by GSK will be converted into shares of Theravance Common Stock, and all outstanding shares of Theravance Preferred Stock owned by GSK will be converted into shares of Theravance Class A Common Stock.

6.1.3 *Governance Agreement.* On the Effective Date the Parties also will enter into the Governance Agreement attached hereto as Schedule 6.1.3(A).

6.1.4 *Opt-In Fee.* Upon the Effective Date of GSK's Exercise of its Opt-In Right with respect to any Discovery Program, it shall simultaneously pay to Theravance a non-refundable fee in partial consideration for the acquisition of license rights under the Theravance Patents and the Theravance Know-How by GSK under this Agreement, as follows:

(i) for a Discovery Program in which the lead Theravance Compound [*] as of the Initial Due Diligence Commencement Date: [*];

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(ii) for a Discovery Program in which the lead Theravance Compound [*] as of the Initial Due Diligence Commencement Date: [*]; and

(iii) for a Discovery Program in which the lead Theravance Compound [*] as of the Initial Due Diligence Commencement Date: [*].

provided always that, in recognition of the increased value of the licences granted hereunder as a result of the work performed by Theravance in the Interim Period, [*].

6.2 *Milestone Payments.*

6.2.1 *General.* In further consideration for the acquisition of license rights under the Theravance Patents and Theravance Know How, GSK shall also pay to Theravance the payments set forth below for each such Development milestone referred to therein (each, a "Development Milestone"); provided always that each such payment shall be made only one time for each Alliance Product regardless of how many times such Development Milestones are achieved for such Alliance Product, and no payment shall be owed for a Development Milestone which is not reached (except that, upon achievement of a Development Milestone for a particular Alliance Product, any previous Development Milestone for that Alliance Product for which payment was not made shall be deemed achieved and payment therefore shall be made); provided further that, in the event that more than one Development Milestone is achieved with respect to the same Alliance Product at one time, then all applicable payments under Section 6.2 shall be made. For example, if a single-agent Alliance Product and a Combination Product are approved in the same Marketing Authorization Approval, then in addition to the relevant milestone for the single-agent Alliance Product, the relevant milestone for the Combination Product shall be paid simultaneously. In the event of termination of development of a particular Alliance Product for Technical Failure and an alternative Alliance Product in the same Discovery Program replaces such Terminated Alliance Product then milestone payments for such alternative Alliance Product shall not be paid in respect of milestones already achieved by the Terminated Alliance Product.

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6.2.2 *Specific Milestones.* GSK shall make the following milestone payments to Theravance upon the achievement of the indicated Development Milestone for each of the first single agent Alliance Product and the first Combination Alliance Product per Alliance Program:

Milestone	**Amount**
Initiation of a Phase I Study*	U.S.$3 Million
Successful completion of a Phase II Study** (where [*] means [*] for a Validated Target and [*] for a Non-Validated Target, as such Validated/Non-Validated Targets will have been agreed by the Parties pursuant to Section 4.1.4).	U.S.$10 Million
Initiation of a Phase III Study	U.S.$25 Million
Filing for Regulatory Approval	
[*]	[*]
[*]	[*]
[*]	[*]
Launch	
[*]	[*]
[*]	[*]
[*]	[*]

* Phase I milestone is only payable for Theravance Compounds from Discovery Programs for which GSK has given notice of its wish to exercise its Opt-In Right prior to initiation of a Phase I Study for the first Theravance Compound in such Discovery Program.

** Phase II milestone is only payable for Theravance Compounds from Discovery Programs for which GSK has given notice of its wish to exercise its Opt-In Right prior to initiation of a Phase II Study for the first Theravance Compound in such Discovery Program.

For the purpose of this Section 6.2, the following definitions shall apply:

"Initiation of [*]" means [*] for the applicable Alliance Product

"Successful completion of [*]" means [*] conducted in the target population for the applicable Alliance Product.

"Initiation of [*]" means [*] for the applicable Alliance Product.

"Filing for Regulatory Approval" means (i) in the case of [*], the date on which [*] in relation to the applicable Alliance Product [*]; (ii) in the case of [*], the earlier of (aa) the date on which the appropriate regulatory authorities in [*] for the applicable Alliance Product filed by or on behalf of GSK in such Country or (bb) the date on which [*] or any successor thereto [*] for the applicable Alliance Product filed by or on behalf of GSK; and (iii) in the case of [*], the date on which the relevant governmental authority in [*] for the applicable Alliance Product filed by or on behalf of GSK in [*].

"Launch" means the date of First Commercial Sale in either [*], as applicable.

If GSK, either individually or as a member of the Joint Steering Committee or Joint Program Committee, discontinues the Development of [*] for reasons other than Technical Failure, and the Theravance Compound that comprises such Alliance Product is also in a [*], GSK will not compensate Theravance for the unpaid milestone payments otherwise due to Theravance under Section 6.2.2 except where, and notwithstanding GSK's intent to commercialize only [*], treatment with [*] also forms a distinct part of the [*] for that [*] (so, for example, the safety and efficacy of the [*] is evaluated in a separate group of patients in a [*]) such that the aforesaid milestone is also achieved for the [*] in which case such milestone shall be due and payable by GSK. And, for the avoidance of doubt, if in such a situation, notwithstanding GSK's original intent to commercialize only [*], GSK then decides to commercialize [*] and the Filing and Launch milestones are achieved in respect of such [*], then such milestones shall also be due and payable by GSK.

6.2.3 *Notification and Payment.* In the event an Alliance Product achieves a Development Milestone, GSK shall promptly, but in no event more than ten (10) days after the achievement of each such Development Milestone, notify Theravance in writing of the achievement of same. For all Development Milestones achieved, but subject always to satisfaction under Section 15.15 of the relevant Alliance Program Closing Condition, GSK shall promptly, but in no event more than thirty (30) days after notification of the achievement of each such Development Milestone, remit payment to Theravance for such Development Milestone.

6.3 *Payment of Royalties on Net Sales.*

6.3.1 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of license rights under the Theravance Patents under this Agreement, and in those Countries of the Territory in which there is a Valid Claim of a Theravance Patent covering the Alliance Product in the Country of sale at the time such Net Sales occur (for the avoidance of doubt, "covering" as used in this Section and subsequent Sections shall include the making, using, selling, offering for sale, or importing the Alliance Product), GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

On total Annual Worldwide Net Sales up to but not including [*] 10%

On total Annual Worldwide Net Sales from [*]

On total Annual Worldwide Net Sales [*] up to an including U.S.$3.5 Billion: 20%

On total Annual Worldwide Net Sales over U.S.$3.5 Billion: 7.5%

6.3.2 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of license rights under the Theravance Patents under this Agreement, and in those Countries of the Territory where an obligation to pay royalties under Section 6.3.1 has applied during the Term but is no longer applicable (as a result of subsequent expiration or termination of the last Valid Claim of a Theravance Patent covering the Alliance Product in the Country of sale at the time such Net Sales occur), GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

[*]

6.3.3 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of Theravance Know-How by GSK under this Agreement, and in those countries which are not subject to the royalty obligation referred to in either Sections 6.3.1 or 6.3.2, GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

[*]

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6.3.4 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of license rights under the Theravance Patents under this Agreement, and in those Countries of the Territory in which there is a Valid Claim of a Theravance Patent covering the Alliance Product in the Country of sale at the time such Net Sales occur, GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

[*]

6.3.5 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of license rights under the Theravance Patents under this Agreement, and in those Countries of the Territory where an obligation to pay royalties under Section 6.3.4 has applied during the Term but is no longer applicable (as a result of subsequent expiration or termination of the last Valid Claim of a Theravance Patent covering the Alliance Product in the Country of sale at the time such Net Sales occur), GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

[*]

6.3.6 *[*] Royalty on Single-Agent Alliance Products from Discovery Programs for Which GSK Exercised its Opt-In Right [*] for the First Theravance Compound in Such Discovery Program.* As further consideration for the acquisition of Theravance Know-How by GSK under this Agreement, and in those countries which are not subject to the royalty obligation referred to in either Sections 6.3.4 or 6.3.5, GSK shall pay Theravance, within twenty (20) days after the end of each Calendar Quarter, royalty payments for each such Alliance Product based on Net Sales in such Calendar Quarter on a Country by Country basis, as follows:

[*]

6.3.7 *Royalty on Combination Products.* For the purpose of determining royalty payments, then if the Combination Product is commercialized but the Theravance single agent is not sold separately in finished form, seventy percent (70%) of the royalty rates referred to in Sections 6.3.1 - 6.3.6 inclusive (whichever is applicable) shall apply. If the Combination Product is commercialized and the relevant Theravance single agent in such Combination Product is also separately commercialized for which Theravance is receiving separate royalty payments then, if there are [*] active ingredients in such Combination Product and one such active ingredient is such Theravance single agent, [*] of the royalty rates referred to in Sections 6.3.1 - 6.3.6 inclusive (whichever is applicable) shall apply; and if there are [*] active ingredients in such Combination Product and one such active ingredient is the Theravance single agent, [*] of the royalty rates referred to in Sections 6.3.1 - 6.3.6 inclusive (whichever is applicable) shall apply.

6.3.8 *Estimates.* The quarterly royalty payments made hereunder may be based on estimated Net Sales. Within thirty (30) days after the end of each Calendar Quarter, GSK shall calculate the actual amount of Net Sales for the previous Calendar Quarter and either credit or debit the difference between such actual and projected amount on the succeeding Calendar Quarter's royalty payment to Theravance. GSK will also provide Theravance with those estimates of future Net Sales as it provides in accordance with its own internal procedures.

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6.3.9 *Duration of Royalty Payments*

(a) *Commencement* All royalties payable hereunder shall be paid on a Country-by-Country basis from the date of first commercial sale of each Alliance Product in a particular Country and additionally, in the case of Sections 6.3.1 and 6.3.4, at such time as there is a Valid Claim of a Theravance Patent covering the Alliance Product sold.

(b) *Duration of* [*] *Royalties* Royalty obligations under Sections 6.3.1 and 6.3.4 in each Country of the Territory shall remain until the expiration or termination of the last Valid Claim of a Theravance Patent covering the Alliance Product in such Country.

(c) *Duration of [*] Royalties* Royalty obligations under Sections 6.3.2 and 6.3.5 in each Country of the Territory shall apply for a maximum period of fifteen (15) years from First Commercial Sale of the relevant Alliance Product in each such Country (where, for the avoidance of doubt, such period would include, and not be additional to, the time for which a full patent royalty was previously payable under either Section 6.3.1 or Section 6.3.4, as applicable).

(d) *Duration of [*] Royalties* Royalty obligations under Sections 6.3.3 and 6.3.6 in each Country of the Territory shall apply for a maximum period of ten (10) years from First Commercial Sale of the relevant Alliance Product in each such country.

6.4 *Royalty Responsibilities; Net Sales Reports.*

6.4.1 *Payments to Third Parties.*

(a) If, as a result of a settlement approved by both Parties or as a result of a final non-appealable judgment, GSK is required to pay any amounts to a Third Party directly because using or selling a Theravance Compound is found to infringe the rights of such Third Party, GSK shall deduct [*] of any such amount paid to such Third Party from the royalties otherwise due Theravance for the Alliance Product containing such Theravance Compound, provided in no event shall the aggregate of any such reduction(s) reduce the royalties otherwise payable to Theravance during any Calendar Year by more than [*]; provided, further, that any excess deduction shall be carried over into subsequent years of this Agreement until the full deduction is taken. In the event that at the time GSK elects to exercise its Opt-In Right with respect to a Discovery Program, either (a) the formulation containing the relevant Theravance Compound or (b) the process used to prepare the relevant Theravance Compound that has been used or will be used for clinical trial material or commercial supply, requires a license from a Third Party, the same reduction in royalties payable to Theravance as set forth hereinabove shall apply.

(b) GSK shall pay any amounts owed to a Third Party as a result of the use of GSK Patents or GSK Know-How or for any other reason other than in connection with 6.4.1 (a) with respect to sales of Alliance Products and shall not deduct any of such amounts from the royalties due Theravance.

6.4.2 *Net Sales Report.* Within thirty (30) days after the end of each Calendar Quarter, GSK shall submit to Theravance a written report setting forth Net Sales in the Territory on a Country-by-Country and Alliance Product-by-Alliance Product basis during such Calendar Quarter, total royalty payments due Theravance, relevant market share data and any payments made to any Third Party pursuant to Section 6.4.1(a) (each a "Net Sales Report").

6.5 *IFRS.* All financial terms and standards defined or used in this Agreement for sales or activities occurring in the Territory shall be governed by and determined in accordance with the generally accepted accounting principles as referred to in the International Financial Reporting Standards ("IFRS").

6.6 *Currencies.* Monetary conversion from the currency of a foreign country in which Alliance Product is sold into US Dollars shall be calculated in accordance with the methodology referred to in GSK's then current Corporate Finance Reporting Policy. The following summarizes GSK's current methodology applied in accordance with its current Corporate Finance Reporting System: the cumulative year-to-date Average Rates are calculated by determining the average of (i) the preceding 31st December Spot Rate plus (ii) the Closing Spot Rates of the relevant months to date using the exact figures provided by the Reuters 2000 download. (By way of example, the Average Rate for the five months from January, 2005 to May, 2005 would be computed by taking the sum of the Spot Rates for the preceding 31st December, 2004, plus the month-end Spot Rates for the five months to May, 2005, divided by six).

6.7 *Manner of Payments.* All sums due under this Article 6 shall be payable in United States Dollars by bank wire transfer in immediately available funds to such bank account(s) as Theravance shall designate. GSK shall notify Theravance as to the date and amount of any such wire transfer to Theravance at least five (5) Business Days prior to such transfer.

6.8 *Interest on Late Payments.* If GSK shall fail to make a timely payment pursuant to this Article 6, any such payment that is not paid on or before the date such payment is due under this Agreement shall bear interest, to the extent permitted by applicable law, at the average one-month London Inter-Bank Offering Rate (LIBOR) for the United States Dollar as reported from time to time in *The Wall Street Journal*, effective for the first date on which payment was delinquent and calculated on the number of days such payment is overdue or, if such rate is not regularly published, as published in such source as the Joint Steering Committee agrees.

6.9 *Tax Withholding.*

6.9.1 Any taxes, levies or other duties ("Taxes") paid or required to be withheld under the appropriate local tax laws by one of the Parties ("Withholding Party") on account of monies payable to the other Party under this Agreement shall, subject to Sections 6.9.2 and 6.9.3, be deducted from the amount of monies otherwise payable to the other Party under this Agreement. The Withholding Party shall secure and send to the other Party within a reasonable period of time proof of any such Taxes paid or required to be withheld by Withholding Party for the benefit of the other Party.

6.9.2 If GSK or any GSK Affiliate is or becomes liable to withhold any taxes from payments made to Theravance under Sections 6.1 and/or 6.2, then GSK shall pay to Theravance an amount equal to the amount GSK or the applicable GSK Affiliate owes to the relevant tax authority provided always that if Theravance is able to obtain credit for any taxes withheld ("Creditable Taxes") against any liability to tax either in the year in which the receipt is taxable or any preceding years, Theravance shall reimburse to GSK an amount equivalent to the Creditable Taxes. Theravance shall provide GSK with such reasonable evidence as GSK may reasonably request to determine whether the taxes are creditable against taxes payable by Theravance.

6.9.3 If GSK or any GSK Affiliate is or becomes liable to withhold any taxes from payments made to Theravance under Section 6.3, then such taxes may be withheld by GSK or the applicable GSK Affiliate up to a limit of [*] of the relevant payment. GSK shall pay to Theravance an amount equal to the amount GSK owes to the relevant tax authority in excess of such [*] provided always that if Theravance is able to obtain any Creditable Taxes against any liability to tax either in the year in which the receipt is taxable or any preceding years, Theravance shall reimburse to GSK an amount equivalent to the Creditable Taxes. Theravance shall provide GSK with such reasonable evidence as GSK may reasonably request to determine whether the taxes are creditable against taxes payable by Theravance.

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6.10 *Financial Records; Audits.* GSK shall keep, and shall cause its Affiliates and sublicensees to keep, such accurate and complete records of Net Sales as are necessary to determine the amounts due to Theravance under this Agreement and such records shall be retained by GSK or any of its Affiliates or sublicensees (in such capacity, the "Recording Party") for at least the three subsequent Calendar Years to which the Net Sales relate. During normal business hours and with reasonable advance notice to the Recording Party, such records shall be made available for inspection, review and audit, at the request and expense of Theravance, by an independent certified public accountant, or the local equivalent, appointed by Theravance and reasonably acceptable to the Recording Party for the sole purpose of verifying the accuracy of the Recording Party's accounting reports and payments made or to be made pursuant to this Agreement; provided, however that such audits may not be performed by Theravance more than once per Calendar Year. Such accountants shall be instructed not to reveal to Theravance the details of its review, except for (i) such information as is required to be disclosed under this Agreement and (ii) such information presented in a summary fashion as is necessary to report the accountants' conclusions to Theravance, and all such information shall be deemed Confidential Information of the Recording Party; provided, however, that in any event such information may be presented to Theravance in a summary fashion as is necessary to report the accountants' conclusions. All costs and expenses incurred in connection with performing any such audit shall be paid by Theravance unless the audit discloses at least a [*] shortfall, in which case the Recording Party will bear the full cost of the audit for such Calendar Year. Theravance will be entitled to recover any shortfall in payments due to it as determined by such audit, plus interest thereon calculated in accordance with Section 6.8, or alternatively shall have the right to offset and deduct any such shortfall in payments due to it against payments Theravance is otherwise required to make to the Reporting Party under this Agreement. The documents from which were calculated the sums due under this Article 6 shall be retained by the relevant Party during the Term.

ARTICLE 7
COMMUNICATIONS, PROMOTIONAL MATERIALS AND SAMPLES

7.1 *Communications and Promotional Materials.*

7.1.1 *Housemark Exposure.* To the extent allowed by applicable Law, and further to the extent reasonably practicable, all communications and Promotional Materials will indicate the contribution of the license from Theravance for the Alliance Products. Subject to the foregoing, the Theravance Housemark and the GSK Housemark shall both be given exposure and prominence on all communications and promotional materials, labeling, package inserts or outserts and packaging for the Alliance Products.

7.1.2 *Review of Core Promotional Materials.* Subject to applicable Law, in accordance with the direction of the Joint Program Committee and *only* in the event of a co-promotion under Section 5.3.2, (i) the Parties will jointly, through consultation and with the assistance of each other, review the core Promotional Materials, and (ii) the relevant legal or regulatory personnel of each Party shall have the opportunity to review and comment on all such core Promotional Materials prior to use and such comments shall be considered by the Joint Program Committee in the review of such core Promotional Materials.

7.2 *Samples.* Packaging, package inserts and outserts, Sample labels and labeling shall each contain reference to Theravance and GSK indicating, in the case of Theravance, the contribution of the license from Theravance for the Alliance Products, if appropriate, and as may be required under applicable FDA rules and regulations.

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7.3 *Statements Consistent with Labeling.* GSK shall ensure that its sales representatives detail the Alliance Products in a fair and balanced manner and consistent with the requirements of the Federal Food, Drug and Cosmetic Act of the United States, as amended, including, but not limited to, the regulations at 21 C.F.R. (S) 202 in the United States.

7.4 *Implications of Change in Control in Theravance.* In the event that there is a Change in Control of Theravance that does not involve GSK or its Affiliates and the references contemplated in Sections 7.1.2 and 7.2 are no longer made to “Theravance,” then other than to the extent required by applicable Law, GSK shall have the right, not to be unreasonably exercised, to terminate its obligations under Sections 7.1 and 7.2.

ARTICLE 8
REGULATORY MATTERS

8.1 *Governmental Authorities.* GSK shall be solely responsible for communicating with Governmental Authorities in connection with the Development and Commercialization of an Alliance Product and will keep Theravance informed, through the Joint Program Committee and Joint Steering Committee, of any significant issue or issues arising therefrom.

8.2 *Filings.* Subject to any necessary transitional arrangements that may be identified and agreed by the Parties under Section 4.2, and which would then form part of the Specific Alliance Product Development & Commercialization Appendix for same, GSK shall also be solely responsible for filing drug approval applications for Alliance Products and will use Diligent Efforts in seeking appropriate approvals in those Countries of the Territory for Alliance Products as GSK reasonably determines and sees fit. Such regulatory documents for each filing shall be centralized and held at the offices of GSK. Theravance shall provide such reasonable assistance as may be required by GSK where liaison between the Parties is, or may be, necessary to enable GSK to fulfill its responsibilities hereunder. GSK shall be responsible for maintaining the Approvals obtained under this Section 8.2 and shall solely own all such Approvals in the Territory. GSK shall be fully responsible for bearing all costs and expense associated with undertaking and completing said registration activities in the Territory, including but not limited to the costs of preparing and prosecuting applications for such Approvals and fees payable to regulatory agencies in obtaining and maintaining same.

8.3 *Exchange of Drug Safety Information.* Subject to and upon completion of appropriate Safety Exchange requirements and/or transfer of all appropriate safety data identified and agreed by the Parties under Section 4.2 (and which would then form part of the Specific Alliance Product Development & Commercialization Appendix for same), at the time a Theravance Compound becomes an Alliance Product under this Agreement GSK shall be responsible for recording, investigating, summarizing, notifying, reporting and reviewing all Adverse Drug Experiences in relation to Alliance Products in accordance with Law and shall require that its Affiliates (i) adhere to all requirements of applicable Laws which relate to the reporting and investigation of Adverse Drug Experiences, and (ii) keep the Joint Program Committee apprised on a regular basis of such matters arising therefrom.

8.4 *Recalls or Other Corrective Action.* Each Party shall, as soon as practicable, notify the other Party of any recall information received by it in sufficient detail to allow the Parties to comply with any and all applicable Laws. GSK shall promptly notify Theravance of any material actions to be taken by GSK with respect to any recall or market withdrawal or other corrective action related to an Alliance Product prior to such action to permit Theravance a reasonable opportunity to consult with GSK with respect thereto. All costs and expenses with respect to a recall, market withdrawal or other corrective action shall be borne by GSK unless such recall, market withdrawal or other corrective action was due solely to the negligence, willful misconduct or breach of this Agreement by Theravance. GSK shall have sole responsibility for and shall make all decisions with respect to any recall, market withdrawals or any other corrective action related to the Alliance Products.

8.5 *Events Affecting Integrity or Reputation.* During the Term, the Parties shall notify each other immediately of any circumstances of which they are aware and which could impair the integrity and reputation of the Alliance Products or if a Party is threatened by the unlawful activity of any Third Party in relation to the Alliance Products, which circumstances shall include, by way of illustration, deliberate tampering with or contamination of the Alliance Products by any Third Party as a means of extorting payment from the Parties or another Third Party. In any such circumstances, the Parties shall use Diligent Efforts to limit any damage to the Parties and/or to the Alliance Products. The Parties shall promptly call a Joint Steering Committee meeting to discuss and resolve such circumstances.

ARTICLE 9
ORDERS; SUPPLY AND RETURNS

9.1 *Orders and Terms of Sale.* Except as otherwise expressly stated in this Agreement, GSK shall have the sole right to (i) receive, accept and fill orders for the Alliance Products, (ii) control invoicing, order processing and collection of accounts receivable for the Alliance Products sales, (iii) record the Alliance Products sales in its books of account, and (iv) establish and modify the commercial terms and conditions with respect to the sale and distribution of the Alliance Products, including without limitation matters such as the price at which the Alliance Products will be sold and whether any discounts, rebates or other deductions should be made, paid or allowed.

9.2 *Supply of API Compound and Formulated Alliance Product for Development.*

9.2.1 *Supply of API Compound for Development.* Subject to the terms and conditions of this Agreement, GSK shall conduct or have conducted any chemical process development required to develop a commercially acceptable process for making API Compound and obtain supply for worldwide requirements of API Compound. Notwithstanding the foregoing, Theravance shall transfer on or after the Effective Date of GSK's Exercise of its Opt-In Right, at cost, all reasonable quantities of API supply it has on hand of a Theravance Compound for which GSK has exercised its Opt-In Right and/or intermediate materials for API manufacture and provided also that such API supplies shall always be in conformity with GSK's own requirements. API Compound requirements for Development activities shall be set forth in the relevant Development Plan and shall be periodically updated by the Joint Program Committee. For the purposes of this Section 9.2.1, "at cost" means Theravance's fully allocated cost of manufacturing, comprising all direct costs (including but not limited to, labor, materials, energy, utilities, quality control and costs of third party manufacture) and indirect costs (including but not limited to administrative labor costs, manufacturing facility and equipment maintenance, relevant insurance and depreciation of manufacturing equipment and manufacturing facilities) specifically allocable to the production and delivery of API and/or Alliance Product, as applicable, to GSK; such calculation being based upon accepted contract manufacturing industry standards or generally accepted accounting principles.

9.2.2 *Supply of Formulated Alliance Products for Development.* Subject to the terms and conditions of this Agreement, GSK shall be solely responsible for manufacture and supply for worldwide requirements of formulated Alliance Products. Notwithstanding the foregoing, Theravance agrees to transfer to GSK on or after the Effective Date of GSK's Exercise of its Opt-In Right, at cost, all reasonable quantities of formulated Alliance Product for which GSK has exercised its Opt-In Right and provided also that such formulated Alliance Product shall always be in conformity with GSK's own requirements. Formulated Alliance Product requirements for Development activities shall be set forth in the relevant Development Plan and shall be periodically updated by the Joint Project Committee (in the form and at the times the Joint Project Committee determines).

9.2.3 *At Cost.* For the purposes of this Section 9.2, "at cost" means Theravance's fully allocated cost of manufacturing, comprising all direct costs (including but not limited to, labor, materials, energy, utilities, quality control and costs of third party manufacture) and indirect costs (including but not limited to administrative labor costs, manufacturing facility and equipment maintenance, relevant insurance and depreciation of manufacturing equipment and manufacturing facilities) specifically allocable to the production and delivery of API and/or Alliance Product, as applicable, to GSK; such calculation being based upon accepted contract manufacturing industry standards or generally accepted accounting principles.

9.3 *Supply of API Compound for Commercial Requirements.* Subject to the terms and conditions of this Agreement, GSK shall be solely responsible for the manufacture and supply of API Compound. A forecast for API Compound requirements for Commercialization of the Alliance Products shall be prepared and periodically updated by the Joint Program Committee (in the form and at the times the Joint Program Committee determines), and coordinated with the applicable Marketing Plans for Alliance Products.

9.4 *Supply of Alliance Products for Commercialization.* Subject to the terms and conditions of this Agreement, GSK shall be solely responsible for the manufacture and supply of commercial requirements of formulated, packaged and labeled Alliance Products. Such formulated, packaged and labeled Alliance Products shall be manufactured and supplied in accordance with all applicable Laws and current Good Manufacturing Practices. GSK shall be solely responsible for secondary manufacture (formulation of finished drug product), packaging and labeling of the Alliance Product.

9.5 *Inventories.* GSK and its Product Suppliers shall maintain an inventory of API Compound and Alliance Products in accordance with their normal practices and so as to ensure fulfillment of its respective supply obligations herein.

9.6 *Potential Differences in Supply/Manufacturing Needs on an Alliance Product by Alliance Product Basis.* The provisions of Sections 9.2-9.5 inclusive shall apply in respect of each Alliance Product save where the Parties mutually agree otherwise to amend and/or supplement such terms for any Alliance Product. Any such mutually agreed terms would then form part of the Specific Alliance Product Development & Commercialization Appendix for such Alliance Product.

ARTICLE 10
CONFIDENTIAL INFORMATION

10.1 *Confidential Information.* Each of GSK and Theravance shall keep all Confidential Information received from the other Party with the same degree of care it maintains the confidentiality of its own Confidential Information. Neither Party shall use such Confidential Information for any purpose other than in performance of this Agreement or disclose the same to any other Person other than to such of its agents who have a need to know such Confidential Information to implement the terms of this Agreement or enforce its rights under this Agreement. A Receiving Party shall advise any agent who receives such Confidential Information of the confidential nature thereof and of the obligations contained in this Agreement relating thereto, and the Receiving Party shall ensure that all such agents comply with such obligations as if they had been a Party hereto. Upon termination of this Agreement, the Receiving Party shall return or destroy all documents, tapes or other media containing Confidential Information of the Disclosing Party that remain in the Receiving Party's or its agents' possession, except that the Receiving Party may keep one copy of the Confidential Information in the legal department files of the Receiving Party, solely for archival purposes. Such archival copy shall be deemed to be the property of the Disclosing Party, and shall continue to be subject to the provisions of this Article 10. Notwithstanding anything to the contrary in this Agreement, the Receiving Party shall have the right to disclose this Agreement or Confidential Information provided hereunder if, in the reasonable opinion of the Receiving Party's legal counsel, such disclosure is necessary to comply with the terms of this Agreement, or the requirements of any Law. Where possible, the Receiving Party shall notify the Disclosing Party of the Receiving Party's intent to make such disclosure pursuant to the provision of the preceding sentence sufficiently prior to making such disclosure so as to allow the Disclosing Party adequate time to take whatever action the Disclosing Party may deem to be appropriate to protect the confidentiality of the

information. The Receiving Party will cooperate reasonably with the Disclosing Party's efforts to protect the confidentiality of the information. Each Party will be liable for breach of this Article 10 by any of its Affiliates or agents.

10.2 *Permitted Disclosure and Use.* Notwithstanding Section 10.1, a Party may disclose Confidential Information belonging to the other Party only to the extent such disclosure is reasonably necessary to: (a) obtain Marketing Authorization of an Alliance Product; (b) enforce the provisions of this Agreement; or (c) comply with Laws. If a Party deems it necessary to disclose Confidential Information of the other Party pursuant to this Section 10.2, such Party shall give reasonable advance notice of such disclosure to the other Party to permit such other Party sufficient opportunity to object to such disclosure or to take measures to ensure confidential treatment of such information. The Receiving Party will cooperate reasonably with the Disclosing Party's efforts to protect the confidentiality of the information.

10.3 *Publications.* Subject to any Third Party rights existing as of the Effective Date, each Party shall submit to the Joint Program Committee for review and approval all proposed academic, scientific and medical publications and public presentations relating to an Alliance Product or any Development

activities under this Agreement for review in connection with preservation of related patent rights, and trade secrets and/or to determine whether Confidential Information should be modified or deleted from the proposed publication or public presentation. Written copies of such proposed publications and presentations shall be submitted to the Joint Program Committee no later than sixty (60) days before submission for publication or presentation and the Joint Program Committee shall provide its comments with respect to such publications and presentations within ten (10) Business Days of its receipt of such written copy. The review period may be extended for an additional sixty (60) days if a representative of the non-publishing Party on the Joint Program Committee can demonstrate a reasonable need for such extension including, but not limited to, the preparation and filing of patent applications. By mutual agreement of the Parties, this period may be further extended. The Parties will each comply with standard academic practice regarding authorship of scientific publications and recognition of contribution of other Parties in any publications relating to the Alliance Products or any Development activities under this Agreement.

10.4 *Public Announcements.* Except as may be expressly permitted under Section 10.3 or required by applicable Laws and subject to the final two sentences of this Section 10.4, neither Party will make any public announcement of any information regarding this Agreement, the Alliance Products or any Development activities under this Agreement without the prior written approval of the other Party, which approval shall not be withheld unreasonably. Once any statement is approved for disclosure by the Parties or information is otherwise made public in accordance with the preceding sentence, either Party may make a subsequent public disclosure of the contents of such statement without further approval of the other Party. Notwithstanding the foregoing, within sixty (60) days following the Effective Date, appropriate representatives of the Parties will meet and agree upon a process and principles for reaching timely consensus on how the Parties will make public disclosure concerning this Agreement, the Alliance Products or any Development activities under this Agreement.

10.5 *Confidentiality of This Agreement.* The terms of this Agreement shall be Confidential Information of each Party and, as such, shall be subject to the provisions of this Article 10. Either Party may disclose the terms of this Agreement if, in the opinion of its counsel, such disclosure is required by Law. In such event, the Disclosing Party will seek appropriate confidentiality of those portions of the Agreement for which confidential treatment is typically permitted by the relevant Governmental Authority.

10.6 *Further Agreements Concerning Confidentiality.* In connection with any due diligence activities conducted by GSK prior to making a decision on exercising GSK's Opt-In Right under Article 4, GSK shall execute confidentiality agreement(s) relating to Theravance's intellectual property and the chemistry being reviewed, such confidentiality agreements to be substantially similar to those executed by GSK in connection with its review of Theravance's intellectual property in connection with the LABA Collaboration Agreement.

10.7 *Survival.* The obligations and prohibitions contained in this Article 10 shall survive the expiration or termination of this Agreement for a period of ten (10) years.

ARTICLE 11
REPRESENTATIONS AND WARRANTIES; COVENANTS

11.1 *Mutual Representations and Warranties.* Theravance and GSK each represents and warrants to the other as of the Effective Date that:

11.1.1 Such Party (a) is a company duly organized, validly existing, and in good standing under the Laws of its incorporation; (b) is duly qualified as a corporation and in good standing under the Laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, where the failure to be so qualified would have a material adverse effect on its financial condition or its ability to perform its obligations hereunder; (c) has the requisite corporate power and authority and the legal right to conduct its business as now conducted and hereafter contemplated to be conducted; (d) has or will obtain all necessary licenses, permits, consents, or approvals from or by, and has made or will make all necessary notices to, all Governmental Authorities having jurisdiction over such Party, to the extent required

for the ownership and operation of its business, where the failure to obtain such licenses, permits, consents or approvals, or to make such notices, would have a material adverse effect on its financial condition or its ability to perform its obligations hereunder; and (e) is in compliance with its charter documents;

11.1.2 The execution, delivery and performance of this Agreement by such Party and all instruments and documents to be delivered by such Party hereunder (a) are within the corporate power of such Party; (b) have been duly authorized by all necessary or proper corporate action; (c) do not conflict with any provision of the charter documents of such Party; (d) will not, to the best of such Party's knowledge, violate any law or regulation or any order or decree of any court of governmental instrumentality; (e) will not violate or conflict with any terms of any indenture, mortgage, deed of trust, lease, agreement, or other instrument to which such Party is a Party, or by which such Party or any of its property is bound, which violation would have a material adverse effect on its financial condition or on its ability to perform its obligations hereunder;

11.1.3 This Agreement has been duly executed and delivered by such Party and constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable insolvency and other Laws affecting creditors' rights generally, or by the availability of equitable remedies; and

11.1.4 All of its employees, officers, and consultants have executed agreements or have existing obligations under law requiring assignment to such Party of all Inventions made by such individuals during the course of and as the result of their association with such Party, and obligating such individuals to maintain as confidential such Party's Confidential Information.

11.1.5 Nothing contained in this Agreement shall give a Party the right to use the Confidential Information received from the other Party in connection with any activity other than Development and Commercialization of an Alliance Product consistent with this Agreement.

11.2 *Additional GSK Representations and Warranties.* GSK further represents, warrants and covenants to Theravance that neither GSK nor any of its Affiliates is a Party to or otherwise bound by any oral or written contract or agreement that will result in any Person obtaining any interest in, or that would give to any Person any right to assert any claim in or with respect to, any of GSK's rights granted under this Agreement.

11.3 *Additional Theravance Representations and Warranties.* Theravance further represents and warrants to GSK as of the Effective Date that:

11.3.1 In the normal course of business in connection with each Discovery Program, Theravance carries out diligent literature searches in relation to the Theravance Patents, and will disclose to GSK's counsel any conflict or likely future conflict of which Theravance is aware with the intellectual property rights of any Third Party with respect to Theravance Patents for the relevant Theravance Compounds in the Discovery Program during the course of any due diligence by GSK in connection with GSK's Opt-In Right decision under Article 4.

11.3.2 Theravance has not received notice from any Third Party of a claim that an issued patent of such Third Party would be infringed by the manufacture, distribution, marketing or sale of the potential Alliance Products existing as of the date of signature of this Agreement;

11.3.3 To Theravance's knowledge, none of Theravance's current patent rights are subject to any pending or any threatened re-examination, opposition, interference or litigation proceedings;

11.3.4 Theravance has not received notice from any Third Party of a claim asserting the invalidity, misuse, unregisterability or unenforceability of any of Theravance's current patent rights, or challenging its right to use or ownership of any of Theravance's current patent rights or Theravance's know-how, or making any adverse claim of ownership thereof; and

11.3.5 Theravance has not received notice from any Third Party that any trade secrets or other intellectual property rights of such Third Party would be misappropriated by the development and reduction to practice of Theravance's current patent rights and Theravance's know-how.

11.3.6 Theravance will not at any time during the Term disclose to any Third Party(ies) and/or publish in the public domain any proprietary and secret Theravance Know-How that is proprietary and secret as of the date this Agreement is signed by the Parties.

11.4 *Covenants*. Each Party hereby covenants and agrees during the Term that it shall carry out its obligations or activities hereunder in accordance with (i) the terms of this Agreement and (ii) all applicable Laws.

11.5 *Disclaimer of Warranty.* Subject to the specific warranties and representations given under Sections 11.1 through and including 11.3, nothing in this Agreement shall be construed as a warranty or representation by either Party (i) that any Alliance Product made, used, sold or otherwise disposed of under this Agreement is or will be free from infringement of patents, copyrights, trademarks, industrial design or other intellectual property rights of any Third Party, (ii) regarding the effectiveness, value, safety, non-toxicity, patentability, or non-infringement of any patent technology, the Alliance Products or any information or results provided by either Party pursuant to this Agreement or (iii) that any Alliance Product will obtain Marketing Authorization or appropriate pricing approval. Each Party explicitly accepts all of the same as experimental and for development purposes, and without any express or implied warranty from the other Party. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, EACH PARTY EXPRESSLY DISCLAIMS, WAIVES, RELEASES, AND RENOUNCES ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 12
INDEMNIFICATION

12.1 *Indemnification by GSK.* Subject to Sections 12.3, 12.4 and 13.2, GSK shall defend, indemnify and hold harmless Theravance and its Affiliates and each of their officers, directors, shareholders, employees, successors and assigns from and against all Claims of Third Parties, and all associated Losses, to the extent arising out of (a) GSK's negligence or willful misconduct in performing any of its obligations under this Agreement, (b) a breach by GSK of any of its representations, warranties, covenants or agreements under this Agreement, or (c) the manufacture, use, handling, storage, marketing, sale, distribution or other disposition of Alliance Products by GSK, its Affiliates, agents or sublicensees, except to the extent such losses result from the negligence or willful misconduct of Theravance.

12.2 *Indemnification by Theravance.* Subject to Sections 12.3, 12.4 and 13.2, Theravance shall defend, indemnify and hold harmless GSK and its Affiliates and each of their officers, directors, shareholders, employees, successors and assigns from and against all Claims of Third Parties, and all associated Losses, to the extent arising out of (a) Theravance's negligence or willful misconduct in performing any of its obligations under this Agreement, (b) a breach by Theravance of any of its representations, warranties, covenants or agreements under this Agreement, or (c) any API Compound or Formulated Alliance Product transferred from Theravance to GSK pursuant to Section 9.2.1 or 9.2.2, respectively, which is not in compliance with GSK's own requirements, except to the extent such losses result from the negligence or willful misconduct of GSK.

12.3 *Procedure for Indemnification.*

12.3.1 *Notice.* Each Party will notify promptly the other in writing if it becomes aware of a Claim (actual or potential) by any Third Party (a "Third Party Claim") for which indemnification may be sought by that Party and will give such information with respect thereto as the other Party

shall reasonably request. If any proceeding (including any governmental investigation) is instituted involving any Party for which such Party may seek an indemnity under Section 12.1 or 12.2, as the case may be (the "Indemnified Party"), the Indemnified Party shall not make any admission or statement concerning such Third Party Claim, but shall promptly notify the other Party (the "Indemnifying Party") orally and in writing and the Indemnifying Party and Indemnified Party shall meet to discuss how to respond to any Third Party Claims that are the subject matter of such proceeding. The Indemnifying Party shall not be obligated to indemnify the Indemnified Party to the extent any admission or statement made by the Indemnified Party or any failure by such Party to notify the Indemnifying Party of the claim materially prejudices the defense of such claim.

12.3.2 *Defense of Claim.* If the Indemnifying Party elects to defend or, if local procedural rules or laws do not permit the same, elects to control the defense of a Third Party Claim, it shall be entitled to do so provided it gives notice to the Indemnified Party of its intention to do so within forty-five (45) days after the receipt of the written notice from the Indemnified Party of the potentially indemnifiable Third Party Claim (the "Litigation Condition"). The Indemnifying Party expressly agrees the Indemnifying Party shall be responsible for satisfying and discharging any award made to or settlement reached with the Third Party pursuant to the terms of this Agreement without prejudice to any provision in this Agreement or right at law which will allow the Indemnifying Party subsequently to recover any amount from the Indemnified Party to the extent the liability under such settlement or award was attributable to the Indemnified Party. Subject to compliance with the Litigation Condition, the Indemnifying Party shall retain counsel reasonably acceptable to the Indemnified Party (such acceptance not to be unreasonably withheld, refused, conditioned or delayed) to represent the Indemnified Party and shall pay the reasonable fees and expenses of such counsel related to such proceeding. In any such proceeding, the Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party. The Indemnified Party shall not settle any claim for which it is seeking indemnification without the prior written consent of the Indemnifying Party which consent shall not be unreasonably withheld, refused, conditioned or delayed. The Indemnified Party shall, if requested by the Indemnifying Party, cooperate in all reasonable respects in the defense of such claim that is being managed and/or controlled by the Indemnifying Party. The Indemnifying Party shall not, without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld, refused, conditioned or delayed), effect any settlement of any pending or threatened proceeding in which the Indemnified Party is, or based on the same set of facts could have been, a Party and indemnity could have been sought hereunder by the Indemnified Party, unless such settlement includes an unconditional release of the Indemnified Party from all liability on claims that are the subject matter of such proceeding. If the Litigation Condition is not met, then neither Party shall have the right to control the defense of such Third Party Claim and the Parties shall cooperate in and be consulted on the material aspects of such defense at each Party's own expense; provided that if the Indemnifying Party does not satisfy the Litigation Condition, the Indemnifying Party may at any subsequent time during the pendency of the relevant Third Party Claim irrevocably elect, if permitted by local procedural rules or laws, to defend and/or to control the defense of the relevant Third Party Claim so long as the Indemnifying Party also agrees to pay the reasonable fees and costs incurred by the Indemnified Party in relation to the defense of such Third Party Claim from the inception of the Third Party Claim until the date the Indemnifying Party assumes the defense or control thereof.

12.4 *Assumption of Defense.* Notwithstanding anything to the contrary contained herein, an Indemnified Party shall be entitled to assume the defense of any Third Party Claim with respect to the Indemnified Party, upon written notice to the Indemnifying Party pursuant to this Section 12.4, in which case the Indemnifying Party shall be relieved of liability under Section 12.1 or 12.2, as applicable, solely for such Third Party Claim and related Losses.

12.5 *Insurance.* During the Term of this Agreement and for a period of [*] after the termination or expiration of this Agreement, GSK shall obtain and/or maintain at its sole cost and expense, product liability insurance (including any self-insured arrangements) in amounts which are reasonable and customary in the U.S. pharmaceutical industry for companies of comparable size and activities. Such product liability insurance or self-insured arrangements shall insure against all liability, including without limitation personal injury, physical injury, or property damage arising out of the manufacture, sale, distribution, or marketing of the Alliance Products. GSK shall provide written proof of the existence of such insurance to Theravance upon request. Theravance represents and covenants to GSK that Theravance shall, for the period of the Term and for a period of [*] thereafter maintain at its sole cost and expense general liability insurance and product liability insurance (as it relates to Theravance's early stage clinical development activities) which is reasonable and customary in the U.S. pharmaceutical industry for a company of comparable size and activity provided always that such levels of insurance will not be lower than [*]. Theravance shall provide written proof of the existence of such insurance to GSK upon request.

[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

ARTICLE 13
PATENTS and INVENTIONS

13.1 *Prosecution and Maintenance of Patents.*

13.1.1 *Prosecution and Maintenance of Theravance Patents.* Theravance shall have the exclusive right and the obligation to (subject to Theravance's election not to file, prosecute, or maintain pursuant to Section 13.1.4) or to cause its licensors to, prepare, file, prosecute in a diligent manner (including without limitation by conducting interferences, oppositions and reexaminations or other similar proceedings), maintain (by timely paying all maintenance fees, renewal fees, and other such fees and costs required under applicable Laws) and extend all Theravance Patents and related applications. Following the Effective Date of Exercise by GSK of its Opt-In Right with respect to a particular Alliance Program hereunder (the "Alliance Program Acceptance Date"), Theravance shall regularly advise GSK of the status of all pending applications relating to such Alliance Program, including with respect to any hearings or other proceedings before any Governmental Authority, and, at GSK's request, shall provide GSK with copies of all documentation concerning such applications, including all correspondence to and from any Governmental Authority. Theravance shall consult with GSK prior to abandoning any Theravance Patents or related applications that are material to such Alliance Program. Subject to Section 13.6, Theravance shall solicit GSK's advice and review of the nature and text of such patent applications and important prosecution matters related thereto in reasonably sufficient time prior to filing thereof, and Theravance shall take into account GSK's reasonable comments related thereto; provided, however, Theravance shall have the final decision authority with respect to any action relating to any Theravance Patent. If the Alliance Program Acceptance Date is within the priority period for a particular Theravance Patent, Theravance shall agree with GSK regarding the countries outside the United States in which corresponding applications should be filed ("OUS Filings"). It is presumed that a corresponding Patent Cooperation Treaty ("PCT") application will be filed unless otherwise agreed by the Parties. Theravance shall effect filing of all such OUS

applications within the priority period. The Parties may, if mutually agreed during the Term of this Agreement, agree to lists of countries that are relevant for particular Inventions in which Theravance Patents will be filed within the priority period.

Subject to Section 13.1.4, Theravance shall be responsible for all costs incurred in the United States in connection with procuring Theravance Patents, including applications preparation, filing fees, prosecution, maintenance and costs associated with reexamination and interference proceedings in the United States Patent and Trademark Office and United States Courts. GSK shall be responsible for all out-of-pocket costs and expenses incurred by Theravance after the relevant Alliance Program Acceptance Date which such costs and expenses are associated with procuring OUS patents corresponding to the relevant Theravance Patents related to such Alliance Program, including without limitation PCT and individual country filing fees, translations, maintenance, annuities, and protest proceedings. For all such OUS patent applications, Theravance will invoice GSK on a quarterly basis beginning with the Alliance Program Acceptance Date, setting forth all such expenses incurred since the Alliance Program Acceptance Date. Notwithstanding the foregoing, if GSK exercises its Opt-In Right in relation to a Respiratory Discovery Program, GSK shall also reimburse Theravance for all reasonable expenses incurred from the Effective Date to the Alliance Program Acceptance Date in connection with OUS patent applications corresponding to the relevant Theravance Patents related to such Alliance Program. Reimbursement will be made to Theravance in United States Dollars within thirty (30) days of receipt of such invoice by GSK. GSK will within thirty (30) days following the Effective Date identify the GSK representative that should receive such invoices from Theravance. GSK's obligations hereunder are in addition to any obligations of GSK under Section 13.1.2(b).

13.1.2 *Prosecution and Maintenance of Patents Covering Joint Inventions.*

(a) For Patents covering Joint Inventions, the Parties shall agree, without prejudice to ownership, which Party shall have the right to prepare and file a priority patent application, and prosecute such application(s) and maintain any patents derived therefrom, with the Parties equally sharing the reasonable out-of-pocket costs for the preparation, filing, prosecution and maintenance

of such priority patent application. The Parties will reasonably cooperate to obtain any export licenses that might be required for such activities. Should the agreed upon Party elect not to prepare and/or file any such priority patent application, it shall (i) provide the other Party with written notice as soon as reasonably possible after making such election but in any event no later than sixty (60) days before the other Party would be faced with a possible loss of rights, (ii) give the other Party the right, at the other Party's discretion and sole expense, to prepare and file the priority application(s), and (iii) offer reasonable assistance in connection with such preparation and filing at no cost to the other Party except for reimbursement of reasonable out-of-pocket expenses incurred by the agreed upon Party in rendering such assistance. The other Party, at its discretion and cost, shall prosecute such application(s) and maintain sole ownership of any patents derived therefrom.

(b) Within nine (9) months after the filing date of a priority application directed to an Invention, the Party filing the priority application shall request that the other Party identify those non-priority, non-PCT ("foreign") Countries in which the other Party desires that the Party filing the priority application file corresponding patent applications. Within thirty (30) days after receipt by the other Party of such request from the Party filing the priority application, the other Party shall provide to the Party filing the priority application a written list of such foreign countries in which the other Party wishes to effect corresponding foreign patent applications filings. The Parties will then agree on the particular countries in which such applications will be filed, provided that in the event agreement is not reached, the application will be filed in the disputed as well as the non-disputed countries (all such filings referred to hereinafter as "Designated Foreign Filings"). Thereafter, within twelve (12) months after the filing date of the priority application, the Party filing the priority application shall effect all such Designated Foreign Filings. It is presumed unless otherwise agreed in writing by the Parties, that a corresponding PCT application will be filed designating all PCT member countries. As to each Designated Foreign Filing and PCT application, GSK shall bear the costs for the filing and prosecutions of such Designated Foreign Filing and PCT application (including entering national phase in all agreed countries). Should the Party filing the priority application not agree to file or cause to be filed a Designated Foreign Filing, the other Party will have the right to effect such Designated Foreign Filing.

(c) Should the filing Party pursuant to Section 13.1.2(a) or 13.1.2(b) no longer wish to prosecute and/or maintain any patent application or patent resulting from such application, the filing Party shall (i) provide the non-filing Party with written notice of its wish no later than sixty (60) days before the patent or patent applications would otherwise become abandoned, (ii) give the non-filing Party the right, at the non-filing Party's election and sole expense, to prosecute and/or maintain such patent or patent application, and (iii) offer reasonable assistance to the non-filing Party in connection with such prosecution and/or maintenance at no cost to the non-filing Party except for reimbursement of the filing Party's reasonable out-of-pocket expenses incurred by the filing Party in rendering such assistance.

(d) Should the non-filing Party pursuant to Section 13.1.2(c) not wish to incur its share of preparation, filing, prosecution and/or maintenance costs for a patent application filed pursuant to Section 13.1.2(a) or 13.1.2(b) or patents derived therefrom, it shall (i) provide the filing Party with written notice of its wish, and (ii) continue to offer reasonable assistance to the filing Party in connection with such prosecution or post-grant matters at no cost to the filing Party except for reimbursement of the non-filing Party's reasonable out-of-pocket expenses incurred by the non-filing Party in rendering such assistance.

(e) The Parties agree to cooperate in the preparation and prosecution of all patent applications filed under Section 13.1.2(a) and 13.1.2(b), including obtaining and executing necessary powers of attorney and assignments by the named inventors, providing relevant technical reports to the filing Party concerning the invention disclosed in such patent application, obtaining execution of such other documents which shall be needed in the filing and prosecution of such patent applications, and, as requested, updating each other regarding the status of such patent applications.

13.1.3 *Prosecution and Maintenance of GSK Patents.* GSK shall have the exclusive right and obligation to (subject to GSK's election not to file, prosecute or maintain pursuant to Section 13.1.5) or to cause its licensors to, prepare, file and prosecute in a diligent manner (including without limitation by conducting interferences, oppositions and reexaminations or other similar proceedings), maintain (by timely paying all maintenance fees, renewal fees, and other such fees and costs required under applicable Laws) and extend all GSK Patents and related applications. Consistent with Section 13.6, GSK will consult with Theravance within the priority period for any patent application that is material to this Agreement concerning Countries in which corresponding applications will be filed provided always that GSK shall not be required to consult with Theravance

under this Section 13.1.3 in relation to patent applications that GSK reasonably considers significant to activities beyond the scope of this Agreement, such as devices, delivery technology and/or any other proprietary GSK technology(ies). In the event the Parties cannot agree, GSK shall make the final decision. GSK shall consult with Theravance prior to abandoning any GSK Patents or related applications that are material to the matters contemplated in this Agreement. GSK shall regularly advise Theravance of the status of all pending applications, including with respect to any hearings or other proceedings before any Governmental Authority, and, at Theravance's request, shall provide Theravance with copies of documentation relating to such applications, including all correspondence to and from any Governmental Authority. Subject to Section 13.6, GSK shall solicit Theravance's advice and review of the nature and text of such patent applications and important prosecution matters related thereto in reasonably sufficient time prior to filing thereof, and GSK shall take into account Theravance's reasonable comments relating thereto; provided that GSK shall have the final decision authority with respect to any action relating to a GSK Patent.

13.1.4 *GSK Step-In Rights.* If Theravance elects not to file, prosecute or maintain the Theravance Patents or claims encompassed by such Theravance Patents necessary for GSK to exercise its rights hereunder in any Country, Theravance shall give GSK notice thereof within a reasonable period prior to allowing such Theravance Patents, or such claims encompassed by such Theravance Patents, to lapse or become abandoned or unenforceable, and GSK shall thereafter have the right, at its sole expense, to prepare, file, prosecute and maintain such Theravance Patents in such Country.

13.1.5 *Theravance Step-In Rights*. If GSK elects not to file, prosecute or maintain the GSK Patents or claims encompassed by such GSK Patents necessary for Theravance to exercise its license rights hereunder in any Country, GSK shall give Theravance notice thereof within a reasonable period prior to allowing such GSK Patents, or such claims encompassed by such GSK Patents, to lapse or become abandoned or unenforceable, and Theravance shall thereafter have the right, at its sole expense, to prepare, file, prosecute and maintain such GSK Patents in such Country; provided always that nothing herein shall give Theravance any Step-In Rights in respect of any proprietary *Diskus* technology(ies).

13.1.6 *Execution of Documents by Agents.* Each of the Parties shall execute or have executed by its appropriate agents such documents as may be necessary to obtain, perfect or maintain any Patent Rights filed or to be filed pursuant to this Agreement, and shall cooperate with the other Party so far as reasonably necessary with respect to furnishing all information and data in its possession reasonably necessary to obtain or maintain such Patent Rights.

13.1.7 *Patent Term Extensions.* The Parties shall cooperate with each other in gaining patent term extension where applicable to an Alliance Product. The Joint Steering Committee shall determine which patents relating to a particular Alliance Product the Parties shall endeavor to have extended. All filings for such extension will be made by the Party to whom the patent is assigned after consultation with the other Party. In the event the Joint Steering Committee can not agree, the Party Commercializing the Theravance Compound will make the decision.

13.2 *Patent Infringement.*

13.2.1 *Infringement Claims.* With respect to any and all Claims instituted by Third Parties against Theravance or GSK or any of their respective Affiliates for patent infringement involving

the manufacture, use, license, marketing or sale of an Alliance Product in the United States during the Term (each, a "Patent Infringement Claim") as applicable, Theravance and GSK will assist one another and cooperate in the defense and settlement of such Patent Infringement Claims at the other Party's request.

13.2.2 *Infringement of Theravance Patents.* In the event that Theravance or GSK becomes aware of actual or threatened infringement of a Theravance Patent during the Term, that Party will promptly notify the other Party in writing (a "Patent Infringement Notice"). Theravance will have the right but not the obligation to bring an infringement action against any Third Party. If Theravance elects to pursue such infringement action, Theravance shall be solely responsible for the costs and expenses associated with such action and retain all recoveries. During the Term, in the event that Theravance does not undertake such an infringement action, upon Theravance's written consent, which shall not be unreasonably withheld, refused, conditioned or delayed, GSK shall be permitted to do so in Theravance's or the relevant Theravance Affiliate's name and on Theravance's or the relevant Theravance Affiliate's behalf. If Theravance has consented to an infringement action but GSK is not recognized by the applicable court or other relevant body as having the requisite standing to pursue such action, then GSK may join Theravance as party-plaintiff. If GSK elects to pursue such infringement action, Theravance may be represented in such action by attorneys of its own choice and its own expense with GSK taking the lead in such action. If Theravance recommends not to pursue an infringement action, and GSK elects to pursue such infringement action by joining Theravance as a party plaintiff, then GSK agrees to indemnify and hold harmless Theravance for all losses and damages arising from said infringement action.

13.2.3 *Infringement of GSK Patents.* In the event that GSK or Theravance becomes aware of actual or threatened infringement of a GSK Patent during the Term, that Party will promptly notify the other Party in writing. GSK will have the right but not the obligation to bring an infringement action against any Third Party. If GSK elects to pursue such infringement action, GSK shall be solely responsible for the costs and expenses associated with such action and retain all recoveries. During the Term, in the event that GSK does not undertake such an infringement action, upon GSK's written consent, which shall not be unreasonably withheld, refused, conditioned or delayed, Theravance shall be permitted to do so in GSK's or the relevant GSK Affiliate's name and on GSK's or the relevant GSK Affiliate's behalf. If GSK has consented to an infringement action but Theravance is not recognized by the applicable court or other relevant body as having the requisite standing to pursue such action, then Theravance may join GSK as a party-plaintiff. If Theravance elects to pursue such infringement action, GSK may be represented in such action by attorneys of its own choice and at its own expense, with Theravance taking the lead in such action. If GSK recommends not to pursue an infringement action, and Theravance elects to pursue such infringement action by joining GSK as a party plaintiff, then Theravance agrees to indemnify and hold harmless GSK for all losses and damages arising from said infringement action.

13.2.4 *Notice and Cooperation.* In the event that GSK or Theravance becomes aware of actual or threatened infringement of a Joint Patent, that Party will promptly notify the other Party in writing. In such event the matter will be handled the same as provided for GSK Patents in Section 13.2.3 and Theravance will cooperate as reasonably required by GSK in connection with such enforcement.

13.3 *Notice of Certification.* GSK and Theravance each shall immediately give notice to the other of any certification filed under the "U.S. Drug Price Competition and Patent Term Restoration Act of 1984" (or its foreign equivalent) claiming that a GSK Patent or a Theravance Patent is invalid or that

infringement will not arise from the manufacture, use or sale of any Alliance Product by a Third Party ("Hatch-Waxman Certification").

13.3.1 *Notice.* If a Party decides not to bring infringement proceedings against the entity making such a certification, such Party shall give notice to the other Party of its decision not to bring suit within twenty-one (21) days after receipt of notice of such certification.

13.3.2 *Option.* Such other Party then may, but is not required to, bring suit against the entity that filed the certification. If the other Party decides to bring suit, the provisions of Section 13.2.2 or Section 13.2.3 shall apply as appropriate.

13.3.3 *Name of Party.* Any suit by Theravance or GSK shall either be in the name of Theravance or in the name of GSK, (or any Affiliate) or jointly in the name of Theravance and GSK (or any Affiliate), as may be required by law.

13.4 *Assistance.* For purposes of this Article 13, the Party not bringing suit shall execute such legal papers necessary for the prosecution of such suit as may be reasonably requested by the Party bringing suit. The out-of-pocket costs and expenses of the Party bringing suit shall be reimbursed first out of any damages or other monetary awards recovered in favor of GSK or Theravance. The documented out-of-pocket costs and expenses of the other Party shall then be reimbursed out of any remaining damages or other monetary awards. The Party initiating and prosecuting the action to completion will retain any remaining damages or other monetary awards following such reimbursements.

13.5 *Settlement.* No settlement or consent judgment or other voluntary final disposition of a suit under this Article may be entered into without the joint written consent of GSK and Theravance (which consent will not be withheld unreasonably).

13.6 *Ownership of Inventions.* Each Party shall promptly disclose to the other Party all Inventions made by it during the Term; provided that GSK will be allowed a reasonable time to file patent applications covering GSK Inventions prior to disclosing the GSK Invention to Theravance, and Theravance will be allowed a reasonable time to file patent applications covering Theravance Inventions prior to disclosing the Theravance Invention to GSK. Theravance shall own all Theravance Inventions and GSK shall own all GSK Inventions. All Joint Inventions shall be owned jointly by Theravance and GSK, and each Party hereby consents (without granting any license) to the exercise, assignment or license or other disposition by the other Party of its joint interests in Joint Inventions without accounting or the need to seek the consent of the other Party to such assignment or license or other disposition; provided that any such assignment, license or other disposition shall at all times be subject to the grant of rights and accompanying conditions under Sections 2.1 and 2.2 and Article 14. The determination of inventorship for Inventions shall be made in accordance with applicable laws relating to inventorship set forth in the patent laws of the United States (Title 35, United States Code).

ARTICLE 14
TERM AND TERMINATION

14.1 *Term and Expiration of Term.* Except as otherwise mutually agreed to by the Parties, this Agreement shall commence on the Effective Date and shall end upon expiration of the Term, unless terminated early as contemplated hereunder. Unless terminated early under this Article 14, the licenses granted by Theravance to GSK pursuant to Section 2.1 with respect to the Alliance Products shall be considered fully-paid and shall become non-exclusive upon expiration of the Term.

14.2 *Termination for Material Breach.* Either Party may, without prejudice to any other remedies available to it at law or in equity, terminate only that portion of the Agreement as such relates to the relevant Alliance Program (and not, for the avoidance of doubt any other Alliance Program) in the event that the other Party (as used in this subsection, the "Breaching Party") shall have materially breached or defaulted in the performance of any of its obligations in relation to such Alliance Program (the "Breaching Alliance Program"). The Breaching Party shall, if such breach can be cured, have sixty (60) days after written notice thereof was provided to the Breaching Party by the non-breaching Party to remedy such default (or, if such default cannot be cured within such 60-day period, the Breaching Party must commence and diligently continue actions to cure such default during such 60-day period). Any such termination shall become effective at the end of such 60-day period unless the Breaching Party has cured any such breach or default prior to the expiration of such 60-day period (or, if such default is capable of being cured but cannot be cured within such 60-day period, the Breaching Party has commenced and diligently continued actions to cure such default provided always that, in such instance, such cure must have occurred within one hundred twenty (120) days after written notice thereof was provided to the Breaching Party by the non-breaching Party to remedy such default).

14.3 *GSK Right to Terminate Development of an Alliance Product.* On an Alliance Product-by-Alliance Product basis, and at any time during Development and prior to First Commercial Sale of the applicable Alliance Product, GSK shall have the right to terminate Development of such Alliance Product (upon the provision of ninety (90) days written notice) for reasons of Technical Failure or Commercial Failure following communication to, and assessment of such proposed termination by, the Joint Program Committee and Joint Steering Committee (in which case such Alliance Product shall be referred to as a "Terminated Development Alliance Product").

14.4 *GSK Right to Terminate Commercialization of an Alliance Product Following First Commercial Sale.* On an Alliance Product-by-Alliance Product basis, and on a Country-by-Country basis, at any time after First Commercial Sale of the applicable Alliance Product in such country, GSK shall have the right to terminate Commercialization of such Alliance Product (upon the provision of one hundred and eighty (180) days written notice) for reasons of Commercial Failure or Technical Failure and following communication to, and assessment of such proposed termination by, the Joint Program Committee and Joint Steering Committee (in which case, such Alliance Product shall be referred to as a "Terminated Commercialized Alliance Product").

14.5 *Effects of Termination.*

14.5.1 *Effect of Termination for Material Breach.*

(a) *Material Breach by Theravance.* In the event that the Breaching Alliance Program is terminated by GSK pursuant to Section 14.2 for material breach by Theravance, all licenses in respect of such Breaching Alliance Program granted by Theravance to GSK under this Agreement shall survive, subject to GSK's continued obligation to pay royalties to Theravance hereunder. In such event, GSK shall be

entitled to set-off against any monies payable to Theravance hereunder all amounts GSK reasonably believes constitute its damages incurred by such breach, subject to final judicial resolution or settlement, without prejudice to any and all of GSK's rights to bring an action against Theravance for damages and any other available remedies in law or equity. Also, Theravance shall, at its sole expense, promptly return to GSK or destroy at GSK's request all relevant records and materials in its possession or control containing Confidential Information of GSK (provided that Theravance may keep one copy of such Confidential Information of GSK for archival purposes only in accordance with Section 10.1).

(b) *Material Breach by GSK.* In the event that the Breaching Alliance Program is terminated by Theravance for material breach by GSK pursuant to Section 14.2, the provisions of Section 14.5.2 or Section 14.5.3 shall apply to such Breaching Alliance Program depending upon the Development or Commercialization status of same. In addition, Theravance shall be entitled to set-off against any monies payable to GSK hereunder all amounts Theravance reasonably believes constitute its damages incurred by such breach, subject to final judicial resolution or settlement, without prejudice to any and all of Theravance's rights to bring an action against GSK for damages and any other available remedies in law or equity.

14.5.2 *Effect of Termination of Development of an Alliance Product.*

(a) *Non-Respiratory Alliance Products.* In the event that GSK terminates Development of an Alliance Product under Section 14.3 and such Alliance Product is a Non-Respiratory Alliance Product (hereinafter "Terminated Non-Respiratory Development Alliance Product"), and provided that such Terminated Non-Respiratory Development Alliance Product is not being or has not been replaced by an alternative Non-Respiratory Development Alliance Product, the following shall occur in respect of such Terminated Non-Respiratory Development Alliance Product:

(i) *Return of Materials.* GSK shall [*] transfer to Theravance copies of all material data, reports, records and materials in its possession or control that relate to the Terminated Non-Respiratory Development Alliance Product and/or destroy at Theravance's request, all relevant records and materials in its possession or control containing Confidential Information of Theravance (provided that GSK may keep one copy of such Confidential Information of Theravance for archival purposes only in accordance with Section 10.1).

(ii) *Transfer of Regulatory Filings.* GSK shall [*] transfer to Theravance, or shall cause its designee(s) to transfer to Theravance, ownership of all regulatory filings made or filed for any such Terminated Non-Respiratory Development Alliance Product (to the extent that any are held in GSK's or such designee(s)'s name), and such transfer to be as permitted by applicable Laws and regulations. GSK shall cooperate as reasonably necessary to permit Theravance to exercise its rights hereunder; provided, however, that if such transfer cannot be effected by GSK in a particular Country within [*] days of the effective date of termination for such Terminated Non-Respiratory Development Alliance Product (for example, as a result of Theravance not having the appropriate entity in any such Country to whom ownership of such regulatory filing(s) would be required to be transferred) then GSK, after the expiration of such aforesaid period, shall forthwith be entitled to surrender ownership of such regulatory filing(s) and/or applications for cancellation in respect of such Country.

(iii) *Return of License Rights to Theravance.* All licenses granted by Theravance to GSK with respect to the Terminated Non-Respiratory Development Alliance Product under this Agreement shall terminate.

(iv) *Grant of License Rights.* GSK shall grant to Theravance appropriate licenses (as the Parties reasonably determine) to such intellectual property rights as GSK owns and is legally able to grant to enable Theravance and/or any Third Party designee to continue development and commercialization of and to produce such Terminated Non-Respiratory Development Alliance Product provided always that if any such GSK right(s) has an applicability to other GSK owned or licensed-in products then any such license will be granted to Theravance on a non-exclusive basis but if such right(s) are specific to the Terminated Non-Respiratory Development Alliance Product and have no applicability to other GSK owned or licensed-in products then such license will be granted to Theravance on an exclusive basis. For the avoidance of doubt, any such licenses granted by GSK shall assure that GSK shall retain no right to Develop or Commercialize, or to license a Third Party to Develop or Commercialize, such Terminated Non-Respiratory Development Alliance Product.

(v) *Trademark Assignment.* Upon the request of Theravance, GSK shall prepare a global assignment to Theravance of any Trademark extensively and publicly used by GSK and Theravance in connection with the Terminated Non-Respiratory Development Alliance Product. If Theravance elects to record the Assignment, Theravance shall undertake such recordal tasks and shall bear the costs and fees associated with the recordal, including but not limited to all filing fees, agent fees, and costs of notarization and legalizations. GSK shall cooperate with Theravance as reasonably necessary. Notwithstanding the foregoing, in the event that any Trademark is used by GSK on any other product, GSK shall not assign such Trademark as contemplated in the preceding sentence but shall license such Trademark to Theravance on a non-exclusive basis and subject to any further license terms to be agreed by the Parties in good faith at the time.

(vi) *Stock Return and Supply.* GSK shall return to Theravance all available formulated and API stocks (if such stocks exist) of the Terminated Non-Respiratory Development Alliance Product and which are then held by GSK or cause such API stocks to be provided to Theravance if held by a vendor or other Third Party on behalf of GSK. The parties shall also consider the appropriateness of entering into any interim supply arrangements to facilitate the transfer contemplated herein and if appropriate, the continued development of the Terminated Non-Respiratory Development Alliance Product by Theravance for an interim period.

(b) *Respiratory Alliance Products.* In the event that GSK terminates Development of an Alliance Product under Section 14.3 and such Alliance Product is a Respiratory Alliance Product (hereinafter "Terminated Respiratory Development Alliance Product"), and provided that such Terminated Respiratory Development Alliance Product is not being or has not been replaced by an alternative Respiratory Development Alliance Product the following shall occur in respect of such Terminated Respiratory Development Alliance Product:

(i) *Return of Materials.* GSK shall [*] transfer to Theravance copies of all material data, reports, records and materials in its possession or control that relate to the Terminated Respiratory Development Alliance Product, but only insofar as the Terminated Respiratory Development Alliance Product is a single agent product and contains the Theravance Compound as a single agent, and/or destroy at Theravance's request, all relevant records and materials in its possession or control containing Confidential Information of Theravance (provided that GSK may keep one copy of such Confidential Information of Theravance for archival purposes only in accordance with Section 10.1).

(ii) *Transfer of Regulatory Filings.* GSK shall [*] transfer to Theravance, or shall cause its designee(s) to transfer to Theravance, ownership of all regulatory filings made or filed for any Terminated Respiratory Development Alliance Product (to the extent that any are held in GSK's or such designee(s)'s name), but only where the Terminated Respiratory Development Alliance Product is a single agent product and contains the Theravance Compound as the single agent, and such transfer to be as permitted by applicable Laws and regulations. GSK shall cooperate as reasonably necessary to permit Theravance to exercise its rights hereunder; provided, however, that if such transfer cannot be effected by GSK in a particular Country within one hundred fifty (150) days of the effective date of termination for such Terminated Respiratory Development Alliance Product (for example, as a result of Theravance not having the appropriate entity in any such Country to whom ownership of such regulatory filing(s) would be required to be transferred) then GSK, after the expiration of such aforesaid period, shall forthwith be entitled to surrender ownership of such regulatory filing(s) and/or applications for cancellation in respect of such Country.

(iii) *Return of License Rights to Theravance.* All licenses granted by Theravance to GSK with respect to the Terminated Respiratory Development Alliance Product under this Agreement shall terminate.

(iv) *Grant of License Rights to Theravance.* GSK shall grant to Theravance the appropriate licenses (as the Parties reasonably determine) to such intellectual property rights as GSK owns and is legally able to grant [*], to enable Theravance and/or any Third Party designee in the Territory (or in the case of a Country-by-Country termination, in the relevant Countries) to continue development and commercialization of and to produce such Terminated Respiratory Development Alliance Product but only where the Terminated Respiratory Development Alliance Product is a single agent product and contains the Theravance Compound as the single agent and provided always that if any such GSK right(s) has an applicability to other GSK owned or licensed-in products then any such license will be granted to Theravance on a non-exclusive basis but if such right(s) are specific to the Terminated Respiratory Development Alliance Product and have no applicability to other GSK owned or licensed-in products then such license will be granted to Theravance on an exclusive basis. For the avoidance of doubt, any such licenses granted by GSK shall assure that GSK shall retain no right to Develop or Commercialize, or to license a Third Party to Develop or Commercialize, such Terminated Respiratory Commercialized Alliance Product (insofar as same is a single agent product and contains the Theravance Compound as the single agent).

(v) *Trademark Assignment.* Upon the request of Theravance, GSK shall prepare a global assignment to Theravance of any Trademark extensively and publicly used by GSK and Theravance in connection with the Terminated Respiratory Development Alliance Product. If Theravance elects to record the Assignment, Theravance shall undertake such recordal tasks and shall bear the costs and fees associated with the recordal, including but not limited to all filing fees, agent fees, and costs of notarization and legalizations. GSK shall cooperate with Theravance as reasonably necessary. Notwithstanding the foregoing, in the event that any Trademark is used by GSK on any other product, GSK shall not assign such Trademark as contemplated in the preceding sentence but shall license such Trademark to Theravance on a non-exclusive basis and subject to any further license terms to be agreed by the Parties in good faith at the time.

(vi) *Stock Return.* GSK shall return to Theravance all available formulated and API stocks (if such stocks exist) of the Terminated Respiratory Development Alliance Product (but only insofar as the Terminated Respiratory Development Alliance Product is a single agent product and contains the Theravance Compound as a single agent) and which are then held by GSK or cause such API stocks to be provided to Theravance if held by a vendor or other Third Party on behalf of GSK. The Parties shall also consider the appropriateness of entering into any interim supply arrangements to facilitate the transfer contemplated herein.

(vii) *Compensation to Theravance*

(aa) Subject to sub-paragraph (bb) below, any GSK termination of a Terminated Respiratory Development Alliance Product will result in GSK paying to Theravance compensation as follows: [*], payable by GSK to Theravance in two equal installments [*], the first such payment of [*] to be made by GSK within ninety (90) days of the date GSK's termination of such Terminated Respiratory Development Alliance Product Alliance hereunder becomes effective ("the effective date of termination") and the second such payment of [*] to be made by GSK within thirty (30) days of the first twelve (12) month anniversary of the effective date of termination.

(bb) The provisions of sub-paragraph (aa) shall not apply (and thereby no compensation as comtemplated thereunder shall be paid by GSK to Theravance) if any of the following apply in respect of the Terminated Respiratory Development Alliance Product:

(xx) A Technical Failure has occurred (either in respect of the relevant Lead Theravance Compound and/or any back-up within the relevant Alliance Program); or

(yy) As of the effective date of termination, GSK has not commenced any clinical study or studies related to and/or directed at the Terminated Respiratory Development Alliance Product in any proprietary GSK device(s), including *Diskus*; or

(zz) The Theravance Compound contained in the Terminated Respiratory Development Alliance Product is contained in another Alliance Product being Developed hereunder.

14.5.3 *Effect of Termination by GSK of a Terminated Commercialized Alliance Product.*

(a) *Non-Respiratory Alliance Products.* In the event that GSK terminates Commercialization of an Alliance Product under Section 14.4 and such Alliance Product is a Non-Respiratory Alliance Product (hereinafter "Terminated Non-Respiratory Commercialized Alliance Product"), and provided that such Terminated Non-Respiratory Commercialized Alliance Product is not being or has not been replaced by an alternative Non-Respiratory Alliance Product, the following shall occur:

(i) *Theravance Rights to Commercialize.* If GSK terminates a Non-Respiratory Commercialized Alliance Product after First Commercial Sale of such Alliance Product in one or more of the Major Market Countries, Theravance shall have the right in its sole discretion and at its sole expense, for its own benefit or together with a Third Party, to commercialize such Terminated Commercialized Alliance Product in any of such Major Market Countries where it has been terminated. If GSK terminates a Non-Respiratory Commercialized Alliance Product in all Countries of the Territory following the first commercial sale in any Country of the Territory, Theravance shall have the right in its sole discretion and at it sole expense, for its own benefit or together with a Third Party, to Commercialize such Terminated Non-Respiratory Commercialized Alliance Product in the Territory. In either case, GSK will use reasonable efforts to assist Theravance in locating a mutually acceptable Third Party to carry out the rights and activities contemplated herein.

(ii) *Return of Materials.* GSK shall [*] transfer to Theravance copies of all data, reports, records and materials in its possession or control that relate to the Terminated Non-Respiratory Commercialized Alliance Product or destroy at Theravance's request, all relevant records and materials in its possession or control containing Confidential Information of Theravance (provided that GSK may keep one copy of such Confidential Information of Theravance for archival purposes only in accordance with Section 10.1).

(iii) *Transfer of Regulatory Filings.* GSK shall [*] transfer to Theravance, or shall cause its designee(s) to transfer to Theravance, ownership of all regulatory filings made or filed for any Terminated Non-Respiratory Commercialized Alliance Product (to the extent that any are held in GSK's or such designee(s)'s name) and such transfer to be as permitted by applicable Laws and regulations. GSK shall cooperate as reasonably necessary to permit Theravance to exercise its rights hereunder; provided, however, that if such transfer cannot be effected by GSK in a particular Country [*] days of the effective date of termination for such Terminated Non-Respiratory Commercialized Alliance Product (for example, as a result of Theravance not having the appropriate entity in any such Country to whom ownership of such regulatory filing(s) would be required to be transferred) then GSK, after the expiration of such aforesaid period, shall forthwith be entitled to surrender ownership of such regulatory filing(s) and/or applications for cancellation in respect of such Country.

(iv) *Return of License Rights to Theravance.* All licenses granted by Theravance to GSK with respect to the Terminated Non-Respiratory Commercialized Alliance Product under this Agreement shall terminate.

(v) *Grant of License Rights to Theravance.* Subject to the first paragraph of Section 14.5.3(b), GSK shall grant to Theravance the appropriate licenses in the Territory (or in the case of a Country-by-Country termination, in the relevant Countries) under the GSK Patents, GSK Inventions and GSK Know-How to enable Theravance by itself and/or through one or more Third Party sublicensees, to Commercialize the Terminated Respiratory Commercialized Alliance Product provided always that if any such GSK right(s) has an applicability to other GSK owned or licensed-in products then any such license will be granted to Theravance on a non-exclusive basis but if such right(s) are specific to the Terminated Respiratory Commercialized Alliance Product and have no applicability to other GSK owned or licensed-in products then such license will be granted to Theravance on an exclusive basis. For the avoidance of doubt, any such licenses granted by GSK shall assure that GSK shall retain no right to Develop or Commercialize, or to license a Third Party to Develop or Commercialize, such Terminated Respiratory Commercialized Alliance Product. GSK shall also provide Theravance with all such information and data which GSK, or its sublicensees reasonably have available in such Country, for example access to drug master file, clinical data and the like, and shall execute such instruments as Theravance reasonably requests, to enable Theravance to obtain the appropriate regulatory approvals to market such Terminated Respiratory Commercialized Alliance Product in such Country and for any other lawful purpose related to Commercialization of such Terminated Respiratory Commercialized Alliance Product in such Country.

(vi) *Trademark Assignment.* Upon the request of Theravance, GSK shall prepare a global assignment to Theravance of any Trademark extensively and publicly used by GSK and Theravance in connection with the Terminated Non-Respiratory Commercialized Alliance Product. If Theravance elects to record the Assignment, Theravance shall undertake such recordal tasks and shall bear the costs and fees associated with the recordal, including but not limited to all filing fees, agent fees, and costs of notarization and legalizations. GSK shall cooperate with Theravance as reasonably necessary. Notwithstanding the foregoing, in the event that any Trademark is used by GSK on any other product, GSK shall not assign such Trademark as contemplated in the preceding sentence but shall license such Trademark to Theravance on a non-exclusive basis and subject to any further license terms to be agreed by the Parties in good faith at the time.

(vii) *Supply.* If requested by Theravance, the Parties shall negotiate and agree in good faith to a separate commercialization and supply agreement for any Terminated Respiratory Commercialized Alliance Product which shall ensure that, based on commercially reasonable terms (recognizing the Commercialized status of such product), Theravance has a continuous and uninterrupted supply of such Terminated Respiratory Commercialized Alliance Product, for a suitable period of time to enable Theravance to secure Third Party supply provided always that such period of time shall not exceed a period of [*] months from the effective date of termination.

(b) *Respiratory Alliance Products.* In the event that GSK terminates Commercialization of an Alliance Product under Section 14.4 and such Alliance Product is a Respiratory Alliance Product (hereinafter "Terminated Respiratory Commercialized Alliance Product"), and provided that such Terminated Respiratory Commercialized Alliance Product is not being or has not been replaced by an alternative Respiratory Alliance Product and provided further that, in GSK's good faith reasonable judgment, the exercise by Theravance alone or with a Third Party of any of the rights or activities contemplated by this Section 14.5.3(b) will not materially damage GSK's continued development, regulatory or commercial use of GSK Property the following shall occur:

(i) *Theravance Rights to Commercialize.* If GSK terminates a Respiratory Commercialized Alliance Product after First Commercial Sale of such Alliance Product in one or more of the Major Market Countries, Theravance shall have the right in its sole discretion and at its sole expense, for its own benefit or together with a Third Party, to commercialize such Terminated Respiratory Commercialized Alliance Product in any of such Major Market Countries where it has been terminated. If GSK terminates a Respiratory Commercialized Alliance Product in all Countries of the Territory following the first commercial sale in any Country of the Territory, Theravance shall have the right in its sole discretion and at it sole expense, for its own benefit or together with a Third Party, to Commercialize such Terminated Respiratory Commercialized Alliance Product in the Territory. In either case, GSK will use reasonable efforts to assist Theravance in locating a mutually acceptable Third Party to carry out the rights and activities contemplated herein.

(ii) *Return of Materials.* GSK shall [*] transfer to Theravance copies of all material data, reports, records and materials in its possession or control that relate to the Terminated Respiratory Commercialized Alliance Product but only insofar as the Terminated Respiratory Commercialized Alliance Product is a single agent product and contains the Theravance Compound as a single agent, and/or destroy at Theravance's request, all relevant records and materials in its possession or control containing Confidential Information of Theravance (provided that GSK may keep one copy of such Confidential Information of Theravance for archival purposes only in accordance with Section 10.1).

(iii) *Transfer of Regulatory Filings.* GSK shall [*] transfer to Theravance, or shall cause its designee(s) to transfer to Theravance, ownership of all regulatory filings made or filed for any Terminated Respiratory Commercialized Alliance Product (to the extent that any are held in GSK's or such designee(s)'s name) but only where the Terminated Respiratory Commercialized Alliance Product is a single agent product and contains the Theravance Compound as a single agent, and such transfer to be as permitted by applicable Laws and regulations. GSK shall cooperate as reasonably necessary to permit Theravance to exercise its rights hereunder; provided, however, that if such transfer cannot be effected by GSK in a particular Country [*] days of the effective date of termination for such Terminated Respiratory Commercialized Alliance Product (for example., as a result of Theravance not having the appropriate entity in any such Country to whom ownership of such regulatory filing(s) would be required to be transferred) then GSK, after the expiration of such aforesaid period, shall forthwith be entitled to surrender ownership of such regulatory filing(s) and/or applications for cancellation in respect of such Country.

(iv) *Return of License Rights to Theravance.* All licenses granted by Theravance to GSK with respect to the Terminated Respiratory Commercialized Alliance Product under this Agreement shall terminate.

(v) *Grant of License Rights to Theravance.* Subject to the first paragraph of Section 14.5.3(b), GSK shall grant to Theravance the appropriate licenses in the Territory (or in the case of a Country-by-Country termination, in the relevant Countries) under the GSK Patents, GSK Inventions and GSK Know-How to enable Theravance by itself and/or through one or more Third Party sublicensees, to Commercialize the Terminated Respiratory Commercialized Alliance Product provided always that if any such GSK right(s) has an applicability to other GSK owned or licensed-in products then any such license will be granted to Theravance on a non-exclusive basis but if such right(s) are specific to the Terminated Respiratory Commercialized Alliance Product and have no applicability to other GSK owned or licensed-in products then such license will be granted to Theravance on an exclusive basis. For the avoidance of doubt, any such licenses granted by GSK shall assure that GSK shall retain no right to

Develop or Commercialize, or to license a Third Party to Develop or Commercialize, such Terminated Respiratory Commercialized Alliance Product. GSK shall also provide Theravance with all such information and data which GSK, or its sublicensees reasonably have available in such Country, for example access to drug master file, clinical data and the like, and shall execute such instruments as Theravance reasonably requests, to enable Theravance to obtain the appropriate regulatory approvals to market such Terminated Respiratory Commercialized Alliance Product in such Country and for any other lawful purpose related to Commercialization of such Terminated Respiratory Commercialized Alliance Product in such Country.

(vi) *Trademark Assignment.* Upon the request of Theravance, GSK shall prepare a global assignment to Theravance of any Trademark extensively and publicly used by GSK and Theravance in connection with the Terminated Respiratory Commercialized Alliance Product. If Theravance elects to record the Assignment, Theravance shall undertake such recordal tasks and shall bear the costs and fees associated with the recordal, including but not limited to all filing fees, agent fees, and costs of notarization and legalizations. GSK shall cooperate with Theravance as reasonably necessary. Notwithstanding the foregoing, in the event that any Trademark is used by GSK on any other product, GSK shall not assign such Trademark as contemplated in the preceding sentence but shall license such Trademark to Theravance on a non-exclusive basis and subject to any further license terms to be agreed by the Parties in good faith at the time.

(vii) *Supply.* If requested by Theravance, the Parties shall negotiate and agree in good faith to a separate commercialization and supply agreement for any Terminated Respiratory Commercialized Alliance Product which shall ensure that, based on commercially reasonable terms (recognizing the Commercialized status of such product), Theravance has a continuous and uninterrupted supply of such Terminated Respiratory Commercialized Alliance Product, for a suitable period of time to enable Theravance to secure Third Party supply provided always that such period of time shall not exceed a period of [*] months from the effective date of termination.

14.6 *Effect of Post-Termination Provisions on a Change in Control in Theravance.* In the event of a Change in Control of Theravance prior to termination by GSK under Section 14.4 (other than a Change in Control of Theravance involving GSK or a GSK Affiliate) none of the provisions under Section 14.5.3 shall survive as they pertain to any Alliance Product other than to an Alliance Product that contains a Theravance Compound as a single agent or a Combination Product containing another agent that is not GSK Property and the Parties will meet in good faith to explore other potential commercial options, e.g. use of one or more Third Parties for possible continued Commercialization of such Terminated Commercialized Alliance Product.

14.7 *Milestone Payments.* GSK shall not be obligated to make a Development Milestone payment under Section 6.2 which is triggered by an event occurring after the effective date of termination of this Agreement with respect to an Alliance Product or after the effective date of termination of Development or Commercialization of such Alliance Product, as applicable.

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14.8 *Accrued Rights; Surviving Obligations.* Termination, relinquishment or expiration of this Agreement for any reason shall be without prejudice to any rights that shall have accrued to the benefit of any Party prior to such termination, relinquishment or expiration. Such termination, relinquishment or expiration shall not relieve any Party from obligations which are expressly or by implication intended to survive termination, relinquishment or expiration of this Agreement, including without limitation Article 10, and shall not affect or prejudice any provision of this Agreement which is expressly or by implication provided to come into effect on, or continue in effect after, such termination, relinquishment or expiration.

ARTICLE 15
MISCELLANEOUS

15.1 *Relationship of the Parties.* Each Party shall bear its own costs incurred in the performance of its obligations hereunder without charge or expense to the other except as expressly provided in this Agreement. Neither Party shall have any responsibility for the hiring, termination or compensation of the other Party's employees or for any employee benefits of such employee. No employee or representative of a Party shall have any authority to bind or obligate the other Party to this Agreement for any sum or in any manner whatsoever, or to create or impose any contractual or other liability on the other Party without said Party's approval. For all purposes, and notwithstanding any other provision of this Agreement to the contrary, GSK's legal relationship under this Agreement to Theravance shall be that of independent contractor. This Agreement is not a partnership agreement and nothing in this Agreement shall be construed to establish a relationship of co-partners or joint venturers between the Parties.

15.2 *Registration and Filing of This Agreement.* To the extent, if any, that either Party concludes in good faith that it or the other Party is required to file or register this Agreement or a notification thereof with any Governmental Authority, including without limitation the U.S. Securities and Exchange Commission, the Competition Directorate of the Commission of the European Communities or the U.S. Federal Trade Commission, in accordance with Law, such Party shall inform the other Party thereof. Should both Parties jointly agree that either of them is required to submit or obtain any such filing, registration or notification, they shall cooperate, each at its own expense, in such filing, registration or notification and shall execute all documents reasonably required in connection therewith. In such filing, registration or notification, the Parties shall request confidential treatment of sensitive provisions of this Agreement, to the extent permitted by Law. The Parties shall promptly inform each other as to the activities or inquiries of any such Governmental Authority relating to this Agreement, and shall reasonably cooperate to respond to any request for further information there from on a timely basis.

15.3 *Force Majeure.* The occurrence of an event which materially interferes with the ability of a Party to perform its obligations or duties hereunder which is not within the reasonable control of the Party affected or any of its Affiliates, not due to malfeasance by such Party or its Affiliates, and which could not with the exercise of due diligence have been avoided (each, a "Force Majeure Event"), including, but not limited to, an injunction, order or action by a Governmental Authority, fire, accident, labor difficulty, strike, riot, civil commotion, act of God, inability to obtain raw materials, delay or errors by shipping companies or change in law, shall not excuse such Party from the performance of its obligations or duties under this Agreement, but shall merely suspend such performance during the continuation of the Force Majeure. The Party prevented from performing its obligations or duties because of a Force Majeure Event shall promptly notify the other Party of the occurrence and particulars of such Force Majeure and shall provide the other Party, from time to time, with its best estimate of the duration of such Force Majeure Event and with notice of the termination thereof. The Party so affected shall use Diligent Efforts to avoid or remove such causes of nonperformance as soon as is reasonably practicable. Upon termination of the Force Majeure Event, the performance of any

suspended obligation or duty shall promptly recommence. The Party subject to the Force Majeure Event shall not be liable to the other Party for any direct, indirect, consequential, incidental, special, punitive, exemplary or other damages arising out of or relating to the suspension or termination of any of its obligations or duties under this Agreement by reason of the occurrence of a Force Majeure Event, provided such Party complies in all material respects with its obligations under this Section 15.3.

15.4 *Governing Law.* This Agreement shall be construed, and the respective rights of the Parties determined, according to the substantive law of the State of Delaware notwithstanding the provisions governing conflict of laws under such Delaware law to the contrary, except matters of intellectual property law which shall be determined in accordance with the intellectual property laws relevant to the intellectual property in question.

15.5 *Attorneys' Fees and Related Costs.* In the event that any legal proceeding is brought to enforce or interpret any of the provisions of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, court costs and expenses of litigation whether or not the action or proceeding proceeds to final judgment.

15.6 *Assignment.* This Agreement may not be assigned by either Party without the prior written consent of the other Party; provided, however that either Party may assign this Agreement, in whole or in part, to any of its Affiliates if such Party guarantees the performance of this Agreement by such Affiliate; and provided further that either Party may assign this Agreement to a successor to all or substantially all of the assets of such Party whether by merger, sale of stock, sale of assets or other similar transaction. This Agreement shall be binding upon, and subject to the terms of the foregoing sentence, inure to the benefit of the Parties hereto, their permitted successors, legal representatives and assigns.

15.7 *Notices.* All demands, notices, consents, approvals, reports, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally, by facsimile with confirmation of receipt, by mail (first class, postage prepaid), or by overnight delivery using a globally-recognized carrier, to the Parties at the following addresses:

Theravance:	Theravance, Inc. 901 Gateway Boulevard South San Francisco, CA 94080 Facsimile: 650-827-8683 Attn: Senior Vice President, Commercial Development
GSK:	Glaxo Group Limited 980 Great West Road Brentford Middlesex TW8 9GS United Kingdom Attn: Company Secretary Facsimile: 011 44 208-047-6912
With a copy to:	GlaxoSmithKline plc 980 Great West Road Brentford Middlesex TW8 9GS United Kingdom Attn: Corporate Law Facsimile: 011 44 208-047-6912

and with a copy to:	GlaxoSmithKline Research & Development Greenford Road Greenford Middlesex UB6 0HE United Kingdom Attn: Vice President, Worldwide Business Development Facsimile: 011 44 208 966 5371

or to such other address as the addressee shall have last furnished in writing in accord with this provision to the addressor. All notices shall be deemed effective upon receipt by the addressee.

15.8 *Severability.* In the event of the invalidity of any provisions of this Agreement or if this Agreement contains any gaps, the Parties agree that such invalidity or gap shall not affect the validity of the remaining provisions of this Agreement. The Parties will replace an invalid provision or fill any gap with valid provisions which most closely approximate the purpose and economic effect of the invalid provision or, in case of a gap, the Parties' presumed intentions. In the event that the terms and conditions of this Agreement are materially altered as a result of the preceding sentences, the Parties shall renegotiate the terms and conditions of this Agreement in order to resolve any inequities. Nothing in this Agreement shall be interpreted so as to require either Party to violate any applicable laws, rules or regulations.

15.9 *Waiver.* Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term

or condition of this Agreement on any future occasion. Except as expressly set forth in this Agreement, all rights and remedies available to a Party, whether under this Agreement or afforded by law or otherwise, will be cumulative and not in the alternative to any other rights or remedies that may be available to such Party.

15.10 *Entire Agreement.* This Agreement (including the exhibits and schedules hereto) constitutes the entire agreement between the Parties hereto with respect to the within subject matter and supersedes all previous agreements and understandings between the Parties, whether written or oral. This Agreement may be altered, amended or changed only in writing and by making specific reference to this Agreement and signed by duly authorized representatives of Theravance and GSK.

15.11 *No License.* Nothing in this Agreement shall be deemed to constitute the grant of any license or other right in either Party, to or in respect of any Alliance Product, patent, trademark, Confidential Information, trade secret or other data or any other intellectual property of the other Party, except as expressly set forth herein.

15.12 *Third Party Beneficiaries.* None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including without limitation any creditor of either Party hereto. No such Third Party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any Claim in respect of any debt, liability or obligation (or otherwise) against either Party hereto.

15.13 *Counterparts.* This Agreement may be executed in any two counterparts, each of which, when executed, shall be deemed to be an original and both of which together shall constitute one and the same document.

15.14 *Agreement Closing Condition.* The obligation of each Party to consummate the transaction contemplated hereby is subject to the satisfaction of the following condition (the "Closing Condition"): All filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and any other similar laws that are necessary in any jurisdiction with respect to the transaction contemplated hereby shall have

been made and any required waiting period under such laws shall have expired or been terminated and any Governmental Authority in a jurisdiction with an applicable mandatory pre-closing waiting period that has power under or authority to enforce such laws shall have, if applicable, approved, cleared or decided neither to initiate proceedings or otherwise intervene in respect of the transaction contemplated hereby nor to refer the transaction to any other competent Governmental Authority. Each Party shall use good faith efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective the transaction contemplated by this Agreement, including, but not limited to satisfaction of the Closing Condition and each Party shall keep the other Party reasonably apprised of the status of matters relating to the completion of same. In connection with the foregoing, the Parties hereby agree to negotiate in good faith to make as soon as practicable any modification or amendment to this Agreement or any agreement related hereto that is required by the United States Federal Trade Commission, Department of Justice or equivalent Governmental Authority, provided that no Party shall be required to agree to any modification or amendment that, in the reasonable opinion of such Party's external legal or financial counsel, would be adverse to such Party. This Agreement may be terminated by either Party upon written notice any time after September 30, 2004 if the transactions contemplated by this Agreement shall not have been consummated by September 30, 2004 due to failure to satisfy the Closing Condition; provided, however, that the terminating Party shall not have breached in any material respect its obligations under this Agreement in any manner that shall have been the proximate cause of, or resulted in, the failure to satisfy the Closing Condition or otherwise to consummate the transactions contemplated by this Agreement by such date.

15.15 *Alliance Program Closing Condition.*

(a) If GSK notifies Theravance in writing of its wish to exercise its Opt-In Right in respect of a particular Discovery Program pursuant to Section 4.2.1(a), Section 4.2.2(a) or Section 4.2.2(b), such notice of exercise shall not take effect until satisfaction of the condition set forth in Section 15.15 (b) below, if applicable (the "Alliance Program Closing Condition").

(b) All filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and any other similar laws that are necessary in any jurisdiction with respect to the exercise of such Opt-In Right contemplated hereby shall have been made and any required waiting period under such laws shall have expired or been terminated and any Governmental Authority in a jurisdiction with an applicable mandatory pre-closing waiting period that has power under or authority to enforce such laws shall have, if applicable, approved, cleared or decided neither to initiate proceedings or otherwise intervene in respect of the exercise of such Opt-In Right contemplated hereby nor to refer same to any other competent Governmental Authority. Each Party shall use good faith efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective the exercise of any such Opt-In Right contemplated by this Agreement, including, but not limited to satisfaction of the Alliance Program Closing Condition and each Party shall keep the other Party reasonably apprised of the status of matters relating to the completion of same. In connection with the foregoing, the Parties shall use all reasonable efforts to make any such filing(s), if applicable, within five (5) business days of the date GSK notifies Theravance in writing of its wish to exercise its Opt-In Right in respect of a particular Discovery Program pursuant to Section 4.2.1(a), Section 4.2.2(a) or Section 4.2.2(b). Further, the Parties hereby agree to negotiate in good faith to make as soon as practicable any modification or amendment to this Agreement or any agreement related hereto that is required by the United States Federal Trade Commission, Department of Justice or equivalent Governmental Authority, provided that no Party shall be required to agree to any modification or amendment that, in the reasonable opinion of such Party's external legal or financial counsel, would be adverse to such Party. GSK's rights to

exercise any such Opt-In Right in respect of a particular Discovery Program under this Agreement may be terminated by either Party upon written notice any time after 180 days (one hundred and eighty days) from the relevant Initial Due Diligence Commencement Date if the exercise of such Opt-In Right contemplated hereby shall not have been consummated by the aforesaid 180 days (one hundred and eighty days) due to failure to satisfy the Alliance Program Closing Condition; provided, however, that the terminating Party shall not have breached in any material respect its obligations under this Agreement in any manner that shall have been the proximate cause of, or resulted in, the failure to satisfy the Alliance Program Closing Condition or otherwise to consummate the exercise of such Opt-In Right contemplated by this Agreement by such date.

IN WITNESS WHEREOF, Theravance and GSK, by their duly authorized officers, have executed this Agreement on March 30, 2004.

THERAVANCE, INC.		GLAXO GROUP LIMITED	
By:	/s/ RICK E WINNINGHAM	By:	/s/ JEAN-PIERRE GARNIER
	Rick E Winningham		Jean-Pierre Garnier
	Chief Executive Officer		Chief Executive Officer

Schedule 1.36

Existing Discovery Programs

Non-Respiratory

Modified Glycopeptide	—Antibiotic for Treatment of Gram Positive Bacteria
Overactive Bladder	—M2 Muscarinic Antagonist for OAB
5-HT4	—Agonist for GI Motility Disorders
SASH	—Short Acting Sedative Hypnotic

Respiratory

LAMA—Long Acting Muscarinic Antagonist for Treatment of Respiratory Disease

MABA—Pan-Muscarinic Antagonist and Beta Agonist for use in Respiratory Disease

Schedule 1.66

Long Acting Muscarinic Antagonist Respiratory Discovery Criteria

· Chemical and Pharmaceutical development

Structure

· Spectroscopic evidence of [*].

Synthetic Process

· Existing synthetic route [*].

Physical Properties/stability

· Crystalline API should be [*].
· Solubility [*].
· Drug Substance exists in [*].
· Can be [*]. Particle size [*]. No marked shift [*].
· Moisture sorption-non hydroscopic
  · Mass change [*].
  · Does not [*].
· No significant changes [*].

· In Vitro Pharmacology:
· [*].
· Not significantly [*].
· The compound must [*].
· General in vitro pharmacology [*].

· In Vivo Pharmacology:
· Projected human dose estimated from [*].
· [*].
· Functional lung selectivity [*]. Full dose response curves [*].
· Onset of action [*].

· Pharmacokinetics:

- Oral bioavailability [*].
- Limited permeability in [*].
- Dose related exposure [*].
- No significant [*].
- [*].

- Safety:
  - Less than [*].
  - No irritation to the respiratory tract [*].
  - Negative in a [*].

[*]=CERTAIN INFORMATION ON THIS PAGE HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

List of Protocols:

1. Theravance [*] assay
2. Theravance [*] assay
3. [*]
4. Theravance [*]
5. Theravance [*] Assay
6. Theravance [*] Assay
7. Theravance [*] assay
8. Theravance [*]
9. Theravance [*] assay

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Schedule 1.72

Muscarinic Antagonist-Beta Agonist Respiratory Discovery Criteria

- Chemical and Pharmaceutical development

  Structure

  - Spectroscopic evidence of [*].

  Synthetic Process

  - Existing synthetic route [*]. Synthesis [*] with no insurmountable safety, health or environmental issues.

  Physical Properties/stability

  - Crystalline API should be [*].
  - Solubility [*].
  - Drug Substance exists in [*].
  - Can be [*]. Particle size [*]. No marked shift [*].
  - Moisture sorption-non hydroscopic
    - Mass change [*].
    - Does not [*].
  - No significant changes [*].

- In Vitro Pharmacology:

  - [*].
  - Not significantly [*].
  - The compound must [*].
  - The ratio of [*].
  - The potency at [*].
  - The selectivity [*].
  - [*].
  - General in vitro pharmacology [*].

- In Vivo Pharmacology:

  - [*].
  - Significant [*]. Ratio of [*].
  - [*]. There should be no [*].

· Pharmacokinetics:

  · Oral bioavailability [*].
  · Limited permeability in [*].
  · Dose related exposure [*].
  · No significant [*].
  · [*].

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· Safety:

  · Less than [*].
  · No irritation to the respiratory tract [*].
  · Negative in a [*].

List of Protocols:

1. Theravance [*] Assay
2. Theravance [*] Assay
3. Theravance [*] Assay
4. Theravance [*] Assay
5. Theravance [*] Assay
6. Theravance [*] Assay
7. Theravance [*]
8. Theravance [*]
9. Theravance [*]
10. Theravance [*]
11. Theravance [*]
12. Theravance [*] assay

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Schedule 6.1.2(A)

Class A Common Stock Purchase Agreement

THERAVANCE, INC.

CLASS A COMMON

STOCK PURCHASE AGREEMENT

March 30, 2004

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THERAVANCE, INC.

CLASS A COMMON STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (the "Agreement") is made as of the 30th day of March, 2004, by and among Theravance, Inc., a Delaware corporation (the "Company"), and SmithKline Beecham Corporation, a Pennsylvania corporation (the "Investor").

WHEREAS, Glaxo Group Limited, a limited liability company organized under the laws of England and Wales ("GGL") and the Company have entered into that certain Strategic Alliance Agreement dated as of the date hereof (the "Alliance Agreement"), pursuant to which, among other things, the Company has granted GGL an option to develop and commercialize certain therapeutic compounds on an exclusive, worldwide basis;

WHEREAS, the Investor and the Company are contemporaneously entering into this Agreement, pursuant to which the Investor shall purchase shares of the Company's Class A Common Stock, par value $0.01 (the "Class A Common Stock");

WHEREAS, as a condition to the stock purchase contemplated by this Agreement and to facilitate an eventual underwritten public offering of the Company's equity securities, all outstanding shares of the Company's Preferred Stock not owned by GGL must be converted into shares of the Company's Common Stock; and

WHEREAS, in connection with the stock purchase contemplated by this Agreement, the Company intends to implement a retention plan designed to retain and incent key employees, which shall include various equity incentives following a successful underwritten public offering of the Company's equity securities.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. *Purchase and Sale of Stock.*

1.1 *Sale and Issuance of Class A Common Stock.*

(a) On or prior to the Closing (as defined below), (i) all issued and outstanding shares of preferred stock of the Company shall have converted into common stock and (ii) the Company shall adopt and file with the Secretary of State Delaware the Restated Certificate of Incorporation in the form attached hereto as *Exhibit A* (the "Restated Certificate").

(b) On or prior to the Closing (as defined below), the Company shall have authorized the sale and issuance pursuant to this Agreement of 9,900,000 shares of its Class A Common Stock at a price of $11.00 per share. The Class A Common Stock shall have the rights, preferences, privileges and restrictions set forth in the Restated Certificate.

(c) Subject to the terms and conditions of this Agreement, the Investor agrees to purchase at the Closing and the Company agrees to sell and issue to the Investor at the Closing, 9,900,000 shares of the Company's Class A Common Stock for an aggregate purchase price of $108,900,000.

1.2 *Closing*. The purchase and sale of the Class A Common Stock shall take place at the offices of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, 155 Constitution Drive, Menlo Park, CA 94025, at 10:00 A.M., on the date all conditions to closing set forth in Sections 4 and 5 have been satisfied or effectively waived, or at such other time and place as the Company and Investor mutually agree upon orally or in writing (which time and place are designated as the "Closing"). At the Closing the Company shall deliver to the Investor a certificate representing the Class A Common Stock that the Investor is purchasing against payment of the purchase price therefor by check or wire transfer, or any combination thereof.

1.3 *Exchange of Shares of Common Stock for Shares of Class A Common Stock.* Upon the Closing, GGL shall be deemed to have automatically exchanged, as of the date of the Closing, on a one-for-one basis, each share of Common Stock held by GGL for one share of Class A Common Stock. The rights, preferences and privileges of the Common Stock and Class A Common Stock are as set forth in the Restated Certificate.

2. *Representations and Warranties of the Company*. The Company hereby represents and warrants to the Investor that, as of the date hereof, and except as set forth on a Schedule of Exceptions (the "Schedule of Exceptions") furnished to the Investor, which exceptions shall be deemed to be representations and warranties as if made hereunder:

2.1 *Organization, Good Standing and Qualification*. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to (i) execute, deliver and perform its obligations under this Agreement and the Amended and Restated Investors' Rights Agreement, by and among the Company and the investors who are parties thereto, the form of which is attached hereto as *Exhibit B* (the "Investors' Rights Agreement"), (ii) to issue and sell the Class A Common Stock hereunder, (iii) to perform its obligations under the Restated Certificate, and (iv) to carry on its business as now conducted and as proposed to be conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a material adverse effect on its business or properties.

2.2 *Capitalization and Voting Rights*.

(a) As of the date of this Agreement, the authorized capital of the Company consists of:

(i) *Preferred Stock*. 51,500,000 shares of Preferred Stock (the "Preferred Stock"), of which (i) 5,020,000 shares have been designated Series A Preferred Stock (the "Series A Preferred Stock"), 4,988,000 of which are outstanding; (ii) 5,100,000 shares have been designated Series B Preferred Stock (the "Series B Preferred Stock"), 5,074,000 of which are outstanding; (iii) 18,823,000 shares have been designated Series C Preferred Stock (the "Series C Preferred Stock"), 18,765,166 of which are outstanding; (iv) 1,666,666 shares have been designated Series D Preferred Stock (the "Series D Preferred Stock"), 1,666,666 of which are outstanding (which are initially convertible into 2,777,777 shares of Common Stock); (v) 13,888,889 shares have been designated Series D-1 Preferred Stock (the "Series D-1 Preferred Stock"), 13,169,905 of which are outstanding; and (vi) 4,000,000 shares have been designated Series E Preferred Stock (the "Series E Preferred Stock"), all of which are outstanding. The rights, privileges and preferences of the Preferred Stock will be as stated in the Company's Restated Certificate of Incorporation on file with the Secretary of State of the State of Delaware on the date hereof.

(ii) *Common Stock*. 120,000,000 shares of common stock, par value $0.01 ("Common Stock"), of which 11,413,885 shares are issued and outstanding.

(iii) The outstanding shares of Common Stock are all duly and validly authorized and issued, fully paid and nonassessable, and were issued in accordance with the registration or qualification provisions of the Securities Act of 1933, as amended (the "Act") and any relevant state securities laws, or pursuant to valid exemptions therefrom.

(iv) Except for (A) the conversion privileges of the Preferred Stock, (B) the rights provided in Section 2.5 of the Investors' Rights Agreement, (C) currently outstanding warrants to purchase 4,000 shares of Series A Preferred Stock, (D) currently outstanding warrants to purchase 4,000 shares of Series B Preferred Stock, (E) currently outstanding warrants to purchase 48,611 shares of Series D-1 Preferred Stock, and (F) currently

outstanding options to purchase 13,630,463 shares of Common Stock granted to employees, directors, board members, consultants and service providers, there are not outstanding any options, warrants, rights (including conversion or preemptive rights) or agreements for the purchase or acquisition from the Company of any shares of its capital stock. In addition to the aforementioned options, the Company has reserved an additional 962,000 shares of its Common Stock for issuance upon exercise of options to be granted in the future under the Company's 1997 Stock Plan. Except for the provisions of the Restated Certificate, the Investors' Rights Agreement and of that certain Amended and Restated Stockholders' Voting Agreement dated as of January 25, 1999 by and among the Company and the other parties listed therein, the Company is not a party or subject to any agreement or understanding, and, to the best of the Company's knowledge, there is no agreement or understanding between any persons and/or entities, which affects or relates to the voting or giving of written consents with respect to any security or by a director of the Company. No stock plan, stock purchase, stock option or other agreement or understanding between the Company and any holder of any equity securities or rights to purchase equity securities provides for acceleration or other changes in the vesting provisions of such agreement or understanding as the result of any merger, consolidated sale of stock or assets, change in control or any other similar transaction(s) by the Company.

(b) Immediately prior to the Closing, upon the filing of the Restated Certificate and assuming between the date hereof and the date of Closing (x) the exchange of shares of Common Stock held by the Investor for shares of Class A Common Stock pursuant to Section 1.3 hereof, (y) no issuance by the Company of its capital stock or any security exercisable for or convertible into capital stock of the Company pursuant to any employee, director or consultant compensation plan that has been approved by the majority of the Board of Directors and (z) no exercise or conversion of any outstanding option, warrant or other security exercisable for or convertible into the capital stock of the Company, the authorized capital of the Company shall consist of:

(i) *Preferred Stock*. 5,000,000 shares of Preferred Stock (the "Preferred Stock"), none of which shall be outstanding.

(ii) *Common Stock*. 175,000,000 shares of Common Stock, par value $0.01 ("Common Stock"), 56,188,733 of which shall be outstanding

(iii) *Class A Common Stock*. 13,900,000 shares of Class A Common Stock, 4,000,000 of which shall be outstanding and 9,900,000 of which shall be sold pursuant to this Agreement.

2.3 *Subsidiaries*. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, association or other business entity, other than Theravance East, Inc., a Delaware corporation and a direct wholly-owned subsidiary of the Company. The Company is not a participant in any joint venture, partnership, or similar arrangement.

2.4 *Authorization*. All corporate action on the part of the Company, its officers, directors and stockholders necessary for the authorization, execution and delivery of this Agreement, the Investors' Rights Agreement and the Governance Agreement to be entered into by the Company and the Investor (and its affiliates), in substantially the form attached hereto as *Exhibit C* (the "Governance Agreement," and collectively with this Agreement and the Investors' Rights Agreement, the "Transaction Documents"), the performance of all obligations of the Company hereunder and thereunder, and the authorization, issuance (or reservation for issuance), sale and delivery of the Class A Common Stock being sold hereunder has been taken or will be taken prior to the Closing, and the Transaction Documents constitute valid and legally binding obligations of the Company, enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general

application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, and (iii) to the extent the indemnification provisions contained in the Investors' Rights Agreement may be limited

by applicable federal or state securities laws.

2.5 *Valid Issuance of Preferred and Common Stock*. The Class A Common Stock that is being purchased by the Investor hereunder, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid, and nonassessable, and will be free of restrictions on transfer other than restrictions on transfer under the Transaction Documents and under applicable state and federal securities laws. The Class A Common Stock that is being purchased by the Investor hereunder will not be subject to preemptive rights or rights of first refusal that have not been waived or complied with. Prior to the filing of the Restated Certificate, the outstanding Series A, Series B, Series C, Series D, Series D-1 and Series E Preferred Stock was duly and validly issued, fully paid, and is nonassessable. Upon the filing of the Restated Certificate, the Common Stock issuable upon conversion of the outstanding Series A, Series B, Series C, Series D, Series D-1 and Series E Preferred Stock will be duly and validly reserved for issuance and, upon issuance, will be duly and validly issued, fully paid, and nonassessable and will be free of restrictions on transfer other than restrictions on transfer under the documents executed in connection with the sale of the Series A, Series B, Series C, Series D, Series D-1 and Series E Preferred Stock and under applicable state and federal securities laws. The outstanding Series A, Series B, Series C, Series D, Series D-1 and Series E Preferred Stock is not subject to preemptive rights or rights of first refusal that have not been waived or complied with and, upon the execution and delivery of the Investors' Rights Agreement by the requisite holders of Company capital stock necessary to amend and restate the "Prior Agreement" (as such term is defined in the Investors' Rights Agreement), the Common Stock and Class A Common Stock issuable upon conversion of such Preferred Stock will not be subject to preemptive rights or rights of first refusal that have not been waived or complied with.

2.6 *Governmental Consents*. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the consummation of the transactions contemplated by this Agreement, except (i) a filing under the Hart Scott Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (ii) the filing of the Restated Certificate with the Secretary of State of Delaware; and (iii) certain post-closing filings as may be required pursuant to federal securities laws and under the "Blue Sky" laws of the various states.

2.7 *Offering*. Subject in part to the truth and accuracy of the Investor's representations set forth in Section 3 of this Agreement, the offer, sale and issuance of the Class A Common Stock as contemplated by this Agreement are exempt from the registration requirements of any applicable state and federal securities laws, and neither the Company nor any authorized agent acting on its behalf will take any action hereafter that would cause the loss of such exemption.

2.8 *Litigation*. There is no action, suit, proceeding or investigation pending or, to the Company's knowledge, currently threatened against the Company that questions the validity of the Transaction Documents, or the right of the Company to enter into such agreements, or to consummate the transactions contemplated hereby or thereby, or if determined adversely, might result, either individually or in the aggregate, in (i) any material adverse changes in the assets, business or prospects of the Company, financially or otherwise or (ii) any change in the current equity ownership of the Company, nor is the Company aware that there is any basis for the foregoing. The Company is not a party or subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by the Company currently pending or that the Company intends to initiate.

2.9 *Patents and Trademarks*. The Company owns, or has rights to use pursuant to a valid license, all patents, trademarks, service marks, trade names, copyrights, trade secrets, information, proprietary rights and processes necessary for its business as now conducted. There are no outstanding options, licenses or agreements of any kind relating to the foregoing proprietary rights, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information and other proprietary rights and processes of any other person or entity other than such licenses or agreements arising from the purchase of "off the shelf" or standard products. The use, modification, licensing, sublicensing, sale, or any other exercise of rights involving such intellectual property does not infringe any copyright, trade secret, trademark, service mark, trade name, firm name, logo, trade dress, mask work, moral right, other intellectual property right, right of privacy or right in personal data, or to the knowledge of the Company, any patent, of any person. No claims (i) challenging the validity, effectiveness, or ownership by the Company of any of the Company's intellectual property, or (ii) to the effect that the use, reproduction, modification, manufacturing, distribution, licensing, sublicensing, sale or any other exercise of rights in any product, work, technology, service or process as used, provided or offered at any time, or as proposed for use, reproduction, modification, distribution, licensing, sublicensing, sale or any other exercise of rights, by the Company infringes or will infringe on any intellectual property or other proprietary or personal right of any person have been asserted or, to the knowledge of the Company, (A) are threatened by any person nor (B) are there any valid grounds for any bona fide claim of any such kind. To the knowledge of the Company, there is no unauthorized use, infringement or misappropriation of any of the Company's intellectual property by any third party, employee or former employee. The Company's employees are not obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would interfere with the use of his or her best efforts to promote the interests of the Company or that would conflict with the Company's business as proposed to be conducted. Neither the execution nor delivery of the Transaction Documents, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as proposed, will, to the best of the Company's knowledge, conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, any contract, covenant or instrument under which any of such employees is now obligated. The Company does not believe it is or will be necessary to utilize any inventions of any of its employees made prior to their employment by the Company unless such inventions are properly assigned to the Company.

2.10 *Compliance with Other Instruments*. The Company is not in violation or default in any material respect of any provision of its Restated Certificate or Bylaws, or in any material respect of any instrument, judgment, order, writ, decree or contract to which it is a party or by which it is bound, or, to the best of its knowledge, of any provision of any statute, rule or regulation applicable to the Company. The execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated hereby and thereby will not result in any such violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either a default under any such provision, instrument, judgment, order, writ, decree or contract or an event that results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, impairment, forfeiture, or nonrenewal of any material permit, license, authorization, or approval applicable to the Company, its business or operations or any of its assets or properties.

2.11 *Agreements; Action*.

(a) Except for agreements explicitly contemplated by the Transaction Documents, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, affiliates, or any affiliate thereof.

(b) Except for this Agreement, the Governance Agreement, the Strategic Alliance Agreement and the Collaboration Agreement dated as of November 14, 2002 by and between the Company and the Investor (the "Collaboration Agreement"), there are no agreements, understandings, instruments, contracts, proposed transactions, judgments, orders, writs or decrees to which the Company is a party or by which it is bound that may involve (i) provisions restricting or affecting the development, manufacture or distribution of the Company's products or services; (ii) obligations (contingent or otherwise) of, or payments to, the Company in excess of $100,000 (other than obligations of, or payments to, the Company arising from agreements entered into in the ordinary course of business); or (iii) indemnification by the Company with respect to infringements of proprietary rights (other than indemnification obligations arising from agreements entered into in the ordinary course of business).

(c) The Company has not (i) declared or paid any dividends or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or any other liabilities individually in excess of $1,000,000 or in the aggregate in excess of $5,000,000, (iii) made any loans or advances to any person, other than ordinary advances for travel expenses, or (iv) sold, exchanged or otherwise disposed of any of its assets or rights, other than the sale of its inventory in the ordinary course of business.

(d) For the purposes of subsection (c) above, all indebtedness and liabilities involving the same person or entity (including persons or entities the Company has reason to believe are affiliated therewith) shall be aggregated for the purpose of meeting the individual minimum dollar amounts of such subsection.

(e) The Company is not a party to and is not bound by any contract, agreement or instrument, or subject to any restriction under its Restated Certificate or Bylaws that adversely affects its business as now conducted or as proposed to be conducted, its properties or its financial condition.

(f) The Company has not engaged in the past three (3) months in any discussion (i) with any representative of any corporation or corporations regarding the consolidation or merger of the Company with or into any such corporation or corporations, (ii) with any corporation, partnership, association or other business entity or any individual regarding the sale, conveyance or disposition of all or substantially all of the assets of the Company or a transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, or (iii) regarding any other form of acquisition, liquidation, dissolution or winding up of the Company.

2.12 *Related-Party Transactions*. No employee, officer, or director of the Company or member of his or her immediate family is indebted to the Company, nor is the Company indebted (or committed to make loans or extend or guarantee credit) to any of them. To the Company's knowledge, none of such persons has any direct or indirect ownership interest in any firm or corporation with which the Company is affiliated or with which the Company has a business relationship, or any firm or corporation that competes with the Company, except that employees, officers, or directors of the Company and members of their immediate families may own stock in publicly traded companies that may compete with the Company. No member of the immediate

family of any officer or director of the Company is directly or indirectly interested in any material contract with the Company.

2.13 *Permits*. The Company has all material franchises, permits, licenses, and any similar authority necessary for the conduct of its business as now being conducted by it, and the Company believes it can obtain, without undue burden or expense, any similar authority for the conduct of its business as planned to be conducted. The Company is not in default in any material respect under any of its franchises, permits, licenses, or other similar authority.

2.14 *Disclosure*. The Company has provided the Investor with all information requested by the Investor in connection with their decision to purchase the Class A Common Stock, including all information the Company believes is reasonably necessary to make such investment decision. To the Company's knowledge, neither this Agreement, the Investors' Rights Agreement, nor any other statements or certificates made or delivered in connection herewith or therewith contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

2.15 *Corporate Documents*. Except for amendments necessary to satisfy representations and warranties or conditions contained herein (the form of which amendments has been approved by the Investor), the Restated Certificate and Bylaws of the Company are in the form previously provided to the Investor.

2.16 *Title to Property and Assets*. The Company owns its property and assets free and clear of all mortgages, liens, loans and encumbrances, except such encumbrances and liens that arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets, and has good and marketable title to such property. With respect to the property and assets it leases, the Company is in compliance with such leases and holds a valid leasehold interest free of any liens, claims or encumbrances.

2.17 *Tax Returns, Payments and Elections*. The Company has timely filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and assessments due, except those contested by it in good faith, if any. The Company has not been advised (a) that any of its federal, state or local returns are being audited as of the date hereof, or (b) of any deficiency in assessment or proposed judgment to its federal, state or other taxes. The Company has no knowledge of any tax liabilities due with respect to the Company or its properties or assets as of the date of this Agreement that are not adequately provided for.

2.18 *Environmental Law*. To the Company's knowledge, the Company is not in violation of and has no liability or potential liability under any applicable statute, law, or regulation relating to the environment, and to the best of its knowledge, no material expenditures are or will be required in order to comply with any such existing statute, law, or regulation.

2.19 *Proprietary Information and Employment Agreements*. Each current and former employee, officer and consultant of the Company has executed a standard Proprietary Information and Inventions Agreement. The Company is not aware that any of its employees, officers or consultants are in violation thereof, and the Company will use its best efforts to prevent any such violation. The Company has not entered into any employment agreements.

2.20 *Financial Statements*. The Company has made available to the Investor its audited financial statements as of December 31, 2002 and its unaudited financials as of and for the twelve-month period ended December 31, 2003 (the "Financial Statements"). The Financial Statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated and with each other except that the unaudited Financial Statements may not contain all footnotes required by generally accepted accounting

principles. The Financial Statements fairly present the financial condition and operating results of the Company as of the dates, and for the periods, indicated therein, subject in the case of the unaudited Financial Statements to normal year-end audit adjustments. Except as set forth in the Financial Statements, the Company has no material liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to the date of the Financial Statements and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under generally accepted accounting principles to be reflected in the Financial Statements, which, in both cases, individually or in the aggregate, are not material to the financial condition or operating results of the Company. Except as disclosed in the Financial Statements, the Company is not a guarantor or indemnitor of any indebtedness of any other person, firm or corporation. The Company maintains and will continue to maintain a standard system of accounting established and administered in accordance with generally accepted accounting principles.

2.21 *Changes*. Since December 31, 2003 there has not been:

(a) any change in the assets, liabilities, financial condition or operating results of the Company from that reflected in the Financial Statement, except changes in the ordinary course of business that have not been, in the aggregate, materially adverse;

(b) any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the assets, properties, financial condition, operating results, prospects or business of the Company (as such business is presently conducted and as it is proposed to be conducted);

(c) any waiver by the Company of a valuable right or of a material debt owed to it;

(d) any satisfaction or discharge of any lien, claim or encumbrance or payment of any obligation by the Company, except in the ordinary course of business and that is not material to the assets, properties, financial condition, operating results or business of the Company (as such business is presently conducted and as it is proposed to be conducted);

(e) any material change or amendment to a material contract or arrangement by which the Company or any of its assets or properties is bound or subject;

(f) any material change in any compensation arrangement or agreement with any employee;

(g) any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets;

(h) any resignation or termination of employment of any key employee or officer of the Company; and the Company, to the best of its knowledge, does not know of the impending resignation or termination of employment of any such employee or officer;

(i) receipt of notice that there has been a loss of, or material order cancellation by, any major customer of the Company;

(j) any mortgage, pledge, transfer of a security interest in, or lien, created by the Company, with respect to any of its material properties or assets, except liens for taxes not yet due or payable;

(k) any loans or guarantees made by the Company to or for the benefit of its employees, officers or directors, or any members of their immediate families, other than travel advances and other advances made in the ordinary course of its business;

(l) any declaration, setting aside or payment or other distribution in respect of any of the Company's capital stock, or any direct or indirect redemption, purchase or other acquisition of any of such stock by the Company;

(m) to the best of the Company's knowledge, any other event or condition of any character that might materially and adversely affect the assets, properties, financial condition, operating results or business of the Company (as such business is presently conducted and as it is proposed to be conducted); or

(n) any agreement or commitment by the Company to do any of the things described in this Section 2.21.

2.22 *Registration Rights*. Except as required pursuant to the Investors' Rights Agreement, the Company is not presently under any obligation, and has not granted, any rights to register any of the Company's presently outstanding securities or any of its securities that may hereafter be issued.

2.23 *Real Property Holding Corporation*. The Company is not a real property holding corporation within the meaning of Section 897(c)(2) of the Internal Revenue Code of 1986 (the "Code"), as amended, and any regulations promulgated thereunder.

2.24 *Labor Agreements*. The Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the Company's knowledge, has sought to represent any of the employees, representatives or agents of the Company. There is no strike or other labor dispute involving the Company pending, or to the Company's knowledge, threatened, that could have a material adverse effect on its business or properties, nor is the Company aware of any labor organization activity involving its employees.

2.25 *Insurance*. The Company maintains in full force and effect such types and amounts of insurance issued by insurers of recognized responsibility insuring the Company with respect to its business and properties, in such amounts and against such losses and risks which are usual and customary in the Company's business as to amount and scope.

2.26 *Directors and Senior Management*. No plan currently maintained by the Company or agreement entered into and currently in effect with any employee of the Company (each, a "*Plan*" and, collectively, the "*Plans*") provides for the payment of separation, severance, termination or similar benefits to any person. None of the Plans obligates the Company to pay any benefits solely or partially as a result of any transaction contemplated by this Agreement or as a result of a change in the ownership or effective control of the Company within the meaning of Section 280G of the Code. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby, either alone or together with a termination of service, will (i) result in any payment (including, without limitation, severance, golden parachute, forgiveness of indebtedness or otherwise) becoming due under any Plan, whether or not such payment is contingent, (ii) increase any benefits otherwise payable under any Plan or other arrangement, or (iii) result in the acceleration of the time of payment, vesting or funding of any benefits including, but not limited to, the acceleration of the vesting and exercisability of any Company Option, whether or not contingent.

2.27 *Officer and Key Employee Incentive Plan*. The Board has approved the Officer and Key Employee Incentive Plan substantially in the form attached hereto as *Exhibit F*.

3. *Representations and Warranties of the Investor*. The Investor hereby represents and warrants that:

3.1 *Authorization*. The Investor has full power and authority to enter into the Transaction Documents, and each such Agreement constitutes its valid and legally binding obligation,

enforceable in accordance with its terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, and (iii) to the extent the indemnification provisions contained in the Investors' Rights Agreement may be limited by applicable federal or state securities laws.

3.2 *Purchase Entirely for Own Account*. This Agreement is made with the Investor in reliance upon the Investor's representation to the Company, which by the Investor's execution of this Agreement the Investor hereby confirms, that the Class A Common Stock to be received by the Investor (the "Securities") will be acquired for investment for the Investor's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Investor has no present intention of selling, granting any participation in, or otherwise distributing the same in violation of applicable securities laws. By executing this Agreement, the Investor further represents that the Investor does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Securities.

3.3 *Disclosure of Information*. The Investor further represents that it has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of the Class A Common Stock and the business, properties, prospects and financial condition of the Company. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Investor to rely thereon.

3.4 *Investment Experience*. The Investor is an investor in securities of companies in the development stage and acknowledges that it is able to fend for itself, can bear the economic risk of its investment, and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in the Class A Common Stock. The Investor also represents that it has not been organized for the purpose of acquiring the Class A Common Stock.

3.5 *Accredited Investor*. The Investor is an "accredited investor" within the meaning of Rule 501 of Regulation D adopted pursuant to the Act, as presently in effect.

3.6 *Restricted Securities*. The Investor understands that the Securities it is purchasing are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the Act, only in certain limited circumstances. In this connection, the Investor represents that it is familiar with Rule 144 adopted pursuant to the Act, as presently in effect, and understands the resale limitations imposed thereby and by the Act.

4. *Conditions of Investor's Obligations at Closing*. The obligations of the Investor under subsection 1.1(c) of this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, the waiver of which shall not be effective against the Investor if it does not consent thereto:

4.1 *Performance*. The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

4.2 *Compliance Certificate*. The Chief Executive Officer of the Company shall deliver to the Investor at the Closing a certificate stating that the conditions specified in Sections 4.1 have been fulfilled.

4.3 *Qualifications*. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Securities pursuant to this Agreement shall be duly obtained and effective as of the Closing.

4.4 *Proceedings and Documents*. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to the Investor, and they shall have received all such counterpart original and certified or other copies of such documents as they may reasonably request.

4.5 *Opinion of Company Counsel*. The Investor shall have received from Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, counsel for the Company, an opinion, dated as of the Closing, in the form attached hereto as *Exhibit D*.

4.6 *Investors' Rights Agreement*. The Company, the Investor and the requisite holders of Company capital stock necessary to amend and restate the "Prior Agreement" (as such term is defined in the Investors' Rights Agreement) shall have entered into the Investors' Rights Agreement.

4.7 *Approval and Filing of the Restated Certificate*. The requisite holders of Company capital stock shall have approved the Restated Certificate and the Restated Certificate shall have been filed with the Secretary of State of Delaware, and shall not have been amended or modified since the date of filing.

4.8 *Conversion of Existing Preferred Stock*. All shares of the Company's Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series D-1 Preferred Stock and Series E Preferred Stock shall have been converted into shares of Common Stock.

4.9 *Governance Agreement*. The Company and the Investor shall have entered into the Governance Agreement.

4.10 *Strategic Alliance Agreement*. The Strategic Alliance Agreement shall have become Effective (as such term is defined in the Strategic Alliance Agreement) as of the Closing.

4.11 *HSR Act*. The waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated and no action by the Department of Justice or Federal Trade Commission challenging or seeking to enjoin the consummation of such transactions shall have been instituted and be pending.

4.12 *Executive Lock-Up Agreements*. Each of P. Roy Vagelos, Rick E Winningham, Marty Glick and Patrick Humphrey shall have entered into an Executive Lock-Up Agreement, each substantially in the form attached hereto as *Exhibit E*.

4.13 *Conduct of the Company Business*. The Company shall not willfully have taken any affirmative action or willfully omitted to have taken any affirmative action that would cause any of the representations and warranties contained in Section 2 hereof, applied as of the Closing Date, to be breached.

5. *Conditions of the Company's Obligations at Closing*. The obligations of the Company to the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by the Investor:

5.1 *Representations and Warranties*. The representations and warranties of the Investor contained in Section 3 shall have been true on and as of the date of this Agreement and, in all material respects, as of the Closing.

5.2 *Qualifications*. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Securities pursuant to this Agreement shall be duly obtained and effective as of the Closing.

5.3 *Investors' Rights Agreement*. The Company, the Investor and the requisite holders of Company capital stock necessary to amend and restate the "Prior Agreement" (as such term is defined in the Investors' Rights Agreement) shall have entered into the Investors' Rights Agreement.

5.4 *Restated Certificate*. The Company shall have obtained the requisite stockholder consent to file the Restated Certificate.

5.5 *Governance Agreement*. The Company and the Investor shall have entered into the Governance Agreement.

5.6 *Strategic Alliance Agreement*. The Strategic Alliance Agreement shall have become Effective (as such term is defined in the Strategic Alliance Agreement) as of the Closing.

5.7 *HSR Act*. The waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated and no action by the Department of Justice or Federal Trade Commission challenging or seeking to enjoin the consummation of such transactions shall have been instituted and be pending.

5.8 *Delivery of Common Stock*. GGL shall have delivered to the Company the certificates representing the shares of Common Stock held by GGL in connection with the exchange, as described in Section 1.3.

6. *Miscellaneous*.

6.1 *Survival of Warranties*. The warranties, representations and covenants of the Company and the Investor contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Investor or the Company.

6.2 *Successors and Assigns*. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties (including transferees of any Securities). Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.3 *Governing Law*. This Agreement shall be governed by and construed in accordance with and governed by the law of the State of Delaware, without regard to the conflicts of laws principles thereof. Any action brought, arising out of, or relating to this Agreement shall be brought in the Court of Chancery of the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of said Court in respect of any claim relating to the validity, interpretation and enforcement of this Agreement, and hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding in which any such claim is made that it is not subject thereto or that such action suit or proceeding may not be brought or is not maintainable in such courts, or that the venue thereof may not be appropriate or that this agreement may not be enforced in or by such courts. The parties hereby consent to and grant the Court of Chancery of the State of Delaware jurisdiction over such parties and over the subject matter of any such claim and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 6.1, or in such other manner as may be permitted by law, shall be valid and sufficient thereof.

6.4 *Counterparts*. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.5 *Titles and Subtitles*. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

6.6 *Notices*. All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day or (c) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. Notwithstanding the foregoing or any provision to the contrary in the Investors' Rights Agreement or the Restated Certificate, the Company agrees that when any notice is given to the Investor, whether under this Agreement, the Investors' Rights Agreement or the Restated Certificate, such notice shall not be deemed to be effectively given until a copy of such notice is transmitted to the Investor via facsimile. All notices and certificates will be addressed to the Investor at the address set forth on the signature page hereto or at such other address as the Company or the Investor may designate by ten (10) days advance written notice to the other parties hereto.

6.7 *Finder's Fee*. The Investor agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Investor or any of its officers, partners, employees, or representatives is responsible.

The Company agrees to indemnify and hold harmless the Investor from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible.

6.8 *Expenses*. Irrespective of whether the Closing is effected, each party shall bear their own costs and expenses incurred with respect to the negotiation, execution, delivery and performance of this Agreement. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the Investors' Rights Agreement or the Restated Certificate, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

6.9 *Amendments and Waivers*. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding, each future holder of all such securities, and the Company.

6.10 *Termination*. This Agreement may be terminated and the transactions contemplated by this Agreement may be abandoned at any time prior to the Closing, notwithstanding any requisite approval and adoption of this Agreement and the transactions contemplated by this Agreement, as follows:

(a) by mutual written consent of the Company and the Investor; or

(b) by either the Company or the Investor, if the Closing shall not have occurred on or before October 1, 2004; *provided*, *however*, that the right to terminate this Agreement under this Section 6.10 (b) shall not be available to any party whose failure to fulfill any obligation

under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur.

6.11 *Severability*. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

6.12 *Confidentiality*. Any confidential information obtained by the Investor pursuant to this Agreement which is labeled or otherwise identified as confidential or proprietary shall be treated as confidential and shall not be disclosed to a third party without the prior written consent of the Company and shall not be used by the Investor for any purpose other than monitoring the Investor's investment in the Company, except that the Investor may disclose such information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company, (ii) to its affiliates, officers, directors, shareholders, members and/or partners in the ordinary course of business or pursuant to disclosure obligation to affiliates, shareholders, members and/or partners; provided that such information is provided to such persons and entities with notice that such information is confidential and should be treated as such, (iii) to any prospective purchaser of the Investor's shares of the Company, provided (in the case of disclosure in clause (iii)) the recipient agrees to keep such information confidential and to use such information solely for evaluation of such proposed purchase, or (iv) as may otherwise be required by law. Notwithstanding the foregoing, such information shall not be deemed confidential for the purpose of enforcement of this Agreement and said information shall not be deemed confidential after it becomes publicly known through no fault of the recipient. The provisions of this Section 6.12 shall be in addition to, and not in substitution for, the provisions of any separate confidentiality agreement executed by the parties hereto; provided that if there is any conflict between the provisions of this Section 6.12 and the more restrictive provisions of such separate confidentiality agreement, the provisions of such separate confidentiality agreement shall prevail.

6.13 *Publicity*. No party or any affiliate of a party shall make, or cause to be made, any publicity, news release or other such general public announcement or make any other disclosure to any third party in respect of this Agreement or the transactions contemplated hereby (including, without limitation, disclosure of Investor's ownership interest in the Company) without the prior written consent of the other party; *provided however*, that the foregoing provision is not intended to limit communications deemed reasonably necessary or appropriate by a party or its affiliates to its employees, stockholders, partners, directors, officers, potential investors, accountants and legal counsel who are under an obligation to preserve the confidentiality of the foregoing. Notwithstanding the foregoing provision, the parties and their respective affiliates shall not be prohibited from making any disclosure or release that is required by law, court order, or applicable regulation, or is considered necessary by legal counsel to fulfill an obligation under securities laws or the rules of a national stock exchange.

6.14 *Entire Agreement*. This Agreement and the documents referred to herein constitute the entire agreement among the parties and no party shall be liable or bound to any other party in any manner by any warranties, representations, or covenants except as specifically set forth herein or therein.

6.15 *Legends*. It is understood that the certificates evidencing the Securities may bear one or all of the following legends:

(a) "These securities have not been registered under the Securities Act of 1933, as amended. They may not be sold, offered for sale, pledged or hypothecated in the absence of a registration statement in effect with respect to the securities under such Act or an opinion of

counsel satisfactory to the Company that such registration is not required or unless sold pursuant to Rule 144 of such Act."

(b) Any legend required by the laws of any state.

6.16 *Conduct of Business of the Company*. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Closing, the Company agrees (except to the extent that GSK shall otherwise consent in writing) to carry on its business in the usual, regular and ordinary course in substantially the same manner as currently conducted, and, to the extent consistent with such business, to use all commercially reasonable efforts consistent with past practice and policies to preserve intact its present business organization and keep available the services of its present officers and key employees. Solely for the purposes of any post-Closing remedy for breaches of representations, warranties or covenants by the Company, the Company shall not take any affirmative action or omit to take any affirmative action that results in the breach of any of the representations and warranties contained in Section 2 hereof, applied as of the Closing Date.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

THERAVANCE, INC.

By: /s/ RICK E WINNINGHAM
Rick E Winningham
President and Chief Executive Officer

INVESTOR:
SMITHKLINE BEECHAM CORPORATION
Name of Investor

By: /s/ JEAN-PIERRE GARNIER
Signature of Authorized Person
Name: Jean-Pierre Garnier
Title: Chief Executive Officer
Address: GlaxoSmithKline

One Franklin Plaza (FP2355)

Philadelphia, PA 19102

Fax No: 215-751-5349

CLASS A COMMON STOCK PURCHASE AGREEMENT
SIGNATURE PAGE

EXHIBIT A
RESTATED CERTIFICATE OF INCORPORATION

EXHIBIT B
AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

EXHIBIT C
GOVERNANCE AGREEMENT

EXHIBIT D
OPINION OF COUNSEL FOR THE COMPANY

EXHIBIT E
FORM OF EXECUTIVE LOCK-UP AGREEMENT

EXHIBIT F
SUMMARY OF TERMS OF THE OFFICER AND KEY EMPLOYEE INCENTIVE PLAN

Schedule 6.1.3(A)

Governance Agreement

GOVERNANCE AGREEMENT

This GOVERNANCE AGREEMENT (this "Agreement") is dated as of May 11, 2004 among SmithKline Beecham Corporation, a Pennsylvania corporation ("GSK"), Theravance, Inc., a Delaware corporation (the "Company"), solely with respect to Articles III, IV and VI hereof, GlaxoSmithKline plc, an English public limited company ("GlaxoSmithKline"), and, solely with respect to Articles II, IV and VI hereof, Glaxo Group Limited, a limited liability company organized under the laws of England and Wales ("GGL").

WHEREAS, GGL and the Company have entered into that certain Strategic Alliance Agreement dated as of March 30, 2004 (the "Alliance Agreement"), pursuant to which, among other things, the Company has granted GGL an option to develop and commercialize certain therapeutic compounds on an exclusive, worldwide basis;

WHEREAS, GSK and the Company have entered into that certain Class A Common Stock Purchase Agreement dated as of March 30, 2004 (the "Class A Stock Purchase Agreement"), pursuant to which GSK shall purchase shares of the Company's Class A Common Stock;

WHEREAS, as a condition to the stock purchase contemplated by the Class A Stock Purchase Agreement and to facilitate an eventual underwritten public offering of the Company's equity securities, all outstanding shares of the Company's Preferred Stock have been converted into shares of the Company's Common Stock (the "Common Stock");

WHEREAS, GGL through a previous stock purchase agreement owns shares of the Company's preferred stock that have been converted into common stock and will be exchanged for shares of the Company's Class A Common Stock pursuant to Section 1.3 of the Class A Common Stock Purchase

Agreement;

WHEREAS, GSK and the Company have agreed to establish in this Agreement certain terms and conditions concerning the corporate governance of the Company;

WHEREAS, GSK, GGL and the Company also have agreed to establish in this Agreement certain terms and conditions concerning the acquisition, disposition and voting of securities of the Company beneficially owned by GSK and its Affiliates (as defined herein); and

WHEREAS, GSK and the Company have agreed to set forth in this Agreement the terms and conditions upon which the Company shall redeem the Common Stock.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements contained herein, GSK and the Company hereby agree as follows:

ARTICLE I

BOARD OF DIRECTORS AND CERTAIN CORPORATE ACTIONS

SECTION 1.1. *Initial Composition of Board of Directors at the Effective Date*.

(a) The number of directors comprising the full Board of Directors of the Company (the "Board") immediately after the Effective Date shall be 12. The directors of the Company following the Effective Date shall be the directors of the Company immediately prior to the Effective Date, and shall serve until their successors have been duly elected or appointed and qualified or until the earlier death, resignation or removal in accordance with the Company's Restated Certificate of Incorporation (the "Certificate of Incorporation"), the Company's Bylaws and this Agreement. GSK shall have the right, but not the obligation, to nominate an individual to serve as a member of the Board (in which case the size of the Board will be increased by one) or alternatively to designate an individual to serve as an observer at Board meetings. Notwithstanding the foregoing, GSK shall have no right to nominate or designate any individual to serve as a member or observer of the Board under this Section 1.1 if, (i) GSK's Percentage Interest (as defined below) has fallen below 15% or (ii) directly as a result of any sale or other disposition by GSK of Voting Stock, GSK's Percentage Interest has fallen below 19.0%, and the term of any such existing member or observer shall automatically cease upon such reduction in GSK's Percentage Interest. In addition,

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GSK's right to nominate or designate an individual to serve as a member or observer to the Board under this Section 1.1 shall be suspended for the duration of any period in which GSK is otherwise entitled to nominate directors pursuant to Section 1.2 or Section 1.3 below.

(b) Any individual designated by GSK pursuant to paragraph (a) of this Section 1.1 to be an observer to the Board shall have the right to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, the Company shall give such observer copies of all notices, minutes, consents and other materials that it provides to its directors; provided, however, that such observer shall not be permitted to attend any meeting of the Board unless such individual signs an agreement to hold such materials in confidence and trust and to act in a fiduciary manner with respect to the Company with respect to all information so provided as if such individual was a GSK Director (as defined below); and, provided further, that the Company reserves the right to withhold any information and to exclude such observer from any meeting or portion thereof if access to such information or attendance at such meeting (i) could adversely affect the attorney-client privilege between the Company and its counsel or (ii) would result in the disclosure of competitive or other sensitive information to GSK or its observer in such a manner that any GSK Director would need to be recused to abide by their fiduciary duties to the Company and its stockholders.

SECTION 1.2. *Composition of the Board Following 50.1% or Greater Ownership by GSK*. (a) The Company agrees that after, and so long as, GSK's Percentage Interest is 50.1% or greater, the Board shall include (i) such number of nominees designated by GSK equal to one-third of the then aggregate number of directors comprising the Board (the "GSK Directors") and (ii) two officers of the Company nominated by the nominating committee of the Board. The remaining directors of the Board shall be composed of Independent Directors. For purposes of this Agreement, an "Independent Director" shall mean a director who complies with the independence requirements for directors with respect to the Company (without reference to any applicable exemptions from such requirements) for companies listed on the Nasdaq National Market and shall be individuals who have business or technical experience, stature and character as is commensurate with service on the board of a publicly traded enterprise. With respect to any GSK Independent Nominees (as defined below), each such nominee, in addition to meeting the independence requirements with respect to the Company as described in the immediately preceding sentence, shall also meet such independence requirements with respect to GlaxoSmithKline and any of its Affiliates as if such Independent Director was a director of GlaxoSmithKline or one of its Affiliates. So long as GSK's Percentage Interest is 50.1% or greater, the Board shall be comprised of nine members, or any greater number that is divisible by three.

(b) With respect to the Independent Directors referred to above in paragraph (a) and so long as GSK's Percentage Interest is 50.1% or greater, GSK shall, upon its request, be entitled to designate nominees (the "GSK Independent Nominees") for one-half of the total number of Independent Directors. Subject to the approval of the majority of the members of the Board other than the GSK Directors and GSK Independent Nominees (the "Non-GSK Directors"), such approval not to be unreasonably withheld or delayed, the GSK Independent Nominees shall be included as nominees to be voted upon by the Company's stockholders. An equal number of Independent Directors shall be nominated by the Non-GSK Directors. Subject to the approval of the GSK Directors, such approval not to be unreasonably withheld or delayed, such nominees shall be included as nominees to be voted upon by the Company's stockholders. In the event that approval of any Independent Director nominee is properly withheld, the nominating directors (the GSK Directors or the Non-GSK Directors, as the case may be) shall be entitled to propose an alternate candidate for nomination as an Independent Director in accordance with this Section 1.2. For purposes of this Agreement, "GSK's Percentage Interest" shall mean the percentage of voting power, determined on the basis of the number of shares of Voting Stock actually outstanding, that is controlled directly or indirectly by GSK and its Affiliates and held prior to the date of this

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Agreement or obtained in accordance with this Agreement, the Class A Stock Purchase Agreement and the Certificate of Incorporation. Notwithstanding the foregoing, GSK shall have no right to designate any nominees for directors under this Section 1.2 at any time after GSK's Percentage Interest has fallen below 50.1%, and the term of each then existing GSK Director and GSK Independent Nominees nominated pursuant to this Section 1.2 shall automatically cease

upon such reduction in GSK's Percentage Interest. (For the avoidance of doubt, nothing in this section shall limit or affect GSK's rights pursuant to Section 1.1(a)).

SECTION 1.3. *Composition of the Board following 35.1% or Greater Ownership by GSK*. From and after the Call/Put Termination Date and until September 1, 2008 or, if on or after September 1, 2008, GSK commences an offer to purchase additional shares of Voting Stock as contemplated by Section 2.1(b)(viii), the expiration date of such offer (which shall not occur later than October 15, 2008) (the "Interim Period"), so long as, during the Interim Period, GSK's Percentage Interest is 35.1% or greater and less than 50.1%, the Board shall be comprised of no less than six members and shall include, (i) one nominee designated by GSK (who shall be deemed to be a "GSK Director") and (ii) two officers of the Company nominated by the nominating committee of the Board. The remaining members of the Board shall be Independent Directors. GSK, upon its request, shall be entitled to designate nominees (who shall be deemed to be "GSK Independent Nominees") for a number of Independent Directors equal to GSK's Percentage Interest at such time times the total number of such Independent Directors (with such number being rounded to the nearest whole number) and provided further, that such nominees shall meet the independence requirements for GSK Independent Nominees as set forth in Section 1.2 above. Such nominees shall be subject to the approval, not to be unreasonably withheld or delayed, of the majority of the then existing directors (other than any director nominated by GSK). In the event that approval of any Independent Director nominee proposed by GSK is properly withheld by the then existing directors, GSK shall be entitled to propose an alternate candidate for nomination as an Independent Director in accordance with this Section 1.3. The rights set forth in this Section 1.3 shall terminate upon the expiration of the Interim Period, and the term of each GSK Director and GSK Independent Nominee under this Section 1.3 shall automatically cease on such date; provided however, that the termination of such rights shall not affect GSK's right to immediately nominate one or more directors pursuant to Section 1.1 or 1.2.

SECTION 1.4. *Other Matters Related to the Board*.

(a) The Company agrees to increase or decrease, as the case may be, the size of the Board, and to fill the newly created directorships created by any such increase, as appropriate in order to achieve the composition required by Sections 1.1, 1.2 and 1.3. Any directors elected to fill a vacancy shall serve until the next annual meeting of stockholders. Whenever necessary pursuant to a decrease in the size of the Board, GSK will cause directors nominated by GSK to resign from the Board to maintain the composition required by Sections 1.2 and 1.3, and the Company shall cause such number of Non-GSK Directors to resign as necessary to maintain the composition required by Sections 1.2 and 1.3. To facilitate compliance with the provisions of this Article I, GSK shall cause each GSK Director and GSK Independent Nominee, and the Company shall cause each other director of the Board, to enter into an agreement with the Company that provides for the resignation of such director upon the occurrence of the events requiring such resignation as set forth in this Agreement; provided, however, that this sentence shall only come into effect two weeks prior to the Call/Put Termination Date.

(b) The Company shall always have the right to decrease the size of the Board without GSK's consent (and, if desired, and subject to the provisions of Section 1.2(a), to increase it again without GSK's consent to no more than 13 seats); provided, however, that in no event will GSK lose its right to designate or nominate the GSK Director(s) or GSK Independent Nominees pursuant to Sections 1.1, 1.2 or 1.3 of this Agreement.

(c) GSK and the Non-GSK Directors shall have the right to nominate any replacement for a director nominated by GSK or nominated by the Non-GSK Directors, respectively, at the termination of such director's term or upon death, resignation, retirement, disqualification, removal from office or other cause, subject to any rights of approval set forth in Sections 1.2 and 1.3. To the extent permitted by the Certificate of Incorporation or Bylaws of the Company, the Board shall appoint each person so designated or nominated.

(d) No individual nominated by GSK shall serve as a director unless such individual has such business or technical experience, stature and character as is commensurate with service on the board of a publicly held enterprise. No such individual who is an officer, director, partner or principal stockholder of any competitor of the Company and its subsidiaries (other than GSK and its Affiliates) shall serve as a director of the Company except by agreement of the Independent Directors in their sole discretion.

(e) So long as GSK's Percentage Interest is 50.1% or greater, each committee of the Board (other than any Common Stock committee or committee of Independent Directors constituted for the purposes of making any determination that is to be made under the terms of this Agreement or the Certificate of Incorporation or as expressly prohibited by applicable law, regulation or stock exchange or trading system listing requirement) shall at all times include at least one GSK Director and no action by any such committee shall be valid unless taken at a meeting for which adequate notice has been duly given to or waived by all of the members of such committee. Such notice shall include a description of the general nature of the business to be transacted at the meeting and no other business may be transacted at such committee meeting. Any committee member unable to attend any committee meeting in person shall be given the opportunity to participate by telephone. Prior to the Initial Public Offering, the GSK Director designated to serve on any such committee may designate as his/her alternate another GSK Director.

SECTION 1.5. *Director Approval Required for Certain Actions*. (a) After, and so long as GSK's Percentage Interest is 50.1% or greater, the approval of a majority of GSK Directors (for clarity, should there be an even number of GSK Directors, such approval shall mean that more GSK Directors voted for approval than against) shall be required to approve any of the following:

(i) the acquisition by the Company of any business or assets that would constitute a substantial portion of the business or assets of the Company, whether such acquisition be by merger or consolidation or the purchase of stock or assets or otherwise;

(ii) the sale, lease, license, transfer or other disposal of a substantial portion of the business or assets, tangible or intangible, of the Company; provided, however, that the approval of a majority of the GSK Directors shall not be required for the sale, license or transfer to another party, in the ordinary course of business, of any Company asset (regardless of its value or what portion of the Company's business or assets it may represent) over which GSK has no contractual rights in accordance with the provisions of the Alliance Agreement; or

(iii) the repurchase or redemption of any Equity Security or other capital stock of the Company, other than (A) redemptions required by the terms thereof, (B) purchases made at fair market value in connection with any deferred compensation plan maintained by the Company and (C) repurchases of unvested or restricted stock at or below cost pursuant to any employee, officer, director or consultant compensation plan. For purposes of this Agreement, "Equity Security" means any (i) Voting Stock of the Company, (ii) securities of the Company convertible into or exchangeable for Voting Stock and (iii) options, rights and warrants issued by the Company to acquire Voting Stock. "Voting Stock" shall mean the outstanding securities of the Company having the right to vote generally in any election of directors of the Board.

(b) During the Interim Period, any of the actions described in Section 1.5(a) or Section 1.6(b) shall require the approval of a majority of the Independent Directors.

SECTION 1.6. *GSK Approval for Certain Issuances of Equity Securities*.

(a) Prior to the Call/Put Termination Date, the Company shall not, without the prior written consent of GSK, issue any Equity Security other than (i) shares of Common Stock, (ii) options to acquire Common Stock and (iii) to the extent constituting an Equity Security, Permitted Indebtedness; provided, however, the Company shall only issue such Equity Securities if as a consequence of such issuance, the aggregate number of Callable/Puttable Shares (as defined in Section 6.10) would not exceed 84,000,000 (such amount to be adjusted for stock splits, stock dividends, combinations and other recapitalizations); provided further, that, in determining such aggregate number of Callable/Puttable Shares, the number of any Callable/Puttable Shares subject to Executive Lock-Up Agreements entered into pursuant to the Class A Purchase Agreement shall not be included.

(b) If GSK's Percentage Ownership is 35.1% or greater on the Call/Put Termination Date, following the Call/Put Termination Date and until the End of the Equity Limitation Period (as defined below), the Company shall not issue any Equity Security other than Permitted Equity Issuances. "Permitted Equity Issuances" shall mean (i) the issuance of Equity Securities pursuant to any employee, officer, director or consultant compensation plan that has been approved by the majority of the Board or (ii) issuances by the Company of Equity Securities to third parties (other than as contemplated by the preceding clause (i)), including pursuant to the exercise, conversion or exchange of Equity Securities other than Callable/Puttable Shares issued prior to the Call Date or the final day of the Put Period, as the case may be, provided that, the aggregate number of shares of any such Equity Securities issued to such third parties following the Call/Put Termination Date and until the End of the Equity Limitation Period shall in no event exceed the equivalent of 25,000,000 shares of Common Stock (on an as converted basis) (such amount to be adjusted for stock splits, stock dividends, combinations and other recapitalizations). The "End of the Equity Limitation Period" shall mean: (x) September 1, 2012, if GSK's Percentage Interest is 50.1% or greater on the Call/Put Termination Date or if GSK's Percentage Interest is less than 50.1% on the Call/Put Termination Date, but exceeds 50.1% at any time on or prior to December 31, 2008 and (y) in all other cases, December 31, 2008.

SECTION 1.7. *Limitation on Indebtedness Prior to Call/Put Termination Date*. Except with respect to Permitted Indebtedness (as defined in Section 6.10), prior to the Call/Put Termination Date, the Company shall not borrow money or otherwise incur Indebtedness to the extent that the Company on a consolidated basis has financial Indebtedness that exceeds cash and cash equivalents under US generally accepted accounting principles at any time prior to the Call/Put Termination Date.

SECTION 1.8. *Directors and Officers Liability Insurance*. From and after the date that GSK nominates one or more directors to serve on the Board, the Company shall maintain directors and officers liability insurance coverage to the extent and in the amounts common to comparable companies. To the extent that such insurance coverage is in place, the GSK nominees shall be named as designated insureds under such policy.

SECTION 1.9. *Consolidation with GlaxoSmithKline*. At such time as GlaxoSmithKline is required by applicable accounting standards to include the Company's results in the consolidated financial results for GlaxoSmithKline, the Company (i) shall provide such information based on or derived from the Company's U.S. GAAP financial reporting and (ii) shall provide such additional information and take such steps that are reasonably requested by GlaxoSmithKline to comply with applicable law or to prepare its consolidated financial statements on such time schedule as GlaxoSmithKline may reasonably request for purposes of preparation of GlaxoSmithKline's consolidated financial results; provided, however, that GSK or any of its affiliates shall be required to pay all incremental documented expenses

(personnel or otherwise) arising out of the Company's obligations pursuant to subsection (ii) of this Section 1.9. The Company shall take all such steps necessary in order to comply with its obligations (if any) under the Sarbanes-Oxley Act of 2002 and the rules and regulations adopted pursuant thereto.

ARTICLE II

LIMITATIONS RELATING TO COMPANY EQUITY SECURITIES

SECTION 2.1. *Acquisition of Company Equity Securities*.

(a) *Acquisition of Equity Securities.* Except as contemplated by this Agreement, as permitted by Section 2.1(b), (c) or (d) or as otherwise agreed in writing by the Company (following approval of a majority of the Independent Directors), GSK and its Affiliates will not (and will not assist or encourage others to) directly or indirectly in any manner:

(i) acquire, or agree to acquire, directly or indirectly, alone or in concert with others, by purchase, gift or otherwise, any direct or indirect beneficial ownership (within the meaning of Rule l3d-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) or interest in any securities or direct or indirect rights, warrants or options to acquire, or securities convertible into or exchangeable for, any Equity Securities;

(ii) make, or in any way participate in, directly or indirectly, alone or in concert with others, any "solicitation" of "proxies" to vote (as such terms are used in the proxy rules of the Securities and Exchange Commission (the "SEC") promulgated pursuant to Section 14 of the Exchange Act); provided, however, that the prohibition in this Section 2.1(a)(ii) shall not apply to solicitations exempted from the proxy solicitation rules by Rule 14a-2 under the Exchange Act or any successor provision;

(iii) form, join or in any way participate in a "group" within the meaning of Section 13(d)(3) of the Exchange Act with any person not bound by the terms of this Agreement (other than persons deemed to be a member of such group solely by virtue of being an Affiliate of GSK) with respect to any Voting Stock;

(iv) acquire or agree to acquire, directly or indirectly, alone or in concert with others, by purchase, exchange or otherwise, (A) any of the assets, tangible or intangible, of the Company or (B) direct or indirect rights, warrants or options to acquire any assets of the Company, except for (X) such assets as are then being offered for sale by the Company or (Y) acquisitions of assets of the Company pursuant to or as contemplated by the

Alliance Agreement or the Collaboration Agreement between GSK and the Company dated as of November 14, 2002 (the "Collaboration Agreement");

(v) enter into any arrangement or understanding with others to do any of the actions restricted or prohibited under Sections 2.1 (a) (i), (ii), (iii) or (iv);

(vi) otherwise act in concert with others, to seek to offer to the Company or any of its stockholders any business combination, restructuring, recapitalization or similar transaction to or with the Company or otherwise seek in concert with others, to control, change or influence the management, board of directors or policies of the Company or nominate any person as a director of the Company who is not nominated by the then incumbent directors, or propose any matter to be voted upon by the stockholders of the Company; or

(vii) prior to August 31, 2007, request that the Company (or the Board) amend or waive any provisions of this Section 2.1.

(b) *Exceptions for Certain Acquisitions of Equity Securities of the Company*. Nothing herein shall prevent GSK or its Affiliates (or in the case of Section 2.1(b)(v), their employees) from:

(i) purchasing the Class A Stock of the Company on the Effective Date;

(ii) purchasing additional Equity Securities of the Company pursuant to the provisions of Article III of this Agreement and Article IV of the Certificate of Incorporation;

(iii) purchasing additional Equity Securities of the Company after the Effective Date to maintain GSK's Percentage Interest in accordance with Section 2.1(d) hereof;

(iv) acquiring securities of the Company issued in connection with stock splits or recapitalizations or pursuant to Section 2.5 of that certain Investors' Rights Agreement dated as of May 11, 2004 (the "Investors' Rights Agreement");

(v) following the Company's initial public offering of Voting Stock (the "Initial Offering"), purchasing securities of the Company for (A) a pension plan established for the benefit of GSK's employees, (B) any employee benefit plan of GSK, (C) any stock portfolios not controlled by GSK or any of its Affiliates that invest in the Company among other companies, or (D) any account of a GSK employee in such employee's personal capacity;

(vi) acquiring securities of another biotechnology or pharmaceutical company that beneficially owns any of the Equity Securities, provided that any Equity Securities so acquired shall be subject to the provisions of Sections 2.1(a), 2.2 and 2.3 of this Agreement on the same basis as the Class A Common Stock purchased pursuant to the Class A Stock Purchase Agreement;

(vii) in the event that GSK's Percentage Interest is 50.1% or greater at any time on or after the Call/Put Termination Date, on or after September 1, 2012, GSK and/or its Affiliates may make an offer that does not include any condition as to financing to the Company's stockholders to merge the Company or otherwise to acquire outstanding Voting Stock that would bring GSK's Percentage Interest to 100%, provided that such offer is approved by a majority of the Independent Directors and includes a condition to consummation of the transaction that a majority of the shares of the then outstanding Voting Stock not owned by GSK or any of its Affiliates shall have accepted the offer by tendering such shares or voting such shares in favor thereof;

(viii) in the event that GSK's Percentage Interest is less than 50.1% on the Call/Put Termination Date, on or after September 1, 2008, GSK and/or its Affiliates may make an offer that does not include any condition as to financing to the Company's stockholders to acquire outstanding Voting Stock that would bring GSK's Percentage Interest to no greater than 60%, provided that such offer is approved by a majority of the Independent Directors and includes a condition to consummation of the transaction that a majority of the shares of the then outstanding Voting Stock not owned by GSK or any of its Affiliates shall have accepted the offer by tendering such shares in the offer; provided, further, that, any Equity Securities so acquired shall be subject to the provisions of Sections 2.1(a), 2.2 and 2.3 of this Agreement on the same basis as the Class A Common Stock purchased pursuant to the Class A Stock Purchase Agreement (for the avoidance of doubt, the parties acknowledge that, if the GSK Percentage Interest is less than 50.1% on the Call/Put Termination Date, GSK shall not, prior to September 1, 2012, be permitted to make an offer to acquire additional outstanding Equity Securities of the Company except as expressly permitted in this Section 2.1(b) or Sections 2.1(c) or (d));

(ix) at any time following the Call/Put Termination Date and prior to September 1, 2012 that the GSK Percentage Interest is 50.1% or greater, GSK and/or its Affiliates may make an offer that does not include any condition as to financing to acquire outstanding Voting Stock that would bring GSK's Percentage Interest to 100%; provided that, any such offer shall be approved by a majority of the Independent Directors and includes a condition to consummation of the transaction that a majority of the shares of the then outstanding Voting

Stock not owned by GSK or any of its Affiliates shall have accepted the offer by tendering such shares or voting such shares in favor thereof and that such offer be for not less than the greater of (i) the Fair Market Value Per Share (as defined in Section 6.10) on the date immediately preceding the date of the first public announcement of such offer or (ii) $105 per share of Common Stock or Common Stock equivalent (appropriately adjusted to take into account stock dividends, stock splits, recapitalizations and the like);

(x) only after, and so long as, GSK's Percentage Interest is 50.1% or greater, with such Voting Stock acquired in accordance with the terms of this Agreement and the Certificate of Incorporation, purchasing additional Equity Securities of the Company if the Company has otherwise determined to sell Equity Securities to pay all or any portion of the milestones that it may owe to GSK pursuant to Section 6.2.3 of the Collaboration Agreement. In this event, GSK shall have the first right to purchase such additional Equity Securities on the terms under which the Company intends to sell such Equity Securities.

(c) *Third Party Offers*. Nothing herein shall prevent GSK or its Affiliates from, in the event that (A) the Board formally acts to cause the Company to (i) enter into a written agreement pursuant to which a Change in Control transaction with a third party is provided for, (ii) amend the Rights Plan (as defined in Section 6.10) in order to render the Rights Plan inapplicable with respect to any third party or (iii) render inapplicable to any third party the restrictions contained in Section 203 of the DGCL or any similar anti-takeover provision or (B) a person or group (within the meaning of 13(d)(3) of the Exchange Act and not including and underwriter in connection with a public offering) (each, a "Third Party Acquiror") acquires 20% or more of the then outstanding Voting Stock (a "Significant Third Party Acquisition"), making an offer to acquire, and acquiring, Equity Securities pursuant to the terms of GSK's offer; provided that GSK's offer must be an offer for 100% of the Voting Stock of the Company that does not include any condition as to financing and includes a condition to consummation of the transaction that a majority of the shares of the then outstanding Voting Stock not owned by GSK or any of its Affiliates or by any such Third Party Acquiror (or its or their Affiliates) shall have accepted the offer by tendering such shares or voting such shares in favor of thereof.

(d) *Exceptions for Acquisitions to Maintain GSK's Percentage Interest*.

(i) In the event that the Company issues Equity Securities (other than pursuant to exercise of options or vesting of restricted shares issued as compensation to directors, officers, employees or consultants of the Company) GSK shall have the right to purchase such Equity Securities at the same price (where the consideration does not consist solely of cash, the fair market value of the non-cash consideration as determined in good faith by the Independent Directors) up to such amount as required to maintain GSK's Percentage Interest at the same level as immediately prior to such issuance to the third party.

(ii) With respect to exercise of stock options or vesting of restricted stock, on a quarterly basis, GSK shall be afforded the opportunity by the Company to purchase comparable Equity Securities sufficient to maintain GSK's Percentage Interest at the same level as prior to the exercises and vestings during such quarter. GSK or its Affiliates shall acquire such Equity Securities referred to in the immediately preceding sentence either from the Company at the then Fair Market Value Per Share or, at the discretion of the Company, through open market purchases.

(iii) If GSK's Percentage Interest is 50.1% or greater on the Call/Put Termination Date solely as a result of the exercise of the Put, if at any time following the Call/Put Termination Date and until September 1, 2012, the Company issues Equity Securities (other than pursuant to exercise of options or vesting of restricted shares issued as compensation to directors, officers, employees or consultants of the Company) and GSK declines to purchase additional

Equity Securities in such offering, GSK, for a period of six months following such issuance of Equity Securities by the Company, shall, nonetheless, have the right to cause the Company to issue Equity Securities to GSK in such amount as required to maintain GSK's Percentage Interest at the same level as GSK's Percentage Interest on the Call/Put Termination Date and at a price equal to the greater of (i) the Fair Market Value Per Share of Equity Securities at the time of purchase by GSK or (ii) the price per share of the Equity Securities issued by the Company in the transaction that resulted in GSK's rights pursuant to this subsection (iii).

(iv) If GSK's Percentage Interest is 50.1% or greater on the Call/Put Termination Date solely as a result of the exercise of the Call, if at any time following the Call/Put Termination Date and until September 1, 2012, the Company issues Equity Securities (other than pursuant to exercise of options or vesting of restricted shares issued as compensation to directors, officers, employees or consultants of the Company) GSK, for so long as the GSK Percentage Interest is 50.1% or greater, shall have the right to purchase such Equity Securities at the same price (where the consideration does not consist solely of cash, the fair market value of the non-cash consideration as determined in good faith by the Independent Directors) in such amount as required to maintain GSK's Percentage Interest at the same level as GSK's Percentage Interest on the Call/Put Termination Date.

(v) Notwithstanding anything contained in this Section 2.1(d)(i), (ii), (iii) and (iv), if the Company shall issue Permitted Indebtedness consisting of securities exchangeable or convertible into Voting Stock, the Company shall provide written notice to GSK of the conversion or exchange of any such Permitted Indebtedness within ten days following any such conversion or exchange. GSK shall notify the Company promptly following the receipt of such notice if it intends to purchase that number of Equity Securities from the Company required to maintain GSK's Percentage Interest as measured immediately prior to the date of such conversion or exchange of Permitted Indebtedness at a price per Equity Security equal to the greater of (x) the conversion or exchange price of such Permitted Indebtedness or (y) the Fair Market Value Per Share on the date of such purchase by GSK. If GSK notifies the Company of such intention, the Company shall issue such number of Equity Securities upon payment of such price.

(vi) In the event that GSK's Percentage Interest falls below 50.1% (or, in the case of Sections 1.3, 1.6 and 2.3, 35.1%, or in the case of Section 1.1(a), 19.0%) solely as a consequence of any issuance of Equity Securities with respect to which GSK has the right to acquire further Equity Securities under this Section 2.1(d), GSK's Percentage Interest shall be deemed to be greater than 50.1% for purposes of Articles I and II, 35.1% for purposes of Sections 1.3, 1.6 and 2.3, and 19.0% for purposes of Section 1.1(a), unless and until GSK declines to purchase the Equity Securities it is entitled to purchase under this Section 2.1(d) (GSK shall respond within a reasonable time with respect to its decision to accept or decline its opportunity to purchase additional Equity Securities).

(e) *Rights Plan*. The Company will, subject to the Board's exercise of its fiduciary duties, implement a Rights Plan on or before the Initial Offering. The Company shall take all necessary action to render inapplicable to GSK the Rights Plan, Section 203 of the Delaware General Corporation Law (the "DGCL") and any other applicable similar anti-takeover provision.

SECTION 2.2. *Disposition of Equity Securities*.

(a) *Prior to the Call/Put Termination Date*. Prior to the Call/Put Termination Date (as defined in Section 6.10), neither GSK nor any of its Affiliates shall dispose of beneficial ownership of any Voting Stock held by them without the prior approval of a majority of the Board other than any director nominated by GSK, except: (A) to any other Affiliate of GSK who agrees in writing to be bound hereunder; or (B) pursuant to a Change in Control transaction of the Company approved

by a majority of the Board other than any director nominated by GSK and consummated prior to August 1, 2007.

(b) *Following the Call/Put Termination Date*.

(i) Following the Call/Put Termination Date, neither GSK nor any of its Affiliates shall dispose of beneficial ownership of Voting Stock without the prior approval of a majority of the Independent Directors prior to (A) September 1, 2008 if GSK's Percentage Interest is less than 50.1% on the Call/Put Termination Date, or (B) September 1, 2012 if GSK's Percentage Interest is 50.1% or more on the Call/Put Termination Date. If GSK's Percentage Interest is less than 50.1% on the Call/Put Termination Date but is increased to 50.1% or more at any time prior to September 1, 2012 neither GSK nor any of its Affiliates shall dispose of any beneficial ownership of Voting Stock from and after the date GSK's Percentage Interest first equals or exceeds 50.1% until September 1, 2012. In the event that GSK's Percentage Interest is 50.1% or greater and GSK breaches its obligation not to dispose of beneficial ownership of Voting Stock prior to September 1, 2012 pursuant to Section 2.2(b)(i)(B), the "Research Term" under the Alliance Agreement shall lapse simultaneously with such breach and in accordance with Section 3.1.1 of the Alliance Agreement, GSK's future opt-in rights to the Company's Discovery Programs on or after the date of such breach shall terminate.

(ii) In the event that the prohibition on disposition of Voting Stock set forth in Subsection 2.2(b)(i) expires on September 1, 2008, neither GSK nor any of its Affiliates shall dispose of beneficial ownership of Voting Stock prior to September 1, 2012 except (A) pursuant to a public offering registered under the Securities Act of 1933, as amended (the "Securities Act") of either Company Voting Stock or securities exchangeable or exercisable for Voting Stock (in which public offering the securities are broadly distributed and neither GSK nor any of its Affiliates selects the purchasers); or (B) pursuant to Rule 144 under the Securities Act (provided that if Rule 144(k) is available, such disposition nevertheless is within the volume limits and manner of sale requirements applicable to non-144(k) transfers under Rule 144).

(iii) In the event that the prohibition on disposition of Voting Stock set forth in Section 2.2(b)(i) expires on September 1, 2012, if GSK or any of its Affiliates disposes of Voting Stock after that date, neither GSK nor any of its Affiliates may purchase any Voting Securities without the prior approval of a majority of Independent Directors for one year after the date of any such disposition.

(iv) Neither GSK nor any of its Affiliates may make any public disclosure of any holdings of or disposition of beneficial ownership of the Voting Stock unless such disclosure is approved in advance in writing by the Company, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, no consent of the Company shall be required for any filing that GSK or any of its Affiliates is required to make under applicable Law in any jurisdiction, including without limitation any Form 144 under the Securities Act, any Form 4 under the Exchange Act, or any Schedule 13D or 13G or any amendments thereto under the Exchange Act; provided that, prior to making any such filings, GSK shall use reasonable efforts to (A) to provide the Company notice and a copy of such proposed filings and (B) consult with the Company on the content of such filings.

(v) Notwithstanding the foregoing, GSK shall be permitted to dispose of beneficial ownership of any Voting Stock pursuant to a Change in Control transaction of the Company approved by a majority of Independent Directors.

(c) *Required Dispositions*. Notwithstanding anything to the contrary contained herein, GSK shall be permitted to dispose of beneficial ownership of Voting Stock as and to the extent (but

only to the extent) GSK reasonably determines such disposition to be necessary in order for it to comply with its obligations under Section 3.5.

SECTION 2.3. *Voting*. (a) Except as set forth in Sections 2.3(b) and 2.3(c), prior to the Initial Offering, GSK shall ensure that all Voting Stock beneficially owned by GSK and/or any GSK Affiliate is voted (i) for Company nominees to the Board in accordance with Article I and (ii) on all other matters to be voted on by stockholders, in accordance with the recommendation of a majority of the Board other than any GSK Director. Except as set forth in Sections 2.3(b) and 2.3(c), following the Initial Offering, GSK shall ensure that all Voting Stock beneficially owned by GSK and/or any GSK Affiliate shall be voted on all matters, at the election of GSK, either (i) in accordance with the recommendation of the Independent Directors of the Board or (ii) in proportion to the votes cast by the other holders of the Company's Voting Stock.

(b) Subject to paragraph (c) below with respect to the Interim Period, so long as GSK's Percentage Interest is less than 50.1%, GSK shall ensure that all Voting Stock beneficially owned by GSK and/or any GSK Affiliate is voted as set forth in Section 2.3(a), *unless* the matter being voted upon involves any of the following:

(i) any proposal to amend the provisions in the Certificate of Incorporation related to the Put and Call;

(ii) any proposal to issue Equity Securities to one or more parties in one transaction or a series of transactions that result in any person or group (within the meaning Section 13(d)(3) of the Exchange Act) owning or having the right to acquire or intent to acquire beneficial ownership of Equity Securities with aggregate voting power of greater than 20% or more of the aggregate voting power of all outstanding Equity Securities (for the avoidance of doubt, in no event shall any such proposed issuance covered by this clause (ii) include a sale of the Company's securities in a public offering); or

(iii) any Change in Control.

(c) (A) After, and so long as, GSK's Percentage Interest is 50.1% or greater and (B) during the Interim Period so long as the GSK Percentage Interest is 35.1% or greater, GSK shall ensure that all Voting Stock beneficially owned by GSK and/or any GSK Affiliate is voted as set forth in this Section 2.3(a), *unless* the matter being voted upon involves any of the following:

(i) any Change in Control;

(ii) the acquisition by the Company of any business or assets that would constitute a substantial portion of the business or assets of the Company, whether such acquisition be by merger or consolidation or the purchase of stock or assets or otherwise;

(iii) the sale, lease, license, transfer or other disposal of all or a substantial portion of the business or assets of the Company; provided, however that the sale, license or transfer to another party, in the ordinary course of business, of any Company asset (regardless of its value or what portion of the Company's business or assets it may represent) over which GSK has no contractual rights in accordance with the provisions of the Alliance Agreement shall be considered an ordinary matter pursuant to which GSK must vote its shares in accordance with the recommendation of the Independent Directors of the Board;

(iv) any proposal to issue Equity Securities to one or more parties in one transaction or a series of transactions that result in any person or group (within the meaning Section 13(d)(3) of the Exchange Act) owning or having the right to acquire or intent to acquire beneficial ownership of Equity Securities with aggregate voting power of greater than 20% or more of the aggregate voting power of all outstanding Equity Securities (for the avoidance of doubt, in

no event shall any such proposed issuance covered by this clause (iv) include a sale of the Company's securities in a public offering); or

(v) any proposal to amend the provisions in the Certificate of Incorporation related to the Put and Call.

(d) Notwithstanding anything to the contrary herein, following a Significant Third Party Acquisition, GSK shall be entitled to vote its Voting Stock without any restrictions.

(e) GSK hereby grants to the Board, and appoints the Board as, its irrevocable proxy to vote, or execute and deliver written consents or otherwise act with respect to all Voting Stock now owned or hereafter acquired by GSK in the manner in which GSK is obligated to vote, consent or act pursuant to this Section 2.3. Such proxy shall be irrevocable until this Agreement terminates pursuant to its terms or this Section 2.3 is amended to remove such grant of proxy in accordance with Section 6.2 hereof, and is coupled with an interest in all voting stock owned by GSK. This Agreement shall constitute the proxy granted pursuant hereto.

SECTION 2.4. *Prior Agreement.* The provisions of this Article II shall apply to all Equity Securities beneficially owned by GSK and/or its Affiliates and supersedes in its entirety Article 15 of the Collaboration Agreement.

ARTICLE III

REDEMPTION AND REPURCHASE OF COMMON STOCK

SECTION 3.1. *Redemption and Repurchase of Common Stock.*

(a) GSK shall, in the period between June 1, 2007 and July 1, 2007, inform the Company in writing whether or not it desires to request the redemption of certain Common Stock pursuant to Section C.4 of Article IV of the Certificate of Incorporation. If GSK does request the redemption, it shall provide the desired date for redemption of such Common Stock (the "Call Date") in such notice. Subject to Section 3.1(c), the Company shall, promptly upon receipt of such written request from GSK for the redemption of certain Common Stock, designate a depositary (the "Depositary") for such redemption in accordance with Section C.6(a) of Article IV of the Certificate of Incorporation and notify GSK of such designation. The Company shall give, or cause to be given, the Call Notification (as defined in Section C.4(b) of Article IV of the Certificate of Incorporation) in accordance with such Section C.4(b) of Article IV of the Certificate of Incorporation. The Company shall set as the date of redemption the Call Date; provided that such date shall be consistent with the notice requirements of such paragraph (b). The calculation of the Call Price per share of Common Stock, which shall be made in accordance with paragraphs (a) and (c) of Section C.4 of Article IV of the Certificate of Incorporation, shall be verified with GSK prior to the mailing of such notice. GSK or GlaxoSmithKline shall deposit with the Company at least one business day prior to the Call Price Deposit Date (as defined in Section C.6(a)(i) of Article IV of the Certificate of Incorporation) sufficient funds to pay the Call Amount (as defined in Section C.4(d) of Article IV of the Certificate of Incorporation) and the Company shall deposit those funds with the Depositary in accordance with Section C.6(a)(i) of Article IV of the Certificate of Incorporation. The Company shall only use the funds received from GSK, Glaxo or their Affiliates to fund the Depositary for the purposes of effecting the Call pursuant to this Article III. In exchange for such payment, the Company will issue to GSK (or to its designated Affiliate), on the Call Date as specified in the Call Notification, a number of duly authorized and validly issued shares of Class A Common Stock equal to the number of shares of Common Stock acquired thereby by the Company upon cancellation of the Common Stock subject to the Call pursuant to Section C.6(a) of Article IV of the Certificate of Incorporation.

(b) At least ten, but not more than thirty, days prior to the commencement of the Put Period (as defined in Section C.11(e) of Article IV of the Certificate of Incorporation), or, in the event of an acceleration of the Put in accordance with the terms of Section C.7 of Article IV of the Certificate of Incorporation, as soon as practicable following the date of the occurrence of the Insolvency Event (as defined in Section C.7 of Article IV of the Certificate of Incorporation) giving rise to such acceleration (but in no event later than the tenth day following such date), the Company shall (i) designate the Depositary for making payments to, and receiving shares from, holders of Common Stock in connection with exercises of the Put (as defined in Section C.5 of Article IV of the Certificate of Incorporation) in accordance with Section C.5 of Article IV of the Certificate of Incorporation and notify GSK and GlaxoSmithKline of such designation and (ii) give, or cause to be given, the Put Notification (as defined in Section C.11 of Article IV of the Certificate of Incorporation) in accordance with Section C.5(b) of Article IV of the Certificate of Incorporation or Section C.7 thereof, as the case may be. The Company shall set as the Put Period the period required to be set pursuant such Section C.5 or Section C.7, as the case may be.

(c) The Company's obligations under Sections 3.1(a) and 3.1(b) hereof shall be suspended during any period when, in the good faith judgment of the majority of the Company's Independent Directors, the redemption of the Common Stock would be prohibited under the DGCL or other applicable Laws.

(d) Subject to the provisions of Section 3.1(c), the Company hereby irrevocably appoints GSK and GlaxoSmithKline its attorneys-in-fact for purposes of redeeming the Common Stock in accordance with the terms of Sections 3.1(a) and 3.1(b) hereof and the Certificate of Incorporation.

(e) Any Depositary selected by the Company shall have at the time of its selection short-term credit ratings of not less than A-1 from Standard & Poor's Rating Services ("S&P") and not less than P-1 from Moody's Investors Service, Inc. ("Moody's"), and shall have at the time of its selection long-term credit ratings of not less than AA from S&P and not less than Aa2 from Moody's.

SECTION 3.2. *Indemnification*. GSK and GlaxoSmithKline shall indemnify the Company and its directors, officers, employees and agents against all losses, claims, damages, liabilities and expenses (including attorneys' fees) arising out of the redemption (pursuant to the Call or the Put (each as defined in the Certificate of Incorporation) of the Common Stock in accordance with the provisions of this Agreement (including, without limitation, in the event of the Company's consummation of the redemption of Common Stock in contravention of Section 160 of the DGCL or any other law for the protection of creditors), other than any such losses, claims, damages, liabilities and expenses that result primarily from actions taken or omitted in bad faith by the indemnified person or from the indemnified person's gross negligence or willful misconduct.

SECTION 3.3. *Options, Warrants and Other Convertible Securities*. GSK and the Company will make appropriate provisions to assure that any options, warrants, rights or securities issued by the Company, convertible into or exercisable or exchangeable for shares of Common Stock that constitute Callable/Puttable Shares, become convertible into or exercisable or exchangeable for consideration of the same type and amount as the holders thereof would have received had they converted, exercised or exchanged such options, warrants, rights or securities prior to the Call Date. If the Call is exercised by GSK, the consideration payable to a holder of options, warrants, rights or securities issued by the Company, convertible into or exercisable or exchangeable for shares of Common Stock that constitute Callable/Puttable Shares shall be paid upon the date of conversion, exercise or exchange of such option, warrant, right or security. Nothing herein shall be deemed or construed as a waiver of any other rights that a holder of any such securities may have.

SECTION 3.4. *Capital Contribution and Assumption of Put Obligations*.

(a) GSK or GlaxoSmithKline agree to, or to cause one or more of their Affiliates to, contribute to the Company, immediately prior to the time that any amounts become due and payable to the holders of Common Stock pursuant to Section C.5 of Article IV of the Certificate of Incorporation, (i) funds in an amount equal to the product of the number of Callable/Puttable Shares with respect to which the Put has been properly exercised multiplied by the Put Price (as defined in Section C.5 of Article IV of the Certificate of Incorporation) plus (ii) such additional funds, if any, sufficient to permit the Company to redeem the Callable/Puttable Shares with respect to which the Put has been properly exercised without violating Section 160 of the DGCL, any bankruptcy or insolvency law or other law or regulation for the protection of creditors. In exchange for such payment, the Company will issue to GSK (or to its designated Affiliate), within five business days following the end of the Put Period, a number of duly authorized and validly issued shares of Class A Common Stock equal to the number of shares of Common Stock acquired thereby by the Company. Notwithstanding the foregoing, in the event that GSK or GlaxoSmithKline is required to make any contributions under clause (ii) of the first sentence of this paragraph (a), GSK's or GlaxoSmithKline's obligation to make any such payment to the Company under this Section 3.4 shall be void and of no further force and effect if, in lieu thereof, GSK or GlaxoSmithKline shall (or shall cause one of its Affiliates to) elect to purchase, and make all arrangements necessary (including compliance by GSK or GlaxoSmithKline, or any such Affiliate or Affiliates, with the Exchange Act, the Securities Act (each as hereinafter defined) and any other applicable Federal or state securities laws) to purchase, at the expiration of the Put Period, directly from each holder of Common Stock, the Callable/Puttable Shares which such holders elect to have purchased (up to 50% of all Callable/Puttable Shares owned by such holder) at a price per share equal to the Put Price. Notwithstanding anything to the contrary contained herein or in the Certificate of Incorporation, unless otherwise agreed to in writing by GSK, in no event shall the amount required to be paid by GSK or GlaxoSmithKline to the Company and/or to holders of Common Stock in connection with the Put exceed $525,000,000.

(b) Notwithstanding any other term or provision hereof or of the Alliance Agreement, Section C of Article IV of the Certificate of Incorporation or any other agreement, GSK or GlaxoSmithKline agree that they shall either (i) make (or cause one or more of its Affiliates to make) the aggregate payments required to be made under the first sentence of Section 3.4(a) hereof or (ii) if such payments are not made for any reason, make (or cause one of its Affiliates to make) the election to purchase referred to in the third sentence of Section 3.4(a) hereof and comply (or cause one of its Affiliates to comply) fully with such sentence; provided, however, that if an Insolvency Event (as defined in Section C.7 of Article IV of the Certificate of Incorporation) occurs, GSK or GlaxoSmithKline shall, within 10 days after the occurrence of such Insolvency Event, either (x) contribute (or cause one or more of its Affiliates to contribute) to the Company an amount equal to the aggregate amount that would be required to be contributed to the Company under the first sentence of Section 3.4(a) hereof assuming (for purposes of clause (i) of such sentence) that the holders of all Callable/Puttable Shares were to exercise the Put with respect to 50% of the Callable/Puttable Shares owned by such holder or (y) elect (or cause one of its Affiliates to elect) to purchase, and make all arrangements necessary (including compliance by GSK or GlaxoSmithKline, or any such Affiliate, with the Exchange Act, the Securities Act and any other Federal or state securities laws) to purchase, at the expiration of the Put Period, directly from the holders of Common Stock at the Put Price the shares of Callable/Puttable Shares which such stockholders elect to have purchased (up to 50% of all Callable/Puttable Shares owned by such holder). In exchange for the payment by GSK or GlaxoSmithKline of the amount specified in clause (x) of the immediately preceding sentence (which amount shall be invested by the Company in a money market fund which holds primarily U.S. government obligations until such time as any amounts are paid to creditors or stockholders (it being specified that the returns on such

investment shall be paid to GSK or GlaxoSmithKline upon demand)), the Company will issue to GSK (or its designated Affiliate) a number of duly authorized and validly issued shares of Class A Common Stock equal to 50% the number of Callable/Puttable Shares. Immediately following the expiration of the Put Period, if the Put has not been exercised with respect to 50% of the then Callable/Puttable Shares and if GSK or GlaxoSmithKline shall have complied with clause (x) of the first sentence of this Section 3.4(b), (1) the Company shall refund to GSK or GlaxoSmithKline, as the case may be, (or their designated Affiliate) an amount (together with any interest actually earned thereon) equal to the product of the Put Price times the number of Callable/Puttable Shares with respect to which the Put has not been exercised and (2) GSK (or by its designated Affiliate) shall, in exchange for such payment by the Company, contribute to the Company a number of shares of Class A Common Stock equal to the number of Callable/Puttable Shares with respect to which the Put has not been exercised. In the event that GSK or GlaxoSmithKline pays the amount specified in clause (x) of the first sentence of this Section 3.4(b), GSK or GlaxoSmithKline and any of their Affiliates shall not be entitled to any payments or other distributions on or in respect of any Equity Security unless and until the Company has redeemed all of the shares of Common Stock with respect to which the Put has been properly exercised.

(c) It is understood and agreed that, if GSK so elects, the obligation of GSK or GlaxoSmithKline to purchase shares of Common Stock pursuant to any of the provisions in this Section 3.4 may, at the election of GSK, be assigned by GSK to any Affiliate of GSK (other than the Company). No assignment pursuant to this Section 3.4(c) shall relieve GSK or GlaxoSmithKline of any of its obligations under this Section 3.4 or otherwise.

(d) The Company shall take (and shall have no corporate power or capacity to refuse to take) such actions as may be necessary to enforce the obligations of GSK and GlaxoSmithKline under this Section 3.4 directly against GSK and GlaxoSmithKline, or in the event of assignment by GSK, against GSK and any Affiliate of GSK to which any assignment is made.

(e) The Company shall only use the funds received from GSK, Glaxo or their Affiliates to fund the Depositary for the purposes of effecting the Put pursuant to this Article III.

SECTION 3.5. *Required Regulatory Filings*. GSK, GlaxoSmithKline and the Company agree to take all actions necessary to make all required filings and thereafter make any other required submissions with respect to the transactions contemplated under this Agreement under any applicable law, including, without limitation, any applicable federal or state securities Law, the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act") and foreign antitrust regulations. With respect to the transactions contemplated by the Put and Call, in furtherance of the foregoing, GSK, GlaxoSmithKline and the Company agree to take all necessary actions to make any required filings under the HSR Act and any applicable foreign antitrust regulations prior to February 1, 2007. GSK, GlaxoSmithKline and the Company shall respond as promptly as practicable to all inquiries or requests received from any such antitrust regulator. The parties shall cooperate with each other in connection with the making of all such filings or requests. GSK, GlaxoSmithKline and the Company shall take all required action to cause any waiting period (and any extension thereof) applicable to the transactions contemplated hereunder to expire or be terminated under the HSR Act and any waiting period (and any extension thereof) applicable to the transactions contemplated hereunder under any foreign antitrust Law (or any approval thereunder) to expire or be terminated or be obtained prior to June 1, 2007.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

SECTION 4.1. *Representations of the Company*.

(a) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby are within the Company's corporate powers and have been duly authorized by all necessary corporate action. This Agreement constitutes a valid and binding agreement of the Company.

(b) The execution, delivery and performance by the Company of this Agreement require no action by or in respect of, or filing with, any governmental body, agency, official or authority.

(c) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby do not and will not (i) contravene or conflict with the Certificate of Incorporation or Bylaws of the Company, and (ii) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to the Company.

SECTION 4.2. *Representations of GSK, GlaxoSmithKline and GGL*.

Each of GSK, GlaxoSmithKline and GGL represent that:

(a) The execution, delivery and performance by it of this Agreement and the consummation by it of the transactions contemplated hereby are within its corporate powers and have been duly authorized by all necessary corporate action. This Agreement constitutes its valid and binding agreement.

(b) The execution, delivery and performance by it of this Agreement require no action by or in respect of, or filing with, any governmental body, agency, official or authority.

(c) The execution, delivery and performance by it of this Agreement and the consummation by it of the transactions contemplated hereby do not and will not (i) contravene or conflict with its charter or Bylaws, and (ii) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to it.

ARTICLE V

SEVERANCE ARRANGEMENTS

SECTION 5.1. *Severance Arrangements*. The Company will not and will not permit any of its subsidiaries to, (i) enter into any contract, agreement, plan or arrangement covering any director, officer or employee of the Company or any subsidiary that provides for the making of any payments, the acceleration of vesting of any benefit or right or any other entitlement contingent upon (A) the stock purchase by GSK pursuant to the Class A Stock Purchase Agreement or the exercise by GSK of any of its rights under this Agreement to representation on the Board (and its committees) or any acquisition by GSK of securities of the Company (whether by merger, tender offer, private or market purchases or otherwise) not prohibited by this Agreement or (B) the termination of employment after the occurrence of any such contingency if such payment, acceleration or entitlement would not otherwise have been provided but for such contingency or (ii) amend any existing contract, agreement, plan or arrangement to so provide.

ARTICLE VI

MISCELLANEOUS

SECTION 6.1. *Notices*. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or similar writing) and shall be given:

If to the Company:

Theravance, Inc.
901 Gateway Boulevard
South San Francisco, CA 94080
Facsimile: 650-808-6095
Attn: General Counsel

With a copy to:

Gunderson Dettmer et al.
155 Contitution Drive
Menlo Park, CA 94025
Facsimile: 650-321-2800
Attn: Christopher D. Dillon
Jay K. Hachigian

If to GSK:

SmithKline Beecham Corporation
One Franklin Plaza (FP2355)
200 N. 16th Street
Philadelphia, PA 19102
Attn: Company Secretary
Facsimile: 215-751-5349

With a copy to:

GlaxoSmithKline
One Franklin Plaza (FP2355)
200 N. 16th Street
Philadelphia, PA 19102
Facsimile: 215-751-5349
Attn: Corporate Law

and with a copy to:

GlaxoSmithKline
Greenford Road
Greenford
Middlesex
UB6 0HE
United Kingdom
Attn: Vice President, Worldwide Business Development
Facsimile: 011 44 208-966-5371

and with a copy to:

Glaxo Group Limited
Glaxo Wellcome House
Berkeley Avenue
Greenford
Middlesex UB6 0NN
United Kingdom
Attn: Company Secretary
Facsimile: 011 44 208-047-6904

or such other address or facsimile number as such party may hereafter specify for the purpose by notice to the other parties hereto. Each such notice, request or other communication shall be effective (i) if given by facsimile when such facsimile is transmitted to the facsimile number specified in this Section and the appropriate answerback is received or (ii) if given by any other means, when delivered at the address specified in this Section 6.1.

SECTION 6.2. *Amendments; Waivers*.

(a) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by GSK and the Company, or in the case of a waiver, by the party against whom the waiver is to be effective; provided that, in the case of the Company, no such amendment or waiver shall be effective without the approval of a majority of the Independent Directors.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 6.3. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the written consent of the other party hereto.

SECTION 6.4. *Governing Law*. This Agreement shall be governed by and construed in accordance with and governed by the law of the State of Delaware, without regard to the conflicts of laws principles thereof. Any action brought, arising out of, or relating to this Agreement shall be brought in the Court of Chancery of the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of said Court in respect of any claim relating to the validity, interpretation and enforcement of this Agreement, and hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding in which any such claim is made that it is not subject thereto or that such action suit or proceeding may not be brought or is not maintainable in such courts, or that the venue thereof may not be appropriate or that this agreement may not be enforced in or by such courts. The parties hereby consent to and grant the Court of Chancery of the State of Delaware jurisdiction over such parties and over the subject matter of any such claim and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 6.1, or in such other manner as may be permitted by law, shall be valid and sufficient thereof.

SECTION 6.5. *Counterparts; Effectiveness*. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original and which together shall constitute one and the same document.

SECTION 6.6. *Specific Performance*. Each party acknowledges and agrees that their respective remedies at law for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and, in recognition of that fact, agrees that, in the event of a breach or threatened breach by the Company, on the one hand, or GSK, GGL and GlaxoSmithKline (the "Glaxo Parties"), on the other hand, of the provisions of this Agreement, in addition to any remedies at law, the Glaxo Parties and the Company, respectively, without posting any bond shall be entitled to obtain equitable relief in the form of specific performance, a temporary restraining order, a temporary or permanent injunction or any other equitable remedy which may then be available.

SECTION 6.7. *Termination*. This Agreement (other than Sections 3.2 and 3.3 hereof) shall terminate at the earliest of (i) such time as GSK and its Affiliates beneficially own 100% of the outstanding Voting Stock, (ii) the effective time of a Change in Control, and (iii) September 1, 2015.

SECTION 6.8. *Severability*. In the event of the invalidity of any provisions of this Agreement or if this Agreement contains any gaps, the parties agree that such invalidity or gap shall not affect the validity of the remaining provisions of this Agreement. The parties will replace an invalid provision or fill any gap with valid provisions which most closely approximate the purpose and economic effect of the invalid provision or, in case of a gap, the parties' presumed intentions. In the event that the terms and conditions of this Agreement are materially altered as a result of the preceding sentences, the parties shall renegotiate the terms and conditions of this Agreement in order to resolve any inequities. Nothing in this Agreement shall be interpreted so as to require either party to violate any applicable laws, rules or regulations.

SECTION 6.9. *Registration and Filing of This Agreement*. To the extent, if any, that either the Company or the Glaxo Parties concludes in good faith that such party or the other party is required to file or register this Agreement or a notification thereof with any governmental authority, including without limitation the Securities and Exchange Commission, the Competition Directorate of the Commission of the European Communities or the U.S. Federal Trade Commission, in accordance with Law, such party shall inform the other party thereof. Should the Company and the Glaxo Parties jointly agree that either of them is required to submit or obtain any such filing, registration or notification, they shall cooperate, each at its own expense, in such filing, registration or notification and shall execute all documents reasonably required in connection therewith. In such filing, registration or notification, the parties shall request confidential treatment of sensitive provisions of this Agreement, to the extent permitted by Law. The parties shall promptly inform each other as to the activities or inquiries of any such Governmental Authority relating to this Agreement, and shall reasonably cooperate to respond to any request for further information therefrom on a timely basis.

SECTION 6.10. *Certain Definitions.*

(a) As used in this Agreement, the following terms shall have the following meanings:

(i) "Affiliate" of a party means any Person, whether de jure or de facto, which directly or indirectly controls, is controlled by, or is under common control with such Person for so long as such control exists, where "control" means the decision-making authority as to such Person and, further, where such control shall be presumed to exist where a Person owns more than fifty percent (50%) of the equity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) having the power to vote on or direct the affairs of the entity; it being specified that for purposes of this Agreement, the Company and its direct and indirect subsidiaries, if any, shall not be deemed to be Affiliates of GSK.

(ii) "Call" shall have the meaning set forth in Section 4 of Article IV of the Certificate of Incorporation.

(iii) "Callable/Puttable Shares" means (i) all outstanding shares of Common Stock that are not subject to repurchase by the Company pursuant to any employee, officer, director or consultant compensation plan as of the Call Date or the final day of the Put Period, as the case may be, (ii) all shares of Common Stock subject to issuance upon the exercise of options to acquire Common Stock granted pursuant to any employee, officer, director or consultant compensation plan that are or will be fully vested as of the Call Date or the final day of the Put Period, as the case may be, (iii) all shares of Common Stock subject to issuance upon the exercise, exchange or conversion of warrants, exchangeable or convertible securities (other than any such options described in clause (ii)) that are by their terms exercisable, exchangeable or convertible as of the Call Date or the final day of the Put Period, as the case may be.

(iv) "Call/Put Termination Date" shall have the meaning set forth in Section C.8 of Article IV of the Certificate of Incorporation.

(v) "Change in Control" means, with respect to (A) the Company, any transaction or series of related transactions (including mergers, consolidations and other forms of business consolidations) following which continuing stockholders of the Company hold less than 50% of the

outstanding voting securities of either the Company, the entity surviving such transaction or any direct or indirect parent entity of such continuing or surviving entity or (B) the sale, lease, license, transfer or other disposal of all or substantially all of the business or assets of the Company (provided, however, that the sale, license or transfer to another party, in the ordinary course of business, of any Company asset (regardless of its value or what portion of the Company's business or assets it may represent) over which GSK has no contractual rights in accordance with the provisions of the Alliance Agreement shall not be considered a Change in Control transaction); it being understood that GSK's exercise of its rights or performance of its obligations pursuant to the Put or Call shall not be deemed a Change in Control.

(vi) "Effective Date" means the first business day following the date on which the last of the conditions contained in Section 15.14 of the Alliance Agreement has been satisfied.

(vii) "Fair Market Value Per Share" means, with respect to an Equity Security as of a particular date, (a) if the Equity Security is traded on a securities exchange or through the Nasdaq National Market, the closing price of the Equity Security on such exchange or system on such date or (b) if the Equity Security is not traded on a securities exchange or through the Nasdaq National Market, the value on such date as determined in good faith after consultation with a nationally recognized financial advisor by a majority of the Independent Directors.

(viii) "Indebtedness" of any Person means, without duplication, the following, (a) all Obligations of such Person for borrowed money, (b) all Obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all Obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable or accruals arising in the ordinary course of business, (d) all Obligations of such Person in respect of any capital lease, (e) all Obligations of such Person to repurchase or redeem equity securities, whether or not pursuant to the terms thereof, other than the Put and except to the extent such Obligations are payable solely in the form of other equity securities, and (f) all Obligations of such Person with respect to any financial hedging arrangements. For purposes of this definition, "Obligations" shall mean any principal, interest, penalties, fees, guarantees, reimbursements, damages, costs of unwinding and other liabilities payable under the documentation governing any Indebtedness.

(ix) "Initial Offering" means the closing of the Company's sale of its securities pursuant to a bona fide, firmly underwritten public offering of shares of Common Stock, registered under the Securities Act.

(x) "Law" means any law, statute, rule, regulation, ordinance and other pronouncement having the binding effect of any court, tribunal, arbitrator, agency, legislative body, commission, official or other instrumentality of (x) any government of any country, (y) a federal, state, province, county, city or other political subdivision thereof or (z) any supranational body.

(xi) "Permitted Indebtedness" means any Indebtedness of the Company that is issued prior to the Call/Put Termination Date and in an amount equal to or less than $100 million; *provided*, *however*, if such indebtedness may be convertible or exchangeable into Voting Stock, the terms of such indebtedness shall provide that any such conversion or exchange may not occur prior to the Call/Put Termination Date.

(xii) "Person" means any natural person, corporation, general partnership, limited partnership, limited liability company, joint venture, proprietorship or other business organization.

(xiii) "Put" shall have the meaning set forth in Section 5 of Article IV of the Certificate of Incorporation.

(xiv) "Rights Plan" means any rights plan adopted by the Company that has the effect (or similar effect) of providing, upon the acquisition of a specified percentage of Voting Stock by a third party without the approval of the Board, stockholders (other than such acquiring party) the right to acquire Voting Stock of the Company in a manner designed to significantly dilute the ownership stake of such acquiring party.

(b) The following terms shall have the meanings defined for such terms in the Sections of this Agreement set forth below:

Term	Section
Agreement	Preamble
Alliance Agreement	Recitals
Board	1.1(a)
Certificate of Incorporation	1.1(a)
Common Stock	Recitals
Class A Stock Purchase Agreement	Recitals
Collaboration Agreement	2.1(a)(iv)
Company	Preamble
DGCL	2.1(e)
Depositary	3.1(a)
End of the Equity Limitation Period	1.6(b)
Equity Security	1.5(a)(iii)
Exchange Act	2.1(a)(i)
Glaxo Parties	6.6
GSK	Preamble
GSK Directors	1.2(a)
GSK Independent Nominees	1.2(b)
GSK's Percentage Interest	1.2(b)
HSR Act	3.5
Independent Directors	1.2(a)
Initial Offering	2.1(b)(v)

Investors' Rights Agreement	2.1(b)(iv)
Non-GSK Directors	1.2(b)
Call Date	3.1(a)
SEC	2.1(a)(ii)
Securities Act	2.2(b)(ii)
Third Party Acquiror	2.1(c)
Voting Stock	1.5(a)(iii)

SECTION 6.11. *Captions*. The captions, headings and arrangements used in this Agreement are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

THERAVANCE, INC.

By: /s/ RICK E WINNINGHAM

Name: Rick E Winningham

Title: Chief Executive Officer

SMITHKLINE BEECHAM CORPORATION

By: /s/ DONALD F. PARMAN

Name: Donald F. Parman

Title: Vice President & Secretary

GLAXOSMITHKLINE plc
[solely with respect to Articles III, IV and VI]

By: /s/ GLAXOSMITHKLINE PLC

Name:

Title:

GLAXO GROUP LIMITED
[solely with respect to Articles II, IV and VI]

By: /s/ GLAXO GROUP LIMITED

Name:

Title:

[*]=CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-119559, No. 333-123716, No. 333-129669, No. 333-142707, No. 333-150753, No. 333-159042, No. 333-161065, No. 333-166546, No. 333-173923, and No. 333-181763) pertaining to the 2004 Equity Incentive Plan, 2004 Employee Stock Purchase Plan, Shares Acquired Under Written Compensation Agreements, 2008 New Employee Equity Incentive Plan, and the 2012 Equity Incentive Plan of Theravance, Inc. and the Registration Statements on Form S-3 (No. 333-160761 and No. 333-186058) and related Prospectuses of our reports dated March 3, 2014, with respect to the consolidated financial statements and schedule of Theravance, Inc. and the effectiveness of internal control over financial reporting of Theravance, Inc., included in this Annual Report (Form 10-K) for the year ended December 31, 2013.

/s/ ERNST & YOUNG LLP

Redwood City, California
March 3, 2014

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Exhibit 31.1

Certification of Chief Executive Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Rick E Winningham, certify that:

1. I have reviewed this Annual Report on Form 10-K of Theravance, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 3, 2014
(Date)

/s/ RICK E WINNINGHAM

Rick E Winningham
Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

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Exhibit 31.2

Certification of Chief Financial Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Michael W. Aguiar, certify that:

1. I have reviewed this Annual Report on Form 10-K of Theravance Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 3, 2014
(Date)

/s/ MICHAEL W. AGUIAR

Michael W. Aguiar
Senior Vice President, Finance and
Chief Financial Officer
(Principal Financial Officer)

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Exhibit 32

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Rick E Winningham, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Theravance Inc. on Form 10-K for the fiscal year ended December 31, 2013 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of Theravance, Inc. for the periods covered by such Annual Report on Form 10-K.

March 3, 2014
(Date)

By: /s/ RICK E WINNINGHAM
Name: Rick E Winningham
Title: *Chairman of the Board and Chief Executive Officer (Principal Executive Officer)*

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Michael W. Aguiar, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Theravance Inc. on Form 10-K for the fiscal year ended December 31, 2013 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of Theravance, Inc. for the periods covered by such Annual Report on Form 10-K.

March 3, 2014
(Date)

By: /s/ MICHAEL W. AGUIAR
Name: Michael W. Aguiar
Title: *Senior Vice President, Finance and Chief Financial Officer (Principal Financial Officer)*

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