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

FORM 10-K

(Mark one)

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

For the fiscal year ended December 31, 2017

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

For the transition period from _____ to _____.

Commission file number 001-31812

ANI PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**58-2301143**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
210 Main Street West **Baudette, Minnesota**	**56623**
(Address of principal executive offices)	(Zip Code)

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

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

Title of each class	**Name of each exchange on which registered**
Common Stock, par value $0.0001 per share	**The 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 ☒

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 ☐ 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 ☐

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 during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES ☒ NO ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) 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 the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or

revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

The aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant as of June 30, 2017 was $402.9 million (based upon the last reported sale price of $46.80 per share on June 30, 2017, on The NASDAQ Global Market).

As of February 20, 2018, 11,651,282 shares of common stock and 10,864 shares of Class C Special stock of the registrant were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive proxy statement for the registrant's 2018 annual meeting of stockholders to be filed within 120 days after the end of the period covered by this Annual Report on Form 10-K are incorporated by reference into Part III of this Annual Report on Form 10-K.

ANI PHARMACEUTICALS, INC.

ANNUAL REPORT ON FORM 10-K

For the Year Ended December 31, 2017

TABLE OF CONTENTS

Available Information

ANI Pharmaceuticals, Inc. and its consolidated subsidiaries (together, “ANI Pharmaceuticals,” “ANI,” the “Company,” “we,” “us,” or “our”) files annual, quarterly and current reports, proxy statements and other information required by the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with the Securities and Exchange Commission ("SEC"). We make available free of charge on our website (www.anipharmaceuticals.com) our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements and any amendments to those filings as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. Also posted on our website in the “Investors – Corporate Governance” section are our Corporate Governance Guidelines, Code of Ethics and the charters for the Audit and Finance, Compensation, and Nominating and Corporate Governance Committees. Information on, or accessible through, our website is not a part of, and is not incorporated into, this report or any other SEC filing. Copies of our SEC filings or corporate governance materials are available without charge upon written request to Investor Relations, c/o ANI Pharmaceuticals, Inc., 210 Main Street West, Baudette, Minnesota, 56623.

Any materials we file with the SEC are also publicly available through the SEC’s website (www.sec.gov) or may be read and copied at the SEC’s Public Reference Room at 100 F Street, N.E., Washington, DC 20549. Information on the operation of the Public Reference Room may be obtained by calling the SEC at 1-800-SEC-0330.

In this annual report, references to “ANI Pharmaceuticals,” “ANI,” the “Company,” “we,” “us,” and “our” refer, unless the context requires otherwise, to ANI Pharmaceuticals, Inc., a Delaware c-corporation, and its consolidated subsidiaries. References to “named executive officers” refer to our current named executive officers, except where the context requires otherwise. References to the "Merger" refer to the merger of BioSante Pharmaceuticals, Inc. ("BioSante") and ANIP, completed on June 19, 2013, wherein ANI Merger Sub, Inc., a wholly owned subsidiary of BioSante, merged with and into ANIP with ANIP continuing as the surviving company and becoming a wholly owned subsidiary of BioSante. On July 17, 2013, BioSante changed its name to ANI Pharmaceuticals, Inc.

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K and certain information incorporated herein by reference contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Exchange Act. Such statements include, but are not limited to, statements about future operations, products, financial position, operating results prospects, pipelines or potential markets therefor, and other statements that are not historical in nature, particularly those that utilize terminology such as “anticipates,” “will,” “expects,” “plans,” “potential,” “future,” “believes,” “intends,” “continue,” other words of similar meaning, derivations of such words, and the use of future dates.

Uncertainties and risks may cause our actual results to be materially different than those expressed in or implied by such forward-looking statements. Uncertainties and risks include, but are not limited to, the risk that we may face with respect to importing raw materials, increased competition, acquisitions, contract manufacturing arrangements, delays or failure in obtaining product approvals from the U.S. Food and Drug Administration ("FDA"), general business and economic conditions, market trends, regulatory environment, product development, regulatory and other approvals, and marketing.

These factors should not be construed as exhaustive and should be read in conjunction with our other disclosures, including but not limited to the “Risk Factors” section in Part I, Item 1A. of this Annual Report on Form 10-K and in other cautionary statements and risks included in other reports we file with the SEC. New risks emerge from time to time. It is not possible for our management to predict all risks. The forward-looking statements contained in this document are made only as of the date of this document. We undertake no obligation to update or revise any forward-looking statement, whether as a result of new information, future events, or otherwise.

NOTE REGARDING TRADEMARKS

Cortenema®, Cortrophin® Gel, Cortrophin-Zinc®, Inderal® LA, Inderal® XL, InnoPran XL®, Lithobid®, Reglan®, and Vancocin® are registered trademarks subject to trademark protection and are owned by ANI Pharmaceuticals, Inc. and its consolidated subsidiaries. Atacand® and Atacand HCT® are the property of AstraZeneca AB and are licensed to ANI Pharmaceuticals, Inc. for U.S. sales of those products. Arimidex® and Casodex® are the property of AstraZeneca UK Limited and are licensed to ANI Pharmaceuticals, Inc. for U.S. sales of those products.

PART I

Item 1. Business

ANI Pharmaceuticals is an integrated specialty pharmaceutical company focused on delivering value to our customers by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals. We focus on niche and high barrier to entry opportunities including controlled substances, anti-cancer (oncolytics), hormones and steroids, and complex formulations. Our two pharmaceutical manufacturing facilities located in Baudette, Minnesota are capable of producing oral solid dose products, as well as liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment. Our objective is to create long term shareholder value by building a sustainable and growing base business in generic and mature brand pharmaceutical products while advancing an opportunity to re-commercialize Cortrophin gel and Cortrophin-Zinc.

On June 19, 2013, pursuant to a merger agreement dated as of April 12, 2013, ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc. ("ANIP") became a wholly-owned subsidiary of BioSante Pharmaceuticals, Inc. (“BioSante”) in an all-stock, tax-free reorganization (the "Merger"). The Merger was accounted for as a reverse acquisition, pursuant to which ANIP was considered the acquiring entity for accounting purposes. Since the Merger, we have been operating under the leadership of the ANIP management team and ANIP's historical results of operations have replaced BioSante's historical results of operations for all periods prior to the Merger. The results of operations of both companies are included in our consolidated financial statements for all periods after completion of the Merger. In July 2013, we changed our name from “BioSante Pharmaceuticals, Inc.” to “ANI Pharmaceuticals, Inc.”

In March 2014, we completed a follow-on public offering of common stock, yielding net proceeds of $46.7 million. In December 2014, we issued $143.8 million of our Convertible Senior Notes (the “Notes”) in a registered public offering, yielding net proceeds of $122.6 million. In addition, at the end of 2017, we entered into a five-year senior secured credit facility (the “Credit Agreement”) with Citizens Bank N.A. The Credit Agreement is comprised of a $75.0 million five-year secured term loan (the “Term Loan”) and a $50.0 million senior secured revolving credit facility (the “Revolving Credit Facility”).

With the additional funds resulting from the public and convertible debt offerings, and from the Credit Agreement, we have acquired Abbreviate New Drug Applications (“ANDAs”), New Drug Applications (“NDAs”), and product rights, and have also entered into agreements to obtain the distribution rights for various products. As a result of these acquisitions and distribution agreements, we launched three products in 2014, six products in 2015, 11 products in 2016, and six products in 2017, bringing our portfolio of products to 31 as of December 31, 2017. In addition, in January 2016, we acquired the Cortrophin gel and Cortrophin-Zinc NDAs. In 2016 and continuing into 2017, we have focused on the re-commercialization of these products while increasing our portfolio of generic and mature brand products.

Unless otherwise required by the context, references in this Annual Report on Form 10-K to the "Company," "we," us," and "our" refer to ANI Pharmaceuticals, Inc., a Delaware corporation formed in April 2001. Our principal executive offices are located at 210 Main Street West, Baudette, Minnesota, 56623, our telephone number is (218) 634-3500, and our website address is www.anipharmaceuticals.com.

Mission and Strategy

We are an integrated specialty pharmaceutical company focused on delivering value to our customers by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals. We focus on niche and high barrier to entry opportunities including controlled substances, anti-cancer (oncolytics), hormones and steroids, and complex formulations. At our two facilities located in Baudette, Minnesota, we manufacture oral solid dose products, as well as liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment. We also perform contract manufacturing for other pharmaceutical companies.

In addition to laboratories that support the requirements of raw material, finished product, and stability testing, we have a 1,000-square foot pilot laboratory offering liquid, suspension and solid dose development capabilities. This pilot laboratory offers a full range of analytical capabilities including method development, validation and de-formulation, and is licensed by the Drug Enforcement Administration (“DEA”). Finally, a separate development suite located within our high-potency manufacturing facility offers additional capabilities for product development.

Our objective is to create long term shareholder value by building a sustainable and growing base business in generic and mature brand pharmaceutical products while advancing an opportunity to re-commercialize Cortrophin gel and Cortrophin-Zinc.

We believe our strategies effectively leverage our human and capital assets and will result in measurable growth of our business. Since 2013, we have successfully:

- Increased prescription product sales through a combination of market share gains on existing products and new product launches.
- Acquired the NDAs for and began marketing Lithobid, Vancocin, Inderal LA, Inderal XL, and InnoPran XL.
- Acquired the NDAs for Atacand, Atacand HCT, Arimidex, and Casodex.
- Filed two ANDAs.
- Increased our product pipeline, through development, partnership, and acquisition, to 74 total products.
- Closed a public offering of common stock, netting $46.7 million.
- Closed a public offering of $143.8 million of convertible debt, with simultaneous bond hedge and warrant transactions.
- Entered into a $125.0 million credit agreement with Citizens Bank, N.A.
- Acquired the NDAs for Cortrophin gel and Cortrophin-Zinc in January 2016; have since assembled a Cortrophin re-commercialization team of scientists, established a laboratory exclusively for Cortrophin analytical method development, contracted with an accomplished contract manufacturer, initiated manufacturing of Cortrophin active pharmaceutical ingredient, and executed a long-term commercial supply agreement with a Cortrophin gel fill/finish manufacturer.

We believe that our cash resources and forecasted cash flows from operations will be sufficient to enable us to meet our operational needs for the foreseeable future.

Product Development Considerations

We consider a variety of criteria in determining which products to develop or acquire, all of which relate to the level of potential competition and expected profitability upon product launch. These criteria include:

- ***Formulation Complexity.*** Our development and manufacturing capabilities enable us to manufacture pharmaceuticals that are difficult to produce, including highly potent, extended release, combination, and low dosage products. This ability to manufacture a variety of complex products is a competitive strength that we intend to leverage in selecting products to develop or manufacture.
- ***Patent Status.*** We seek to develop products whose branded bioequivalents do not have long-term patent protection or existing patent challenges.
- ***Market Size.*** When determining whether to develop or acquire an individual product, we review the current and expected market size for that product at launch, as well as forecasted price erosion upon conversion from branded to generic pricing. We endeavor to manufacture products with sufficient market size to enable us to enter the market with a strong likelihood of being able to price our products both competitively and at a profit.
- ***Profit Potential.*** We research the availability and cost of active pharmaceutical ingredients in determining which products to develop or acquire. In determining the potential profit of a product, we forecast our anticipated market share, pricing, including the expected price erosion caused by competition from other generic manufacturers, and the estimated cost to manufacture the products.
- ***Manufacturing.*** We generally seek to develop and manufacture products at our own manufacturing plants in order to optimize the utilization of our facilities, ensure quality control in our products, and maximize profit potential.
- ***Competition.*** When determining whether to develop or acquire a product, we research existing and expected competition. We seek to develop products for which we can obtain sufficient market share, and may decline to develop a product if we anticipate significant competition. Our specialized manufacturing facilities provide a means of entering niche markets, such as hormone therapies, in which fewer generic companies are able to compete.

Products and Markets

Products

As of December 31, 2017, our products include both branded and generic pharmaceuticals, specifically:

Generic Products	Branded Products
Diphenoxylate Hydrochloride and Atropine Sulfate	Cortenema
Erythromycin Ethylsuccinate	Inderal LA
Esterified Estrogen with Methyltestosterone	Inderal XL
Etodolac	InnoPran XL
Fenofibrate	Lithobid
Flecainide	Reglan
Fluvoxamine	Vancocin
Hydrocortisone Enema	
Hydrocortisone Rectal Cream (1% and 2.5%)	
Indapamide	
Lithium Carbonate ER	
Mesalamine Enema	
Methazolamide	
Metoclopramide Syrup	
Nilutamide	
Nimodipine	
Opium Tincture	
Oxycodone Capsules	
Oxycodone Hydrochloride Oral Solution (5 mg/5 mL)	
Oxycodone Hydrochloride Oral Solution (100 mg/5 mL)	
Pindolol	
Propafenone	
Propranolol ER	
Vancomycin	

Diphenoxylate Hydrochloride and Atropine Sulfate is used as an adjunctive therapy in the management of diarrhea.

Erythromycin Ethylsuccinate is used to treat infections caused by susceptible strains of designated organisms for selected diseases.

Esterified Estrogen with Methyltestosterone (“EEMT”) is used to treat moderate to severe vasomotor symptoms of menopause that are not improved by estrogen alone.

Etodolac is used to treat mild to moderate pain caused by osteoarthritis and rheumatoid arthritis, as well as other conditions.

Fenofibrate is a peroxisome proliferator receptor alpha activator indicated as an adjunct with diet to reduce elevated LDL-C, Total-C, TG and Apo B, and to increase HDL-C in adult patients with primary hypercholesterolemia or mixed dyslipidemia. Fenofibrate is also indicated as an adjunct with diet for adult patients with severe hypertriglyceridemia.

Flecainide is used to treat arrhythmia (irregular heartbeat) in patients and to help patients maintain a normal heart rate.

Fluvoxamine is used to treat patients with obsessive-compulsive disorder and social anxiety disorder. It is generally used when the patient’s symptoms interfere with the patient’s ability to function socially and occupationally.

Hydrocortisone Enema and its branded equivalent, Cortenema, are used for the treatment of ulcerative colitis, especially distal forms, including ulcerative proctitis, ulcerative proctosigmoiditis, and left-sided ulcerative colitis. The products have also proved useful in some cases involving the transverse and ascending colons.

Hydrocortisone Rectal Cream is used for the relief of inflammatory and pruritic manifestations of corticosteroid-responsive dermatoses.

Indapamide tablets are indicated for the treatment of hypertension, alone or in combination with other antihypertensive drugs. Indapamide is also indicated for the treatment of salt and fluid retention (swelling) associated with congestive heart failure.

Inderal XL is a beta-adrenergic blocker indicated for the treatment of hypertension, to lower blood pressure. Lowering blood pressure reduces the risk of fatal and nonfatal cardiovascular events, primarily strokes and myocardial infarctions.

InnoPran XL is a beta-adrenergic blocker indicated for the treatment of hypertension, to lower blood pressure. Lowering blood pressure reduces the risk of fatal and nonfatal cardiovascular events, primarily strokes and myocardial infarctions.

Lithium Carbonate ER and its branded equivalent, Lithobid, are indicated in the treatment of manic episodes of bipolar disorder. Lithium Carbonate ER and Lithobid are also indicated as a maintenance treatment for individuals with a diagnosis of bipolar disorder. Maintenance therapy reduces the frequency and intensity of manic episodes.

Mesalamine Enema is used to treat active to moderate distal ulcerative colitis, proctosigmoiditis, or proctitis.

Methazolamide is indicated in the treatment of ocular conditions where lowering intraocular pressure is likely to be of therapeutic benefit, such as chronic open-angle glaucoma, secondary glaucoma, and preoperatively in acute angle-closure glaucoma where lowering the intraocular pressure is desired before surgery.

Metoclopramide and its branded equivalent, Reglan, are prescribed for periods of four to twelve weeks in adults with symptomatic, documented gastroesophageal reflux who fail to respond to conventional therapy. The products relieve daytime heartburn and heartburn after meals and also help ulcers in the esophagus to heal. The products also relieve symptoms associated with acute and recurrent diabetic gastric stasis and help treat symptoms such as nausea, vomiting, heartburn, feeling full long after a meal, and loss of appetite.

Nilutamide is indicated for use in combination with surgical castration for the treatment of metastatic prostate cancer.

Nimodipine is used to improve neurological outcomes by reducing the incidence and severity of ischemic deficits in patients with subarachnoid hemorrhage from ruptured brain aneurysms.

Opium Tincture is used is to treat diarrhea in adults by slowing the movement of the intestines and decreasing the number and frequency of bowel movements.

Oxycodone capsules are indicated for the management of acute moderate to severe pain and chronic pain.

Oxycodone hydrochloride oral solution (both 5 mg/5 mL and 100 mg/5 mL) is used to relieve acute moderate to severe pain and chronic pain.

Pindolol is indicated in the management of hypertension. It may be used alone or concomitantly with other antihypertensive agents, particularly with a thiazide-type diuretic.

Propafenone is used to treat arrhythmia (irregular heartbeat) in patients and to help patients maintain a normal heart rate.

Propranolol ER and its branded equivalent, Inderal LA, are indicated in the management of hypertension, to decrease angina frequency and increase exercise tolerance in patients with angina pectoris, for the prophylaxis of common migraine headache, and to improve New York Heart Association (“NYHA”) functional class in symptomatic patients with hypertrophic subaortic stenosis.

Vancomycin and its branded equivalent, Vancocin, are indicated for the treatment of C. difficile-associated diarrhea, as well as enterocolitis caused by staphylococcus aureus (including methicillin-resistant strains). The capsules are not effective for other types of infections, as the drugs are not systematically absorbed.

Markets

In determining which products to pursue for development, we target products that are complex to manufacture and therefore have higher barriers to entry. These factors provide opportunities for growth, utilizing our competitive strengths at the same time that they decrease the number of potential competitors in the markets for these products. These markets currently include controlled substances, oncolytics, hormones and steroids, and complex formulations, including extended release and combination products.

Controlled Substances

One of our manufacturing facilities in Baudette, Minnesota is licensed by the DEA for the manufacture and distribution of Schedule II controlled substances, which are drugs considered to have a high abuse risk but that also have safe and accepted medical uses. In addition to our four Schedule II products currently on the market, our pipeline includes two ANDAs in this market.

Oncolytics

Due to the capabilities of our containment facility and our expertise in manufacturing segregation, we are focused on developing and manufacturing niche oncolytic (anti-cancer) drugs. In particular, we are targeting products subject to priority review by the FDA, more specifically those with no blocking patents and no generic competition. We currently have one oncolytic product on the market.

Hormone and Steroid Drugs

The market for hormone and steroid drugs includes hormone therapy to alleviate menopausal symptoms in women, contraceptives, testosterone replacement therapies for men, and therapies for treating hormone-sensitive cancers.

Hormone Therapy (“HT”) has been an accepted medical treatment for alleviating the symptoms of menopause since the 1930s, with formal FDA approval for that use granted in 1942. Initially, HT consisted of estrogen only, but has evolved to include combination therapies of estrogen, progesterone, and androgens. We target niche products in the HT and steroid product market for several reasons, including:

- Hormone and steroid products are a core competency based on our manufacturing and product development teams' long history of manufacturing these types of products; and
- The aging baby boom population, of which women represent a majority, is expected to support continued growth in the HT market.

Complex Formulations

Our manufacturing facilities can be used to manufacture complex formulations, including, but not limited to, extended release and combination products, which have higher barriers to entry and, therefore, fewer competitors. In addition to our eight complex formulation products currently on the market, our pipeline includes five extended-release products and five combination products.

Contract Manufacturing

We manufacture pharmaceutical products for several branded and generic companies, who outsource production in order to:

- Free-up internal resources to focus on sales and marketing as well as research and development;
- Employ internal capacity to manufacture higher volume or more critical products; and
- Utilize our specialized equipment and expertise.

Given our specialized manufacturing capabilities, we are focused on attracting niche contract manufacturing opportunities that offer high margins.

Manufacturing, Suppliers, and Raw Materials

We require a supply of quality raw materials, including active pharmaceutical ingredients ("API"), and components to manufacture and package our pharmaceutical products. In order to manufacture Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules, we must submit a request to the DEA for a quota to purchase the amount of opium and oxycodone needed to manufacture the respective products. Without approved quotas from the DEA, we would not be able to purchase these ingredients from our suppliers.

We source the raw materials for our products from both domestic and international suppliers, which we carefully select. Generally, we qualify only a single source of API for use in each product due to the cost and time required to validate and qualify a second source of supply. Any change in one of our API suppliers must usually be approved through a Prior Approval Supplement ("PAS") by the FDA. The process of obtaining an approval of such a PAS can require between four and 18 months. While we also generally qualify a single source for non-API raw materials, the process required to qualify an alternative source of a non-API raw material is typically much less rigorous. If we were to change the supplier of a raw material for a product, the cost for the material could be greater than the amount we paid with the previous supplier. Changes in suppliers are rare, but could occur as a result of a supplier's business failing, an issue arising from an FDA inspection, or failure to maintain our required standards of quality. As a result, we select suppliers with great care, based on various factors including quality, reliability of supply, and long-term financial stability. Certain of the APIs for our drug products, including those that are marketed without approved NDAs or ANDAs, such as EEMT, are sourced from international suppliers. From time to time, we have experienced temporary disruptions in the supply of certain of such imported API due to FDA inspections.

Government Regulation

The pharmaceutical industry is highly regulated by multiple U.S. government agencies, such as the FDA, the DEA, and the Centers for Medicare and Medicaid Services ("CMS"). As a result, we are subject to extensive and complex rules and regulations, which are subject to revision from time to time. While we have experience with these regulations, there can be no assurance that we will be able to fully comply with all applicable regulations.

Branded and Generic Pharmaceutical Products

All prescription pharmaceutical products, whether branded or generic, must be approved by the FDA. All applications for FDA approval must contain information relating to product formulation, raw material suppliers, stability, manufacturing processes, packaging, labeling, and quality control. Information to support the bioequivalence of generic drug products or the safety and effectiveness of new drug products for their intended use is also required to be submitted. There are generally two types of applications used for obtaining FDA approval of new products:

New Drug Application ("NDA") —An NDA is filed when approval is sought to market a newly developed branded product and, in certain instances, for a new dosage form, a new delivery system, or a new indication for an approved drug. We market Cortenema, generic Fenofibrate, generic Fluvoxamine Maleate, generic Hydrocortisone Enema, Inderal LA, Inderal XL, InnoPran XL, generic Lithium Carbonate ER, Lithobid, generic Mesalamine, generic Propranolol ER, Reglan, Vancocin, and generic Vancomycin under approved NDAs.

Abbreviated New Drug Application ("ANDA") —An ANDA is filed when approval is sought to market a generic equivalent of a drug approved under an NDA. We market Diphenoxylate Hydrochloride and Atropine Sulfate, Erythromycin Ethylsuccinate, Etodolac, Flecainide, Hydrocortisone rectal cream (1% and 2.5%), Indapamide, Methazolamide, Metoclopramide oral solution, Nilutamide, Nimodipine, Oxycodone capsules, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), Pindolol, and Propafenone under approved ANDAs.

The ANDA development process is generally less time-consuming and less complex than the NDA development process. It typically does not require new preclinical and clinical studies, because it relies on the studies establishing safety and efficacy conducted for the branded drug approved through the NDA process. The ANDA process, however, typically requires one or more bioequivalence studies to show that the ANDA drug is bioequivalent to the previously approved reference listed drug ("RLD").

The Drug Price Competition and Patent Term Restoration Act of 1984 (the "Hatch-Waxman Act") provides that generic drugs may enter the market after the approval of an ANDA, which requires (1) that bioequivalence to the branded product be demonstrated through clinical studies, and (2) either the expiration, invalidation or circumvention of any patents or the end of any other relevant market exclusivity periods related to the branded drug.

Accordingly, generic products generally provide a safe, effective, and cost-efficient alternative to users of branded products. Growth in the generic pharmaceutical industry has been driven by the increased market acceptance of generic drugs, as well as the number of branded drugs for which patent terms and/or other market exclusivities have expired.

Generic products are generally commercialized after the expiration of patent protection for the branded product and after the end of a period of non-patent market exclusivity. In addition to patent exclusivity, the holder of the NDA may be entitled to a period of non-patent market exclusivity, during which the FDA cannot approve an application for a generic product. Also, if the NDA is a new chemical entity ("NCE"), the FDA may not approve an ANDA for a generic product for up to five years following approval of the NDA for the NCE. If an NDA is not an NCE, but the holder of the NDA conducted clinical trials essential to approval of the NDA or a supplement thereto, the FDA may not approve a generic equivalent to the NDA for three years. Certain other periods of exclusivity may be available if the branded drug is indicated for treatment of a rare disease or is studied for pediatric indications.

In order to obtain FDA approval of NDAs and ANDAs, our manufacturing procedures and operations must conform to FDA requirements and guidelines, generally referred to as "cGMP." The requirements for FDA approval encompass all aspects of the production process, including validation and recordkeeping, the standards around which are continuously changing and evolving. As a result, we must consistently monitor and comply with these changes.

Our facilities, procedures, operations, and testing of products are subject to periodic inspection by the FDA, the DEA, and other authorities. In addition, the FDA conducts pre-approval and post-approval reviews and plant inspections to determine whether our systems and processes are in compliance with cGMP and other FDA regulations. Our suppliers are subject to similar regulations and periodic inspections.

Controlled Substances

The DEA regulates certain drug products containing controlled substances, pursuant to the U.S. Controlled Substances Act ("CSA"). Opium, which is a significant component of our Opium Tincture product, is classified as a controlled substance. Oxycodone, a significant component of our Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsule products, is also classified as a controlled substance. CSA and DEA regulations impose specific requirements on manufacturers and other entities that handle these substances including registration, recordkeeping, reporting, storage, security, and distribution. Recordkeeping requirements include accounting for the amount of product received, manufactured, stored, and distributed. Companies handling controlled substances also are required to maintain adequate security and to report suspicious orders, thefts, and significant losses. The DEA periodically inspects facilities for compliance with the CSA and its regulations. Failure to comply with current and future regulations of the DEA could lead to a variety of sanctions, including revocation or denial of renewal of DEA registrations, injunctions, or civil or criminal penalties.

In addition, we must submit a request to the DEA for a quota to purchase the amount of opium and oxycodone we need to manufacture Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules. Without approved quotas from the DEA, we would not be able to purchase these ingredients from our suppliers. As a result, we are dependent upon the DEA to approve quotas large enough to support our continued manufacture of Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules.

Unapproved Products

Two of our products, EEMT and Opium Tincture, are marketed without approved NDAs or ANDAs. The FDA's policy with respect to the continued marketing of unapproved products appears in the FDA's September 2011 Compliance Policy Guide Sec. 440.100 titled "Marketed New Drugs without Approved NDAs or ANDAs." Under this policy, the FDA has stated that it will follow a risk-based approach with regard to enforcement against marketing of unapproved products. The FDA evaluates whether to initiate enforcement action on a case-by-case basis, but gives higher priority to enforcement action against products in certain categories, such as those with potential safety risks or that lack evidence of effectiveness. While we believe that, so long as we comply with applicable manufacturing standards, the FDA will not take action against us under the current enforcement policy, we can offer no assurances that the FDA will continue this policy or not take a contrary position with any individual product or group of products.

Medicaid/Medicare

Medicaid and Medicare, both of which are U.S. federal health care programs administered by CMS, are major purchasers of pharmaceutical products, including those we produce.

Medicaid is administered by the states and jointly funded by the federal and state governments. Its focus is on low income populations. State drug coverage policies under Medicaid may vary significantly state by state. The Patient Protection and Affordable Care Act (“PPACA”), as amended by the Health Care and Education and Reconciliation Act of 2010, together known as the Affordable Care Act ("ACA"), required states to expand their Medicaid programs to individuals with incomes up to 138% of the federal poverty level. Although the United States Supreme Court in 2011 made the Medicaid expansion optional, many states are expanding their Medicaid programs. This expansion of Medicaid coverage may increase usage of pharmaceutical products.

The ACA also made changes to Medicaid law that could negatively impact us. In particular, pharmaceutical manufacturers must enter into rebate agreements with state Medicaid agencies, which require manufacturers to pay rebates based on their drugs dispensed to Medicaid beneficiaries. The ACA raised the rebate percentages for both generic and branded pharmaceuticals effective January 1, 2010. The required rebate is currently 13% of the average manufacturer price for sales of Medicaid-reimbursed products marketed under ANDAs. Sales of Medicaid-reimbursed products marketed under NDAs require manufacturers to rebate the greater of 23.1% of the average manufacturer price or the difference between the average manufacturer price and the "best price" (as defined in the Medicaid statute) during a specific period. Federal and/or state governments may continue to enact measures aimed at reducing the cost of drugs to the Medicaid program.

Medicare is run by the federal government and is largely focused on the elderly and disabled. The Medicare Modernization Act of 2003 (“MMA”) created Medicare Part D to provide prescription drug coverage for Medicare beneficiaries. The MMA has increased usage of pharmaceuticals, a trend that we believe will continue to benefit the generic pharmaceutical industry. The ACA made some changes to Part D to make it easier for Medicare beneficiaries to obtain drugs, such as reducing coinsurance amounts. The ACA also required pharmaceutical companies to provide discounts to Medicare Part D beneficiaries for the cost of branded prescription drugs. Under the Medicare Coverage Gap Discount Program authorized by the ACA, any pharmaceutical product marketed under an NDA, regardless of whether the product is marketed as a "generic," is subject to the discount requirement. Our Fenofibrate, Fluvoxamine, Hydrocortisone Enema, Lithium Carbonate ER, Mesalamine, Propranolol ER, and Vancomycin products, while marketed as "generics," are marketed under approved NDAs and, therefore, are subject to the discount requirement. While we may benefit from Medicare changes that have reduced obstacles to drug usage, resulting sales increases, if any, may be offset by existing and future legislative efforts to curb the cost of drugs to the Medicare program.

Most of our products are covered by Medicaid and Medicare. Our reporting and payment obligations under the Medicaid rebate program and other governmental purchasing and rebate programs are complex and may involve subjective decisions. Any determination that we have failed to comply with those obligations could subject us to penalties and sanctions, and we could be subject to federal or state false claims litigation.

Research and Development

We develop new generic products through a combination of internal development and fee-for-service arrangements with other firms. Additionally, we license and co-develop products through collaborations with other companies. For 2017, no single product that we licensed and co-developed though collaborations with other companies resulted in more than 5% of our net revenues. During the years ended December 31, 2017, 2016, and 2015, our research and development expenses were $9.1 million, $2.9 million, and $2.9 million, respectively.

Patents, Trademarks, and Licenses

We own the trademark names for most of our branded products, including Cortenema, Cortrophin gel, Cortrophin-Zinc, Inderal LA, Inderal XL, InnoPran XL, Lithobid, Reglan, and Vancocin. We license the trademark names for Atacand, Atacand HCT, Arimidex, and Casodex. With the exception of a license for patent technology for InnoPran XL and Inderal XL, we do not own or license any patents associated with these products. Further, patent protection and market exclusivity for these branded products have expired, with the exception of the InnoPran XL and Inderal XL products, who have market exclusivity until 2022. Therefore, we consider the trademark names to be of material value and we act to protect these rights from infringement. However, our business is not dependent upon any single trademark. Trademark protection continues in some countries as long as used; in other countries, as long as registered. Registration is for fixed terms and may be renewed indefinitely. We believe that sales of our branded products have benefited and will continue to benefit from the value of the product name.

Distribution Agreements

In addition to selling products under our own NDAs and ANDAs, we enter into marketing and distribution agreements with third parties in which we sell products under ANDAs or NDAs owned or licensed by these third parties. These products are sold under our own label.

We market and distribute Fenofibrate, an authorized generic of Lipofen®, under an agreement with Kowa Pharmaceuticals America, Inc. Under the agreement, we retain 7.5% of gross profits on sales of the product. We launched the Fenofibrate product under our own label in May 2016. The agreement may be terminated by either party under certain specified circumstances.

Customers

Our customers purchase and distribute our products. Our products are sold by three major retail pharmacy chains: CVS, Rite Aid, and Walgreens. Our customers include four major national wholesalers: AmerisourceBergen, Cardinal Health, McKesson, and Morris Dickson. In addition, our customers include national mail order houses, including Anda, CVS Caremark, and ExpressScripts, as well as group purchasing organizations.

In recent years, the wholesale distributor network for pharmaceutical products has been subject to increasing consolidation, which has increased the concentration of our wholesale customers. In addition, the number of retail market chains and, in particular, the number of independent drug stores and small chains, has decreased as retail consolidation has occurred, also increasing the concentration of our retail customers. As a result of this trend toward consolidation, a smaller number of companies each control a larger share of pharmaceutical distribution channels. For the year ended December 31, 2017, approximately 78% of our net revenues were attributable to three wholesalers: McKesson Corporation (29%), AmerisourceBergen Corporation (29%), and Cardinal Health, Inc. (20%). For the years ended December 31, 2016 and 2015, McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, together accounted for approximately 68% and 64% of our net revenues, respectively. In addition, as noted below, our customers also distribute our products. The loss of any of these customers, including in their role as distributors, could have a material adverse effect on our business.

Due to a strategic partnership between Amerisource Bergen and Walgreens, Amerisource Bergen has begun handling product distribution for Walgreens. Similarly, Cardinal Health and CVS established a partnership in which Cardinal performs product distribution for CVS. McKesson also entered into a strategic alliance with both Wal-Mart and Rite Aid. Due to these strategic partnerships between wholesalers and pharmacy chains, we have experienced, and expect to continue to experience, increases in net sales to the wholesalers, with corresponding decreases in net sales to the pharmacy chains.

Consistent with industry practice, we maintain a return policy that allows customers to return product within a specified period prior to and subsequent to the expiration date. Generally, product may be returned for a period beginning six months prior to its expiration date to up to one year after its expiration date. See "Management's Discussion and Analysis of Results of Operations and Financial Condition—Critical Accounting Estimates" for a discussion of our accruals for chargebacks, rebates, returns, and other allowances.

Sales, Marketing, and Distribution

We market, sell, and distribute our products in the United States. Our products are distributed through the following channels:

- ***Wholesalers.*** We conduct business with four major wholesalers in the United States: AmerisourceBergen, Cardinal, McKesson, and Morris Dickson, as well as access to certain of their respective retail source programs.
- ***Retail Market Chains.*** We conduct business with three major retail chains in the United States: CVS, Rite Aid, and Walgreens.
- ***Distributors and Mail Order Pharmacies.*** We have contracts with several major distributors and mail order pharmacies in the United States, including Anda, CVS Caremark, and ExpressScripts.
- ***Group Purchasing Organizations.*** We have contracts with group purchasing organizations in the United States, such as Rx Sourcing Strategies, Walgreens Boots Alliance Development Group, Red Oak Sourcing, Innovatix, MedAssets, Minnesota Multi-State, Optisource, and The Premier Group.

Competition

Our products face limited competition due to complexities in formulation, active pharmaceutical ingredient sourcing, materials handling and manufacturing, and regulatory hurdles. Nevertheless, we compete with numerous other pharmaceutical companies, including large, global pharmaceutical manufacturers capable of addressing these complexities and hurdles with respect to products that we currently produce and products that are in our pipeline. In addition, our products are subject to competition from other generic products and non-prescription alternative therapies.

Our branded pharmaceutical products currently face competition from generic products and may continue to face competition from generic products in the future. In order to launch a generic product, a manufacturer must apply to the FDA for an ANDA showing that the generic product is therapeutically equivalent to the RLD. (See "Government Regulation.")

The primary means of competition among generic drug manufacturers are pricing, contract terms, service levels, and reliability. To compete effectively, we seek to consistently produce high-quality, reliable, and effective products. We also establish active working relationships with each of our customers, continually gather important market information in order to respond successfully to requests for proposals, maintain sufficient inventories to assure high service levels, and work to reduce product costs by sourcing and qualifying alternative suppliers whenever possible.

Our sales can be impacted by new studies that indicate that a competitor's product has greater efficacy than one of our products. If competitors introduce new products with therapeutic or cost advantages, our products can be subject to progressive price reductions and/or decreased volume of sales.

Principal competitors for the pharmaceutical market in which we do business include Amneal Pharmaceuticals LLC, Alvogen, Inc., Apotex Inc., Glenmark Pharmaceuticals Ltd, Method Pharmaceuticals, LLC, Mylan N.V., Par Pharmaceutical, Inc., Perrigo Company plc, Rising Pharmaceuticals, Inc., Sun Pharmaceutical USA, Inc., Teva Pharmaceuticals USA, Inc., and West-Ward Pharmaceuticals Corp.

Pharmaceutical Industry Trends

In recent years, the pharmaceutical industry has experienced significant consolidation, particularly in distribution channels and amongst generic and brand drug companies.

The wholesale distributor network for pharmaceutical products has been subject to increasing consolidation, which has increased the concentration of our wholesale customers. In addition, the number of retail market chains and, in particular, the number of independent drug stores and small chains, has decreased as retail consolidation has occurred, also increasing the concentration of our retail customers. As a result of this trend toward consolidation, a smaller number of companies each control a larger share of pharmaceutical distribution channels.

In addition, consolidation amongst pharmaceutical companies has created opportunities by reducing the number of competitors. However, as competitors grow larger through consolidation, so do their resources. Larger competitors may be able to aggressively decrease prices in order to gain market share on certain products and may have resources that would allow them to more effectively market their products to potential customers.

Product Liability

Product liability litigation represents an inherent risk to all firms in the pharmaceutical industry. We utilize traditional third-party insurance policies with regard to our product liability claims. Such insurance coverage at any given time reflects current market conditions, including cost and availability, when the policy is written.

All manufacturers of the drug Reglan and its generic equivalent metoclopramide, including ANI, have faced allegations from plaintiffs in various states, including California, New Jersey, and Pennsylvania, claiming bodily injuries as a result of ingestion of metoclopramide or its brand name, Reglan, prior to the FDA's February 2009 Black Box warning requirement. In August 2012, we were dismissed with prejudice from all New Jersey complaints. In August 2016, we settled the outstanding California short form complaints and in February 2018, we settled the remaining four complaints that were not captured in the 2016 settlement. We consider our exposure to this litigation to be limited due to several factors: (1) the only generic metoclopramide that we manufactured prior to the implementation of the FDA's warning requirement was an oral solution introduced after May 28, 2008; (2) our market share for the oral solution was a very small portion of the overall metoclopramide market; and (3) once we received a request for change of labeling from the FDA, we submitted our proposed changes within 30 days, and such changes were subsequently approved by the FDA.

At the present time, we are unable to assess the likely outcome of the complaints in the remaining states. Our insurance company has assumed the defense of this matter and paid all losses in settlement of the California complaints. We cannot provide assurances that the outcome of these matters will not have an adverse effect on our business, financial condition, and operating results. Furthermore, like all pharmaceutical manufacturers, we may be exposed to other product liability claims in the future, which could limit our coverage under future insurance policies or cause those policies to become more expensive, which could harm our business, financial condition, and operating results.

Backlog

We define backlog as firm orders received prior to December 31, 2017 that have not been shipped as of December 31, 2017. We had a backlog of $0.5 million, $0.8 million, and $0.5 million at December 31, 2017, 2016, and 2015, respectively, relating to contract manufacturing purchase orders from customers.

Employees

As of December 31, 2017, our workforce included 173 full-time employees.

Seasonality of Business

We do not believe our business is subject to seasonality. However, our business can be affected by the business practices of our business partners. To the extent that the availability of inventory or materials from or development practices of our partners is seasonal, our sales may be subject to fluctuations quarter to quarter or year to year.

Segment Information

We operate in one segment and all our operations are in the United States. Total revenues from external customers for the years ended December 31, 2017, 2016, and 2015 were $176.8 million, $128.6 million, and $76.3 million, respectively. We had a net loss of $1.1 million for the year ended December 31, 2017, primarily due to the $13.4 million of tax expense recorded in relation to the Tax Cuts and Jobs Act. See Note 9. Income Taxes, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K for further information. Net income for the years ended December 31, 2016, and 2015 was $3.9 million, and $15.4 million, respectively. Total assets at December 31, 2017, 2016, and 2015 were $412.1 million, $322.9 million, and $285.3 million, respectively.

Item 1A. Risk Factors

The following are significant factors known to us that could materially harm our business, financial position, or operating results or could cause our actual results to differ materially from our anticipated results or other expectations, including those expressed in any forward-looking statement made in this report. The risks described are not the only risks facing us. Additional risks and uncertainties not currently known to us, or that we currently deem to be immaterial, also may adversely affect our business, financial position, and operating results. If any of these risks actually occur, our business, financial position, and operating results could suffer significantly. As a result, the market price of our common stock could decline and investors could lose all or part of their investment.

Risks Related to our Industry

Two of our products, which together comprised 15% of our total revenue in 2017, are marketed without approved New Drug Applications ("NDAs") or Abbreviated New Drug Applications ("ANDAs") and we can offer no assurances that the U.S. Food and Drug Administration ("FDA") will not require us to either seek approval for these products or withdraw them from the market. In either case, our business, financial position, and operating results could be materially adversely affected.

Two of our products, Esterified Estrogen with Methyltestosterone ("EEMT") and Opium Tincture, are marketed without approved NDAs or ANDAs. During the years ended December 31, 2017, 2016, and 2015, revenues for EEMT were 13%, 23%, and 51% of total revenue, respectively, and revenues from Opium Tincture were 2%, 4%, and 7% of total revenue, respectively.

The FDA's policy with respect to the continued marketing of unapproved products appears in the FDA's September 2011 Compliance Policy Guide Sec. 440.100 titled "Marketed New Drugs without Approved NDAs or ANDAs." Under this policy, the FDA has stated that it will follow a risk-based approach with regard to enforcement against marketing of unapproved products. The FDA evaluates whether to initiate enforcement action on a case-by-case basis, but gives higher priority to enforcement action against products in certain categories, such as those with potential safety risks or that lack evidence of effectiveness. While we believe that, so long as we comply with applicable manufacturing standards, the FDA will not take action against us under the current enforcement policy, we can offer no assurances that the FDA will continue this policy or not take a contrary position with any individual product or group of products.

In addition, we manufacture a group of products on behalf of a contract manufacturing customer and receive royalties on the customer's sales of products, which are marketed by that customer without an FDA-approved NDA or ANDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market, which could materially adversely affect our contract manufacturing and royalty revenues. Our contract manufacturing revenues from this group of unapproved products for the years ended December 31, 2017, 2016, and 2015 were 1.1%, 1.2%, and 2.1% of total revenues, respectively. Our royalties on the net sales of these unapproved products for the years ended December 31, 2017, 2016, and 2015 were less than 1% of total revenues.

Imported active pharmaceutical ingredients ("API") are subject to inspection by the FDA and the FDA can refuse to permit the importation of API for use in products that are marketed without approved NDAs or ANDAs. We are entirely dependent on imported API to make EEMT. If the FDA detained or refused to allow the importation of such API, our revenues from EEMT would be reduced or eliminated and our business, financial position, and operating results could be materially adversely affected.

We source some of the API for our products, including those that are marketed without approved NDAs or ANDAs, from international suppliers. From time to time, due to FDA inspections, we have experienced temporary disruptions in the supply of imported API, including for EEMT. Any prolonged disruption in the supply of imported API could materially affect our ability to manufacture and distribute our products, such as EEMT, reduce or eliminate our revenues from EEMT, and have a material adverse effect on our business, financial position, and operating results. In addition, as regulatory fees and compliance oversight of API manufacturers increase, this could result in certain companies discontinuing their supply of API to ANI, which would materially affect ANI's ability to manufacture its products.

The FDA does not provide guidance on safety labeling for products that are marketed without approved NDAs or ANDAs. As a result, we are dependent on our internal post-approval drug safety surveillance program to identify necessary safety-related changes to the labels for EEMT and Opium Tincture.

Pharmaceutical product labels contain important safety information including Black Box warnings, contraindications, dosing and administration, adverse reactions, drug interactions, use in specific populations such as pregnant women, pediatric, and geriatric patients, and other warnings and precautions. Pharmaceutical manufacturers may change product labels when post-approval drug safety surveillance programs identify previously unknown side-effects, drug interactions, and other risks. Manufacturers may also change product labels after conducting post-approval clinical studies and may receive or seek guidance from the FDA regarding updating safety labeling information. However, the FDA does not provide guidance on labeling for products that are marketed without approved NDAs or ANDAs. As a result, we are dependent on our internal post-approval drug safety surveillance program to identify necessary safety-related changes to the labels for EEMT and Opium Tincture, which could increase our potential liability with respect to failure-to-warn claims for these products. Such claims, even if successfully defended, could have an adverse impact on our business, financial position, and operating results.

The continuing trend toward consolidation of customer groups could result in declines in the sales volume and prices of our products, and increased fees charged by customers, each of which could have a material adverse effect on our business, financial position, and operating results.

Consolidation and the formation of strategic partnerships among and between wholesale distributors, chain drug stores, and group purchasing organizations has resulted in a smaller number of companies, each controlling a larger share of pharmaceutical distribution channels. For example, our net revenues are concentrated among three customers representing 29%, 29%, and 20% of net revenues, respectively, during the year ended December 31, 2017. As of December 31, 2017, accounts receivable from these three customers was approximately 85% of accounts receivable, net. Drug wholesalers and retail pharmacy chains, which represent an essential part of the distribution chain for generic pharmaceutical products, have undergone, and are continuing to undergo, significant consolidation. This consolidation may result in declines in our sales volumes if a customer is consolidated into another company that purchases products from a competitor. In addition, the consolidation of drug wholesalers and retail pharmacy chains could result in these groups gaining additional purchasing leverage and consequently increasing the product pricing pressures facing our business and enabling those groups to charge us increased fees. Additionally, the emergence of large buying groups representing independent retail pharmacies and the prevalence and influence of managed care organizations and similar institutions potentially enable those groups to extract price discounts on our products. The result of these developments may have a material adverse effect on our business, financial position, and operating results.

Our reporting and payment obligations under the Medicaid rebate program and other governmental purchasing and rebate programs are complex and may involve subjective decisions. Any determination that we have failed to comply with those obligations could subject us to penalties and sanctions, which could adversely affect our business, financial position, and operating results.

The regulations regarding reporting and payment obligations with respect to Medicaid rebates and other governmental programs are complex. Because our processes for these calculations and the judgments involved in making these calculations involve subjective decisions and complex methodologies, these calculations are subject to the risk of errors. Our calculations and methodologies are subject to review and challenge by governmental agencies, and it is possible that such reviews could result in changes. Any determination by governmental agencies that we have failed to comply with our reporting and payment obligations could subject us to penalties and sanctions, which could have a material adverse effect on our business, financial position, and operating results.

We are entirely dependent on periodic approval by the Drug Enforcement Administration ("DEA") for the supply of the API needed to make our Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsule products. An inability to obtain such approvals would reduce or eliminate our revenues from Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules, and could have a material adverse effect on our business, financial position, and operating results. In addition, we are subject to strict regulation by the DEA and are subject to sanctions if we are unable to comply with related regulatory requirements.

The DEA regulates products containing controlled substances, such as opiates, pursuant to the U.S. Controlled Substances Act ("CSA"). The CSA and DEA regulations impose specific requirements on manufacturers and other entities that handle these substances including registration, recordkeeping, reporting, storage, security, and distribution. Recordkeeping requirements include accounting for the amount of product received, manufactured, stored, and distributed. Companies handling controlled substances also are required to maintain adequate security and to report suspicious orders, thefts and significant losses. The DEA periodically inspects facilities for compliance with the CSA and its regulations. Failure to comply with current and future regulations of the DEA could lead to a variety of sanctions, including revocation or denial of renewal of DEA registrations, injunctions, or civil or criminal penalties.

In addition, each year, we must submit a request to the DEA for a quota to purchase the amount of API needed to manufacture Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules. Without approved quotas from the DEA, we would not be able to purchase these ingredients from our suppliers. As a result, we are entirely dependent upon the DEA to approve, on an annual basis, a quota of API that is sufficiently large to support our plans for the continued manufacture of Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules at commercial levels. In 2017, the DEA announced that the agency would decrease the total quotas approved for Schedule II opioid painkillers. If the DEA does not approve our requested quotas, we may be unable to obtain sufficient API to manufacture these products at levels required by our customers, which could have an adverse impact on our business, financial position, and operating results.

Pharmaceutical product quality standards are steadily increasing and all products, including those already approved, may need to meet current standards. If our products are not able to meet these standards, we may be required to discontinue marketing and/or recall such products from the market.

Steadily increasing quality standards are applicable to pharmaceutical products still under development and those already approved and on the market. These standards result from product quality initiatives implemented by the FDA, such as criteria for residual solvents, and updated U.S. Pharmacopeial Convention ("USP") Reference Standards. The USP is a scientific nonprofit organization that sets standards for the identity, strength, quality, and purity of medicines, food ingredients, and dietary supplements manufactured, distributed, and consumed worldwide. Pharmaceutical products approved prior to the implementation of new quality standards, including those produced by us, may not meet these standards, which could require us to discontinue marketing and/or recall such products from the market, either of which could adversely affect our business, financial position, and operating results.

We may become subject to federal and state false claims litigation brought by private individuals and the government.

We are subject to state and federal laws that govern the submission of claims for reimbursement. The Federal False Claims Act ("FFCA"), also known as Qui Tam, imposes civil liability and criminal fines on individuals or entities that knowingly submit, or cause to be submitted, false or fraudulent claims for payment to the government. Violations of the FFCA and other similar laws may result in criminal fines, imprisonment, and civil penalties for each false claim submitted and exclusion from federally funded health care programs, including Medicare and Medicaid. The FFCA also allows private individuals to bring a suit on behalf of the government against an individual or entity for violations of the FFCA. These suits, also known as Qui Tam actions, may be brought by, with only a few exceptions, any private citizen who has material information of a false claim that has not yet been previously disclosed. These suits have increased significantly in recent years because the FFCA allows an individual to share in any amounts paid to the federal government from a successful Qui Tam action. If our past or present operations are found to be in violation of any of such laws or other applicable governmental regulations, we may be subject to civil and criminal penalties, damages, fines, exclusion from federal health care programs, and/or the curtailment or restructuring of our operations, any of which could materially adversely affect our business, financial position, and operating results. Actions brought against ANI for violations of these laws, even if successfully defended, could also have a material adverse effect on our business, financial position, and operating results.

We face significant uncertainty with respect to the litigation brought against us and other manufacturers of metoclopramide and cannot provide assurances that the outcome of the matter will not have an adverse effect on our business, financial position, and operating results. In addition, we may be exposed to other product liability claims in the future.

All manufacturers of the drug Reglan and its generic equivalent metoclopramide, including ANI, have faced allegations from plaintiffs in various states, including California, New Jersey, and Pennsylvania, claiming bodily injuries as a result of ingestion of metoclopramide or its brand name, Reglan, prior to the FDA's February 2009 Black Box warning requirement. In August 2012, we were dismissed with prejudice from all New Jersey complaints. In August 2016, we settled the outstanding California short form complaints and in February 2018, we settled the remaining four complaints that were not captured in the 2016 settlement. We consider our exposure to this litigation to be limited due to several factors: (1) the only generic metoclopramide that we manufactured prior to the implementation of the FDA's warning requirement was an oral solution introduced after May 28, 2008; (2) our market share for the oral solution was a very small portion of the overall metoclopramide market; and (3) once we received a request for change of labeling from the FDA, we submitted our proposed changes within 30 days, and such changes were subsequently approved by the FDA.

At the present time, we are unable to assess the likely outcome of the complaints in the remaining states. Our insurance company has assumed the defense of this matter and paid all losses in settlement of the California complaints. We cannot provide assurances that the outcome of these matters will not have an adverse effect on our business, financial condition, and operating results. Furthermore, like all pharmaceutical manufacturers, we may be exposed to other product liability claims in the future, which could limit our coverage under future insurance policies or cause those policies to become more expensive, which could harm our business, financial condition, and operating results.

A proposed FDA rule allowing generic companies to distribute revised labels that differ from the corresponding reference listed drug ("RLD") could have an adverse effect on our operations because of a potential increase in litigation exposure.

On November 13, 2013, the FDA issued a proposed rule (Docket No. FDA-2013-N-0500) titled "Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products." Pursuant to the rule, the FDA will change existing regulations to allow generic drug application holders, in advance of the FDA's review, to distribute revised labeling, to reflect safety-related changes based on newly acquired information. Currently, the labels of generic drugs must conform to those of the corresponding RLD and any failure-to-warn claims against generic companies are preempted under U.S. federal law. Once this rule is released, we could be found liable under such failure-to-warn claims if we do not revise our labeling to reflect safety-related changes promptly upon receipt of applicable safety information. While we proactively conduct surveillance for reported safety issues with our products, we cannot guarantee that this will prevent us from being found liable under a failure-to-warn claim. When this proposed regulatory change is adopted, it could increase our potential liability with respect to failure-to-warn claims, which, even if successfully defended, could have an adverse impact on our business, financial position, and operating results.

We may not be able to maintain sufficient product liability insurance to cover claims against us.

Product liability insurance for the healthcare industry is generally expensive to the extent it is available at all. We may not be able to maintain such insurance on acceptable terms or be able to secure increased coverage if the commercialization of our products progresses, nor can we be sure that claims against us will be covered by our product liability insurance. Moreover, the existing coverage of our insurance policy or any rights of indemnification and contribution that we may have may not be sufficient to offset existing or future claims. A successful claim against us, in excess of insurance coverage and not subject to any indemnification or contribution, could have a material adverse effect on our future business, financial condition, and results of operations.

The use of legal, regulatory, and legislative strategies by competitors, both branded and generic, including "authorized generics," citizen's petitions, and legislative proposals, may increase the costs to develop and market our generic products, could delay or prevent new product introductions, and could reduce significantly our profit potential. These factors could have a material adverse effect on our business, financial position, and operating results.

Our competitors, both branded and generic, often pursue legal, regulatory, and/or legislative strategies to prevent or delay competition from generic alternatives to branded products. These strategies include, but are not limited to:

- entering into agreements whereby other generic companies will begin to market an authorized generic, a generic equivalent of a branded product, at the same time generic competition initially enters the market;
- launching a generic version of their own branded product at the same time generic competition initially enters the market;
- filing citizen petitions with the FDA or other regulatory bodies, including timing the filings so as to thwart generic competition by causing delays of generic product approvals;
- seeking to establish regulatory and legal obstacles that would make it more difficult to demonstrate bioequivalence or meet other approval requirements;
- initiating legislative and regulatory efforts to limit the substitution of generic versions of branded pharmaceuticals;
- filing suits for patent infringement that may delay regulatory approval of generic products;
- introducing "next-generation" products prior to the expiration of market exclusivity for the reference product, which often materially reduces the demand for the first generic product;
- obtaining extensions of market exclusivity by conducting clinical trials of branded drugs in pediatric populations or by other potential methods;
- persuading regulatory bodies to withdraw the approval of branded name drugs for which the patents are about to expire, thus allowing the branded company to obtain new patented products serving as substitutes for the products withdrawn; and
- seeking to obtain new patents on drugs for which patent protection is about to expire.

If we cannot compete with such strategies, our business, financial position, and operating results could be adversely impacted.

If third-party payers deny coverage, substitute another company's product for our product, or offer inadequate levels of reimbursement, we may not be able to market our products effectively or we may be required to offer our products at prices lower than anticipated.

Third-party payers are increasingly challenging the prices charged for medical products and services. For example, third-party payers may deny coverage, choose to provide coverage for a competitor's bioequivalent product rather than our product, or offer limited reimbursement if they determine that a prescribed product has not received appropriate clearances from the FDA, is not used in accordance with cost-effective treatment methods as determined by the third-party payer, or is experimental, unnecessary, or inappropriate. Prices also could be driven down by health maintenance organizations that control or significantly influence purchases of healthcare services and products. If third-party payers deny coverage or limit reimbursement, we may not be able to market our products effectively or we may be required to offer our products at prices lower than anticipated.

We are subject to federal, state, and local laws and regulations, and complying with these may cause us to incur significant additional costs.

The pharmaceutical industry is subject to regulation by various federal authorities, including the FDA, the DEA, and state governmental authorities. Federal and state statutes and regulations govern or influence the testing, manufacturing, packing, labeling, storing, record keeping, safety, approval, advertising, promotion, sale, and distribution of our products. Noncompliance with applicable legal and regulatory requirements can have a broad range of consequences, including warning letters, fines, seizure of products, product recalls, total or partial suspension of production and distribution, refusal to approve NDAs or other applications or revocation of approvals previously granted, withdrawal of product from marketing, injunctions, withdrawal of licenses or registrations necessary to conduct business, disqualification from supply contracts with the government, civil penalties, debarment, and criminal prosecution.

All U.S. facilities where prescription drugs are manufactured, tested, packaged, stored, or distributed must comply with FDA current good manufacturing practices (“cGMPs”). All of our products are manufactured, tested, packaged, stored, and distributed according to cGMP regulations. The FDA performs periodic audits to ensure that our facilities remain in compliance with all applicable regulations. If it finds violations of cGMP, the FDA could make its concerns public and could impose sanctions including, among others, fines, product recalls, total or partial suspension of production and/or distribution, suspension of the FDA's review of product applications, injunctions, and civil or criminal prosecution. If imposed, enforcement actions could have a material adverse effect on our business, financial position, and operating results. Under certain circumstances, the FDA also has the authority to revoke previously granted drug approvals. Although we have internal compliance programs in place that we believe are adequate, the FDA may conclude that these programs do not meet regulatory standards. If compliance is deemed deficient in any significant way, it could have a material adverse effect on our business.

The U.S. government has enacted the Federal Drug Supply Chain Security Act ("DSCSA") that requires development of an electronic pedigree to track and trace each prescription drug at the salable unit level through the distribution system, which will be effective incrementally over a 10-year period. All prescription pharmaceutical products distributed in the U.S. must be serialized with unique product identifiers by November 27, 2017. On June 30, 2017, the FDA issued draft guidance that indicated that they are delaying enforcement of those requirements until November 27, 2018 to provide manufacturers additional time and avoid supply disruptions. The final requirement for tracking the products will commence on November 27, 2023. Compliance with DSCSA and future U.S. federal or state electronic pedigree requirements may increase the Company's operational expenses and impose significant administrative burdens. In addition, if we are unable to comply with DSCSA as of the required dates, we could face penalties or be unable to sell our products.

Our research, product development, and manufacturing activities involve the controlled use of hazardous materials, and we may incur significant costs in complying with numerous laws and regulations. We are subject to laws and regulations enforced by the FDA, the DEA, and other regulatory statutes including the Occupational Safety and Health Act (“OSHA”), the Environmental Protection Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and other current and potential federal, state, local, and foreign laws and regulations governing the use, manufacture, storage, handling, and disposal of our products, materials used to develop and manufacture such products, and resulting waste products. For example, some of our products, including EEMT, must be manufactured in a fully contained environment due to their potency and/or toxicity, and compliance with related OSHA requirements is costly.

We cannot completely eliminate the risk of contamination or injury, by accident or as the result of intentional acts, from these materials. In the event of an accident, we could be held liable for any damages that result, and any resulting liability could exceed our resources. We may also incur significant costs in complying with environmental laws and regulations in the future. We are also subject to laws generally applicable to businesses, including but not limited to, federal, state, and local regulations relating to wage and hour matters, employee classification, mandatory healthcare benefits, unlawful workplace discrimination, and whistle-blowing. Any actual or alleged failure to comply with any regulation applicable to our business or any whistle-blowing claim, even if without merit, could result in costly litigation, regulatory action or otherwise harm our business, financial position, and operating results.

Uncertainties associated with the impact of published studies regarding the adverse health effects of certain forms of hormone therapy could affect adversely the market for our hormone products.

The market for hormone therapy products has been affected negatively by the Women's Health Initiative ("WHI") study and other studies that have found that the overall health risks from the use of certain hormone therapy products may exceed the benefits from the use of those products among postmenopausal women. In July 2002, the National Institutes of Health ("NIH") released data from its WHI study on the risks and benefits associated with long-term use of oral hormone therapy by women. The NIH announced that it was discontinuing the arm of the study investigating the use of oral estrogen/progestin combination hormone therapy products after an average follow-up period of 5.2 years because the product used in the study was shown to cause an increase in the risk of invasive breast cancer. The study also found an increased risk of stroke, heart attacks, and blood clots and concluded that overall health risks exceeded benefits from use of combined estrogen plus progestin among postmenopausal women. Also, in July 2002, results of an observational study sponsored by the National Cancer Institute on the effects of estrogen therapy were announced. The main finding of the study was that postmenopausal women who used estrogen therapy for 10 or more years had a higher risk of developing ovarian cancer than women who never used hormone therapy. In October 2002, a significant hormone therapy study being conducted in the United Kingdom also was halted. In March 2004, the NIH announced that the estrogen-alone study was discontinued after nearly seven years because the NIH concluded that estrogen alone does not affect (either increase or decrease) heart disease, the major question being evaluated in the study. The findings indicated a slightly increased risk of stroke as well as a decreased risk of hip fracture and breast cancer. Preliminary data from the memory portion of the WHI study suggested that estrogen alone may possibly be associated with a slight increase in the risk of dementia or mild cognitive impairment.

Researchers continue to analyze data from both arms of the WHI study and other studies. Some reports indicate that the safety of estrogen products may be affected by the age of the woman at initiation of therapy. The markets for female hormone therapies for menopausal symptoms declined as a result of these published studies. The release of any follow-up or other studies that show adverse effects from hormone therapy, including in particular, hormone therapies similar to our products, also could adversely affect our business, financial position, and operating results.

Continuing studies of our products could produce negative results, which could require us to implement risk management programs, or discontinue product marketing. In addition, ongoing post-approval drug safety surveillance of our products could result in the submission of adverse event reports to the FDA.

Studies of the proper utilization, safety, and efficacy of pharmaceutical products are being conducted by the industry, government agencies, and others on a continuous basis. Such studies, which increasingly employ sophisticated methods and techniques, can call into question the utilization, safety, and efficacy of current and previously marketed products, including those that we produce. In addition, we are required by the FDA to submit reports of adverse events involving the use of our products. In some cases, studies and safety surveillance programs have resulted, and in the future may result, in the one or more of the following:

- product label changes including FDA-mandated Black Box warnings;
- risk management programs such as patient registries;
- reduced product sales due to concerns among patients and physicians; and
- discontinuance of product marketing.

These situations, should they occur with respect to any of our products, could have a material adverse effect on our business, financial position, and operating results.

Companies with greater resources than us could lobby Congress and other regulators for additional regulations that would benefit their businesses and negatively affect us.

We are at the early stages of growth and currently do not engage in lobbying activities. In the U.S., some companies have lobbied Congress for amendments to the Drug Price Competition and Patent Term Restoration Act of 1984 (the "Hatch-Waxman Act") that would give them additional advantages over generic competitors. For example, although the term of a company's drug patent can be extended to reflect a portion of the time an NDA is under regulatory review, some companies have proposed extending the patent term by the full amount of time spent in clinical trials rather than by only one half of the time that is currently permitted.

If proposals like these were to become effective, our entry into the market and our ability to generate revenues associated with new products may be delayed, reduced, or eliminated, which could have a material adverse effect on our business, financial position, and operating results.

Healthcare reform legislation could have a material adverse effect on our business, financial position, and operating results.

In recent years, there have been numerous initiatives on the federal and state levels for comprehensive reforms affecting the payment for, the availability of, and reimbursement for healthcare services in the U.S., and it is likely that federal and state legislatures and health agencies will continue to focus on health care reform in the future. The Patient Protection and Affordable Care Act ("PPACA") and the Health Care and Education and Reconciliation Act of 2010, which amends the PPACA (collectively, "the ACA"), were signed into law in March 2010. While the ACA may increase the number of patients who have insurance coverage for our products and may otherwise increase drug coverage, it also includes provisions such as, among others, the assessment of a pharmaceutical manufacturer fee, the requirement that manufacturers provide discounts to Medicare beneficiaries through the Medicare Coverage Gap Discount program, and an increase in the amount of rebates that manufacturers pay for coverage of their drugs by Medicaid programs.

The cost-containment measures that government programs and healthcare insurers are instituting both as a result of general cost pressure in the industry and healthcare reforms contained in the ACA may prevent us from maintaining prices for our products that are sufficient for us to realize profits and may otherwise harm our business, financial position, and operating results. In addition, to the extent that our products are marketed outside of the U.S., foreign government pricing controls and other regulations may prevent us from maintaining prices for such products that are sufficient for us to realize profits and may otherwise harm our business, financial position, and operating results.

Risks Related to our Business

Our anticipated revenue growth and profitability, if achieved, is dependent upon our ability to develop, license or acquire, and commercialize new products on a timely basis in relation to our competitors' product introductions, and to address all regulatory requirements applicable to the development and commercialization of new products. Our failure to do so successfully could impair our growth strategy and plans and could have a material adverse effect on our business, financial position, and operating results.

Our future revenues and profitability are dependent upon our ability to successfully develop, license or acquire, and commercialize pharmaceutical products in a timely manner. Product development is inherently risky and time-consuming. Likewise, product licensing involves inherent risks, including uncertainties due to matters that may affect the achievement of milestones, as well as the possibility of contractual disagreements with regard to the supply of product meeting specifications and terms such as license scope or termination rights. The development and commercialization process also requires substantial time, effort, and financial resources. We may not be successful in commercializing products on a timely basis, if at all, which could adversely affect our business, financial position, and operating results.

The FDA must approve any new prescription product before it can be marketed in the U.S. The process of obtaining regulatory approval to manufacture and market branded and generic pharmaceutical products is rigorous, time consuming, costly, and largely unpredictable. We may be unable to obtain requisite approvals on a timely basis for branded or generic products that we may develop, license, or acquire. Moreover, if we obtain regulatory approval for a drug, we may be limited with respect to the indicated uses and delivery methods for which the drug may be marketed, which in turn could restrict the potential market for the drug. Also, for products pending approval, we may obtain raw materials or produce batches of inventory. In the event that regulatory approval is denied or delayed, we could be exposed to the risk of any such inventory becoming obsolete. The timing and cost of obtaining regulatory approvals could adversely affect our product introduction plans, business, financial position, and operating results.

The approval process for generic pharmaceutical products often results in the FDA granting simultaneous final approval to a number of generic pharmaceutical products at the time a patent claim for a corresponding branded product or other market exclusivity expires. This often forces a generic firm to face immediate competition when it introduces a generic product into the market. Additionally, further generic approvals often continue to be granted for a given product subsequent to the initial launch of the generic product. These circumstances generally result in significantly lower prices, as well as reduced margins, for generic products compared to branded products. New generic market entrants generally cause continued price and margin erosion over the generic product life cycle. As a result, we could be unable to grow or maintain market share with respect to our generic pharmaceutical products, which could have a material adverse effect on our ability to market that product profitably and on our business, financial position, and operating results.

Furthermore, if we are unable to address all regulatory requirements applicable to the development and commercialization of new products in a timely manner, our product introduction plans, business, financial position, and operating results could be materially adversely affected.

The FDA regulates and monitors all promotion and advertising of prescription drugs after approval. All promotion must be consistent with the conditions of approval and submitted to the agency. Failure to adhere to FDA promotional requirements can result in enforcement letters, warning letters, changes to existing promotional material, and corrective notices to healthcare professionals. Promotion of a prescription drug for uses not approved by the FDA can have serious consequences and result in lawsuits by private parties, state governments and the federal government, significant civil and criminal penalties, and compliance agreements that require a company to change current practices and prevent unlawful activity in the future.

We depend on a limited number of suppliers for API. Generally, only a single source of API is qualified for use in each product due to the costs and time required to validate a second source of supply. Changes in API suppliers must usually be approved through a Prior Approval Supplement ("PAS") by the FDA.

Our ability to manufacture and distribute products is dependent, in part, upon ingredients and components supplied by others, including entities based outside the U.S. We purchased approximately 23% of our inventory from two suppliers during the year ended December 31, 2017. We purchased approximately 25% of our inventory from one supplier during the year ended December 31, 2016 and approximately 33% of our inventory from two suppliers during the year ended December 31, 2015. Any disruption in the supply of these ingredients or components or any problems in their quality could materially affect our ability to manufacture and distribute our products and could result in legal liabilities that could materially affect our ability to realize profits or otherwise harm our business, financial, and operating results. Virtually all of our contracts for the supply of pharmaceutical products to customers contain "failure to supply" clauses. Therefore, our ability to source sufficient quantities of API for manufacturing is critical. We source the raw materials for our products from both domestic and international suppliers, which we carefully select. Generally, we qualify only a single source of API for use in each product due to the cost and time required to validate and qualify a second source of supply. Any change in one of our API suppliers must usually be approved through a PAS by the FDA. The process of obtaining an approval of such a PAS can require between four and 18 months. While we also generally qualify a single source for non-API raw materials, the process required to qualify an alternative source of a non-API raw material is typically much less rigorous. If we were to change the supplier of a raw material for a product, the cost for the material could be greater than the amount we paid with the previous supplier. Changes in suppliers are rare, but could occur as a result of a supplier's business failing, an issue arising from an FDA inspection, or failure to maintain our required standards of quality. As a result, we select suppliers with great care, based on various factors including quality, reliability of supply, and long-term financial stability. Certain of the APIs for our drug products, including those that are marketed without approved NDAs or ANDAs, such as EEMT, are sourced from international suppliers. From time to time, we have experienced temporary disruptions in the supply of certain of such imported API due to FDA inspections.

Several of the products we have acquired cannot be manufactured in our facilities. If we are unable to secure or maintain qualified contract manufacturers for those products or if a contract manufacturer fails to comply with federal, state, and local laws and regulations, our business, financial position, and operating results could be materially, adversely affected.

We have acquired, and may continue to acquire, a variety of products that we seek to commercialize. Some of these products, including injectables and softgel capsules, are products that we cannot manufacture in our facilities. As a result, we may seek partners to contract manufacture the products on our behalf. Like our company, these firms must comply with cGMPs and other federal, state, and local laws and regulations regarding pharmaceutical manufacturing. Noncompliance by those firms may result in warning letters, fines, product recalls, and partial or total suspension of production and distribution. If we are unable to find qualified contract manufacturers or if a contract manufacturer fails to comply with federal, state, and local laws and regulations, we may be unable to commercialize these products, which could have a material adverse effect on our business, financial position, and operating results, including an impairment of the acquired product.

Several of our products are manufactured by third parties, which we cannot control.

We rely on third parties to manufacture our Erythromycin Ethylsuccinate, Fenofibrate, Hydrocortisone rectal cream, Inderal LA, Inderal XL, InnoPran XL, Nimodipine, Propranolol ER, Vancocin, and Vancomycin products. We expect our reliance on third party manufacturers to continue to increase in the future as we receive approvals for new products to be manufactured through our collaborative arrangements, and as we seek additional growth opportunities outside of the capabilities of our current manufacturing facilities. If we are unable to secure third-party manufacturers for these products on commercially acceptable terms, we may not be able to market and distribute such products at a profit. Any delays or difficulties with third-party manufacturers could adversely affect the marketing and distribution of Erythromycin Ethylsuccinate, Fenofibrate, Hydrocortisone rectal cream, Inderal LA, Inderal XL, InnoPran XL, Nimodipine, Propranolol ER, Vancocin, Vancomycin, or future products, which could have a material adverse effect on our business, financial position, and operating results.

Our branded products may become subject to increased generic competition.

Many of our branded products have not been patent-protected for several years and no longer have market exclusivity. As a result, trends moving toward increased substitution and reimbursement of generics for cost-containment purposes may reduce and limit the sales of our mature brand products. Additionally, increased focus by the FDA on approval of generic products may accelerate this trend. If generic products are substituted for these branded products, our revenue from these products will decrease, which could have an adverse effect on our business, financial position, and operating results.

Future acquisitions and investments could disrupt our business and harm our financial position and operating results.

Our growth will depend, in part, on our continued ability to develop, commercialize, and expand our products, including in response to changing regulatory and competitive pressures. In some circumstances, we may determine to accelerate our growth through the acquisition of complementary businesses and technologies rather than through internal development. The identification of suitable acquisition candidates or products can be difficult, time-consuming, and costly, and we may not be able to successfully complete or successfully execute strategies for identified acquisitions. The risks faced in connection with acquisitions include:

- diversion of management time and focus from operating our business to addressing acquisition and/or product integration challenges;
- coordination of research and development and sales and marketing functions;
- retention of key employees from the acquired company;
- integration of the acquired company's accounting information, management, human resources, and other administrative systems;
- the need to implement or improve controls, procedures, and policies at a business that prior to the acquisition may have lacked effective controls, procedures and policies;
- liability for activities of the acquired company and/or products before the acquisition, including patent infringement claims, violations of laws, commercial disputes, tax liabilities and other known and unknown liabilities;
- unanticipated write-offs or charges; and
- litigation or other claims in connection with the acquired company or product, including claims from product users, former stockholders, or other third parties.

In any acquisition that we may undertake, our failure to address these risks or other problems encountered in connection with any acquisitions and investments could cause us to fail to realize the anticipated benefits of these acquisitions or investments, cause us to incur unanticipated liabilities, and harm our business generally. Future acquisitions could also result in dilutive issuances of our equity securities, the incurrence of additional debt, contingent liabilities, amortization expenses, incremental operating expenses, or the write-off of goodwill, any of which could harm our business, financial position, and operating results.

Our Medicaid rebate accruals have increased and continue to increase due to our acquisitions of and subsequent sales of branded products and authorized generics of branded products, such as Inderal LA, Propranolol ER, Inderal XL, InnoPran XL, and Lithobid, and the estimates on which our accruals are based are subject to change. Any such change could have a material adverse effect on our business, financial position, and operating results.

Our Medicaid rebate accruals have increased significantly due to our acquisitions of and subsequent sales of branded products and authorized generics of branded products, such as Inderal LA, Propranolol ER, Inderal XL, InnoPran XL, and Lithobid. We accrue for these rebates at the time of sale based on our estimates of the amount of our product that will be prescribed to Medicaid beneficiaries. The resulting accruals are significant, and as Medicaid utilization trends change, we may need to change our estimates accordingly. We cannot guarantee that actual results will not differ from our estimates. In addition, the PPACA included a significant expansion of state Medicaid programs. As more individuals become eligible for coverage under these programs, Medicaid utilization of our products could increase, resulting in a corresponding increase in our rebate payments. Increases in Medicaid rebate payments could decrease our revenues from product sales, including Inderal LA, Propranolol ER, Inderal XL, InnoPran XL, and Lithobid, which in turn could adversely affect our business, financial position, and operating results.

Our accruals for the Medicare Coverage Gap Discount Program have increased due to our acquisition of Inderal LA as well as the acquisition of a distribution agreement under which we market our Fenofibrate product, and the estimates on which our accruals are based are subject to change. Any such change could have a material adverse effect on our business, financial position, and operating results.

Our accruals for the rebates under the Medicare Coverage Gap Discount Program have increased due to our acquisition of Inderal LA and the acquisition of a distribution agreement under which we market our Fenofibrate product. We accrue for these rebates at the time of sale based on our estimates of the amount of product that will be prescribed to patients in the Medicare Coverage Gap Discount program, which is primarily for the benefit of persons aged 65 years and over. As our Fenofibrate, Inderal LA, and Propranolol ER products, all of which were launched in 2016, are often used by patients in this age range, our estimates of these rebates have grown. Increases in Medicare Coverage Gap Discount rebates could decrease our revenues from product sales, including Fenofibrate, Inderal LA, and Propranolol ER, which in turn could adversely affect our business, financial position, and operating results.

We have entered into distribution agreements under which we market products under ANDAs and NDAs owned by third parties. Any changes to these agreements could have a material adverse effect on our business, financial position, and operating results.

In 2016, we entered into several distribution agreements to market and distribute products under our own label that are sold under ANDAs and NDAs owned by third parties, over which we have no control. Generally, the responsibility for maintaining the ANDAs and NDAs lies with these third parties. If any regulatory issues were to arise with the underlying ANDA or NDA for one of these products, we could be required to discontinue sales of the product, which could have an adverse effect on our business, financial position, and operating results.

In January 2016, we acquired two NDAs for $75.0 million and a percentage of future net sales of products under the NDAs. We continue to invest in the NDAs and if we are unable to commercialize these products, it could have a material adverse effect on our business, financial position, and operating results.

In January 2016, we acquired the right, title, and interest in the NDA for Cortrophin gel, 40 units/mL and 80 units/mL and the NDA for Cortrophin-Zinc, 40 units/mL, along with certain documentation and trademark applications, for $75.0 million and a percentage of future net sales of the products under the NDAs. We have and intend to continue to incur significant research and development expense with respect to development of the product. In order to commercialize the products, we have found and engaged a third party to develop the API form of the products. We have also executed a long-term commercial supply agreement with a Cortrophin gel fill/finish contract manufacturer. We have also continued to advance the manufacture of the corticotropin API by manufacturing the first, second, and third intermediate scale batches of API. However, we also need to manufacture commercial-scale batches of the corticotropin API, and eventually manufacture demo and registration batches of Cortrophin in finished goods form. We will also need to obtain approval from the FDA of a supplementary NDA filing in order to commercialize the product. In addition, we will need to market the products directly to physicians and negotiate with third-party payers to provide coverage and adequate levels of reimbursement for the products, none of which is required for our current products. If we are unable to perform any of these steps, we may be unable to commercialize the products, which could have a material adverse effect on our business, financial position, and operating results.

We face vigorous competition from other pharmaceutical manufacturers that threatens the commercial acceptance and pricing of our products. If we are unable to successfully compete, such competition could have a material adverse effect on our business, financial position, and operating results.

The generic pharmaceutical industry is highly competitive. We face intense competition from U.S. and foreign manufacturers, many of whom are significantly larger than us. Our competitors may be able to develop products and processes competitive with or superior to ours for many reasons, including but not limited to the possibility that they may have:

- greater financial resources;
- proprietary processes or delivery systems;
- larger research and development and marketing staffs;
- larger production capabilities;
- more products; or
- more experience in developing new drugs.

Any of our significant competitors, due to one or more of these and other factors, could have a material adverse effect on our business, financial position, and operating results.

Our approved products may not achieve commercialization at levels of market acceptance that allow us to achieve profitability, which could have a material adverse effect on our business, financial position, and operating results.

We seek to develop, license, or acquire products that we can commercialize at levels of market acceptance that would allow us to recoup our costs, grow market share, and achieve profitability. Even if we are able to obtain regulatory approvals for our pharmaceutical products, if we fail to predict accurately demand for such products, our business, financial position, and operating results could be adversely affected. Levels of market acceptance for our products could be impacted by several factors, including but not limited to:

- availability of alternative products from our competitors;
- our products' pricing relative to that of our competitors;
- our marketing effectiveness relative to that of our competitors;
- timing of our market entry;
- our ability to market our products effectively to the retail level; and
- acceptance of our products by government and private formularies.

Some of these factors are outside of our control and, if any arise, our profitability, business, financial position, and operating results could be materially adversely affected.

We have entered into several collaborative arrangements that may not result in marketable products.

We have entered into several collaborative arrangements to develop generic products for us to market in the U.S. We can offer no assurances that these arrangements will result in additional approved products, or that we will be able to market the products at a profit. In addition, any expenses related to clinical trials, or additional studies required by the FDA, that we may incur in connection with these collaborative arrangements may negatively affect our business, financial position, and operating results. Specifically:

- clinical trials could be more costly than we anticipate;
- formulation development could take longer and be more costly than we expect; and
- we may be required to obtain specialized equipment in order to manufacture products on a commercial scale.

Any of these events could have a material adverse effect on our business, financial position, and operating results.

We expect to spend a significant amount of resources on research and development efforts, and such efforts may not result in marketable products. Failure to successfully introduce products into the market could have a material adverse effect on our business, financial position, and operating results.

We conduct research and development primarily to enable us to manufacture and market approved products in accordance with applicable regulations. Research and development is expensive and time-consuming. As we seek to develop new products, or recommercialize products that were previously approved, our research expenses will increase, potentially significantly, and we cannot be certain that we will recover our investment in a product, even if that product is commercialized. If we spend significant resources on research and development efforts and are not able to introduce new products, our business, financial position, and operating results may be materially adversely affected.

We own two manufacturing facilities that produce the majority of our products. Production at either or both of these facilities could be interrupted, which could cause us to fail to deliver sufficient product to customers on a timely basis and have a material adverse effect on our business, financial position, and operating results.

Our manufacturing operations are based in two facilities. While these facilities are sufficient for our current needs, the facilities are highly specialized and any damage to or need for replacement of all or any significant function of our facilities could be very costly and time-consuming and could impair or prohibit production and shipping. A significant disruption at either of the facilities, even on a short-term basis, whether due to a labor strike, adverse quality or compliance observation, vandalism, natural disaster, storm or other environmental damage, or other events could impair our ability to produce and ship products on a timely basis and, among other consequences, could subject us to "failure to supply" claims from our customers, as discussed below. Although we believe we carry commercially reasonable business interruption and liability insurance, we might suffer losses because of business interruptions that exceed the coverage available under our insurance policies or for which we do not have coverage. Any of these events could have a material adverse effect on our business, financial position, and operating results.

Virtually all our contracts for the supply of products to our customers contain "failure to supply" clauses. Under these clauses, if we are unable to supply the requested quantity of product within a certain period after receipt of a customer's purchase order, the customer is entitled to procure a substitute product elsewhere and we must reimburse the customer for the difference between our contract price and the price the customer was forced to pay to procure the substitute product. This difference can be substantial because of the much higher spot price at which the customer must cover its requirements, and can be far in excess of the revenue that we would otherwise have received on the sale of our own product. Therefore, our ability to produce and ship a sufficient quantity of product on a consistent basis is critical. Failure to deliver products could have a material adverse effect on our business, financial position, and operating results.

We rely on third parties to assist with our clinical studies. If these third parties do not perform as required or expected, or if they are not in compliance with FDA rules and regulations, our clinical studies may be extended, delayed or terminated, or may need to be repeated, and we may not be able to obtain regulatory approval for or commercialize the products being tested in such studies. Further, we may be required to audit or redo previously completed trials or recall already-approved commercial products.

We rely on third parties, such as medical institutions, clinical investigators, and contract laboratories, to assist with our clinical studies. We are responsible for confirming that our studies are conducted in accordance with applicable regulations and that each of our clinical studies is conducted in accordance with our general investigational plan and protocol. The FDA requires us to comply with regulations and standards, commonly referred to as good clinical practices for conducting, monitoring, recording, and reporting the results of clinical studies, to assure that data and reported results are accurate and that the clinical study participants are adequately protected. Our reliance on these third parties does not relieve us of these responsibilities. If the third parties assisting us with our clinical studies do not perform their contractual duties or obligations, do not meet expected deadlines, fail to comply with the FDA's good clinical practice regulations, do not adhere to our protocols or otherwise fail to generate reliable clinical data, we may need to enter into new arrangements with alternative third parties and our clinical studies may be extended, delayed or terminated or may need to be repeated, and we may not be able to obtain regulatory approval for or commercialize the products being tested in such studies. For our already-approved commercial products, we may be required to audit or redo previously completed trials or recall our products from the market, which could have a material adverse effect on our business, financial position, and operating results.

With the exception of a license for patent technology for Inderal XL and InnoPran XL, we do not own or license any material patents associated with our products, and our ability to protect and control unpatented trade secrets, know-how, and other technological innovation is limited.

Generally, the branded pharmaceutical business relies upon patent protection to ensure market exclusivity for the life of the patent. Except for a license for patent technology for Inderal XL and InnoPran XL, we do not own or license any material patents associated with our products and therefore do not enjoy the same level of intellectual property protection with respect to such products as would a pharmaceutical manufacturer that markets a patented product. We have limited ability to protect and control trade secrets, know-how, and other technological innovation, all of which are unpatented. Others independently may develop similar or better proprietary information and techniques and disclose them publicly. In addition, others may gain access to our trade secrets, and we may not be able to protect our rights to our unpatented trade secrets. In addition, confidentiality agreements and other measures may not provide protection for our trade secrets in the event of unauthorized use or disclosure of such information. Failure to protect and control such trade secrets, know-how and innovation could harm the value of our trade secrets, know-how and other technological innovation, which could have a material adverse effect on our business, financial position, and operating results.

Inability to protect our intellectual property in the U.S. and foreign countries could negatively affect sales of our branded products.

We own the trademark names for most of our branded products, including, Cortenema, Cortrophin gel, Cortrophin-Zinc, Inderal LA, Inderal XL, InnoPran XL, Lithobid, Reglan, and Vancocin. We license the trademark names for Atacand, Atacand HCT, Arimidex, and Casodex. While we will seek to protect those trademarks through timely renewal in applicable jurisdictions, we may not be able to renew our trademarks in a timely manner or to prevent third parties from using our trademarks, which could have a material adverse effect on our business, financial position, and operating results.

We have very limited staffing and are dependent upon key employees, the loss of whom could adversely affect our operations. Competition for talent is intense, especially in northern Minnesota, where the population is small. If we cannot attract and retain qualified personnel, the growth and success of our business could be adversely affected.

Our success is dependent upon the efforts of a relatively small management team and staff. We have employment arrangements in place with our executive and other officers, but none of these executive and other officers are bound legally to remain employed with ANI for any specific term. We do not have key person life insurance policies covering our executive and other officers or any of our other employees. If key individuals were to leave ANI, our business could be affected adversely if suitable replacement personnel are not recruited quickly. The population in northern Minnesota, where our manufacturing resources are located, is small, and as a result, there is a limited number qualified personnel available in all functional areas, which could make it difficult to retain and attract the qualified personnel necessary for the development and growth of our business. If we were unable to attract and retain qualified personnel, our business, financial position, and operating results could be materially adversely affected.

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

We rely significantly on our information technology and manufacturing infrastructure to effectively manage and maintain inventory and financial reports, manufacture and ship products, and invoice customers in a timely manner. Any failure, accidents, inadequacy, or interruption of that infrastructure or security lapse of that technology, including cybersecurity incidents, could harm our ability to operate our business effectively. Our ability to manage and maintain inventory and financial reports, manufacture and ship products, and invoice customers timely depends significantly on our general ledger, our contracted electronic data interface system, and other information systems. Cybersecurity attacks in particular are evolving and include, but are not limited to, malicious software, attempts to gain unauthorized access to data and other electronic security breaches that could lead to disruptions in systems, misappropriation of confidential or otherwise protected information and corruption of data. Cybersecurity incidents resulting in the failure of our information systems to operate effectively or to integrate with other systems, or a breach in security or other unauthorized access of these systems, may affect our ability to manage and maintain inventory and financial reports, and result in delays in product fulfillment and reduced efficiency of operations. A breach in security, unauthorized access resulting in misappropriation, theft, or sabotage with respect to proprietary and confidential information, including research or clinical data could require significant capital investments to remediate any such failure, problem or breach, all of which could adversely affect our business, financial position, and operating results.

Risks Related to Accounting, Tax, and SEC Rules and Regulations

Our ability to utilize our net operating loss and tax credit carryforwards in the future is subject to substantial limitations and we may not be able to use some identified net operating loss and tax credit carryforwards, which could result in increased tax payments in future periods.

Under Section 382 of the Internal Revenue Code, if a corporation undergoes an ownership change (generally defined as a greater than 50% change (by value) in its equity ownership over a three-year period), the corporation's ability to use its pre-change net operating loss ("NOL") carryforwards and other pre-change tax attributes to offset its post-change income may be limited. On June 19, 2013, BioSante experienced an ownership change. Accordingly, our ability to utilize BioSante's NOL and tax credit carryforwards attributable to periods prior to June 19, 2013 is subject to substantial limitations. These limitations, in turn, could result in increased future tax payments, which could be material.

We use a variety of estimates, judgments, and assumptions in preparing our consolidated financial statements. Estimates, judgments, and assumptions are inherently subject to change, and any such changes could result in corresponding changes to the amounts of assets, liabilities, revenues, expenses, and income. Any such changes could have a material adverse effect on our business, financial position, and operating results.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires us to make estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the period. There are inherent uncertainties involved in estimates, judgments and assumptions, and any changes in estimates, judgments and assumptions used could have a material adverse effect on our business, financial position, and operating results.

In the consolidated financial statements included in the periodic reports filed with the SEC, estimates, judgments, and assumptions are used for, but not limited to, revenue recognition, allowance for doubtful accounts, accruals for chargebacks, rebates, returns and other allowances, allowance for inventory obsolescence, stock-based compensation, valuation of financial instruments and intangible assets, allowances for contingencies and litigation, deferred tax assets and liabilities, deferred tax valuation allowance, and the depreciable lives of fixed and intangible assets. Actual results could differ from those estimates. Estimates, judgments, and assumptions are inherently subject to change in the future, and any such changes could result in corresponding changes to the amounts of assets, liabilities, revenues, expenses, and income. Any such changes could have a material adverse effect on our business, financial position, and operating results.

Changes in estimates regarding the fair value of goodwill or intangible assets may result in an adverse impact to our business, financial position, and operating results.

We test goodwill for impairment annually, or more frequently if changes in circumstances indicate that the carrying amount of goodwill might not be recoverable. Judgment is used in determining when these events and circumstances arise. We perform our review of goodwill based on our one reporting unit. If we determine that the carrying value of our assets may not be recoverable, we assess, using judgment and estimates, the fair value of our assets and to determine the amount of any impairment loss, if any. Changes in judgments and estimates may result in the recognition of an impairment loss, which could have a material negative impact on our business, financial position, and operating results. While our testing in fiscal 2017 did not result in an impairment charge related to goodwill, there can be no assurances that our goodwill won't be impaired in the future.

Our material definite-lived intangible assets consist of ANDAs for previously marketed generic products, NDAs and product rights for our branded products, marketing and distribution rights related to certain generic products, and a non-compete agreement. These assets are being amortized over their useful lives of four to 10 years. For these definite-lived intangible assets, we perform an impairment analysis when events or circumstances indicate that the carrying value of the assets may not be recoverable. An impairment loss is recognized if, based on our impairment analysis, the carrying amount of the asset is not recoverable and its carrying amount exceeds its fair value. Any significant change in market conditions, estimates or judgments used to determine expected future cash flows that indicate a reduction in carrying value may give rise to impairment in the period that the change becomes known. An impairment charge could have a material negative impact on our business, financial position, and operating results. We recorded an impairment charge of $0.9 million and $6.7 million in the years ended December 31, 2017 and 2016, respectively, in relation to our testosterone gel NDA asset and there can be no assurances that our intangible assets won't be impaired in the future.

Our management is required to devote substantial time to comply with public company regulations. If we are unable to comply with these regulations, investors could lose confidence in us, which could have a material adverse effect on our stock price, business, financial position, and operating results.

As a public company, we are required to comply with significant legal, accounting, and other requirements that ANIP Acquisition Company did not face as a private company and as such, have incurred significant regulatory compliance-related expenses. The Sarbanes-Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act as well as rules implemented by the SEC and The NASDAQ Global Market, impose various requirements on public companies, including those related to corporate governance practices. Our management and other personnel devote a substantial amount of time to these requirements. Some members of management do not have significant experience in addressing these requirements. Moreover, these rules and regulations have increased our legal and financial compliance costs relative to those of previous years and make some activities more time consuming and costly.

The Sarbanes-Oxley Act requires, among other things, that we maintain effective internal controls for financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluation and testing of our internal controls over financial reporting to allow management to report on the effectiveness of our internal controls over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. The Committee of Sponsoring Organizations of the Treadway Commission ("COSO") provides a framework for companies to assess and improve their internal control systems. Our compliance with these requirements has required that we incur substantial accounting and related expenses and expend significant management efforts. Moreover, if we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act, are unable to assert that our internal controls over financial reporting are effective, or identify deficiencies that are deemed to be material weaknesses, investors could lose confidence in the accuracy and completeness of our financial reports, the market price of our common stock could decline and we could be subject to sanctions or investigations by The NASDAQ Global Market, the SEC, or other regulatory authorities. Any of these events could have a material adverse effect on our business, financial position, and operating results.

Our policies regarding returns, allowances and chargebacks, and marketing programs adopted by wholesalers may reduce revenues in future fiscal periods.

We, like other generic drug manufacturers, have agreements with customers allowing chargebacks, product returns, administrative fees, and other rebates. Under many of these arrangements, we may match lower prices offered to customers by competitors. If we choose to lower our prices, we generally give the customer a credit on the products that the customer is holding in inventory, which could reduce sales revenue and gross margin for the period the credit is provided. Like our competitors, we also give credits for chargebacks to wholesalers with whom we have contracts for their sales to hospitals, group purchasing organizations, pharmacies, or other customers. A chargeback is the difference between the price at which we invoice the wholesaler and the price that the wholesaler's end-customer pays for a product. Although we establish reserves based on prior experience and our best estimates of the impact that these policies may have in subsequent periods, we cannot ensure that our reserves are adequate or that actual product returns, allowances, and chargebacks will not exceed our estimates.

Risks Related to our Debt

Making interest and principal payments on our Convertible Senior Notes due 2019 (the "Notes"), which were issued as of December 10, 2014, requires and will continue to require a significant amount of cash, and we may not have sufficient cash flows from our business to make future interest and principal payments.

Our ability to continue to make scheduled interest payments and to make future principal payments or to refinance our indebtedness, including the Notes, depends on our future performance, which is subject to economic, financial, competitive, and other factors beyond our control. Our business may not continue to generate cash flows from operations sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flows, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt, or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations, including the Notes, which would have a material adverse effect on our business, financial position, and operating results.

The conditional conversion feature of the Notes, if triggered, may adversely affect our financial results. In addition, if we were to undergo a fundamental change, we would be required to repurchase the Notes, which could adversely affect our business, financial position, and operating results.

In the event the conditional conversion feature of the Notes is triggered, holders of Notes will be entitled to convert the Notes at any time during specified periods at their option. If one or more holders elect to convert their Notes, or if one or more holders elect to require us to repurchase their Notes in the event we undergo a fundamental change, as described below, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional shares), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity.

In addition, holders of the Notes have the right to require us to repurchase their Notes upon the occurrence of a fundamental change, as at a price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest, if any. A "fundamental change" is deemed to occur if: (i) a person or group, other than us, directly or indirectly becomes the beneficial owner of common equity representing more than 50% of or voting power, (ii) consummation of a transaction that would result in the conversion or exchange of our common stock into other securities, cash, or assets, (iii) the sale of substantially all our assets, (iv) a change in the majority of our board of directors, (v) our stockholders approve a plan of liquidation, or (vi) our common stock ceases to be listed on the New York Stock Exchange, the NASDAQ Global Select Market, or the NASDAQ Global Market. If one or more holders requires us to repurchase their Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional shares), we would be required to make cash payments as a result of the Notes being converted, which could adversely affect our liquidity. However, we may not have enough available cash or be able to obtain financing at the time we are required to repurchase the Notes surrendered or being converted. In addition, our ability to repurchase the Notes or to pay cash upon conversions of the Notes may be limited by law, by regulatory authority, or by agreements governing any future indebtedness. Our failure to repurchase Notes at a time when the repurchase is required by the indenture or to pay any cash payable on future conversions of the Notes as required by the indenture would constitute a default under the indenture. If the repayment of the related indebtedness were accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the Notes or make cash payments upon conversions thereof, which would have a negative impact on our business, financial position, and operating results

Provisions in the indenture for the Notes may deter or prevent a business combination.

If a fundamental change occurs prior to the maturity date of the Notes, holders of the Notes will have the right, at their option, to require us to repurchase all or a portion of their Notes. In addition, if a fundamental change occurs prior to the maturity date of Notes, we will in some cases be required to increase the conversion rate for a holder that elects to convert its Notes in connection with such fundamental change. Also, the indenture for the Notes prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the Notes. These and other provisions could prevent or deter a third party from acquiring us even where the acquisition could be beneficial to our stockholders.

The convertible note hedge and warrant transactions may affect the value of our common stock.

In connection with the pricing of the Notes, we entered into a convertible note hedge transaction with Nomura Global Financial Products Inc. ("Nomura"). The convertible note hedge transaction reduces the potential dilution to our common stock upon any conversion of Notes and/or offsets any cash payments we are required to make in excess of the principal amount of converted Notes, as the case may be. We also entered into a warrant transaction with Nomura. The warrant transaction could separately have a dilutive effect on our common stock to the extent that the market price of our common stock exceeds the applicable strike price of the warrants.

Nomura, or an affiliate thereof, established its initial hedge position on the convertible note hedge and warrant transactions by entering into various derivative transactions with respect to our common stock concurrently with or shortly after the pricing of the Notes. Nomura, or an affiliate thereof, may modify its hedge position by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions at any time prior to the maturity of the Notes (and is likely to do so during any observation period related to a conversion of Notes). This activity could either cause or help avoid an increase or a decrease in the market price of our common stock.

Accounting for the Notes could have a material effect on our reported financial results.

Accounting for the Notes has and will continue to impact our balance sheet, income statement, and earnings (loss) per share. In accounting for the Notes, we will recognize non-cash interest expense, which has and will continue to reduce our net income and earnings (loss) per share.

In addition, under certain circumstances, convertible debt instruments (such as the Notes) that may be settled entirely or partly in cash are accounted for utilizing a modified treasury stock method to determine diluted earnings per share, the effect of which is that the shares issuable upon conversion of the Notes are not included in the calculation of diluted earnings per share except to the extent that the conversion value of the Notes exceeds their principal amount. Under the modified treasury stock method, for diluted earnings per share purposes, the transaction is treated as if the number of shares of common stock that would be necessary to settle such excess, if we elected to settle such excess in shares, are issued. Under the current standards, if we were to settle some or all of the Notes with shares of our common stock instead of with cash, we would be unable to use the treasury method. If we are unable to use the treasury stock method in accounting for the shares issuable upon conversion of the Notes, our diluted earnings per share would be adversely affected.

Our secured term loan (the "Term Loan") and senior secured revolving credit facility (the "Revolving Credit Facility") contain restrictive and financial covenants. If we are unable to comply with these covenants, we will be in default. A default could result in the acceleration of our outstanding indebtedness, which would have an adverse effect on our business and stock price.

Our Term Loan under the Credit Agreement as described in Note 2. Indebtedness, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K, has a loan balance of $75.0 million as of December 31, 2017. As of December 31, 2017, we had not drawn on the Revolving Credit Facility.

The Credit Agreement contains customary covenants that require maintenance of certain specified financial ratios and restricts our ability make certain distributions with respect to our capital stock, prepay other debt, encumber our assets, incur additional indebtedness, make capital expenditures, engage in certain business combinations, transfer, lease or dispose of our assets, alter the character of our business in any material respect or undertake various other corporate activities. Therefore, as a practical matter, these covenants restrict our ability to engage in or benefit from such activities. Further, we must limit our total and senior secured leverage ratios and maintain our fixed charge coverage ratio at or above specified thresholds. In addition, we pledged our assets in order to secure our repayment obligations under the Credit Agreement. This pledge may reduce our operating flexibility because it restricts our ability to dispose of our assets or engage in other transactions that may be beneficial to us.

If we are unable to comply with the covenants in the Credit Agreement, we will be in default, which could result in the acceleration of our outstanding indebtedness. If such an acceleration occurs, we may not be able to repay our debt and we may not be able to borrow sufficient additional funds to refinance our debt, which would have a material adverse effect on our business, financial position, and operating results.

Changes in the method of determining London Interbank Offered Rate ("LIBOR"), or the replacement of LIBOR with an alternative reference rate, may adversely affect interest expense related to outstanding debt.

Amounts drawn under the Credit Agreement may bear interest rates in relation to LIBOR, depending on our selection of repayment options. On July 27, 2017, the Financial Conduct Authority ("FCA") in the United Kingdom announced that it would phase out LIBOR as a benchmark by the end of 2021. It is unclear whether new methods of calculating LIBOR will be established such that it continues to exist after 2021. The U.S. Federal Reserve is considering replacing U.S. dollar LIBOR with a newly created index called the Broad Treasury Financing Rate, calculated with a broad set of short-term repurchase agreements backed by treasury securities. If LIBOR ceases to exist, we may need to renegotiate the Credit Agreement and may not able to do so with terms that are favorable to us. The overall financial market may be disrupted as a result of the phase-out or replacement of LIBOR. Disruption in the financial market or the inability to renegotiate the Credit Agreement with favorable terms could have a material adverse effect on our business, financial position, and operating results.

Risks Related to our Common Stock

Our principal stockholders, directors, and executive officers own a significant percentage of our stock and will be able to exercise meaningful influence over our business.

Our current principal stockholders, directors, and executive officers beneficially own approximately 31% of our outstanding capital stock entitled to vote as of December 31, 2017. As a result, these stockholders, if acting together, would be able to influence or control matters requiring approval by our stockholders, including the election of directors and the approval of mergers, acquisitions, or other extraordinary transactions. They may also have interests that differ from stockholders generally and may vote in a way with which other stockholders disagree and which may be adverse to their interests. This concentration of ownership may have the effect of delaying, preventing, or deterring a change of control of ANI, could deprive stockholders of an opportunity to receive a premium for their common stock as part of a sale of ANI, and might ultimately affect the market price of our common stock.

Shares of our common stock are relatively illiquid which may affect the market price of our common stock.

For the twelve months ended December 31, 2017, the average daily trading volume of our common stock on the NASDAQ Global Select market was approximately 136 thousand shares. Because of our relatively small public float, our common stock may be less liquid than the stock of companies with broader public ownership and trading of a relatively small volume of our common stock may have a greater impact on the market price for our shares than would be the case if our public float were larger.

Raising additional funds by issuing additional equity securities may cause dilution to our current stockholders. Raising additional funds by issuing new debt financing may restrict our operations.

We may seek to raise additional funds through the issuance of equity or equity-linked securities. If we were to raise funds through the issuance of equity or equity-linked securities, the percentage ownership of our stockholders could be diluted, potentially significantly, and these newly issued securities may have rights, preferences, or privileges senior to those of our existing stockholders. In addition, the issuance of any equity securities could be at a discount to the then-prevailing market price of our common stock.

If we require new debt financing, there is no assurance that such a transaction will be available on terms acceptable to us, or at all. In addition, we could be subject to onerous repayment terms or covenants that restrict our ability to operate our business and make distributions to our stockholders. These restrictive covenants may include limitations on additional borrowing and specific restrictions on the use of our assets, as well as prohibitions on our ability to create liens, pay dividends, redeem our stock, or make investments. We can offer no assurance that any equity or debt financing transaction will be available on terms acceptable to us, or at all.

The market price of our common stock has been volatile, and an investment in our common stock could decline in value.

The market price of our common stock has fluctuated in the past, has increased significantly since the completion of the Merger, and is likely to continue to fluctuate in the future. From time to time, the securities of small capitalization, pharmaceutical companies, including ANI, experience significant market price fluctuations, often unrelated to these companies' operating performance. In particular, the market price of our common stock may fluctuate significantly due to a variety of factors, including, but not limited to, regulatory or legal developments with respect to our industry, variations in our financial results or those of companies that are perceived to be similar to us, and rumors or new announcements by third parties, many of which are beyond our control and that may not be related to our operating performance.

In addition, the occurrence of any of the risks described in this report or in subsequent reports we file with the SEC could have a material adverse impact on the market price of our common stock. Securities class action litigation is sometimes brought against a company following periods of volatility in the market price of its securities or for other reasons. Securities litigation, whether with or without merit, could result in substantial costs and divert management's attention and resources, which could harm our business, financial position, and operating results, as well as the market price of our common stock.

Provisions in our charter documents and Delaware law could discourage or prevent a takeover, even if such a transaction would be beneficial to our stockholders.

Provisions of our certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire ANI, even if doing so would be beneficial to our stockholders. These provisions include:

- authorizing the issuance of "blank check" preferred shares that could be issued by our board of directors to increase the number of outstanding shares and thwart a takeover attempt;
- prohibiting cumulative voting in the election of directors, which would otherwise allow less than a majority of stockholders to elect director candidates;
- advance notice provisions in connection with stockholder proposals and director nominations that may prevent or hinder any attempt by our stockholders to bring business to be considered by our stockholders at a meeting or replace our board of directors; and
- as a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation law, which prevents certain stockholders holding more than 15% of our outstanding common stock from engaging in certain business combinations without approval of the holders of at least two-thirds of our outstanding common stock not held by such 15% or greater stockholder.

Any provision of our certificate of incorporation and bylaws or Delaware law that has the effect of delaying, preventing, or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock, and could also affect the price that some investors are willing to pay for our common stock.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our corporate offices are located at 210 Main Street West, Baudette, Minnesota 56623. The facility, which we own, includes oral solid dose and liquid manufacturing and packaging, warehouse facilities, analytical, stability, and microbiological laboratory space, and employee office and mechanical space. We also own a manufacturing facility that includes oral solid dose manufacturing and packaging for pharmaceutical products that must be manufactured in a fully contained environment, warehouse facilities, and employee office and mechanical space. This facility is also located in Baudette, Minnesota. We also own a cold storage facility located in Baudette, Minnesota.

We lease spaces for finance offices in Wilmington, Delaware, Minnetonka, Minnesota, and Media, Pennsylvania. The leases will expire in September 2018, September 2022, and March 2023. We also lease space for a regulatory affairs office in Raleigh, North Carolina. The lease will expire in April 2021.

We consider our leased and owned properties suitable and adequate for our current and foreseeable needs.

Item 3. Legal Proceedings

A discussion of legal matters as of December 31, 2017 follows:

Louisiana Medicaid Lawsuit

On September 11, 2013, the Attorney General of the State of Louisiana filed a lawsuit in Louisiana state court against numerous pharmaceutical companies, including us, under various state laws, alleging that each defendant caused the state's Medicaid agency to provide reimbursement for drug products that allegedly were not approved by the FDA and therefore allegedly not reimbursable under the federal Medicaid program. The lawsuit relates to three cough and cold prescription products manufactured and sold by our former Gulfport, Mississippi operation, which was sold in September 2010. Through its lawsuit, the state seeks unspecified damages, statutory fines, penalties, attorneys' fees, and costs. While we cannot predict the outcome of the lawsuit at this time, we could be subject to material damages, penalties, and fines. We intend to vigorously defend against all claims in the lawsuit.

Civil Action

In November of 2017, we were served with a complaint filed by Arbor Pharmaceuticals, LLC, in the United States District Court, District of Minnesota. The complaint alleges false advertising and unfair competition in violation of Section 43(a) of the Lanham Act, Section 1125(a) of Title 15 of the United States Code, and Minnesota State law, and seeks injunctive relief and damages. In December of 2017, we filed a motion to dismiss, which is currently pending before the Court. We intend to defend this action vigorously.

Other Commitments and Contingencies

All manufacturers of the drug Reglan and its generic equivalent metoclopramide, including ANI, have faced allegations from plaintiffs in various states, including California, New Jersey, and Pennsylvania, claiming bodily injuries as a result of ingestion of metoclopramide or its brand name, Reglan, prior to the FDA's February 2009 Black Box warning requirement. In August 2012, we were dismissed with prejudice from all New Jersey complaints. In August 2016, we settled the outstanding California short form complaints and in February 2018, we settled the remaining four complaints that were not captured in the 2016 settlement. We consider our exposure to this litigation to be limited due to several factors: (1) the only generic metoclopramide that we manufactured prior to the implementation of the FDA's warning requirement was an oral solution introduced after May 28, 2008; (2) our market share for the oral solution was a very small portion of the overall metoclopramide market; and (3) once we received a request for change of labeling from the FDA, we submitted our proposed changes within 30 days, and such changes were subsequently approved by the FDA.

At the present time, we are unable to assess the likely outcome of the complaints in the remaining states. Our insurance company has assumed the defense of this matter and paid all losses in settlement of the California complaints. We cannot provide assurances that the outcome of these matters will not have an adverse effect on our business, financial condition, and operating results. Furthermore, like all pharmaceutical manufacturers, we may be exposed to other product liability claims in the future, which could limit our coverage under future insurance policies or cause those policies to become more expensive, which could harm our business, financial condition, and operating results.

We launched Erythromycin Ethylsuccinate ("EES") on September 27, 2016 under a previously approved ANDA. In August 2016, we filed with the FDA to reintroduce this product under a Changes Being Effected in 30 Days submission (a "CBE-30 submission"). Under a CBE-30 submission, certain defined changes to an ANDA can be made if the FDA does not object in writing within 30 days. The FDA's regulations, guidance documents, and historic actions support the filing of a CBE-30 for the types of changes that we proposed for our EES ANDA. We received no formal written letter from the FDA within 30 days of the CBE-30 submission date, and as such, launched the product in accordance with FDA regulations. On December 16, 2016, and nearly four months after our CBE-30 submission, the FDA sent us a formal written notice that a Prior Approval Supplement ("PAS") was required for this ANDA. Under a PAS, proposed changes to an ANDA cannot be implemented without prior review and approval by the FDA. Because we did not receive this notice in the timeframe prescribed by the FDA's regulations, we believe that our supplemental ANDA is valid, and as such continue to market the product. In addition, we filed a PAS which was accepted by the FDA and was originally assigned action date of June 2017. This date was later revised to October 2017 due to the election by the FDA to perform a Pre-Approval Inspection ("PAI") of our Baudette manufacturing facilities. The FDA conducted its PAI between May 15, 2017 and May 18, 2017. On July 31, 2017, we received an Establishment Inspection Report from the FDA documenting that no objectionable conditions resulted from the inspection and that no FDA-483 or verbal observations were issued. On September 21, 2017, we received a Major CR Letter (Complete Response Letter). In February 2018, we submitted our response to the letter. We continue to reserve all of our legal options in this matter.

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

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

Market Information

Our common stock trades on the NASDAQ Global Market under the symbol "ANIP." The following table shows the high and low sales price for ANIP common stock as reported by the NASDAQ Global Market for each quarter in the years ended December 31, 2017 and 2016:

	Common Stock Price			
	2017		2016	
	High	Low	High	Low
First Quarter	$ 65.81	$ 43.71	$ 46.01	$ 26.80
Second Quarter	$ 55.06	$ 42.56	$ 57.91	$ 32.46
Third Quarter	$ 52.67	$ 42.23	$ 70.92	$ 53.80
Fourth Quarter	$ 74.70	$ 52.24	$ 69.85	$ 47.25

Stockholder Information

As of February 20, 2018, there were approximately 140 shareholders of record of our common stock, which does not include stockholders that beneficially own shares held in a "nominee" or in "street" name, and six holders of record of Class C stock.

Dividends

We did not pay cash dividends in the years ended December 31, 2017 and 2016. We do not anticipate paying cash dividends in the near term. Our Credit Agreement with Citizens Bank N.A. limits our ability to pay dividends or redeem or repurchase shares of our capital stock, and as such, we are not permitted to do so unless we are in compliance with certain financial covenants.

Recent Sales of Unregistered Securities and Use of Proceeds from Registered Securities

None.

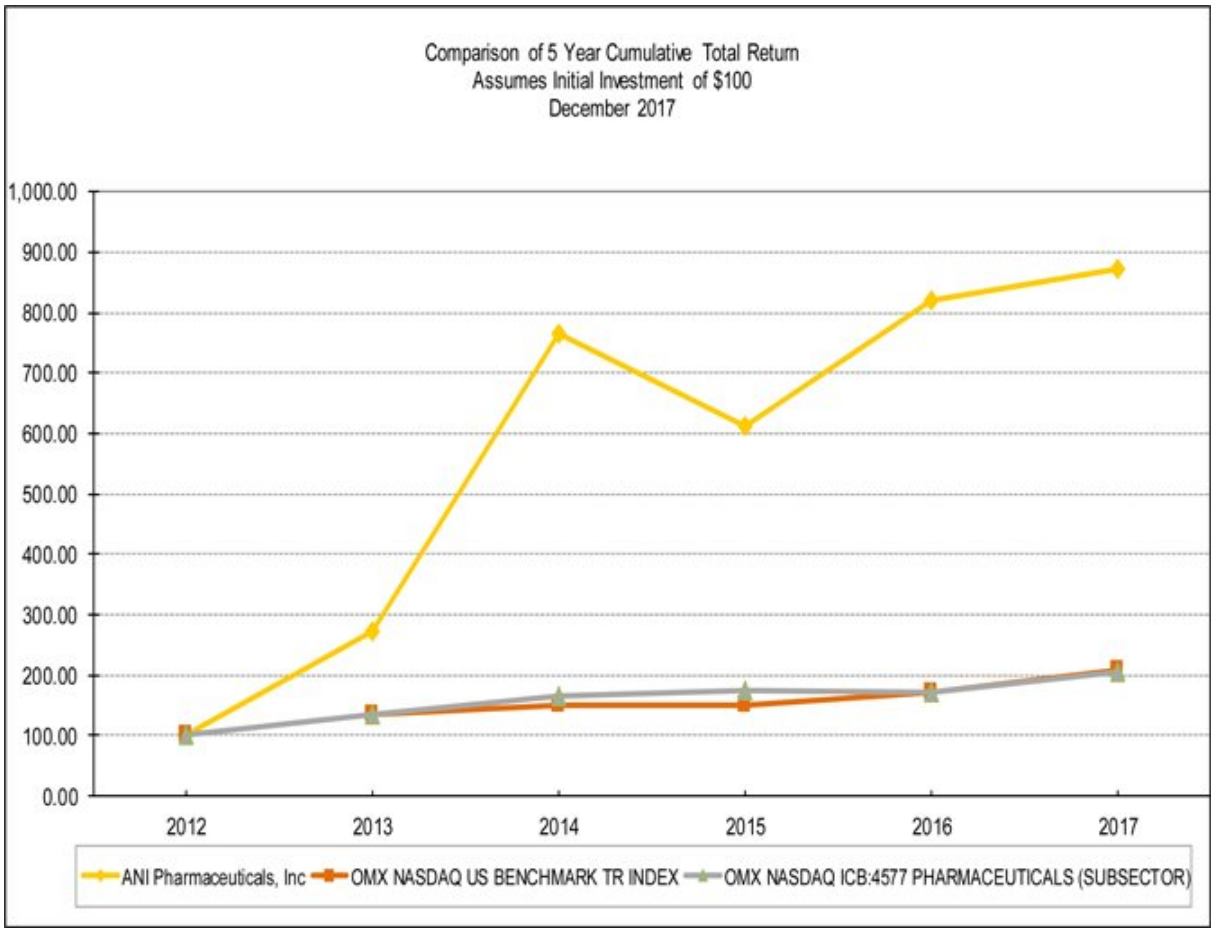
Issuer Purchases of Equity Securities

None.

Performance Graph

The graph below compares the five-year cumulative total stockholder return on our common stock, the NASDAQ Stock Market (US) Index, and the NASDAQ Pharmaceuticals Index, assuming the investment of $100.00 on December 31, 2012, with dividends being reinvested. The stock price performance in the graph below is not necessarily indicative of future price performance.

On June 19, 2013, ANI Merger Sub, Inc., a wholly owned subsidiary of BioSante Pharmaceuticals, Inc. ("BioSante"), merged with and into ANIP Acquisition Company ("ANIP"), with ANIP continuing as the surviving company and becoming a wholly owned subsidiary of BioSante. On July 17, 2013, BioSante changed its name to ANI Pharmaceuticals, Inc. The five-year cumulative total stockholder return on our common stock includes the performance of BioSante common stock for periods prior to the Merger and ANI Pharmaceuticals, Inc. common stock for periods subsequent to the Merger.



Item 6. Selected Consolidated Financial Data

The following table sets forth selected financial data as of and for the five years ended December 31, 2017. The information has been derived from our audited consolidated financial statements for each of the years ended December 31, 2017, 2016, 2015, 2014, and 2013. The data presented below should be read in conjunction with our consolidated financial statements, the notes to our consolidated financial statements, and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations."

	Years Ended December 31,				
(in thousands, except per share data)	**2017 [1]**	**2016**	**2015**	**2014**	**2013 [2]**
Statement of Operations Data:					
Net revenues	$ 176,842	$ 128,622	$ 76,322	$ 55,970	$ 30,082
Total operating expenses	148,513	108,543	43,622	35,964	29,184
Operating income from continuing operations	28,329	20,079	32,700	20,006	898
(Provision)/benefit for income taxes	(17,425)	(4,744)	(6,358)	9,368	(20)
Net (loss)/income from continuing operations	$ (1,076)	$ 3,934	$ 15,375	$ 28,747	$ 106
Basic and diluted (loss)/income from continuing operations per share:					
Basic (loss)/income per share from continuing operations	$ (0.09)	$ 0.34	$ 1.34	$ 2.61	$ (0.96)
Diluted (loss)/income per share from continuing operations	$ (0.09)	$ 0.34	$ 1.32	$ 2.59	$ (0.96)
Balance Sheet Data:					
Total assets	$ 412,138	$ 322,864	$ 285,265	$ 259,558	$ 44,500
Total convertible notes, net of discount and deferred financing costs	128,208	120,643	113,427	106,540	-
Long-term borrowing, net of deferred financing costs and current borrowing component	69,946	-	-	-	-
Total stockholder's equity	$ 174,756	$ 169,648	$ 160,082	$ 139,785	$ 40,962

[1] The Tax Cuts and Jobs Act was enacted on December 22, 2017. The Tax Cuts and Jobs Act includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. As a result, we remeasured our deferred tax assets and deferred tax liabilities to reflect the reduction in the enacted U.S. corporate income tax rate, resulting in a $13.4 million increase in income tax expense for the year ended December 31, 2017. See Note 9. Income Taxes, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K for further information.

[2] On June 19, 2013, BioSante Pharmaceuticals, Inc. ("BioSante") acquired ANIP Acquisition Company ("ANIP") in an all-stock, tax-free reorganization, in which ANIP became a wholly-owned subsidiary of BioSante. BioSante was renamed ANI Pharmaceuticals, Inc. The Merger was accounted for as a reverse acquisition pursuant to which ANIP was considered the acquiring entity for accounting purposes. As such, ANIP's historical results of operations replace BioSante's historical results of operations for all periods prior to the Merger. The results of operations of both companies are included in our consolidated financial statements for all periods after the completion of the Merger.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Please read the following discussion in conjunction with Item 1A. ("Risk Factors") and our audited consolidated financial statements included elsewhere in this annual report. Some of the statements in the following discussion are forward-looking statements. See the discussion about forward-looking statements on page 1 of this Annual Report on Form 10-K.

Executive Overview

ANI Pharmaceuticals, Inc. and its consolidated subsidiaries (together, "ANI," the "Company," "we," "us," or "our") is an integrated specialty pharmaceutical company focused on delivering value to our customers by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals. We focus on niche and high barrier to entry opportunities including controlled substances, anti-cancer (oncolytics), hormones and steroids, and complex formulations. We have two pharmaceutical manufacturing facilities located in Baudette, Minnesota, which are capable of producing oral solid dose products, as well as liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment. Our objective is to create long term shareholder value by building a sustainable and growing base business in generic and mature brand pharmaceutical products while advancing an opportunity to re-commercialize Cortrophin gel and Cortrophin-Zinc.

On June 19, 2013, BioSante Pharmaceuticals, Inc. ("BioSante") acquired ANIP Acquisition Company ("ANIP") in an all-stock, tax-free reorganization (the "Merger"), in which ANIP became a wholly-owned subsidiary of BioSante. BioSante was subsequently renamed ANI Pharmaceuticals, Inc. The Merger was accounted for as a reverse acquisition pursuant to which ANIP was considered the acquiring entity for accounting purposes.

In 2014, we acquired Abbreviated Drug Applications ("ANDAs") for 31 generic products, the New Drug Application ("NDA") for Lithobid, and the NDA for Vancocin, along with two related ANDAs. We also launched our Methazolamide product. In addition, we completed a follow-on public offering of common stock, yielding net proceeds of $46.7 million, and closed a public offering of $143.8 million of 3.0% Convertible Senior Notes due in 2019 (the "Notes"), with simultaneous bond hedge and warrant transactions.

In 2015, we acquired ANDAs for 23 generic products, the NDA for Testosterone gel, and entered into a distribution agreement with IDT Australia Limited ("IDT") to market several generic products in the U.S. We also launched six products during the year.

In 2016, we acquired the NDAs and product rights for Cortrophin gel, Cortrophin-Zinc, and Inderal LA, and acquired the rights to market and distribute our Fenofibrate and Hydrocortisone rectal cream products. We also entered into a three-year senior secured asset-based revolving credit facility for up to $30.0 million. During the 2016 year, we launched 11 products.

In 2017, we acquired the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex. In addition, we acquired the NDA, trademarks, and certain finished goods inventory for Inderal XL and InnoPran XL. We also entered into a five-year senior secured credit facility (the "Credit Agreement") comprised of a $75.0 million five-year term loan (the "Term Loan") and a $50.0 million senior secured revolving credit facility (the "Revolving Credit Facility"). During the 2017 year, we launched six products.

Recent Developments

Asset Acquisitions and Product Launches

In February 2017, we acquired from Cranford Pharmaceuticals, LLC the distribution license, trademark and certain finished goods inventory for Inderal XL for $20.2 million in cash. Inderal XL is a beta-adrenergic blocker indicated for the treatment of hypertension, to lower blood pressure. Lowering blood pressure reduces the risk of fatal and nonfatal cardiovascular events, primarily strokes and myocardial infarctions.

In February 2017, we acquired from Holmdel Pharmaceuticals, LP the New Drug Application ("NDA"), trademark, and certain finished goods inventory for InnoPran XL, including a license to an Orange Book listed patent, for $30.6 million in cash. InnoPran XL is a beta-adrenergic blocker indicated for the treatment of hypertension, to lower blood pressure. Lowering blood pressure reduces the risk of fatal and nonfatal cardiovascular events, primarily strokes and myocardial infarctions.

In December 2017, we acquired from AstraZeneca AB and AstraZeneca UK Limited the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex for $46.5 million in cash. We also licensed these trademarks for use in the U.S. Atacand is an angiotensin II receptor blocker indicated for the treatment of hypertension to lower blood pressure and the treatment of heart failure. Atacand HCT combines an angiotensin II receptor antagonist and a diuretic, hydrochlorothiazide and is indicated for the treatment of hypertension to lower blood pressure. Arimidex is an aromatase inhibitor indicated for adjuvant treatment of postmenopausal women with hormone receptor-positive early breast cancer, first-line treatment of postmenopausal women with hormone-positive or hormone receptor unknown locally advanced metastatic breast cancer, and the treatment of advanced breast cancer in postmenopausal women with disease progression following tamoxifen therapy. Casodex is an androgen receptor inhibitor indicated for use in combination therapy with a luteinizing hormone-releasing hormone analog for the treatment of Stage D2 metastatic carcinoma of the prostate.

Including the launches of Inderal XL and InnoPran XL noted above, we launched six total products in 2017, bringing our total product portfolio to 31 as of December 31, 2017.

Financing

In December 2017, we entered into the five-year $125.0 million Credit Agreement with Citizens Bank, N.A. comprised of the $75.0 million Term Loan and the $50.0 million Revolving Credit Facility. The $75.0 million Term Loan was accounted for as a modification of our existing line of credit. The funds from the Term Loan were used to pay down the $25.0 million balance on our existing line of credit, as well as to purchase the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash. As of December 31, 2017, we had not drawn on the Revolving Credit Facility. We incurred approximately $2.7 million of debt issuance costs in relation to the Credit Agreement.

Cortrophin Gel Re-commercialization Update

In the fourth quarter of 2017, we continued to advance the manufacture of corticotropin API, manufacturing three intermediate scale batches of API. All three intermediate scale batches of API exhibit lot-to-lot consistency across many different chemical and biological test methods that we continue to employ in building our comprehensive characterization package. These methods are also being utilized to demonstrate comparability to historically manufactured commercial lots of API. We have ordered the capital equipment necessary for commercial scale API manufacturing and soon plan to qualify this equipment for cGMP commercial scale manufacturing. We plan to initiate commercial scale API manufacturing in early 2018 and hope to initiate process validation and registration batch manufacturing by the end of 2018.

We executed a long-term commercial supply agreement with our existing Corticotropin API manufacturer. We have now secured the long-term supply for both Corticotropin API and for the finished goods - Cortrophin gel drug product. We began to manufacture development scale batches of both Cortrophin gel and placebo in the fourth quarter of 2017, whereby the Cortrophin gel batches are using the API from our recently manufactured intermediate scale batches.

We requested a Type C meeting with the FDA in the fourth quarter of 2017 to provide the regulatory plan for re-commercialization of Cortrophin gel. The FDA granted the Type C meeting with an FDA response scheduled to occur by the end of the first quarter of 2018.

Vancocin Oral Solution Update

We are currently advancing a commercialization effort for Vancocin oral solution. Following completion of ongoing formulation and manufacturing optimization, we intend to file a prior approval supplement ("PAS") in the second half of 2018. This product will be manufactured at our site in Baudette, Minnesota. The launch of this product will fulfill a currently unmet patient need for an FDA approved liquid oral dosage form of the vancomycin molecule.

General

The following table summarizes our results of operations for the years ended December 31, 2017, 2016, and 2015.

	Years Ended December 31,		
(in thousands)	**2017**	**2016**	**2015**
Net revenues	$ 176,842	$ 128,622	$ 76,322
Operating expenses			
Cost of sales (excluding depreciation and amortization)	79,032	48,780	12,692
Research and development	9,070	2,906	2,874
Selling, general, and administrative	31,581	27,829	21,156
Depreciation and amortization	27,927	22,343	6,900
Intangible asset impairment charge	903	6,685	-
Operating income	28,329	20,079	32,700
Interest expense, net	(12,035)	(11,327)	(11,008)
Other (expense)/income, net	55	(74)	41
Income before provision for income taxes	16,349	8,678	21,733
Provision for income taxes	(17,425)	(4,744)	(6,358)
Net (loss)/income	$ (1,076)	$ 3,934	$ 15,375

The following table sets forth, for the periods indicated, items in our consolidated statements of operations as a percentage of net revenues.

	Years Ended December 31,		
	2017	**2016**	**2015**
Net revenues	100.0%	100.0%	100.0%
Operating expenses			
Cost of sales (excluding depreciation and amortization)	44.7%	37.9%	16.6%
Research and development	5.1%	2.3%	3.8%
Selling, general, and administrative	17.9%	21.6%	27.7%
Depreciation and amortization	15.8%	17.4%	9.1%
Intangible asset impairment charge	0.5%	5.2%	-%
Operating income	16.0%	15.6%	42.8%
Interest expense, net	(6.8)%	(8.8)%	(14.4)%
Other (expense)/income, net	-%	(0.1)%	0.1%
Income before provision for income taxes	9.2%	6.7%	28.5%
Provision for income taxes	(9.8)%	(3.7)%	(8.4)%
Net (loss)/income	(0.6)%	3.0%	20.1%

Results of Operations for the Years Ended December 31, 2017 and 2016

Net Revenues

(in thousands)	Years Ended December 31, 2017	2016	Change	% Change
Generic pharmaceutical products	$ 118,437	$ 95,201	$ 23,236	24.4%
Branded pharmaceutical products	50,919	26,443	24,476	92.6%
Contract manufacturing	7,046	5,537	1,509	27.3%
Contract services and other income	440	1,441	(1,001)	(69.5)%
Total net revenues	$ 176,842	$ 128,622	$ 48,220	37.5%

We derive substantially all of our revenues from sales of generic and branded pharmaceutical products, contract manufacturing, and contract services, which include product development services, laboratory services, and royalties on net sales of certain products. We anticipate that we will adopt the Financial Accounting Standards Boards ("FASB's") guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our net revenues.

Net revenues for the year ended December 31, 2017 were $176.8 million compared to $128.6 million for the same period in 2016, an increase of $48.2 million, or 37.5%, primarily as a result of the following factors:

- Net revenues for generic pharmaceutical products were $118.4 million during the year ended December 31, 2017, an increase of 24.4% compared to $95.2 million for the same period in 2016. The primary reason for the increase was the annualization of 2016 launches, notably Nilutamide, Erythromycin Ethylsuccinate, and Fenofibrate, the impact of the third quarter 2017 launch of Diphenoxylate Hydrochloride and Atropine Sulfate, and increased unit sales of Methazolamide and Flecainide. These increases were tempered by volume decreases in Esterified Estrogen with Methyltestosterone ("EEMT") sales, driven by market contraction, and sales decreases for Propranolol ER driven by price. In 2018, we anticipate increases in generic pharmaceutical product revenues related to our recently-launched products, as well as additional products we expect to launch in 2018.

  As described in Item 1. Business – Government Regulations – Unapproved Products, we market EEMT and Opium Tincture without FDA approved NDAs. The FDA's policy with respect to the continued marketing of unapproved products appears in the FDA's September 2011 Compliance Policy Guide Sec. 440.100 titled "Marketed New Drugs without Approved NDAs or ANDAs." Under this policy, the FDA has stated that it will follow a risk-based approach with regard to enforcement against marketing of unapproved products. The FDA evaluates whether to initiate enforcement action on a case-by-case basis, but gives higher priority to enforcement action against products in certain categories, such as those with potential safety risks or that lack evidence of effectiveness. While we believe that, so long as we comply with applicable manufacturing standards, the FDA will not take action against us under the current enforcement policy, we can offer no assurances that the FDA will continue this policy or not take a contrary position with any individual product or group of products. Our combined net revenues for these products for the years ended December 31, 2017 and 2016 were $27.6 million and $34.3 million, respectively.

- Net revenues for branded pharmaceutical products were $50.9 million during the year ended December 31, 2017 an increase of 92.6% compared to the $26.4 million for the same period in 2016. The primary reason for the increase was sales of Inderal XL and InnoPran XL, both of which were launched in first quarter of 2017, as well as sales of Inderal LA, which was launched in the second quarter of 2016. These increases were partially offset by decreased unit sales for Vancocin. We experience periodic larger orders for our Vancocin product that relate to clinical trials. Such orders constituted $2.4 million of our branded pharmaceutical product revenue for the year ended December 31, 2016. We had no such orders in the year ended December 31, 2017, and we cannot be sure that such purchases will occur in future periods. In 2018, we anticipate increases in branded pharmaceutical product revenues related to a full year of sales of Inderal XL and InnoPran XL, as well as sales of Atacand, Atacand HCT, Arimidex, and Casodex, once we launch the products through our own distribution channels.

- Contract manufacturing revenues were $7.0 million during the year ended December 31, 2017, an increase of 27.3% compared to $5.5 million for the same period in 2016, due to the timing and volume of orders from contract manufacturing customers in the period. As described in Item 1. Business – Government Regulations – Unapproved Products, we contract manufacture a group of products on behalf of a customer that are marketed by that customer without an FDA-approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our contract manufacturing revenues for the group of unapproved products for the years ended December 31, 2017 and 2016 were $2.0 million and $1.5 million, respectively.

- Contract services and other income were $0.4 million during the year ended December 31, 2017, a decrease of 69.5% from $1.4 million for the same period in 2016, primarily because sales of Fenofibrate in the ANI label have replaced the royalties previously received on the product. We launched Fenofibrate under our own label in the second quarter of 2016. We anticipate an increase in contract services and other income in 2018 related to royalties we expect to receive on sales of the Atacand, Atacand HCT, Arimidex, and Casodex products prior to launching the products through our own distribution channels.

  As described in Item 1. Business – Government Regulations – Unapproved Products, we receive royalties on the net sales of a group of contract-manufactured products, which are marketed by the customer without an FDA-approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our royalties on the net sales of these unapproved products were less than 1% of total revenues for the years ended December 31, 2017 and 2016.

Cost of Sales (Excluding Depreciation and Amortization)

	Years Ended December 31,			
(in thousands)	**2017**	**2016**	**Change**	**% Change**
Cost of sales (excl. depreciation and amortization)	$ 79,032	$ 48,780	$ 30,252	62.0%

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

For the year ended December 31, 2017, cost of sales increased to $79.0 million from $48.8 million for the same period in 2016, an increase of $30.3 million or 62.0%, primarily as a result of increased sales of products subject to profit-sharing arrangements, as well as increased volumes and the impact on cost of sales of the excess of fair value over cost for Inderal XL and InnoPran XL inventory acquired during the first three months of 2017 through asset acquisition transactions and subsequently sold during the period. Cost of sales as a percentage of net revenues increased to 44.7% during the year ended December 31, 2017, from 37.9% during same period in 2016, primarily as a result of increased sales of products subject to profit-sharing arrangements and the $10.4 million net impact on cost of sales (5.9% as a percent of net revenues) of the excess of fair value over cost for Inderal XL and InnoPran XL inventory sold during the period. This trend will continue until such time that the inventory acquired as components of the Inderal XL and InnoPran XL asset purchases is consumed. During the year ended December 31, 2016, cost of sales included $5.9 million (4.6% as a percent of net revenue) related to the excess of fair value over cost for Inderal LA and Propranolol ER inventory sold during the period. During the second quarter 2017, we completed sales of the Inderal LA inventory acquired as a component of the Inderal LA asset purchase. We anticipate that our cost of sales will continue to increase in 2018, due to new product launches and the full year impact of sales of certain products launched in 2017 that are subject to profit-sharing arrangements.

We source the raw materials for our products from both domestic and international suppliers, which we carefully select. Generally, we qualify only a single source of API for use in each product due to the cost and time required to validate and qualify a second source of supply. Any change in one of our API suppliers must usually be approved through a PAS by the FDA. The process of obtaining an approval of such a PAS can require between four and 18 months. While we also generally qualify a single source for non-API raw materials, the process required to qualify an alternative source of a non-API raw material is typically much less rigorous. If we were to change the supplier of a raw material for a product, the cost for the material could be greater than the amount we paid with the previous supplier. Changes in suppliers are rare, but could occur as a result of a supplier's business failing, an issue arising from an FDA inspection, or failure to maintain our required standards of quality. As a result, we select suppliers with great care, based on various factors including quality, reliability of supply, and long-term financial stability. Certain of the APIs for our drug products, including those that are marketed without approved NDAs or ANDAs, such as EEMT, are sourced from international suppliers. From time to time, we have experienced temporary disruptions in the supply of certain of such imported API due to FDA inspections. During the year ended December 31, 2017, we purchased 23% of our inventory from two suppliers. As of December 31, 2017, amounts payable to these suppliers was $0.2 million. In the year ended December 31, 2016, we purchased 25% of our inventory from one supplier.

In order to manufacture Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules, we must submit a request to the Drug Enforcement Agency ("DEA") for a quota to purchase the amount of opium and oxycodone needed to manufacture the respective products. Without approved quotas from the DEA, we would not be able to purchase these ingredients from our suppliers. As a result, we are dependent upon the DEA to annually approve a sufficient quota of API to support the continued manufacture of Opium Tincture, Oxycodone Hydrochloride oral solution (5 mg/5 mL), Oxycodone Hydrochloride oral solution (100 mg/5 mL), and Oxycodone capsules.

Other Operating Expenses

	Years Ended December 31,			
(in thousands)	**2017**	**2016**	**Change**	**% Change**
Research and development	$ 9,070	$ 2,906	$ 6,164	212.1%
Selling, general, and administrative	31,580	27,829	3,751	13.5%
Depreciation and amortization	27,928	22,343	5,585	25.0%
Intangible asset impairment charge	903	6,685	(5,782)	(86.5)%
Total other operating expenses	$ 69,481	$ 59,763	$ 9,718	16.3%

Other operating expenses consist of research and development costs, selling, general, and administrative expenses, depreciation and amortization, and impairment charges.

For the year ended December 31, 2017, other operating expenses increased to $69.5 million from $59.8 million for the same period in 2016, an increase of $9.7 million, or 16.3%, primarily as a result of the following factors:

- Research and development expenses increased from $2.9 million to $9.1 million, an increase of 212.1%, due to timing of work on development projects, primarily the Cortrophin gel re-commercialization project and the Vancocin oral solution project. Current projects also include work on the ANDAs purchased in 2014 and 2015. We anticipate that research and development costs will continue to increase in 2018, in support of our strategy to expand our product portfolio and as we continue to focus on the development of our Cortrophin product.

- Selling, general, and administrative expenses increased from $27.8 million to $31.6 million, an increase of 13.5%, primarily due to increases in personnel and related costs and $0.5 million of expenses related to a proposed transaction that we ultimately decided not to pursue further. These increases were partially offset by the lack of the $1.3 million of expenses related to the transition of our CFO in the second quarter of 2016. We anticipate that selling, general, and administrative expenses will continue to increase in 2018, as we support anticipated additional revenue growth.

- Depreciation and amortization increased from $22.3 million to $27.9 million, an increase of 25.0%, due primarily to the amortization of the distribution license and trademark for Inderal XL, which were acquired in February 2017, the amortization of the product rights for InnoPran XL, which were acquired in February 2017, and the amortization of the rights, title, and interest in the NDA for Inderal LA, which were acquired in April 2016. We anticipate that depreciation and amortization expense will continue to increase in 2018, as a result of our amortization of the NDAs for Atacand, Atacand HCT, Arimidex, and Casodex, acquired in late December 2017.

- As discussed under Intangible Assets in our Critical Accounting Estimates, we recognized an impairment charge of $0.9 million and $6.7 million in relation to our testosterone gel NDA asset during the years ended December 31, 2017 and 2016, respectively.

Other Expense, net

	Years Ended December 31,			
(in thousands)	**2017**	**2016**	**Change**	**% Change**
Interest expense, net	$ (12,035)	$ (11,327)	$ (708)	6.3%
Other expense, net	55	(74)	129	(174.3)%
Total other expense, net	$ (11,980)	$ (11,401)	$ (579)	5.1%

For the year ended December 31, 2017, we recognized other expense, net of $12.0 million versus other expense, net of $11.4 million for the same period in 2016, an increase of $0.6 million. Interest expense, net for both periods consists primarily of interest expense on our convertible debt and, in 2017, included interest expense on borrowings under our line of credit. For the years ended December 31, 2017 and 2016, there was $0.6 million and $0.2 million of interest capitalized into construction in progress, respectively.

Provision for Income Taxes

	Years Ended December 31,			
	2017	**2016**	**Change**	**% Change**
Provision for income taxes	$ (17,425)	$ (4,744)	$ (12,681)	267.3%

Our provision for income taxes consists of current and deferred components, which include changes in our deferred tax assets, our deferred tax liabilities, and our valuation allowance. The Tax Cuts and Jobs Act, which was enacted on December 22, 2017, includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. We measure our deferred tax assets and liabilities using the tax rates that we believe will apply in the years in which the temporary differences are expected to be recovered or paid. As a result, we remeasured our deferred tax assets and deferred tax liabilities to reflect the reduction in the enacted U.S. corporate income tax rate, resulting in a $13.4 increase in income tax expense for the year ended December 31, 2017. See Note 9. Income Taxes, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K for further information.

For the year ended December 31, 2017, we recognized income tax expense of $17.4 million, versus $4.7 million in the prior year period, a provision increase of $12.7 million. The effective tax rate for the year ended December 31, 2017 was 106.6% of pre-tax income reported in the period. Our effective tax rate for the year ended December 31, 2017 was primarily impacted by the $13.4 million revaluation of our deferred tax assets and liabilities at the lower 21% U.S. corporate income tax rate. Our effective tax rate was also impacted by the Domestic Production Activities Deduction, as well as the impact of current period awards of stock-based compensation, stock option exercises, and disqualifying dispositions of incentive stock options, all of which impact the consolidated effective rate in the period in which they occur. We expect that our effective tax rate for 2018 will be significantly lower than that in 2017 as a result of the Tax Cuts and Jobs Act.

The effective tax rate for the year ended December 31, 2016 was 54.7% of pre-tax income reported in the period. The effective tax rate for the period was primarily driven by permanent differences related to our international tax structure surrounding our Cortrophin NDAs, which resulted in significant non-deductible amortization, research and development expenses, and interest expense in 2016. In addition, the effective tax rate was impacted by other permanent differences, changes in temporary differences, and by the tax effect of discrete items. These discrete items included changes in our estimated pre-tax income resulting from various asset acquisitions that occurred during the periods and associated changes to temporary differences arising from those asset acquisitions, changes in temporary differences as a result of our impairment charge related to our testosterone gel NDA asset, as well as the impact of current period awards of stock-based compensation, stock option exercises, vesting of restricted stock, and disqualifying dispositions of incentive stock options, all of which impact the estimated annual effective rate in the period in which they occur.

Results of Operations for the Years Ended December 31, 2016 and 2015

Net Revenues

	Years Ended December 31,			
(in thousands)	**2016**	**2015**	**Change**	**% Change**
Generic pharmaceutical products	$ 95,201	$ 55,169	$ 40,032	72.6%
Branded pharmaceutical products	26,443	11,003	15,440	140.3%
Contract manufacturing	5,537	4,883	654	13.4%
Contract services and other income	1,441	5,267	(3,826)	(72.6)%
Total net revenues	$ 128,622	$ 76,322	$ 52,300	68.5%

Net revenues for the year ended December 31, 2016 were $128.6 million compared to $76.3 million for the same period in 2015, an increase of $52.3 million, or 68.5%, primarily as a result of the following factors:

- Net revenues for generic pharmaceutical products were $95.2 million during the year ended December 31, 2016, an increase of 72.6% compared to $55.2 million for the same period in 2015. The primary reason for the increase was sales of Propranolol ER and other products launched in the second quarter of 2016, sales of Nilutamide and Erythromycin Ethylsuccinate, both of which were launched in the third quarter of 2016, as well as a full year of sales of Vancomycin, which was launched under our own label in the fourth quarter of 2015. These increases were tempered by volume decreases in EEMT sales.

  As described in Item 1. Business – Government Regulations – Unapproved Products, we market EEMT and Opium Tincture without FDA approved NDAs. While we believe that, so long as we comply with applicable manufacturing standards, the FDA will not take action against us under the current enforcement policy, we can offer no assurances that the FDA will continue this policy or not take a contrary position with any individual product or group of products. Our combined net revenues for these products for the years ended December 31, 2016 and 2015 were $34.3 million and $44.3 million, respectively.

- Net revenues for branded pharmaceutical products were $26.4 million during the year ended December 31, 2016 an increase of 140.3% compared to the $11.0 million for the same period in 2015. The primary reason for the increase was sales of Inderal LA, which was launched in the second quarter of 2016 and, to a lesser extent, by increased sales of Vancocin. The increase was partially offset by lower unit sales of Reglan due to decreased purchases by a customer and decreased unit sales for Lithobid. We experience periodic larger orders for our Vancocin product that relate to clinical trials. Such orders constituted $2.4 million and $2.1 million of our branded pharmaceutical product revenue for the years ended December 31, 2016 and 2015, respectively.

- Contract manufacturing revenues were $5.5 million during the year ended December 31, 2016, an increase of 13.4% compared to $4.9 million for the same period in 2015, due to the timing and volume of orders from contract manufacturing customers in the period. As described in Item 1. Business – Government Regulations – Unapproved Products, we contract manufacture a group of products on behalf of a customer that are marketed by that customer without an FDA-approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our contract manufacturing revenues for the group of unapproved products for the years ended December 31, 2016 and 2015 were $1.5 million and $1.6 million, respectively.

- Contract services and other income were $1.4 million during the year ended December 31, 2016, a decrease of 72.6% from $5.3 million for the same period in 2015, due primarily to the lack of royalties received on sales of the authorized generic of Vancocin. In the fourth quarter of 2015, we launched an authorized generic of Vancocin under our own label, which replaced the authorized generic product previously on the market. This decrease was partially offset by royalties related to sales of Fenofibrate, the authorized generic of Lipofen®, the marketing and distribution rights to which we acquired in January 2016. We launched Fenofibrate under our own label in the second quarter of 2016. In the fourth quarter of 2016, we also received a $0.6 million royalty payment related to a license for patent rights initially owned by Cell Genesys, which merged with BioSante in 2009.

  As described in Item 1. Business – Government Regulations – Unapproved Products, we receive royalties on the net sales of a group of contract-manufactured products, which are marketed by the customer without an FDA-approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our royalties on the net sales of these unapproved products were less than 1% of total revenues for the years ended December 31, 2016 and 2015.

Cost of Sales (Excluding Depreciation and Amortization)

	Years Ended December 31,			
(in thousands)	**2016**	**2015**	**Change**	**% Change**
Cost of sales (excl. depreciation and amortization)	$ 48,780	$ 12,692	$ 36,088	284.3%

For the year ended December 31, 2016, cost of sales increased to $48.8 million from $12.7 million for the same period in 2015, an increase of $36.1 million or 284.3%, primarily as a result of increased sales of products subject to profit-sharing arrangements, as well as increased volumes and the impact on cost of sales of the excess of fair value over cost for Inderal LA and Propranolol ER inventory acquired in 2016 through an asset acquisition transaction, and subsequently sold during the period.

Cost of sales as a percentage of net revenues increased to 37.9% during the year ended December 31, 2016, from 16.6% during same period in 2015, primarily as a result of increased sales of products subject to profit-sharing arrangements, a trend we expect to continue, and the $5.9 million impact on cost of sales (4.6% as a percent of net revenues) of the excess of fair value over cost for Inderal LA and Propranolol ER inventory sold during the period.

During the year ended December 31, 2016, we purchased 25% of our inventory from one supplier. As of December 31, 2016, amounts payable to this supplier were immaterial. In the year ended December 31, 2015, we purchased 33% of our inventory from two suppliers.

Other Operating Expenses

(in thousands)	Years Ended December 31, 2016	2015	Change	% Change
Research and development	$ 2,906	$ 2,874	$ 32	1.1%
Selling, general, and administrative	27,829	21,156	6,673	31.5%
Depreciation and amortization	22,343	6,900	15,443	223.8%
Intangible asset impairment charge	6,685	-	6,685	NM(1)
Total other operating expenses	$ 59,763	$ 30,930	$ 28,833	93.2%

(1) Not Meaningful

For the year ended December 31, 2016, other operating expenses increased to $59.8 million from $30.9 million for the same period in 2015, an increase of $28.8 million, or 93.2%, primarily as a result of the following factors:

- Research and development expenses were $2.9 million during both years ended December 31, 2016 and 2015. The slight increase was due to timing of work on development projects. Projects included work on the ANDAs purchased in 2014 and 2015, as well as the Cortrophin re-commercialization project and collaborations with partners.

- Selling, general, and administrative expenses increased from $21.2 million to $27.8 million, an increase of 31.5%, primarily due to increased stock-based compensation expense and increases in personnel and related costs, including $1.3 million of expenses related to the transition of our CFO in the second quarter of 2016. All expense related to the transition was recognized in the second quarter of 2016.

- Depreciation and amortization increased from $6.9 million to $22.3 million, an increase of 223.8%, due primarily to the amortization of the NDAs for Cortrophin gel and Cortrophin-Zinc and marketing and distribution rights acquired from H2-Pharma, LLC, both of which were acquired in January 2016, and the amortization of the rights, title, and interest in the NDA for Inderal LA, which was acquired in April 2016, as well as recognizing a full year of amortization of the ANDAs acquired in July 2015.

- As discussed under Intangible Assets in our Critical Accounting Estimates, we recognized an impairment charge of $6.7 million in relation to our testosterone gel NDA asset during the year ended December 31, 2016. No impairment losses related to intangible assets were recognized in the year ended December 31, 2015.

Other Expense, net

(in thousands)	Years Ended December 31, 2016	2015	Change	% Change
Interest expense, net	$ (11,327)	$ (11,008)	$ (319)	2.9%
Other (expense)/income, net	(74)	41	(115)	(280.5)%
Total other expense, net	$ (11,401)	$ (10,967)	$ (434)	4.0%

For the year ended December 31, 2016, we recognized other expense, net of $11.4 million, a decrease of $0.4 million from other expense of $11.0 million for the same period in 2015. Interest expense, net for both periods consists primarily of interest expense on our convertible debt. For the years ended December 31, 2016 and 2015, there was $0.2 million and $56 thousand of interest capitalized into construction in progress, respectively.

Provision for Income Taxes

	Years Ended December 31,			
	2016	2015	Change	% Change
Provision for income taxes	$ (4,744)	$ (6,358)	$ 1,614	(25.4)%

For the year ended December 31, 2016, we recognized income tax expense of $4.7 million, versus $6.4 million in the prior year period, a provision decrease of $1.6 million. Of the $4.7 million of total tax expense, $13.0 million is current expense, $0.6 million is the impact on the provision related to the excess tax benefit from stock-based compensation awards, and $0.1 million is a change in valuation allowance. These were partially offset by a $9.0 million net deferred tax benefit.

The effective tax rate for the year ended December 31, 2016 was 54.7% of pre-tax income reported in the period. The effective tax rate for the period was primarily driven by permanent differences related to our international tax structure surrounding our Cortrophin NDAs, which resulted in significant non-deductible amortization, research and development expenses, and interest expense in 2016. In addition, the effective tax rate was impacted by other permanent differences, changes in temporary differences, and by the tax effect of discrete items. These discrete items included changes in our estimated pre-tax income resulting from various asset acquisitions that occurred during the periods and associated changes to temporary differences arising from those asset acquisitions, changes in temporary differences as a result of our impairment charge related to our testosterone gel NDA asset, as well as the impact of awards of stock-based compensation, stock option exercises, vesting of restricted stock, and disqualifying dispositions of incentive stock options, all of which impact the estimated annual effective rate in the period in which they occur.

The effective tax rate for the year ended December 31, 2015 was 29.3% of pre-tax income reported in the period. The effective tax rate for the period was primarily driven by changes in temporary differences, permanent differences, state income tax rates, and the impact of awards of stock-based compensation, stock option exercises, vesting of restricted stock, and disqualifying dispositions of incentive stock options, all of which impact the estimated annual effective rate in the period in which they occur.

Liquidity and Capital Resources

The following table highlights selected liquidity and working capital information from our consolidated balance sheets.

	December 31,	
(in thousands)	**2017**	**2016**
Cash and cash equivalents	$ 31,144	$ 27,365
Accounts receivable, net	58,788	45,895
Inventories, net	37,727	26,183
Prepaid income taxes	1,162	-
Prepaid expenses and other current assets	2,784	3,564
Total current assets	$ 131,605	$ 103,007
Accounts payable	$ 3,630	$ 3,389
Accrued expenses and other	1,571	927
Accrued royalties	12,164	11,956
Accrued compensation and related expenses	2,306	1,631
Current income taxes payable	-	2,398
Accrued government rebates	7,930	5,891
Returned goods reserve	8,274	5,756
Current component of long-term borrowing, net of deferred financing costs	3,353	-
Total current liabilities	$ 39,228	$ 31,948

At December 31, 2017, we had $31.1 million in unrestricted cash and cash equivalents. At December 31, 2016, we had $27.4 million in unrestricted cash and cash equivalents. We generated $39.4 million of cash from operations in the year ended December 31, 2017. In February 2017, we purchased from Cranford Pharmaceuticals, LLC a distribution license, trademark and certain finished goods inventory for Inderal XL for $20.2 million in cash. We made the $20.2 million cash payment using cash on hand. In February 2017, we purchased from Holmdel Pharmaceuticals, LP the NDA, trademark, and certain finished goods inventory for InnoPran XL, including a license to an Orange Book listed patent, for $30.6 million in cash. We made the $30.6 million cash payment using $30.0 million of funds from our line of credit and $0.6 million of cash on hand. In December 2017, we purchased from AstraZeneca AB and AstraZeneca UK Limited the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash. We made the $46.5 million cash payment with funds from the $75.0 million five-year Term Loan we entered into with Citizens Bank N.A.

In May 2016, we entered into a credit arrangement (the “Line of Credit”) with Citizens Bank Capital, a division of Citizens Asset Finance, Inc. that provided for a $30.0 million asset-based revolving credit loan facility. In February 2017, we implemented the accordion feature and increased the Line of Credit to $40.0 million. In December 2017, we entered into our $125.0 million Credit Agreement with Citizens Bank, N.A. as sole lender and administrative agent. The Credit Agreement is comprised of a $75.0 million five-year Term Loan and a $50.0 million Revolving Credit Facility and is secured by the assets of the Company. The Term Loan was accounted for as a modification of our existing Line of Credit. The funds from the Term Loan were used to pay down the $25.0 million balance on our existing Line of Credit, as well as to purchase the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash, as noted above. As of December 31, 2017, we had not drawn on the Revolving Credit Facility.

The Tax Cuts and Jobs Act, which was enacted on December 22, 2017, includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. We anticipate that our cash tax payments will decrease in 2018 as a result of this reduction in income tax rate.

In the first quarter of 2016, we purchased from Merck Sharp & Dohme B.V. the NDAs and associated product rights and manufacturing licenses for Cortrophin gel and Cortrophin-Zinc for $75.0 million in cash and a percentage of future net sales of the products under the NDAs, wherein we will retain a majority of the proceeds from such sales. In the first quarter of 2016 we purchased from H2-Pharma, LLC the rights to market, sell, and distribute two products for $8.8 million in cash and the assumption of an accrued royalty of $1.2 million, for a total of $10.0 million in consideration. In the second quarter of 2016, we purchased from Cranford Pharmaceuticals, LLC the rights, title, and interest in the NDA for Inderal LA, as well as certain documentation, trademark rights, and finished goods for $60.0 million in cash and milestone payments based on future gross profits from sales of products under the NDA, which milestone payments are capped at $16.9 million, of which we've paid $3.3 million. In addition, at closing, we transferred $5.0 million to an escrow account as security for future milestone payments.

We are focused on expanding our business and product pipeline through collaborations, and also through acquisitions of products and companies. We are continually evaluating potential asset acquisitions and business combinations. To finance such acquisitions, we might raise additional equity capital, incur additional debt, or both.

Our working capital ratio, defined as total current assets divided by total current liabilities, is 3.4 as of December 31, 2017. We believe that our financial resources, consisting of current working capital and anticipated future operating revenue, will be sufficient to enable us to meet our working capital requirements for at least the next 12 months. If our assumptions underlying estimated revenue and expenses are wrong, or if our cash requirements change materially as a result of shifts in our business or strategy, we could require additional financing. If in the future we do not remain profitable or generate cash from operations as anticipated and additional capital is needed to support operations, we may be unable to obtain such financing, or obtain it on favorable terms, in which case we may be required to curtail development of new products, limit expansion of operations, or accept financing terms that are not as attractive as desired.

Consolidation among wholesale distributors, chain drug stores, and group purchasing organizations has resulted in a smaller number of companies each controlling a larger share of pharmaceutical distribution channels. Our net revenues were concentrated among three customers representing 29%, 29%, and 20% of net revenues during the year ended December 31, 2017. As of December 31, 2017, accounts receivable from these three customers totaled approximately 85% of accounts receivable, net. As a result, negotiated payment terms with these customers have a material impact on our liquidity and working capital.

Three of our pharmaceutical products, EEMT, Inderal LA, and Fenofibrate, accounted for approximately 40% of our net revenues in 2017. Three of our pharmaceutical products, EEMT, Inderal LA, and Propranolol ER, accounted for approximately 44% of our net revenues in 2016. Two of our generic pharmaceutical products, EEMT and Opium Tincture, accounted for approximately 58% of our net revenues in 2015. As a result, market pricing for these products, combined with the costs of raw materials and payment terms with suppliers, have a material impact on our liquidity and working capital. Increases and decreases in revenue related to these products have had a significant impact on our financial results and if revenues from any of these products were to decrease substantially or entirely, it would have a material, negative impact on our cash flows and liquidity.

Our consolidated financial statements have been prepared on a basis that assumes that we will continue as a going concern and which contemplates the realization of assets and the satisfaction of liabilities and commitments in the normal course of business. These statements do not include any adjustments that might result if the carrying amount of recorded assets and liabilities are not realized.

Sources and Uses of Cash

Debt Financing

In December 2017, we entered into a $125.0 million Credit Agreement with Citizens Bank, N.A. The Credit Agreement is comprised of a $75.0 million five-year Term Loan and a $50.0 million senior secured Revolving Credit Facility and is secured by the assets of the Company. The $75.0 million Term Loan was accounted for as a modification of our existing Line of Credit. The funds from the Term Loan were used to pay down the $25.0 million balance on our existing Line of Credit, as well as to purchase the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash, as noted above. As of December 31, 2017, we had not drawn on the Revolving Credit Facility.

We may repay borrowings under the term loan and revolving credit facility under the Credit Agreement without any premium or penalty, but must repay all borrowing thereunder by August 30, 2019 unless we meet certain conditions related to the repayment or refinance of our outstanding Notes due 2019 as set forth in the Credit Agreement, and in no event later than December 29, 2022.

The Term Loan under the Credit Agreement bears interest at a rate per annum of, at our option, either (i) the Alternative Base Rate, as defined in the Credit Agreement, plus an applicable Base Rate Margin, which varies within a range of 0.50% to 1.25% depending on our total leverage ratio, or (ii) the LIBOR Rate, as defined in the Credit Agreement, plus an applicable LIBOR Margin and L/C Fee, which varies within a range of 1.50% to 2.25% depending on our total leverage ratio. We must comply with various customary financial and non-financial covenants under the Credit Agreement. The primary financial covenants under the Credit Agreement consist of a maximum total leverage ratio, which initially shall be no greater than 3.75 to 1.00, a maximum senior secured leverage ratio, which initially shall be no greater than 2.50 to 1.00, and a minimum fixed charge coverage ratio which shall be greater than or equal to 1.25 to 1.00. The primary non-financial covenants under the Credit Agreement limit, subject to various exceptions, the Company's ability to incur future indebtedness, to place liens on assets, to pay dividends or make other distributions on the Company's capital stock, to repurchase the Company's capital stock, to conduct acquisitions, to alter its capital structure and to dispose of assets.

In May 2016, we entered into a credit arrangement with Citizens Bank Capital, a division of Citizens Asset Finance, Inc. that provided for a $30.0 million asset-based revolving credit loan facility. In February 2017, we implemented the accordion feature and increased the Line of Credit to $40.0 million. In December 2017, we refinanced the $25.0 million outstanding on the Line of Credit into our Term Loan.

In December 2014, we issued $143.8 million of 3.0% Convertible Senior Notes in a registered public offering (the "December 2014 Offering"), which includes the $18.8 million of Notes issued pursuant to the full exercise of the over-allotment option granted to the underwriters in the December 2014 Offering. After deducting the underwriting discounts and commissions and other expenses (including the net cost of the bond hedge and warrant, discussed below), the net proceeds from the offering were approximately $122.6 million. The Notes were issued in order to raise funds to research, develop and commercialize our drug products; to acquire complementary businesses, products, and technologies that we may identify from time to time; and for other working capital and general corporate purposes. The Notes pay 3.0% interest semi-annually in arrears on June 1 and December 1 of each year, starting on June 1, 2015. The Notes are convertible into 2,068,792 shares of common stock, based on an initial conversion price of $69.48 per share.

A portion of the offering proceeds was used to simultaneously enter into "bond hedge" (or purchased call) and "warrant" (or written call) transactions with an affiliate of one of the offering underwriters (collectively, the "Call Option Overlay"). We entered into the Call Option Overlay to synthetically raise the initial conversion price of the Notes to $96.21 per share and reduce the potential common stock dilution that may arise from the conversion of the Notes. The exercise price of the bond hedge is $69.48 per share, with an underlying 2,068,792 common shares; the exercise price of the warrant is $96.21 per share, also with an underlying 2,068,792 common shares.

Customer Payments

In addition to the financings in prior years, payments from customers are a significant source of cash in 2017, 2016, and 2015 and were our primary source of cash in 2016 and 2015.

Uses of Cash

Our primary cash requirements are to fund operations, including research and development programs and collaborations, to support general and administrative activities, to purchase equipment and machinery to expand our manufacturing capabilities as our product lines grow, and to expand our business and product pipeline through acquisitions of products and companies. We are continually evaluating potential asset acquisitions and business combinations. Our future capital requirements will depend on many factors, including, but not limited to:

- product mix and pricing for product sales and contract manufacturing;
- pricing and payment terms with customers;
- costs of raw materials and payment terms with suppliers;
- capital expenditures and equipment purchases to support product launches; and
- business and product acquisitions.

In the first quarter of 2017, we purchased from Cranford Pharmaceuticals, LLC a distribution license, trademark and certain finished goods inventory for Inderal XL for $20.2 million in cash. In the first quarter of 2017, we purchased from Holmdel Pharmaceuticals, LP the NDA, trademark and certain finished goods inventory for InnoPran XL, including a license to an Orange Book listed patent, for $30.6 million in cash. In the fourth quarter of 2017, we acquired the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex for $46.5 million in cash. In 2017, we had $10.4 million of capital expenditures.

In the first quarter of 2016, we purchased from Merck Sharp & Dohme B.V. the NDAs and associated product rights and manufacturing licenses for Cortrophin gel and Cortrophin-Zinc for $75.0 million in cash and a percentage of future net sales of the products under the NDAs. In the first quarter of 2016 we purchased from H2-Pharma, LLC the rights to market, sell, and distribute two products for $8.8 million in cash and the assumption of an accrued royalty of $1.2 million, for a total of $10.0 million in consideration. In the second quarter of 2016, we purchased from Cranford Pharmaceuticals, LLC the rights, title, and interest in the NDA for Inderal LA, as well as certain documentation, trademark rights, and finished goods for $60.0 million in cash and milestone payments based on future gross profits from sales of products under the NDA. At closing, we also transferred $5.0 million to an escrow account as security for future milestone payments. In 2016, we had $4.6 million of capital expenditures.

In the first quarter of 2015, we acquired the ANDA for Flecainide for $4.5 million. In the third quarter of 2015, we acquired ANDAs related to 22 products for $25.0 million. In 2015, we had $2.2 million of capital expenditures.

Discussion of Cash Flows

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

	Years Ended December 31,		
(in thousands)	**2017**	**2016**	**2015**
Operating Activities	$ 39,419	$ 27,472	$ 17,264
Investing Activities	$ (107,993)	$ (149,060)	$ (32,683)
Financing Activities	$ 72,357	$ (729)	$ 1,066

Net Cash Provided by Operating Activities

Net cash provided by operating activities was $39.4 million for the year ended December 31, 2017, compared to $27.5 million during the same period in 2016, an increase of $11.9 million between the periods. This increase was principally due to increased sales volume and corresponding gross profit dollars. The Tax Cuts and Jobs Act, which was enacted on December 22, 2017, includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. We anticipate that our cash tax payments will decrease in 2018 as a result of this reduction in the U.S. corporate income tax rate.

Net cash provided by operating activities was $27.5 million for the year ended December 31, 2016, compared to $17.3 million during the same period in 2015, an increase of $10.2 million between the periods. This increase was principally due to increased sales volume and corresponding gross profit dollars, somewhat tempered by increased expenditures in support of the growth of the business.

Net Cash Used in Investing Activities

Net cash used in investing activities for the year ended December 31, 2017 was $108.0 million, principally due to the February 2017 payment of $20.2 million for the asset acquisition of the product rights for Inderal XL, the February 2017 payment of $30.6 million for the asset acquisition of the NDAs for InnoPran XL, the December 2017 payment of $46.5 million for the asset acquisition of the product rights for Atacand, Atacand HCT, Arimidex, and Casodex, and $10.4 million of capital expenditures during the period, primarily related to new equipment to expand our manufacturing capability as our product lines continue to grow.

Net cash used in investing activities for the year ended December 31, 2016 was $149.1 million, principally due to the January 2016 asset acquisition of the NDAs for Cortrophin gel and Cortrophin-Zinc for $75.0 million, the January 2016 payment of $8.8 million to H2-Pharma, LLC for marketing and distribution rights associated with two products, the April 2016 payment of $60.0 million for the asset acquisition of the NDA for Inderal LA, and $4.6 million of capital expenditures during the period.

Net cash used in investing activities was $32.7 million for the year ended December 31, 2015, principally due to the March 2015 asset acquisition of the ANDA for Flecainide for $4.5 million, the July 2015 asset acquisition of a ANDAs relating to 22 products for $25.0 million, the August 2015 payment of $1.0 million for marketing and distribution rights, and $2.2 million of capital expenditures during the period.

Net Cash Provided By/(Used In) Financing Activities

Net cash provided by financing activities was $72.4 million for the year ended December 31, 2017, principally due to the cash inflows from establishing the $75.0 million Term Loan, partially offset by the $1.7 million of debt issuance fees allocated to the Term Loan and $1.0 million of debt issuance fees allocated to the Revolving Credit Facility.

Net cash used in financing activities was $0.7 million for the year ended December 31, 2016, principally due to the $2.5 million repurchase of the Company's common stock under our Stock Repurchase Program and $0.3 million of debt issuance costs paid in relation to the Line of Credit, partially offset by $1.6 million of proceeds from stock option exercises and $0.6 million of excess tax benefit from share-based compensation awards.

Net cash provided by financing activities was $1.1 million for the year ended December 31, 2015, resulting primarily from $0.8 million of proceeds from stock option exercises and $0.4 million of excess tax benefit from stock-based compensation awards.

Contractual Obligations

The following table summarizes our long-term contractual obligations and commitments as of December 31, 2017.

	Payments Due by Period				
(in thousands)	**Total**	**Less than 1 year**	**1-3 years**	**3-5 years**	**More than 5 years**
Long-term debt obligations [1]	$ 218,750	$ 3,750	$ 155,000	$ 60,000	$ -
Interest on long-term debt obligations [2]	18,724	6,782	8,385	3,557	-
Operating lease obligations	413	120	207	86	-
Purchase obligations [3]	15,796	12,966	2,830	-	-
Total	$ 253,683	$ 23,618	$ 166,422	$ 63,643	$ -

[1] Represents our $75.0 million Term Loan due December 29, 2022 and our $143.75 million Convertible Senior Notes due December 2019. Assumes that no notes are converted prior to the December 1, 2019 due date. Some or all of this amount could come due earlier if any noteholders convert their notes prior to the due date. (Note 2, Indebtedness, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K.)

[2] Represents interest due on our Term Loan and our Convertible Senior Notes. Interest for the Term Loan is calculated based on our payment schedule as proscribed in the Credit Agreement and using an estimated interest rate of 3.34%, the December 29, 2017 LIBOR rate plus 1.50%. Interest for our Convertible Senior Notes is calculated based on 3.0% interest due semi-annually and assumes all interest is paid and the notes are not converted prior to the December 1, 2019 due date. This amount could change if any noteholders convert their notes prior to the due date.

[3] Purchase obligations primarily includes contractual obligations for inventory purchase minimums and service agreements.

Critical Accounting Estimates

This Management's Discussion and Analysis of Financial Condition and Results of Operations is based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. In our consolidated financial statements, estimates are used for, but not limited to, stock-based compensation, allowance for doubtful accounts, accruals for chargebacks, government rebates, returns, and other allowances, allowance for inventory obsolescence, valuation of financial instruments and intangible assets, accruals for contingent liabilities, fair value of long-lived assets, deferred taxes and valuation allowance, and the depreciable lives of long-lived assets.

Our significant accounting policies are discussed in Note 1. Description of Business and Summary of Significant Accounting Policies, in the notes to the consolidated financial statements in Part II. Item 8. of this Annual Report on Form 10-K. On an ongoing basis, we evaluate these estimates and assumptions, including those described below. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates. Due to the estimation processes involved, the following summarized accounting policies and their application are considered to be critical to understanding our business operations, financial condition, and operating results.

Revenue Recognition

Revenue is recognized for product sales and contract manufacturing product sales upon passing of risk and title to the customer, when estimates of the selling price and discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments are reasonably determinable, collection is reasonably assured, and we have no further performance obligations. Contract manufacturing arrangements are typically less than two weeks in duration, and therefore the revenue is recognized upon completion of the aforementioned factors rather than using a proportional performance method of revenue recognition. The estimates for discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments reduce gross revenues to net revenues in the accompanying consolidated statements of operations, and are presented as current liabilities or reductions in accounts receivable in the accompanying consolidated balance sheets (see "Accruals for Chargebacks, Rebates, Returns, and Other Allowances"). Historically, we have not entered into revenue arrangements with multiple elements.

We record revenue related to marketing and distribution agreements with third parties in which we sell products under ANDAs or NDAs owned or licensed by these third parties. We have assessed and determined that we are the principal for sales under each of these marketing and distribution agreements and recognize the revenue on a gross basis when risk and title are passed to the customer, when estimates of the selling price and discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments are reasonably determinable, collection is reasonably assured, and we have no further performance obligations. Under these agreements, we pay these third parties a specified percentage of the gross profit earned on sales of the products. These profit-sharing percentages are recognized in cost of sales in our consolidated statements of operations and are accrued in accrued royalties in our consolidated balance sheets until payment has occurred.

Occasionally, we engage in contract services, which include product development services, laboratory services, and royalties on net sales of certain contract manufactured products. For these services, revenue is recognized according to the terms of the agreement with the customer, which sometimes include substantive, measurable risk-based milestones, and when we have a contractual right to receive such payment, the contract price is fixed or determinable, the collection of the resulting receivable is reasonably assured, and we have no further performance obligations under the agreement. We recognized $0.4 million, $1.4 million, and $5.3 million of revenue related to contract services in 2017, 2016, and 2015, respectively.

Our revenue recognition accounting methodologies contain uncertainties because they require management to make assumptions and to apply judgment to estimate the amount of discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments, which are accounted for as reductions to revenue. We make these estimates based on historical experience.

We have not made any material changes to our revenue recognition policies during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our net revenues. If actual results were not consistent with our estimates, we could be exposed to losses or gains that could be material, as any changes to these estimates could cause an increase or decrease in revenue recognized during the year. For example, if there were a 10% change to these adjustments throughout the year, our net revenues would be affected by $23.6 million for the year ended December 31, 2017.

Accruals for Chargebacks, Rebates, Returns, and Other Allowances

Our generic and branded product revenues are typically subject to agreements with customers allowing chargebacks, government rebates, product returns, administrative fees and other rebates, and prompt payment discounts. We accrue for these items at the time of sale based on the estimates and methodologies described below. In the aggregate, these accruals, reflected as a decrease to gross sales, exceed 50% of generic and branded gross product sales, reduce gross revenues to net revenues in the consolidated statements of operations, and are presented as current liabilities or reductions in accounts receivable in the consolidated balance sheets. Due to our substantial increases in sales from 2015 to 2016 and again from 2016 to 2017, our accruals for chargebacks, government rebates, product returns, administrative fees and other rebates, and prompt payment discounts increased significantly in the years ended December 31, 2016 and 2017. We anticipate that these accruals will continue to increase in 2018 as we recognize a full year of sales of products launched in 2017, as well as additional products we expect to launch in 2018.

We continually monitor and re-evaluate the accruals as additional information becomes available, which includes, among other things, updates to trade inventory levels, customer product mix, products returned by customers, and trends in government rebates experience. We make adjustments to the accruals at the end of each reporting period, to reflect any such updates to the relevant facts and circumstances. Accruals are relieved upon receipt of payment from or issuance of credit to the customer, or payment of rebates and fees to customers, Medicare, and state and federal Medicaid programs.

Chargebacks

As discussed in Note 1 of Item 8. Consolidated Financial Statements, we estimate the amount of chargebacks based our actual historical experience. A number of factors influence current period chargebacks by impacting the average selling price ("ASP") of products, including customer mix, negotiated terms, volume of off-contract purchases, and wholesale acquisition cost ("WAC").

We have not made any material changes to our policy for estimating chargeback accruals during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our methodology for estimating chargebacks, which are considered variable consideration under the new guidance. If actual results were not consistent with our estimates, we could be exposed to losses or gains that could be material, as changes to chargeback estimates could cause an increase or decrease in revenue recognized during the year and increase or decrease accounts receivable. If there were a 10% change in the chargeback estimates throughout the year, our net revenues would be affected by $17.9 million for the year ended December 31, 2017.

Government Rebates

As discussed in Note 1 of Item 8. Consolidated Financial Statements, our estimates for government rebates are based upon several factors. Our estimates for Medicaid rebates are based upon our average manufacturer price, best price, product mix, levels of inventory in the distribution channel that we expect to be subject to Medicaid rebates, and historical experience, which are invoiced in arrears by state Medicaid programs. Our estimates for Medicare rebates are based on historical experience. While such experience has allowed for reasonable estimation in the past, history may not always be an accurate indicator of future rebate experience, and trends in Medicaid and Medicare enrollment and which products are covered by Medicaid and Medicare could change.

We have not made any material changes to our policy for estimating government rebates during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our methodology for estimating government rebates, which are considered variable consideration under the new guidance. We anticipate that we will have further increases in our quarterly Medicaid rebate amounts related to sales of our Inderal LA, Propranolol ER, Inderal XL, InnoPran XL, and Lithobid products and increases in our quarterly Medicare rebates related to sales of our Fenofibrate, Inderal LA, and Propranolol ER products. If actual results were not consistent with our estimates, we could be exposed to losses or gains that could be material, as changes to government rebate estimates could cause an increase or decrease in revenue recognized during the year and decrease or increase the government rebate reserve. If there were a 10% change in the government rebate estimates throughout the year, our net revenues would be affected by $1.2 million for the year ended December 31, 2017.

Returns

As discussed in Note 1 of Item 8. Consolidated Financial Statements, our estimate for returns is based upon our historical experience with actual returns. While such experience has allowed for reasonable estimation in the past, history may not always be an accurate indicator of future returns.

We have not made any material changes to our policy for estimating returns during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our methodology for estimating returns, which are considered variable consideration under the new guidance. If actual results were not consistent with our estimates, we could be exposed to losses or gains that could be material, as changes to returns estimates could cause an increase or decrease in revenue recognized during the year and decrease or increase the returned goods reserve. If there were a 10% change in the returns estimates throughout the year, our net revenues would be affected by $1.2 million for the year ended December 31, 2017.

Administrative Fees and Other Rebates

As discussed in Note 1 of Item 8. Consolidated Financial Statements, we accrue for fees and rebates by product by wholesaler, at the time of sale based on contracted rates, ASPs, and on-hand inventory counts obtained from wholesalers.

We have not made any material changes to our policy for estimating administrative fee accruals during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our methodology for estimating administrative fee accruals, which are considered variable consideration under the new guidance. If actual results were not consistent with our estimates, we could be exposed to losses or gains that could be material, as changes to these estimates could cause an increase or decrease in revenue recognized during the year and increase or decrease accounts receivable. If there were a 10% change in the administrative fees estimates throughout the year, our net revenues would be affected by $2.4 million for the year ended December 31, 2017.

Prompt Payment Discounts

As discussed in Note 1 of Item 8. Consolidated Financial Statements, we reserve for sales discounts based on invoices outstanding, assuming, based on past experience, that 100% of available discounts will be taken.

We have not made any material changes to our policy for estimating prompt payment discount accruals during the years ended December 31, 2017, 2016, and 2015. We anticipate that we will adopt the FASB's guidance for revenue recognition for contracts as of January 1, 2018, using the modified retrospective method. We expect that the adoption of this guidance will not have a material impact on our methodology for estimating prompt payment discount accruals, which are considered variable consideration under the new guidance. If customers do not take 100% of available discounts as we estimate, we could need to re-adjust our methodology for calculating the prompt payment discount reserve. If there were a 10% decrease in the prompt payment discounts estimates throughout the year, our net revenues would increase by $0.8 million for the year ended December 31, 2017.

Intangible Assets

As discussed in Note 1 of Item 8. Consolidated Financial Statements, our definite-lived intangible assets have a carrying value of $229.8 million as of December 31, 2017. These assets include ANDAs, NDAs and product rights, marketing and distribution rights, and a non-compete agreement. These intangible assets were originally recorded at fair value for business combinations and at relative fair value based on the purchase price for asset acquisitions, and are stated net of accumulated amortization.

The ANDAs, NDAs and product rights, marketing and distribution rights, and non-compete agreement are amortized over their remaining estimated useful lives, ranging from four to 10 years, based on the straight-line method. The estimated useful lives directly impact the amount of amortization expense recorded for these assets on a quarterly and annual basis.

In addition, we test for impairment of definite-lived intangible assets when events or circumstances indicate that the carrying value of the assets may not be recoverable. Judgment is used in determining when these events and circumstances arise. If we determine that the carrying value of the assets may not be recoverable, judgment and estimates are used to assess the fair value of the assets and to determine the amount of any impairment loss. If the fair value of an intangible asset is determined to be lower than its carrying value, we could be exposed to an impairment charge that could be material.

In conjunction with our 2013 merger with BioSante (the "Merger"), we acquired a testosterone gel product that was licensed to Teva (the "Testosterone Gel NDA") and this product was assigned an intangible asset value of $10.9 million in accounting for the Merger. In May 2015, Teva transferred the rights of the product back to ANI. In exchange, we will pay Teva a royalty of up to $5.0 million, at a rate of 5% of the consideration we receive as a result of commercial sale of the product. We assessed the value of the Testosterone Gel NDA under the new arrangement and determined that the net asset value was recoverable as of the May 2015 transfer date and subsequent balance sheet dates. We began the commercialization process for the product during the second half of 2015 and it continued throughout 2016. In late 2016, we determined that the development and manufacturing costs required to commercialize the product had increased and would pose a significant barrier to commercializing the product ourselves. Generic competition in the testosterone replacement market had increased substantially by the end of 2016, leading to significant decreases in pricing for the product. In the fourth quarter, management began putting forth efforts to sell the Testosterone Gel NDA rather than commercialize it ourselves. As a result of all these factors, in the fourth quarter of 2016, we determined that the facts and circumstances indicated that the asset could be impaired. We performed an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value. We determined the fair value of the Testosterone Gel NDA by using a discounted cash flows model. As a result of this assessment, we recorded an impairment of $6.7 million in the year ended December 31, 2016. We also determined in the fourth quarter of 2016 that the asset met the criteria for being held for sale. Throughout 2017, we continued to attempt to sell the Testosterone Gel NDA and were unable to complete a sale. As a result, in the fourth quarter of 2017, we determined that the asset could be impaired. After performing an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value, we recorded an additional impairment of $0.9 million in the year ended December 31, 2017, writing off the asset in its entirety.

No events or circumstances arose in 2017 that indicated that the carrying value of any of our other definite-lived intangible assets may not be recoverable. If the fair value of an intangible asset is determined to be lower than its carrying value, we could be exposed to an impairment charge that could be material.

Goodwill

As discussed in Note 1 of Item 8. Consolidated Financial statements, our goodwill balance relates to the Merger and represents the excess of the total purchase consideration over the fair value of acquired assets and assumed liabilities, using the purchase method of accounting. Goodwill is not amortized, but is subject to periodic review for impairment. As a result, the amount of goodwill is directly impacted by the estimates of the fair values of the assets acquired and liabilities assumed.

In addition, goodwill is reviewed annually, as of October 31, and whenever events or changes in circumstances indicate that the carrying amount of the goodwill might not be recoverable. Judgment is used in determining when these events and circumstances arise. We perform our review of goodwill on our one reporting unit. If we determine that the carrying value of the assets may not be recoverable, judgment and estimates are used to assess the fair value of the assets and to determine the amount of any impairment loss.

The carrying value of goodwill at December 31, 2017 was $1.8 million. We believe it is unlikely that there will be a material change in the future estimates or assumptions used to test for impairment losses on goodwill. However, if actual results were not consistent with our estimates or assumptions, we could be exposed to an impairment charge that could be material.

Stock-Based Compensation

Our Amended and Restated 2008 Stock Incentive Plan (the "2008 Plan") includes stock options and restricted stock, which are awarded in exchange for employee and non-employee director services. In July 2016, we commenced administration of our Employee Stock Purchase Plan ("ESPP"). In 2017, the stock-based compensation expense related to the ESPP was $68 thousand. We recognize the estimated fair value of stock-based awards and classify the expense where the underlying salaries are classified.

The following table summarizes stock-based compensation expense incurred under the 2008 Plan and included in our consolidated statements of operations:

	Years Ended December 31,		
(in thousands)	**2017**	**2016**	**2015**
Cost of sales	$ 86	$ 60	$ 82
Research and development	677	112	109
Selling, general, and administrative	5,259	5,870	3,665
	$ 6,022	$ 6,042	$ 3,856

Stock-based compensation cost for stock options is determined at the grant date using an option pricing model and stock-based compensation cost for restricted stock is based on the closing market price of the stock at the grant date. The value of the award is recognized as expense on a straight-line basis over the employee's requisite service period.

Valuation of stock awards requires us to make assumptions and to apply judgment to determine the fair value of the awards. These assumptions and judgments include estimating the future volatility of our stock price and dividend yields. Changes in these assumptions can affect the fair value estimate.

Through December 31, 2016, we estimated the awards that would ultimately vest, using judgment for the amounts that would be forfeited due to failure to fulfill service conditions. To the extent actual results or updated estimates differed from current estimates, such amounts were recorded as a cumulative adjustment in the period estimates were revised. As of January 1, 2017, in accordance with new guidance from the FASB, we no longer estimate forfeitures, instead we account for forfeitures as they occur. Changes in estimates could affect compensation expense within individual periods. If there were to be a 10% change in our stock-based compensation expense for the year, our Net Income before Provision for Income Taxes would be affected by $0.6 million for the year ended December 31, 2017.

Income Taxes

We use the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that such tax rate changes are enacted. The Tax Cuts and Jobs Act, which was enacted on December 22, 2017, includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. We measure our deferred tax assets and liabilities using the enacted tax rates that we believe will apply in the years in which the temporary differences are expected to be recovered or paid. As a result, we remeasured our deferred tax assets and deferred tax liabilities to reflect the reduction in the enacted U.S. corporate income tax rate, resulting in a $13.4 million increase in income tax expense for the year ended December 31, 2017. The measurement of a deferred tax asset is reduced, if necessary, by a valuation allowance if it is more likely than not that some portion or all of the deferred tax asset will not be realized.

We use a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. We have not identified any uncertain income tax positions that could have a material impact to the consolidated financial statements. We are subject to taxation in various U.S. jurisdictions and remain subject to examination by taxing jurisdictions for the years 1998 and all subsequent periods due to the availability of net operating loss carryforwards. To the extent we prevail in matters for which a liability has been established, or are required to pay amounts in excess of our established liability, our effective income tax rate in a given financial statement period could be materially affected. An unfavorable tax settlement generally would require use of our cash and may result in an increase in our effective income tax rate in the period of resolution. A favorable tax settlement may reduce our effective income tax rate and would be recognized in the period of resolution.

We consider potential tax effects resulting from discontinued operations and record intra-period tax allocations, when those effects are deemed material. Our effective income tax rate is also affected by changes in tax law, our level of earnings, and the results of tax audits. We expect that our effective tax rate will decrease as a result of the change in U.S. corporate income tax rate from the Tax Cuts and Jobs Act.

Although we believe that the judgments and estimates discussed herein are reasonable, actual results could differ, and we may be exposed to losses or gains that could be material **.**

Recent Accounting Pronouncements

Recent Accounting Pronouncements Not Yet Adopted

In May 2017, the FASB issued guidance clarifying when modification accounting should be used for changes to the terms or conditions of a share-based payment award. The guidance does not change the accounting for modifications, but clarifies that modification accounting guidance should only be applied if there is a change to the value, vesting conditions, or award classification and would not be required if the changes are considered non-substantive. The guidance is effective for the fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. The guidance must be adopted on a prospective basis. We will adopt this guidance as of January 1, 2018. The adoption of this guidance is not expected to have a material impact on our consolidated financial statements.

In June 2016, the FASB issued guidance with respect to measuring credit losses on financial instruments, including trade receivables. The guidance eliminates the probable initial recognition threshold that was previously required prior to recognizing a credit loss on financial instruments. The credit loss estimate can now reflect an entity's current estimate of all future expected credit losses. Under the previous guidance, an entity only considered past events and current conditions. The guidance is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. The adoption of certain amendments of this guidance must be applied on a modified retrospective basis and the adoption of the remaining amendments must be applied on a prospective basis. We currently expect that the adoption of this guidance will likely change the way we assess the collectability of our receivables and recoverability of other financial instruments. We have not yet begun to evaluate the specific impacts of this guidance nor have we determined the manner in which we will adopt this guidance.

In February 2016, the FASB issued guidance for accounting for leases. The guidance requires lessees to recognize assets and liabilities related to long-term leases on the balance sheet and expands disclosure requirements regarding leasing arrangements. The guidance is effective for reporting periods beginning after December 15, 2018 and early adoption is permitted. The guidance must be adopted on a modified retrospective basis and provides for certain practical expedients. We will adopt this guidance as of January 1, 2019. We are currently reviewing our leases and other contracts to determine if the adoption of this guidance will have a material impact on our consolidated financial statements. We currently expect that the adoption of this guidance will likely change the way we account for our operating leases and will likely result in recording the future benefits of those leases and the related minimum lease payments on our consolidated balance sheets.

In May 2014, the FASB issued guidance for revenue recognition for contracts, superseding the previous revenue recognition requirements, along with most existing industry-specific guidance. The guidance requires an entity to review contracts in five steps: 1) identify the contract, 2) identify performance obligations, 3) determine the transaction price, 4) allocate the transaction price, and 5) recognize revenue. The new standard will result in enhanced disclosures regarding the nature, amount, timing, and uncertainty of revenue arising from contracts with customers. In August 2015, the FASB issued guidance approving a one-year deferral, making the standard effective for reporting periods beginning after December 15, 2017, with early adoption permitted only for reporting periods beginning after December 15, 2016. In March 2016, the FASB issued guidance to clarify the implementation guidance on principal versus agent considerations for reporting revenue gross rather than net, with the same deferred effective date. In April 2016, the FASB issued guidance to clarify the implementation guidance on identifying performance obligations and the accounting for licenses of intellectual property, with the same deferred effective date. In May 2016, the FASB issued guidance rescinding SEC paragraphs related to revenue recognition, pursuant to two SEC Staff Announcements at the March 3, 2016 Emerging Issues Task Force meeting. In May 2016, the FASB also issued guidance to clarify the implementation guidance on assessing collectability, presentation of sales tax, noncash consideration, and contracts and contract modifications at transition, with the same effective date. In September 2017, the FASB issued guidance amending and rescinding prior SEC staff announcements and observer comments related to revenue recognition, pursuant to the SEC Staff Announcement at the July 20, 2017 Emerging Issues Task Force meeting. We have performed a comprehensive review of our existing revenue arrangements as of December 31, 2017 following the five-step model. Our analysis indicates that there will be no significant changes to how the amount and timing of revenue will be recognized under the new guidance as compared to existing guidance. Additionally, our analysis indicates that there will be no significant changes to how costs to obtain and fulfill our customer contracts will be recognized under the new guidance as compared to existing guidance. We will adopt this guidance as of January 1, 2018 using the modified retrospective method and we expect that the impact of adoption on our consolidated balance sheet, statement of operations, statement of changes in stockholders' equity and statement of cash flows will not be material. The adoption of the new guidance will impact the way we analyze, document, and disclose revenue recognition under customer contracts beginning on January 1, 2018 and will result in additional disclosures in our financial statements.

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

Recently Adopted Accounting Pronouncements

In January 2017, the FASB issued guidance to simplify the measurement of goodwill. The guidance eliminates Step 2 from the goodwill impairment test. Instead, under the amendments in this guidance, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax-deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss. The guidance also eliminates the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. The guidance is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted for interim or annual goodwill impairment tests performed for testing dates after January 1, 2017. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a prospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

In January 2017, the FASB issued guidance clarifying the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions or disposals of assets or businesses. The guidance provides a screen to determine when an integrated set of assets and activities is not a business, provides a framework to assist entities in evaluating whether both an input and substantive process are present, and narrows the definition of the term output. The guidance is effective for public business entities for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years, and early adoption is permitted. The guidance must be adopted on a prospective basis. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a prospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

In November 2016, the FASB issued guidance to reduce diversity in practice that exists in the classification and presentation of changes in restricted cash on the statement of cash flows. The revised guidance requires that amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning of period and end of period total amounts shown on the statement of cash flows. The guidance is effective for the fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. If an entity adopted the guidance in an interim period, any adjustments should have been reflected as of the beginning of the fiscal year that includes that interim period. The guidance must be adopted on a retrospective basis. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a retrospective basis, and all periods have been presented under this guidance. The adoption of this new guidance resulted in the inclusion of our $5.0 million of restricted cash in the cash and cash equivalents balance in our consolidated statement of cash flows for all reporting periods presented in 2017 and onward.

In August 2016, the FASB issued guidance on the classification of certain cash receipts and cash payments in the statement of cash flows, including those related to debt prepayment or debt extinguishment costs, contingent consideration payments made after a business combination, proceeds from the settlement of insurance claims, proceeds from the settlement of corporate-owned life insurance, and distributions received from equity method investees. The guidance is effective for public business entities for fiscal years beginning after December 15, 2017, and for interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. If an entity adopts the guidance in an interim period, any adjustments should be reflected as of the beginning of the fiscal year that includes that interim period. The guidance must be adopted on a retrospective basis and must be applied to all periods presented, but may be applied prospectively if retrospective application would be impracticable. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a retrospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

In March 2016, the FASB issued guidance simplifying the accounting for and financial statement disclosure of stock-based compensation awards, consisting of changes in the accounting for excess tax benefits and tax deficiencies, and changes in the accounting for forfeitures associated with share-based awards, among other things. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017. Pursuant to the adoption requirements for excess tax benefits and tax deficiencies, we no longer recognize excess tax benefits or tax deficiencies in Additional Paid in Capital ("APIC"); rather, we recognize them prospectively as a component of our current period provision for income taxes. We did not reverse our current APIC pool, which was $3.1 million as of December 31, 2016, and we presented the impact of classifying excess tax benefits as an operating activity in the statement of cash flows on a prospective basis. Pursuant to the adoption requirements for forfeitures, we now account for forfeitures as they occur rather than using an estimated forfeiture rate; as a result of the change in accounting, we recorded a $14 thousand cumulative-effect adjustment increasing our accumulated deficit as of January 1, 2017. The adoption of the remaining amendments did not have a material impact on our consolidated financial statements.

Off-Balance Sheet Arrangements

As of December 31, 2017, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K promulgated by the SEC.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

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

As of December 31, 2017, our largest debt obligation was related to our Notes. In order to reduce the potential equity dilution that would result upon conversion of the Senior Convertible Notes issued in December 2014, we entered into note hedge transactions with a financial institution affiliated with one of the underwriters of the Senior Convertible Note offering. The note hedge transactions are expected generally, but not guaranteed, to reduce the potential dilution to our common stock and/or offset the cash payments we are required to make in excess of the principal amount upon any conversion of Senior Convertible Notes, in the event that the market price per share of our common stock, as measured under the terms of the Convertible Note Hedge Transactions, is greater than the conversion price of the Senior Convertible Notes, which is initially approximately $69.48. In addition, in order to partially offset the cost of the note hedge transactions, we issued warrants to the hedge counterparty to purchase approximately 2.1 million shares of our common stock at a strike price of $96.21. The warrants would separately have a dilutive effect to the extent that the market value per share of our common stock exceeds the strike price of the warrants. In addition, non-performance by the counterparties under the hedge transactions would potentially expose us to dilution of our common stock to the extent our stock price exceeds the conversion price.

Interest on the Notes accrues at a fixed rate of 3.0% on the outstanding principal amount of the Notes and is paid semi-annually every December 1st and June 1st until the Notes mature on December 1, 2019. Since the interest rate is fixed, we have no interest-rate market risk related to the Notes. However, if our stock price increases, the fair value of our Notes, and their likelihood of being converted, will change accordingly. As a result, we face equity risk in relation to our Notes.

On December 29, 2017, we entered into our five-year Credit Agreement with Citizens Bank, N.A. The Credit Agreement is comprised of a $75.0 million five-year Term Loan and a $50.0 million Revolving Credit Facility. Amounts drawn bear an interest rate equal to, at our option, either a LIBOR rate plus 1.50% to 2.25% per annum, depending on our total leverage ratio or an alternative base rate plus an applicable base rate margin, which varies within a range of 0.50% to 1.25%, depending our total leverage ratio. We will incur a commitment fee at a rate per annum that varies within a range of 0.25% to 0.35%, depending on our leverage ratio. As of December 31, 2017, we had a $75.0 million outstanding balance on the Term Loan.

On May 12, 2016, we entered into our Line of Credit with Citizens Business Capital, a division of Citizens Asset Finance, Inc. (the “Citizens Agreement”). The Citizens Agreement provided for a $30.0 million asset-based revolving credit loan facility. In February 2017, we implemented the accordion feature and increased the Line of Credit to $40.0 million. Amounts drawn bore an interest rate equal to, at our option, either a LIBOR rate plus 1.25%, 1.50%, or 1.75% per annum, depending upon availability under the Citizens Agreement or an alternative base rate plus either 0.25%, 0.50%, or 0.75% per annum, depending upon availability under the Citizens Agreement. We incurred a commitment fee on undrawn amounts equal to 0.25% per annum. While the balance was refinanced into the Term Loan of the Credit Agreement, if the interest rate on our loan outstanding during the year had increased by 10%, we would have incurred $58 thousand of additional interest expense in the year ended December 31, 2017. We paid down the $25.0 million of balance on the Line of Credit with funds from the $75.0 million Term Loan.

We are exposed to risks associated with changes in interest rates. The returns from certain of our cash and cash equivalents will vary as short-term interest rates change. A 100 basis-point adverse movement (decrease) in short-term interest rates would decrease the interest income earned on our cash balance in the year ended December 31, 2017 by approximately $1 thousand.

Item 8. CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
ANI Pharmaceuticals, Inc. and Subsidiaries

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of ANI Pharmaceuticals, Inc. and Subsidiaries (the "Company") as of December 31, 2017 and 2016, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the consolidated financial position of the Company as of December 31, 2017 and 2016, and the consolidated results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2017, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2017, based on criteria established in *Internal Control - Integrated Framework* (*2013*) issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated February 27, 2018 expressed an unqualified opinion.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ EisnerAmper LLP

We have served as the Company's auditor since 2013.

EISNERAMPER LLP
New York, New York
February 27, 2018

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders
ANI Pharmaceuticals, Inc. and Subsidiaries

Opinion on the Internal Control over Financial Reporting

We have audited ANI Pharmaceuticals, Inc. and Subsidiaries' (the "Company") internal control over financial reporting as of December 31, 2017, based on criteria established in the *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2017, based on criteria established in the *Internal Control - Integrated Framework* (*2013*) issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets of ANI Pharmaceuticals, Inc. and Subsidiaries as of December 31, 2017 and 2016, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes, and our report dated February 27, 2018 expressed an unqualified opinion.

Basis for Opinion

The Company'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 Annual 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 are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. 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 of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

An entity'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. An entity's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the entity; (ii) 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 entity are being made only in accordance with authorizations of management and directors of the entity; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the entity'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.

/s/ EisnerAmper LLP

EISNERAMPER LLP
New York, New York
February 27, 2018

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

	December 31, 2017	*December 31, 2016*
Assets		
Current Assets		
Cash and cash equivalents	$ 31,144	$ 27,365
Accounts receivable, net of $34,686 and $31,535 of adjustments for chargebacks and other allowances at December 31, 2017 and 2016, respectively	58,788	45,895
Inventories, net	37,727	26,183
Prepaid income taxes	1,162	-
Prepaid expenses and other current assets	2,784	3,564
Total Current Assets	131,605	103,007
Property and equipment, net	20,403	10,998
Restricted cash	5,006	5,002
Deferred tax asset, net of valuation allowance	22,667	26,227
Intangible assets, net	229,790	175,792
Goodwill	1,838	1,838
Other long-term assets	829	-
Total Assets	$ 412,138	$ 322,864
Liabilities and Stockholders' Equity		
Current Liabilities		
Accounts payable	$ 3,630	$ 3,389
Accrued expenses and other	1,571	927
Accrued royalties	12,164	11,956
Accrued compensation and related expenses	2,306	1,631
Current income taxes payable	-	2,398
Accrued government rebates	7,930	5,891
Returned goods reserve	8,274	5,756
Current component of long-term borrowing, net of deferred financing costs	3,353	-
Total Current Liabilities	39,228	31,948
Long-term Liabilities		
Long-term royalties	-	625
Long-term borrowing, net of deferred financing costs and current borrowing component	69,946	-
Convertible notes, net of discount and deferred financing costs	128,208	120,643
Total Liabilities	$ 237,382	$ 153,216
Commitments and Contingencies (Note 10)		
Stockholders' Equity		
Common Stock, $0.0001 par value, 33,333,334 shares authorized; 11,655,768 shares issued and 11,650,565 shares outstanding at December 31, 2017; 11,588,701 shares issued and outstanding at December 31, 2016	1	1
Class C Special Stock, $0.0001 par value, 781,281 shares authorized; 10,864 shares issued and outstanding at December 31, 2017 and 2016, respectively	-	-
Preferred Stock, $0.0001 par value, 1,666,667 shares authorized; 0 shares issued and outstanding at December 31, 2017 and 2016, respectively	-	-
Treasury stock, 5,203 shares of common stock, at cost, at December 31, 2017; 0 shares of common stock at December 31, 2016	(259)	-
Additional paid-in capital	179,020	172,563
Accumulated deficit	(4,006)	(2,916)
Total Stockholders' Equity	174,756	169,648
Total Liabilities and Stockholders' Equity	$ 412,138	$ 322,864

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

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

	Years Ended December 31,		
	2017	***2016***	***2015***
Net Revenues	$ 176,842	$ 128,622	$ 76,322
Operating Expenses			
Cost of sales (excluding depreciation and amortization)	79,032	48,780	12,692
Research and development	9,070	2,906	2,874
Selling, general, and administrative	31,580	27,829	21,156
Depreciation and amortization	27,928	22,343	6,900
Intangible asset impairment charge	903	6,685	-
Total Operating Expenses	148,513	108,543	43,622
Operating Income	28,329	20,079	32,700
Other Expense, net			
Interest expense, net	(12,035)	(11,327)	(11,008)
Other income/(expense), net	55	(74)	41
Income Before Provision for Income Taxes	16,349	8,678	21,733
Provision for income taxes	(17,425)	(4,744)	(6,358)
Net (Loss)/Income	$ (1,076)	$ 3,934	$ 15,375
Basic and Diluted (Loss)/Earnings Per Share:			
Basic (Loss)/Earnings Per Share	$ (0.09)	$ 0.34	$ 1.34
Diluted (Loss)/Earnings Per Share	$ (0.09)	$ 0.34	$ 1.32
Basic Weighted-Average Shares Outstanding	11,547	11,445	11,370
Diluted Weighted-Average Shares Outstanding	11,547	11,573	11,557

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

ANI PHARMACEUTICALS, INC. AND SUBSIDIARIES
Consolidated Statements of Changes in Stockholders' Equity
For the Years Ended December 31, 2017, 2016, and 2015
(in thousands)

	Common Stock Par Value	Common Stock Shares	Class C Special Stock	Treasury Stock Shares	Treasury Stock	Additional Paid-in Capital	Accumulated Deficit	Total
Balance, December 31, 2014	$ 1	11,388	$ -	-	$ -	$ 159,509	$ (19,725)	$ 139,785
Stock-based Compensation Expense	-	-	-	-	-	3,856	-	3,856
Treasury Stock purchases for restricted stock vestings	-	-	-	7	(113)	-	-	(113)
Issuance of Common Shares upon Stock Option Exercise	-	84	-	(5)	113	706	-	819
Issuance of Restricted Stock Awards	-	26	-	(2)	-	-	-	-
Excess Tax Benefit from Stock-based Compensation Awards	-	-	-	-	-	360	-	360
Net Income	-	-	-	-	-	-	15,375	15,375
Balance, December 31, 2015	$ 1	11,498	$ -	-	$ -	$ 164,431	$ (4,350)	$ 160,082
Stock-based Compensation Expense	-	-	-	-	-	6,067	-	6,067
Treasury Stock purchases for restricted stock vestings	-	-	-	10	(122)	-	-	(122)
Issuance of Common Shares upon Stock Option and ESPP Exercise	-	119	-	(10)	122	1,448	-	1,570
Repurchase of Common Stock under Stock Repurchase Program	-	(65)	-	-	-	-	(2,500)	(2,500)
Issuance of Restricted Stock Awards	-	37	-	-	-	-	-	-
Excess Tax Benefit from Share-based Compensation Awards	-	-	-	-	-	617	-	617
Net Income	-	-	-	-	-	-	3,934	3,934
Balance, December 31, 2016	$ 1	11,589	$ -	-	$ -	$ 172,563	$ (2,916)	$ 169,648
Stock Option Forfeiture Cumulative-effect Adjustment	-	-	-	-	-	14	(14)	-
Balance, net of Cumulative-effect Adjustment	$ 1	11,589	$ -	-	$ -	$ 172,577	$ (2,930)	$ 169,648
Stock-based Compensation Expense	-	-	-	-	-	6,090	-	6,090
Treasury Stock purchases for restricted stock vestings	-	-	-	5	(259)	-	-	(259)
Issuance of Common Shares upon Stock Option and ESPP Exercise	-	17	-	-	-	353	-	353
Issuance of Restricted Stock Awards	-	50	-	-	-	-	-	-
Net Loss	-	-	-	-	-	-	(1,076)	(1,076)
Balance, December 31, 2017	$ 1	11,656	$ -	5	$ (259)	$ 179,020	$ (4,006)	$ 174,756

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

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

For the Years Ended December 31,	*2017*	*2016*	*2015*
Cash Flows From Operating Activities			
Net (loss)/income	$ (1,076)	$ 3,934	$ 15,375
Adjustments to reconcile net (loss)/income to net cash and cash equivalents provided by operating activities:			
Stock-based compensation	6,090	6,067	3,856
Deferred taxes	3,560	(8,911)	(1,877)
Depreciation and amortization	27,928	22,343	6,900
Non-cash interest relating to convertible notes and loan cost amortization	7,666	7,281	6,831
Intangible asset impairment charge	903	6,685	-
Changes in operating assets and liabilities:			
Accounts receivable, net	(12,893)	(23,963)	(4,635)
Inventories, net	5,356	(1,938)	(5,869)
Prepaid expenses and other current assets	(17)	(647)	(314)
Accounts payable	3	1,076	(1,027)
Accrued royalties	(417)	6,269	(96)
Accrued compensation and related expenses	675	443	(160)
Current income taxes, net	(3,560)	3,525	(5,380)
Accrued government rebates	2,039	1,260	2,367
Returned goods reserve	2,518	3,108	1,203
Accrued expenses and other	644	940	90
Net Cash and Cash Equivalents Provided by Operating Activities	39,419	27,472	17,264
Cash Flows From Investing Activities			
Acquisition of product rights and other related assets	(97,624)	(144,494)	(30,500)
Acquisition of property and equipment	(10,369)	(4,566)	(2,183)
Net Cash and Cash Equivalents Used in Investing Activities	(107,993)	(149,060)	(32,683)
Cash Flows From Financing Activities			
Payment of debt issuance costs	(2,737)	(294)	-
Borrowings under term loan agreement	75,000	-	-
Proceeds from stock option exercises	353	1,570	819
Excess tax benefit from share-based compensation awards	-	617	360
Repurchase of common stock under the stock repurchase program	-	(2,500)	-
Treasury stock purchases for restricted stock vestings	(259)	(122)	(113)
Net Cash and Cash Equivalents Provided by/(Used in) Financing Activities	72,357	(729)	1,066
Net Change in Cash and Cash Equivalents	3,783	(122,317)	(14,353)
Cash and cash equivalents, beginning of period	32,367	154,684	169,037
Cash and cash equivalents, end of period	$ 36,150	$ 32,367	$ 154,684
Reconciliation of cash, cash equivalents, and restricted cash, beginning of period			
Cash and cash equivalents	27,365	154,684	169,037
Restricted cash	5,002	-	-
Cash, cash equivalents, and restricted cash, beginning of period	32,367	154,684	169,037
Reconciliation of cash, cash equivalents, and restricted cash, end of period			
Cash and cash equivalents	31,144	27,365	154,684
Restricted cash	5,006	5,002	-
Cash, cash equivalents, and restricted cash, end of period	36,150	32,367	154,684
Supplemental disclosure for cash flow information:			
Cash paid for interest, net of amounts capitalized	$ 3,759	$ 4,078	$ 4,149
Cash paid for income taxes	$ 17,786	$ 9,537	$ 13,255
Supplemental non-cash investing and financing activities:			
Accrued royalties related to asset purchase	$ -	$ 3,882	$ -
Property and equipment purchased and included in accounts payable	$ 485	$ 247	$ 439

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

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Business

ANI Pharmaceuticals, Inc. and its consolidated subsidiaries (together, "ANI," the "Company," "we," "us," or "our") is an integrated specialty pharmaceutical company focused on delivering value to our customers by developing, manufacturing, and marketing high quality branded and generic prescription pharmaceuticals. ANI was organized as a Delaware corporation in April 2001. At our two facilities located in Baudette, Minnesota, we manufacture oral solid dose products, as well as liquids and topicals, controlled substances, and potent products that must be manufactured in a fully-contained environment. We also perform contract manufacturing for other pharmaceutical companies.

On June 19, 2013, BioSante Pharmaceuticals, Inc. ("BioSante") acquired ANIP Acquisition Company ("ANIP") in an all-stock, tax-free reorganization (the "Merger"), in which ANIP became a wholly-owned subsidiary of BioSante. BioSante was renamed ANI Pharmaceuticals, Inc. The Merger was accounted for as a reverse acquisition pursuant to which ANIP was considered the acquiring entity for accounting purposes.

Our operations are subject to certain risks and uncertainties including, among others, current and potential competitors with greater resources, dependence on significant customers, and possible fluctuations in financial results. The accompanying consolidated financial statements have been prepared assuming that we will continue as a going concern, which contemplates continuity of operations, realization of assets, and satisfaction of liabilities in the ordinary course of business. The propriety of using the going-concern basis is dependent upon, among other things, the achievement of future profitable operations, the ability to generate sufficient cash from operations, and potential other funding sources, including cash on hand, to meet our obligations as they become due. We believe the going-concern basis is appropriate for the accompanying consolidated financial statements based on our current operating plan and business strategy for the 12 months following the issuance of this report.

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). Certain prior period information has been reclassified to conform to the current period presentation.

Principles of Consolidation

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

Foreign Currency

The company has a subsidiary located outside of the U.S. The subsidiary currently conducts substantially all its transactions in U.S. dollars, or is otherwise dependent upon the U.S. parent for funding. Accordingly, the subsidiary uses the U.S. dollar as its functional currency. Unless otherwise noted, all references to "$" or "dollar" refer to the U.S. dollar.

Foreign currency transaction gains and losses are included in the determination of net income.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. In the accompanying consolidated financial statements, estimates are used for, but not limited to, stock-based compensation, allowance for doubtful accounts, accruals for chargebacks, administrative fees and rebates, government rebates, returns and other allowances, allowance for inventory obsolescence, valuation of financial instruments and intangible assets, accruals for contingent liabilities, fair value of long-lived assets, deferred tax assets and liabilities, deferred tax valuation allowance, purchase price allocations, and the depreciable lives of long-lived assets. Because of the uncertainties inherent in such estimates, actual results could differ from those estimates.

Comprehensive Income

We have no components of other comprehensive income and accordingly, no statement of comprehensive income is included in the accompanying consolidated financial statements.

Credit Concentration

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

During the year ended December 31, 2017, three customers represented approximately 29%, 29%, and 20% of net revenues, respectively. As of December 31, 2017, accounts receivable from these customers totaled 85% of net accounts receivable. During the year ended December 31, 2016, three customers represented approximately 28%, 22%, and 18% of net revenues, respectively. During the year ended December 31, 2015, three customers represented approximately 26%, 20%, and 18% of net revenues, respectively.

Vendor Concentration

We source the raw materials for products, including active pharmaceutical ingredients (“API”), from both domestic and international suppliers. Generally, only a single source of API is qualified for use in each product due to the costs and time required to validate a second source of supply. As a result, we are dependent upon our current vendors to supply reliably the API required for ongoing product manufacturing. During the year ended December 31, 2017, we purchased approximately 23% of our inventory from two suppliers. As of December 31, 2017, amounts payable to these suppliers was $0.2 million. During the year ended December 31, 2016, we purchased approximately 25% of our inventory from one supplier. During the year ended December 31, 2015, we purchased approximately 33% of our inventory from two suppliers.

Revenue Recognition

Revenue is recognized for product sales and contract manufacturing product sales upon passing of risk and title to the customer, when estimates of the selling price and discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments are reasonably determinable, collection is reasonably assured, and we have no further performance obligations. Contract manufacturing arrangements are typically less than two weeks in duration, and therefore the revenue is recognized upon completion of the aforementioned factors rather than using a proportional performance method of revenue recognition. The estimates for discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments reduce gross revenues to net revenues in the accompanying consolidated statements of operations, and are presented as current liabilities or reductions in accounts receivable in the accompanying consolidated balance sheets (see “Accruals for Chargebacks, Rebates, Returns, and Other Allowances”). Historically, we have not entered into revenue arrangements with multiple elements.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

We record revenue related to marketing and distribution agreements with third parties in which we sell products under Abbreviated New Drug Applications ("ANDAs") or New Drug Applications ("NDAs") owned or licensed by these third parties. We have assessed and determined that we are the principal for sales under each of these marketing and distribution agreements and recognize the revenue on a gross basis when risk and title are passed to the customer, when estimates of the selling price and discounts, rebates, promotional adjustments, price adjustments, returns, chargebacks, and other potential adjustments are reasonably determinable, collection is reasonably assured, and we have no further performance obligations. Under these agreements, we pay these third parties a specified percentage of the gross profit earned on sales of the products. These profit-sharing percentages are recognized in cost of sales in our consolidated statements of operations and are accrued in accrued royalties in our consolidated balance sheets until payment has occurred.

Occasionally, we engage in contract services, which include product development services, laboratory services, and royalties on net sales of certain contract manufactured products. For these services, revenue is recognized according to the terms of the agreement with the customer, which sometimes include substantive, measurable risk-based milestones, and when we have a contractual right to receive such payment, the contract price is fixed or determinable, the collection of the resulting receivable is reasonably assured, and we have no further performance obligations under the agreement.

Cash and Cash Equivalents

We consider all highly liquid instruments with maturities of three months or less when purchased to be cash equivalents. All interest bearing and non-interest bearing accounts are guaranteed by the Federal Deposit Insurance Corporation ("FDIC") up to $250 thousand. The majority of our cash balances are in excess of FDIC coverage. We consider this to be a normal business risk.

Accounts Receivable

We extend credit to customers on an unsecured basis. We use the allowance method to provide for doubtful accounts based on our evaluation of the collectability of accounts receivable, whereby we provide an allowance for doubtful accounts equal to the estimated uncollectible amounts. Our estimate is based on historical collection experience and a review of the current status of trade accounts receivable. We determine trade receivables to be delinquent when greater than 30 days past due. Receivables are written off when it is determined that amounts are uncollectible. We determined that no allowance for doubtful accounts was necessary as of December 31, 2017 and 2016.

Accruals for Chargebacks, Rebates, Returns, and Other Allowances

Our generic and branded product revenues are typically subject to agreements with customers allowing chargebacks, government rebates, product returns, administrative fees and other rebates, and prompt payment discounts. We accrue for these items at the time of sale based on the estimates and methodologies described below. In the aggregate, these accruals exceed 50% of generic and branded gross product sales, reduce gross revenues to net revenues in the accompanying consolidated statements of operations, and are presented as current liabilities or reductions in accounts receivable in the accompanying consolidated balance sheets. Due to our substantial increase in sales from 2016 to 2017, our accruals for chargebacks, government rebates, product returns, administrative fees and other rebates, and prompt payment discounts increased significantly in the year ended December 31, 2017. We anticipate that these accruals will continue to increase in 2018 as we recognize a full year of sales of products launched in 2017, as well as additional products we expect to launch in 2018.

We continually monitor and re-evaluate the accruals as additional information becomes available, which includes, among other things, trade inventory levels, customer product mix, products returned by customers, and trends in government rebates experience. We adjust the accruals at the end of each reporting period, to reflect any such updates to the relevant facts and circumstances. Accruals are relieved upon receipt of payment from or upon issuance of credit to the customer.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Chargebacks

Chargebacks, primarily from wholesalers, result from arrangements we have with indirect customers establishing prices for products which the indirect customer purchases through a wholesaler. Alternatively, we may pre-authorize wholesalers to offer specified contract pricing to other indirect customers. Under either arrangement, we provide a chargeback credit to the wholesaler for any difference between the contracted price with the indirect customer and the wholesaler's invoice price, typically Wholesale Acquisition Cost ("WAC").

Chargeback credits are calculated as follows:

Prior period chargebacks claimed by wholesalers are analyzed to determine the actual average selling price ("ASP") for each product. This calculation is performed by product by wholesaler. ASPs can be affected by several factors such as:

- A change in customer mix
- A change in negotiated terms with customers
- A change in the volume of off-contract purchases
- Changes in WAC

As necessary, we adjust ASPs based on anticipated changes in the factors above.

The difference between ASP and WAC is recorded as a reduction in both gross revenues in the consolidated statements of operations and accounts receivable in the consolidated balance sheets, at the time we recognize revenue from the product sale.

To evaluate the adequacy of our chargeback accruals, we obtain on-hand inventory counts from the wholesalers. This inventory is multiplied by the chargeback amount, the difference between ASP and WAC, to arrive at total expected future chargebacks, which is then compared to the chargeback accruals. We continually monitor chargeback activity and adjust ASPs when we believe that actual selling prices will differ from current ASPs.

Government Rebates

Our government rebates reserve consists of estimated payments due to governmental agencies for purchases made by third parties under various governmental programs. The two largest government programs that impact our net revenue and our government rebates reserve are federal and state Medicaid rebate programs and Medicare.

We participate in certain qualifying federal and state Medicaid rebate programs whereby discounts and rebates are provided to participating programs after the final dispensing of the product by a pharmacy to a Medicaid plan participant. Medicaid rebates are typically billed up to 120 days after the product is shipped. Medicaid rebate amounts per product unit are established by law, based on the Average Manufacturer Price (“AMP”), which is reported on a monthly and quarterly basis, and, in the case of branded products, best price, which is reported on a quarterly basis. Our Medicaid reserves are based on expected claims from state Medicaid programs. Estimates for expected claims are driven by patient usage, sales mix, calculated AMP or best price, as well as inventory in the distribution channel that will be subject to a Medicaid rebate. As a result of the delay between selling the products and rebate billing, our Medicaid rebate reserve includes both an estimate of outstanding claims for end-customer sales that have occurred but for which the related claim has not been billed, as well as an estimate for future claims that will be made when inventory in the distribution channel is sold through to plan participants.

Many of our products are also covered under Medicare. We, like all pharmaceutical companies, must provide a discount for any products sold under NDAs to Medicare Part D participants. This applies to all products sold under NDAs, regardless of whether the products are marketed as branded or generic. Our estimates for these discounts are based on historical experience with Medicare rebates for our products. While such experience has allowed for reasonable estimations in the past, history may not always be an accurate indicator of future rebates. Medicare rebates are typically billed up to 120 days after the product is shipped. As a result of the delay between selling the products and rebate billing, our Medicare rebate reserve includes both an estimate of outstanding claims for end-customer sales that have occurred but for which the related claim has not been billed, as well as an estimate for future claims that will be made when inventory in the distribution channel is sold through to Medicare Part D participants.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

To evaluate the adequacy of our government rebate reserves, we review the reserves on a quarterly basis against actual claims data to ensure the liability is fairly stated. We continually monitor our government rebate reserve and adjust our estimates if we believe that actual government rebates may differ from our established accruals. Accruals for government rebates are recorded as a reduction to gross revenues in the consolidated statements of operations and as an increase to accrued government rebates in the consolidated balance sheets.

Returns

We maintain a return policy that allows customers to return product within a specified period prior to and subsequent to the expiration date. Generally, product may be returned for a period beginning six months prior to its expiration date to up to one year after its expiration date. Our product returns are settled through the issuance of a credit to the customer. Our estimate for returns is based upon historical experience with actual returns. While such experience has allowed for reasonable estimation in the past, history may not always be an accurate indicator of future returns. We continually monitor our estimates for returns and make adjustments when we believe that actual product returns may differ from the established accruals. Accruals for returns are recorded as a reduction to gross revenues in the consolidated statements of operations and as an increase to the return goods reserve in the consolidated balance sheets.

Administrative Fees and Other Rebates

Administrative fees or rebates are offered to wholesalers, group purchasing organizations and indirect customers. We accrue for fees and rebates, by product by wholesaler, at the time of sale based on contracted rates and ASPs.

To evaluate the adequacy of our administrative fee accruals, we obtain on-hand inventory counts from the wholesalers. This inventory is multiplied by the ASPs to arrive at total expected future sales, which is then multiplied by contracted rates. The result is then compared to the administrative fee accruals. We continually monitor administrative fee activity and adjust our accruals when we believe that actual administrative fees will differ from the accruals. Accruals for administrative fees and other rebates are recorded as a reduction in both gross revenues in the consolidated statements of operations and accounts receivable in the consolidated balance sheets.

Prompt Payment Discounts

We often grant sales discounts for prompt payment. The reserve for prompt payment discounts is based on invoices outstanding. We assume, based on past experience, that all available discounts will be taken. Accruals for prompt payment discounts are recorded as a reduction in both gross revenues in the consolidated statements of operations and accounts receivable in the consolidated balance sheets.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The following table summarizes activity in the consolidated balance sheets for accruals and allowances for the years ended December 31, 2017, 2016, and 2015:

	Accruals for Chargebacks, Returns, and Other Allowances				
(in thousands)	Chargebacks	Government Rebates	Returns	Administrative Fees and Other Rebates	Prompt Payment Discounts
Balance at December 31, 2014	$ 6,865	$ 2,264	$ 1,445	$ 1,487	$ 471
Accruals/Adjustments	51,933	6,719	2,808	6,136	2,744
Credits Taken Against Reserve	(47,417)	(4,352)	(1,605)	(5,970)	(2,541)
Balance at December 31, 2015	$ 11,381	$ 4,631	$ 2,648	$ 1,653	$ 674
Accruals/Adjustments	114,433	9,671	10,271	12,747	5,517
Credits Taken Against Reserve	(99,029)	(8,411)	(7,163)	(10,850)	(4,637)
Balance at December 31, 2016	$ 26,785	$ 5,891	$ 5,756	$ 3,550	$ 1,554
Accruals/Adjustments	179,297	12,237	12,184	24,037	8,126
Credits Taken Against Reserve	(177,852)	(10,198)	(9,666)	(22,361)	(7,846)
Balance at December 31, 2017	$ 28,230	$ 7,930	$ 8,274	$ 5,226	$ 1,834

Inventories

Inventories consist of raw materials, packaging materials, work-in-progress, and finished goods. Inventories are stated at the lower of standard cost or net realizable value. We periodically review and adjust standard costs, which generally approximate weighted average cost.

Property and Equipment

Property and equipment are recorded at cost. Expenditures for repairs and maintenance are charged to expense as incurred. Depreciation is recorded on a straight-line basis over estimated useful lives as follows:

Buildings and improvements	20 - 40 years
Machinery, furniture, and equipment	3 - 10 years

Construction in progress consists of multiple projects, primarily related to new equipment to expand our manufacturing capability as our product lines continue to grow. Construction in progress includes the cost of construction and other direct costs attributable to the construction, along with capitalized interest. Depreciation is not recorded on construction in progress until such time as the assets are placed in service.

We review property and equipment for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of the long-lived asset is measured by a comparison of the carrying amount of the asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the estimated fair value of the assets. No impairment loss related to property and equipment was recognized during the years ended December 31, 2017, 2016, and 2015. Assets held for disposal are reportable at the lower of the carrying amount or fair value, less costs to sell. No assets were held for disposal as of December 31, 2017 and 2016.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Intangible Assets

Intangible assets were acquired as part of the Merger and several asset purchase transactions. These assets include ANDAs for a total of 54 previously marketed generic products we acquired in 2014 and 2015, NDAs and product rights for our branded products Atacand, Atacand HCT, Arimidex, Casodex, Lithobid, Vancocin, Inderal LA, Inderal XL, InnoPran XL, and Cortrophin, acquired marketing and distribution rights, a non-compete agreement, and fully amortized product rights for Reglan and a generic product. These intangible assets were originally recorded at fair value for business combinations and at relative fair value based on the purchase price for asset acquisitions and are stated net of accumulated amortization.

The ANDAs, NDAs and product rights, marketing and distribution rights, and non-compete agreement are amortized over their remaining estimated useful lives, ranging from four to 10 years, based on the straight-line method. Management reviews definite-lived intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, in a manner similar to that for property and equipment. We recognized impairment charges of $0.9 million and $6.7 million in relation to our testosterone gel NDA asset during the years ended December 31, 2017 and 2016, respectively (Note 5). No impairment losses related to intangible assets were recognized in the year ended December 31, 2015.

Goodwill

Goodwill relates to the Merger and represents the excess of the total purchase consideration over the fair value of acquired assets and assumed liabilities, using the purchase method of accounting. Goodwill is not amortized, but is subject to periodic review for impairment. Goodwill is reviewed for impairment annually, as of October 31, and whenever events or changes in circumstances indicate that the carrying amount of the goodwill might not be recoverable. We perform our review of goodwill on our one reporting unit.

Before employing detailed impairment testing methodologies, we first evaluate the likelihood of impairment by considering qualitative factors relevant to our reporting unit. When performing the qualitative assessment, we evaluate events and circumstances that would affect the significant inputs used to determine the fair value of the goodwill. Events and circumstances evaluated include: macroeconomic conditions that could affect us, industry and market considerations for the generic pharmaceutical industry that could affect us, cost factors that could affect our performance, our financial performance (including share price), and consideration of any company-specific events that could negatively affect us, our business, or the fair value of our business. If we determine that it is more likely than not that goodwill is impaired, we will then apply detailed testing methodologies. Otherwise, we will conclude that no impairment has occurred.

As of January 1, 2017, we adopted the Financial Accounting and Standards Board ("FASB") guidance regarding goodwill, which changed the manner in which we perform impairment testing. Detailed impairment testing involves comparing the fair value of our one reporting unit to its carrying value, including goodwill. Fair value reflects the price a market participant would be willing to pay in a potential sale of ANI. If the fair value exceeds carrying value, then it is concluded that no goodwill impairment has occurred. If the carrying value of the reporting unit were to exceed its fair value, we would recognize an impairment charge for the amount by which the carrying amount exceeded the reporting unit's fair value. The loss recognized would not exceed the total amount of goodwill allocated to that reporting unit. The adoption of the guidance regarding goodwill did not have a material impact on our consolidated financial statements. No impairment loss related to goodwill was recognized in the years ended December 31, 2017, 2016, and 2015.

Collaborative Arrangements

At times, we have entered into arrangements with various commercial partners to further business opportunities. In collaborative arrangements such as these, when we are actively involved and exposed to the risks and rewards of the activities and are determined to be the principal participant in the collaboration, we classify third party costs incurred and revenues in the consolidated statements of operations on a gross basis. Otherwise, third party revenues and costs generated by collaborative arrangements are presented on a net basis. Payments between us and the other participants are recorded and classified based on the nature of the payments.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Royalties

We have entered profit-sharing arrangements with third parties in which we sell products under ANDAs or NDAs owned or licensed by these third parties. Under these agreements, we pay these third parties a specified percentage of the gross profit earned on sales of the products. These profit-sharing percentages are recorded in cost of sales in our consolidated statements of operations when the associated revenue is recognized and are recorded in accrued royalties in our consolidated balance sheets when the associated revenue is recognized and until payment has occurred.

Research and Development Expenses

Research and development costs are expensed as incurred and primarily consist of expenses relating to product development. Research and development costs totaled $9.1 million, $2.9 million, and $2.9 million for the years ended December 31, 2017, 2016, and 2015, respectively.

Stock-Based Compensation

We have a stock-based compensation plan that includes stock options and restricted stock, which are awarded in exchange for employee and non-employee director services. Stock-based compensation cost for stock options is determined at the grant date using an option pricing model and stock-based compensation cost for restricted stock is based on the closing market price of the stock at the grant date. The value of the award is recognized as expense on a straight-line basis over the employee's requisite service period. In addition, in July 2016, we commenced administration of our Employee Stock Purchase Plan ("ESPP"). We recognize the estimated fair value of stock-based compensation awards and classify the expense where the underlying salaries are classified. We incurred $6.1 million, $6.1 million, and $3.9 million of non-cash, stock-based compensation cost for the years ended December 31, 2017, 2016, and 2015, respectively, of which $68 thousand and $25 thousand of the 2017 and 2016 expense related to the ESPP, respectively.

As of January 1, 2017, we adopted the FASB guidance related to stock-based compensation. Pursuant to the adoption requirements for excess tax benefits and tax deficiencies, we no longer recognize excess tax benefits or tax deficiencies in Additional Paid in Capital ("APIC"); rather, we recognize them prospectively as a component of our current period provision for income taxes. We did not reverse our APIC pool, which was $3.1 million as of December 31, 2016, and we presented the impact of classifying excess tax benefits as an operating activity in the statement of cash flows on a prospective basis. We now account for forfeitures as they occur rather than using an estimated forfeiture rate; as a result of the change in accounting, we recorded a $14 thousand cumulative-effect adjustment increasing our accumulated deficit as of January 1, 2017. The adoption of the remaining amendments did not have a material impact on our consolidated financial statements.

Valuation of stock awards requires us to make assumptions and to apply judgment to determine the fair value of the awards. These assumptions and judgments include estimating the future volatility of our stock price and dividend yields. Changes in these assumptions can affect the fair value estimate.

Income Taxes

We use the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that such tax rate changes are enacted. The Tax Cuts and Jobs Act, which was enacted on December 22, 2017, includes a number of changes to existing U.S. tax laws, most notably the reduction of the U.S. corporate income tax rate from 35% to 21%, beginning in 2018. We measure our deferred tax assets and liabilities using the enacted tax rates that we believe will apply in the years in which the temporary differences are expected to be recovered or paid. As a result, we remeasured our deferred tax assets and deferred tax liabilities to reflect the reduction in the enacted U.S. corporate income tax rate, resulting in a $13.4 million increase in income tax expense for the year ended December 31, 2017 (Note 9). The measurement of a deferred tax asset is reduced, if necessary, by a valuation allowance if it is more likely than not that some portion or all of the deferred tax asset will not be realized.

We use a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. We have not identified any uncertain income tax positions that could have a material impact to the consolidated financial statements. We are subject to taxation in various jurisdictions in the U.S. and remain subject to examination by taxing jurisdictions for the years 1998 and all subsequent periods due to the availability of net operating loss carryforwards.

We recognize interest and penalties accrued on any unrecognized tax exposures as a component of income tax expense. We did not have any such amounts accrued as of December 31, 2017, 2016, and 2015.

We consider potential tax effects resulting from discontinued operations and record intra-period tax allocations, when those effects are deemed material.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Earnings (Loss) per Share

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

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

Our unvested restricted shares and certain of our outstanding warrants contain non-forfeitable rights to dividends, and therefore are considered to be participating securities; in periods of net income, the calculation of basic and diluted earnings (loss) per share excludes from the numerator net income (but not net loss) attributable to the unvested restricted shares and to the participating warrants, and excludes the impact of those shares from the denominator.

For purposes of determining diluted earnings (loss) per share, we have elected a policy to assume that the principal portion of our 3.0% Convertible Senior Notes due December 1, 2019 (the "Notes," Note 2) is settled in cash. As such, the principal portion of the Notes has no effect on either the numerator or denominator when determining diluted earnings (loss) per share. Any conversion gain is assumed to be settled in shares and is incorporated in diluted earnings (loss) per share using the treasury method. The warrants issued in conjunction with the issuance of the Notes are considered to be dilutive when they are in-the-money relative to our average stock price during the period; the bond hedge purchased in conjunction with the issuance of the Notes is always considered to be anti-dilutive.

The numerator for earnings per share for the years ended December 31, 2017, 2016, and 2015 are calculated for basic and diluted earnings (loss) per share as follows:

	Basic			Diluted		
	Year Ended December 31,			Year Ended December 31,		
(in thousands, except per share amounts)	**2017**	**2016**	**2015**	**2017**	**2016**	**2015**
Net (loss)/income	$ (1,076)	$ 3,934	$ 15,375	$ (1,076)	$ 3,934	$ 15,375
Net income allocated to restricted stock	-	(21)	(85)	-	(21)	(84)
Net (loss)/income allocated to common shares	$ (1,076)	$ 3,913	$ 15,290	$ (1,076)	$ 3,913	$ 15,291
Basic Weighted-Average Shares Outstanding	11,547	11,445	11,370	11,547	11,445	11,370
Dilutive effect of stock options and ESPP				-	128	187
Diluted Weighted-Average Shares Outstanding				11,547	11,573	11,557
(Loss)/Earnings per share	$ (0.09)	$ 0.34	$ 1.34	$ (0.09)	$ 0.34	$ 1.32

The number of anti-dilutive shares, which have been excluded from the computation of diluted earnings (loss) per share, including the shares underlying the Notes, were 4.8 million, 4.5 million, and 4.5 million for the years ended December 31, 2017, 2016, and 2015, respectively. Due to the net loss in the year ended December 31, 2017, all dilutive potential common shares were also excluded from the diluted loss per share calculation, as the impact of those potential common shares is anti-dilutive in the case of a net loss. Anti-dilutive shares consist of out-of-the-money Class C Special stock, out-of-the-money common stock options, common stock options that are anti-dilutive when calculating the impact of the potential dilutive common shares using the treasury stock method, underlying shares related to out-of-the-money bonds issued as convertible debt, and out-of-the-money warrants exercisable for common stock.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Fair Value of Financial Instruments

Our consolidated balance sheets include various financial instruments (primarily cash and cash equivalents, prepaid expenses, accounts receivable, accounts payable, accrued expenses, and other current liabilities) that are carried at cost and that approximate fair value. The fair value of our long-term indebtedness is estimated based on the quoted prices for the same or similar issues, or on the current rates we have been offered for debt of the same remaining maturities. Fair value is the price that would be received from the sale of an asset or paid to transfer a liability assuming an orderly transaction in the most advantageous market at the measurement date. U.S. GAAP establishes a hierarchical disclosure framework which prioritizes and ranks the level of observability of inputs used in measuring fair value. These tiers include:

- Level 1—Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.
- Level 2—Observable market-based inputs other than quoted prices in active markets for identical assets or liabilities.
- Level 3—Unobservable inputs are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

See Note 6 for additional information regarding fair value.

Segment Information

We currently operate in a single reportable segment.

Recent Accounting Pronouncements

Recent Accounting Pronouncements Not Yet Adopted

In May 2017, the FASB issued guidance clarifying when modification accounting should be used for changes to the terms or conditions of a share-based payment award. The guidance does not change the accounting for modifications, but clarifies that modification accounting guidance should only be applied if there is a change to the value, vesting conditions, or award classification and would not be required if the changes are considered non-substantive. The guidance is effective for the fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. The guidance must be adopted on a prospective basis. We will adopt this guidance as of January 1, 2018. The adoption of this guidance is not expected to have a material impact on our consolidated financial statements.

In June 2016, the FASB issued guidance with respect to measuring credit losses on financial instruments, including trade receivables. The guidance eliminates the probable initial recognition threshold that was previously required prior to recognizing a credit loss on financial instruments. The credit loss estimate can now reflect an entity's current estimate of all future expected credit losses. Under the previous guidance, an entity only considered past events and current conditions. The guidance is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. The adoption of certain amendments of this guidance must be applied on a modified retrospective basis and the adoption of the remaining amendments must be applied on a prospective basis. We currently expect that the adoption of this guidance will likely change the way we assess the collectability of our receivables and recoverability of other financial instruments. We have not yet begun to evaluate the specific impacts of this guidance nor have we determined the manner in which we will adopt this guidance.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

In February 2016, the FASB issued guidance for accounting for leases. The guidance requires lessees to recognize assets and liabilities related to long-term leases on the balance sheet and expands disclosure requirements regarding leasing arrangements. The guidance is effective for reporting periods beginning after December 15, 2018 and early adoption is permitted. The guidance must be adopted on a modified retrospective basis and provides for certain practical expedients. We will adopt this guidance as of January 1, 2019. We are currently reviewing our leases and other contracts to determine if the adoption of this guidance will have a material impact on our consolidated financial statements. We currently expect that the adoption of this guidance will likely change the way we account for our operating leases and will likely result in recording the future benefits of those leases and the related minimum lease payments on our consolidated balance sheets.

In May 2014, the FASB issued guidance for revenue recognition for contracts, superseding the previous revenue recognition requirements, along with most existing industry-specific guidance. The guidance requires an entity to review contracts in five steps: 1) identify the contract, 2) identify performance obligations, 3) determine the transaction price, 4) allocate the transaction price, and 5) recognize revenue. The new standard will result in enhanced disclosures regarding the nature, amount, timing, and uncertainty of revenue arising from contracts with customers. In August 2015, the FASB issued guidance approving a one-year deferral, making the standard effective for reporting periods beginning after December 15, 2017, with early adoption permitted only for reporting periods beginning after December 15, 2016. In March 2016, the FASB issued guidance to clarify the implementation guidance on principal versus agent considerations for reporting revenue gross rather than net, with the same deferred effective date. In April 2016, the FASB issued guidance to clarify the implementation guidance on identifying performance obligations and the accounting for licenses of intellectual property, with the same deferred effective date. In May 2016, the FASB issued guidance rescinding SEC paragraphs related to revenue recognition, pursuant to two SEC Staff Announcements at the March 3, 2016 Emerging Issues Task Force meeting. In May 2016, the FASB also issued guidance to clarify the implementation guidance on assessing collectability, presentation of sales tax, noncash consideration, and contracts and contract modifications at transition, with the same effective date. In September 2017, the FASB issued guidance amending and rescinding prior SEC staff announcements and observer comments related to revenue recognition, pursuant to the SEC Staff Announcement at the July 20, 2017 Emerging Issues Task Force meeting. We have performed a comprehensive review of our existing revenue arrangements as of December 31, 2017 following the five-step model. Our analysis indicates that there will be no significant changes to how the amount and timing of revenue will be recognized under the new guidance as compared to existing guidance. Additionally, our analysis indicates that there will be no significant changes to how costs to obtain and fulfill our customer contracts will be recognized under the new guidance as compared to existing guidance. We will adopt this guidance as of January 1, 2018 using the modified retrospective method and we expect that the impact of adoption on our consolidated balance sheet, statement of operations, statement of changes in stockholders' equity and statement of cash flows will not be material. The adoption of the new guidance will impact the way we analyze, document, and disclose revenue recognition under customer contracts beginning on January 1, 2018 and will result in additional disclosures in our financial statements.

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

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Recently Adopted Accounting Pronouncements

In January 2017, the FASB issued guidance to simplify the measurement of goodwill. The guidance eliminates Step 2 from the goodwill impairment test. Instead, under the amendments in this guidance, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax-deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss. The guidance also eliminates the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. The guidance is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted for interim or annual goodwill impairment tests performed for testing dates after January 1, 2017. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a prospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

In January 2017, the FASB issued guidance clarifying the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions or disposals of assets or businesses. The guidance provides a screen to determine when an integrated set of assets and activities is not a business, provides a framework to assist entities in evaluating whether both an input and substantive process are present, and narrows the definition of the term output. The guidance is effective for public business entities for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years, and early adoption is permitted. The guidance must be adopted on a prospective basis. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a prospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

In November 2016, the FASB issued guidance to reduce diversity in practice that exists in the classification and presentation of changes in restricted cash on the statement of cash flows. The revised guidance requires that amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning of period and end of period total amounts shown on the statement of cash flows. The guidance is effective for the fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. If an entity adopted the guidance in an interim period, any adjustments should have been reflected as of the beginning of the fiscal year that includes that interim period. The guidance must be adopted on a retrospective basis. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a retrospective basis, and all periods have been presented under this guidance. The adoption of this new guidance resulted in the inclusion of our $5.0 million of restricted cash in the cash and cash equivalents balance in our consolidated statement of cash flows for all reporting periods presented in 2017 and onward.

In August 2016, the FASB issued guidance on the classification of certain cash receipts and cash payments in the statement of cash flows, including those related to debt prepayment or debt extinguishment costs, contingent consideration payments made after a business combination, proceeds from the settlement of insurance claims, proceeds from the settlement of corporate-owned life insurance, and distributions received from equity method investees. The guidance is effective for public business entities for fiscal years beginning after December 15, 2017, and for interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. If an entity adopts the guidance in an interim period, any adjustments should be reflected as of the beginning of the fiscal year that includes that interim period. The guidance must be adopted on a retrospective basis and must be applied to all periods presented, but may be applied prospectively if retrospective application would be impracticable. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017, on a retrospective basis. The adoption of this new guidance did not have a material impact on our consolidated financial statements.

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

In March 2016, the FASB issued guidance simplifying the accounting for and financial statement disclosure of stock-based compensation awards, consisting of changes in the accounting for excess tax benefits and tax deficiencies, and changes in the accounting for forfeitures associated with share-based awards, among other things. We adopted this guidance in the first quarter of 2017, effective as of January 1, 2017. Pursuant to the adoption requirements for excess tax benefits and tax deficiencies, we no longer recognize excess tax benefits or tax deficiencies in APIC; rather, we recognize them prospectively as a component of our current period provision for income taxes. We did not reverse our current APIC pool, which was $3.1 million as of December 31, 2016, and we presented the impact of classifying excess tax benefits as an operating activity in the statement of cash flows on a prospective basis. Pursuant to the adoption requirements for forfeitures, we now account for forfeitures as they occur rather than using an estimated forfeiture rate; as a result of the change in accounting, we recorded a $14 thousand cumulative-effect adjustment increasing our accumulated deficit as of January 1, 2017. The adoption of the remaining amendments did not have a material impact on our consolidated financial statements.

2. INDEBTEDNESS

Convertible Senior Notes

In December 2014, we issued $143.8 million of our Notes in a registered public offering. After deducting the underwriting discounts and commissions and other expenses (including the net cost of the bond hedge and warrant, discussed below), the net proceeds from the offering were approximately $122.6 million. The Notes pay 3.0% interest semi-annually in arrears on June 1 and December 1 of each year, starting on June 1, 2015, and are due December 1, 2019. The Notes are convertible into 2,068,792 shares of common stock, based on an initial conversion price of $69.48 per share.

The Notes are convertible at the option of the holder (i) during any calendar quarter beginning after March 31, 2015, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day, (ii) during the five business days after any five consecutive trading day period in which the trading price per $1,000 principal amount of the Notes for each trading day of such period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day; and (iii) on or after June 1, 2019 until the second scheduled trading day immediately preceding the maturity date.

Upon conversion by the holders, we may elect to settle such conversion in shares of our common stock, cash, or a combination thereof. As a result of our cash conversion option, we separately accounted for the value of the embedded conversion option as a debt discount (with an offset to APIC) of $33.6 million. The value of the embedded conversion option was determined based on the estimated fair value of the debt without the conversion feature, which was determined using market comparables to estimate the fair value of similar non-convertible debt (Note 6); the debt discount is being amortized as additional non-cash interest expense using the effective interest method over the term of the Notes.

2. INDEBTEDNESS (Continued)

Offering costs of $5.5 million were allocated to the debt and equity components in proportion to the allocation of proceeds to the components, as deferred financing costs and equity issuance costs, respectively. The deferred financing costs of $4.2 million are being amortized as additional non-cash interest expense using the straight-line method over the term of the debt, since this method was not significantly different from the effective interest method. Pursuant to guidance issued by the FASB in April 2015, we have classified the deferred financing costs as a direct deduction to the net carrying value of our Convertible Debt. The $1.3 million portion allocated to equity issuance costs was charged to APIC.

A portion of the offering proceeds was used to simultaneously enter into "bond hedge" (or purchased call) and "warrant" (or written call) transactions with an affiliate of one of the offering underwriters (collectively, the "Call Option Overlay"). We entered into the Call Option Overlay to synthetically raise the initial conversion price of the Notes to $96.21 per share and reduce the potential common stock dilution that may arise from the conversion of the Notes. The exercise price of the bond hedge is $69.48 per share, with an underlying 2,068,792 common shares; the exercise price of the warrant is $96.21 per share of our common stock, also with an underlying 2,068,792 common shares. Because the bond hedge and warrant are both indexed to our common stock and otherwise would be classified as equity, we recorded both elements as equity, resulting in a net reduction to APIC of $15.6 million.

The carrying value of the Notes is as follows as of December 31:

(in thousands)	**2017**	**2016**
Principal amount	$ 143,750	$ 143,750
Unamortized debt discount	(13,924)	(20,644)
Deferred financing costs	(1,618)	(2,463)
Net Carrying value	$ 128,208	$ 120,643

The following table sets forth the components of total interest expense related to the Notes recognized in the accompanying consolidated statements of operations for the year ended December 31:

(in thousands)	**2017**	**2016**	**2015**
Contractual coupon	$ 4,313	$ 4,312	$ 4,312
Amortization of debt discount	6,720	6,372	6,043
Amortization of finance fees	845	844	844
Capitalized interest	(554)	(234)	(56)
	$ 11,324	$ 11,294	$ 11,143

The effective interest rate on the Notes as of both December 31, 2017 and 2016 was 7.9%, on an annualized basis.

Credit Agreement

In December 2017, we entered into a five-year senior secured credit facility (the "Credit Agreement") with Citizens Bank, N.A. as a lender and administrative agent. As contemplated in the initial agreement, the Credit Agreement was syndicated to five additional lenders on February 5, 2018. The Credit Agreement is comprised of a $75.0 million five-year term loan (the "Term Loan") and a $50.0 million senior secured revolving credit facility (the "Revolving Credit Facility"), with availability subject to a borrowing base consisting of eligible accounts receivable and inventory and the satisfaction of conditions precedent specified in the agreement. We may repay borrowings under the Term Loan and Revolving Credit Facility without any premium or penalty, but must pay all borrowings thereunder by August 30, 2019 if we do not meet certain conditions relating to the repayment or refinance of our outstanding 3.0% Senior Convertible Notes due 2019, and in no event later than December 29, 2022. Amounts drawn bear an interest rate equal to, at our option, either a LIBOR rate plus 1.50% to 2.25% per annum, depending on our total leverage ratio, or an alternative base rate plus an applicable base rate margin, which varies within a range of 0.50% to 1.25%, depending our total leverage ratio. We will incur a commitment fee at a rate per annum that varies within a range of 0.25% to 0.35%, depending on our leverage ratio.

2. INDEBTEDNESS (Continued)

The Credit Agreement is secured by a lien on substantially all of ANI Pharmaceutical Inc.'s and its principal domestic subsidiary's assets and any future domestic subsidiary guarantors' assets. The Credit Agreement imposes financial covenants consisting of a maximum total leverage ratio, which initially shall be no greater than 3.75 to 1.00, a maximum senior secured leverage ratio, which initially shall be no greater than 2.50 to 1.00, and a minimum fixed charge coverage ratio, which shall be greater than or equal to 1.25 to 1.00. The primary non-financial covenants under the Credit Agreement limit, subject to various exceptions, our ability to incur future indebtedness, to place liens on assets, to pay dividends or make other distributions on our capital stock, to repurchase our capital stock, to conduct acquisitions, to alter our capital structure, and to dispose of assets.

The proceeds of the $75.0 million Term Loan were used to finance our acquisition of the four NDAs acquired for $46.5 million in cash and to refinance the existing indebtedness of $25.0 million that was outstanding on our now retired asset-based revolving credit facility with Citizens Business Capital, a division of Citizens Asset Finance, Inc. The Term Loan includes a repayment schedule, subsequent to which $3.8 million of the loan will be paid in quarterly installments during 2018. As a result, $3.8 million of the loan is recorded in current component of long-term borrowing, net of deferred financing in the accompanying consolidated balance sheets. We deferred $2.7 million of total debt issuance costs related to the Credit Agreement, of which $1.7 million was allocated to the Term Loan and $1.0 million was allocated to the undrawn Revolving Credit Facility.

The carrying value of the current and long-term components of the Term Loan as of December 31, 2017 are:

(in thousands)	**Current**
Current borrowing on secured term loan	$ 3,750
Deferred financing costs	(397)
Current component of long-term borrowing, net of deferred financing costs	$ 3,353

(in thousands)	**Long-Term**
Long-term borrowing on secured term loan	$ 71,250
Deferred financing costs	(1,304)
Long-term borrowing, net of deferred financing costs and current borrowing component	$ 69,946

The Term Loan was accounted for as a modification of our existing Line of Credit and consequently, the remaining balance of the deferred issuance costs related to the Line of Credit are included with the Term Loan issuance costs and amortized as interest expense over the life of the Term Loan using the effective interest method. The issuance costs allocated to the Revolving Credit Facility will be deferred and amortized as interest expense on a straight-line basis over the term of the Revolving Credit Facility.

As of December 31, 2017, we had a $75.0 million balance on the Term Loan. As of December 31, 2017, we had not drawn on the Revolving Credit Facility. Of the $1.0 million of deferred debt issuance costs allocated to the Revolving Credit Facility, $0.8 million is included in other long-term assets in the accompanying consolidated balance sheets and $0.2 is included in prepaid expenses and other current assets in the accompanying consolidated balance sheets. Of the deferred $1.7 million of debt issuance costs allocated to the Term Loan, $0.4 million is classified as a direct deduction to the current portion of the Term Loan and is included in current component of long-term borrowing, net of deferred financing costs in the accompanying consolidated balance sheets and $1.3 million is classified as a direct deduction to the long-term portion of the Term Loan and is included in long-term borrowing, net of deferred financing costs and current borrowing component in the accompanying consolidated balance sheets. During the year ended December 31, 2017, interest expense related to the Credit Agreement was immaterial.

2. INDEBTEDNESS (Continued)

Line of Credit

In May 2016, we entered into a credit arrangement (the "Line of Credit") with Citizens Bank Capital, a division of Citizens Asset Finance, Inc. (the "Citizens Agreement"). The Citizens Agreement provides for a $30.0 million asset-based revolving credit loan facility, with availability subject to a borrowing base consisting of eligible accounts receivable and inventory and the satisfaction of conditions precedent specified in the Citizens Agreement. The Citizens Agreement provides for an accordion feature, whereby we may increase the revolving commitment up to an additional $10.0 million subject to certain terms and conditions. The Citizens Agreement matures on May 12, 2019, at which time all amounts outstanding will be due and payable. Borrowings under the Citizens Agreement may be used for general corporate purposes, including financing possible future acquisitions and funding working capital. Amounts drawn bear an interest rate equal to, at our option, either a LIBOR rate plus 1.25%, 1.50%, or 1.75% per annum, depending upon availability under the Citizens Agreement, or an alternative base rate plus either 0.25%, 0.50%, or 0.75% per annum, depending upon availability under the Citizens Agreement. We incur a commitment fee on undrawn amounts equal to 0.25% per annum.

The Citizens Agreement is secured by a lien on substantially all of ANI Pharmaceutical Inc.'s and its principal domestic subsidiary's assets and any future domestic subsidiary guarantors' assets. The Citizens Agreement includes covenants, subject to certain exceptions, including covenants that restrict our ability to incur additional indebtedness, acquire or dispose of assets, and make and incur capital expenditures. The Citizens Agreement also imposes a financial covenant requiring compliance with a minimum fixed charge coverage ratio of 1.10 to 1.00 during certain covenant testing that is triggered if availability under the Citizens Agreement is below the greater of 12.5% of the revolving commitment and $3.75 million for three consecutive business days.

In February 2017, we drew down $30.0 million on the Line of Credit. As part of the draw-down, we implemented the accordion feature and increased the Line of Credit to $40.0 million. On December 29, 2017, we refinanced the existing indebtedness of $25.0 million that was outstanding against the now retired Line of Credit. In the second quarter of 2016, we deferred $0.3 million of debt issuance costs allocated to the Line of Credit, which were being amortized over the three-year life of the Line of Credit. The $0.2 million net balance of unamortized debt issuance costs allocated to the Line of Credit were added to the deferred debt issuance costs allocated to the Term Loan component of the Credit Agreement. During the year ended December 31, 2017, we recorded $0.6 million of interest expense in relation to the Line of Credit.

3. INVENTORIES

Inventories consist of the following as of December 31:

(in thousands)	2017	2016
Raw materials	$ 22,139	$ 14,138
Packaging materials	1,527	930
Work-in-progress	510	477
Finished goods [1]	13,901	10,812
	38,077	26,357
Reserve for excess/obsolete inventories	(350)	(174)
Inventories, net	$ 37,727	$ 26,183

[1] Includes finished goods acquired in asset purchases (Note 6).

4. PROPERTY, PLANT, AND EQUIPMENT

Property, plant, and equipment consist of the following as of December 31:

(in thousands)	2017	2016
Land	$ 160	$ 160
Buildings	3,835	3,756
Machinery, furniture, and equipment	12,334	8,176
Construction in progress	10,663	4,293
	26,992	16,385
Less: accumulated depreciation	(6,589)	(5,387)
Property, Plant, and Equipment, net	$ 20,403	$ 10,998

Depreciation expense for the years ended December 31, 2017, 2016, and 2015 totaled $1.2 million, $0.9 million, and $0.7 million, respectively. During the years ended December 31, 2017 and 2016, there was $0.6 million and $0.2 million of interest capitalized into construction in progress.

5. INTANGIBLE ASSETS

Goodwill

As a result of the Merger we recorded goodwill of $1.8 million in our one reporting unit. We assess the recoverability of the carrying value of goodwill on an annual basis as of October 31 of each year, and whenever events occur or circumstances changes that would, more likely than not, reduce the fair value of our reporting unit below its carrying value.

For the goodwill impairment analyses performed at October 31, 2017 and 2016, we performed qualitative assessments to determine whether it was more likely than not that our goodwill asset was impaired in order to determine the necessity of performing a quantitative impairment test, under which management would calculate the asset's fair value. When performing the qualitative assessments, we evaluated events and circumstances that would affect the significant inputs used to determine the fair value of the goodwill. Events and circumstances evaluated include: macroeconomic conditions that could affect us, industry and market considerations for the generic pharmaceutical industry that could affect us, cost factors that could affect our performance, our financial performance (including share price), and consideration of any company-specific events that could negatively affect us, our business, or our fair value. Based on our assessments of the aforementioned factors, it was determined that it was more likely than not that the fair value of our one reporting unit is greater than its carrying amount as of October 31, 2017 and 2016, and therefore no quantitative testing for impairment was required.

In addition to the qualitative impairment analysis performed at October 31, 2017, there were no events or changes in circumstances that could have reduced the fair value of our reporting unit below its carrying value from October 31, 2017 to December 31, 2017. No impairment loss was recognized during the years ended December 31, 2017, 2016, and 2015, and the balance of goodwill was $1.8 million as of both December 31, 2017 and 2016.

Definite-lived Intangible Assets

Acquisition of Abbreviated New Drug Applications

In July 2015, we purchased ANDAs for 22 previously marketed generic drug products from Teva Pharmaceuticals ("Teva") for $25.0 million in cash and a percentage of future gross profits from product sales. We accounted for this transaction as an asset purchase. The ANDAs are being amortized in full over their estimated useful lives of 10 years.

In March 2015, we purchased an ANDA from Teva for Flecainide, for $4.5 million in cash and a percentage of future gross profits from product sales. We accounted for this transaction as an asset purchase. The ANDA is being amortized in full over its estimated useful life of 10 years.

On December 26, 2013, we entered into an agreement to purchase ANDAs to produce 31 previously marketed generic drug products from Teva for $12.5 million in cash and a percentage of future gross profits from product sales. On January 2, 2014, we paid the first installment of $8.5 million to Teva and we paid the $4.0 million balance on March 6, 2014. The ANDAs are being amortized in full over their estimated useful lives of 10 years.

Acquisition of New Drug Applications and Product Rights

In December 2017, we entered into an agreement with AstraZeneca AB and AstraZeneca UK Limited to purchase the right, title, and interest in the NDAs and the U.S. rights to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash. We also entered into a license agreement for use of these trademarks in the U.S. We made the $46.5 million cash payment with funds from our Term Loan (Note 2). We also capitalized $0.2 million of costs directly related to the asset purchase. We accounted for this transaction as an asset purchase. The $46.7 million product rights assets are being amortized in full over their estimated useful lives of 10 years. Please see Note 6 for further details regarding the transaction.

In February 2017, we entered into an agreement with Cranford Pharmaceuticals, LLC to purchase a distribution license, trademark, and certain finished goods inventory for Inderal XL for $20.2 million in cash. We made the $20.2 million cash payment using cash on hand. We accounted for this transaction as an asset purchase. We also capitalized $40 thousand of costs directly related to the transaction. The $15.1 million product rights intangible asset acquired in the asset purchase is being amortized in full over its estimated useful life of 10 years. Please see Note 6 for further details regarding the transaction.

5. INTANGIBLE ASSETS (Continued)

In February 2017, we entered into an agreement with Holmdel Pharmaceuticals, LP to purchase the NDA, trademark, and certain finished goods inventory for InnoPran XL, including a license to an Orange Book listed patent, for $30.6 million in cash. We made the $30.6 million cash payment using $30.0 million of funds from our Line of Credit (Note 2) and $0.6 million of cash on hand. We accounted for this transaction as an asset purchase. We also capitalized $0.1 million of costs directly related to the transaction. The $19.0 million product rights intangible asset acquired in the asset purchase is being amortized in full over its estimated useful life of 10 years. Please see Note 6 for further details regarding the transaction.

In April 2016, we purchased the rights, title, and interest in the NDA for Inderal LA, as well as certain documentation, trademark rights, and finished goods from Cranford Pharmaceuticals, LLC for $60.0 million in cash up front and milestone payments based on future gross profits from sales of products under the NDA. We made the $60.0 million upfront cash payment using cash on hand, capitalized $0.3 million of costs directly related to the transaction, and recognized $3.9 million of minimum milestone payments for a total purchase price of $64.2 million. We accounted for this transaction as an asset purchase and the resultant $52.4 million NDA asset is being amortized in full over its estimated useful life of 10 years. The resultant $0.6 million non-compete agreement associated with the transaction is being amortized in full over its estimated useful life of seven years.

In September 2015, we entered into an agreement to purchase the NDAs for Cortrophin gel and Cortrophin-Zinc from Merck Sharp & Dohme B.V. for $75.0 million in cash and a percentage of future net sales. The transaction closed in January 2016, and we made the $75.0 million cash payment using cash on hand. In addition, we capitalized $0.3 million of costs directly related to the transaction. We accounted for this transaction as an asset purchase. The $75.3 million NDA assets are being amortized in full over their estimated useful lives of 10 years.

In conjunction with our 2013 merger with BioSante (the "Merger"), we acquired a testosterone gel product that was licensed to Teva (the "Testosterone Gel NDA") and this product was assigned an intangible asset value of $10.9 million in accounting for the Merger. In May 2015, Teva transferred the rights of the product back to ANI. In exchange, we will pay Teva a royalty of up to $5.0 million, at a rate of 5% of the consideration we receive as a result of commercial sale of the product. We assessed the value of the Testosterone Gel NDA under the new arrangement and determined that the net asset value was recoverable as of the May 2015 transfer date and subsequent balance sheet dates. We began the commercialization process for the product during the second half of 2015 and it continued throughout 2016. In late 2016, we determined that the development and manufacturing costs required to commercialize the product had increased and would pose a significant barrier to commercializing the product ourselves. Generic competition in the testosterone replacement market had increased substantially by the end of 2016, leading to significant decreases in pricing for the product. In the fourth quarter, management began putting forth efforts to sell the Testosterone Gel NDA rather than commercialize it ourselves. As a result of all these factors, in the fourth quarter of 2016, we determined that the facts and circumstances indicated that the asset could be impaired. We performed an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value. We determined the fair value of the Testosterone Gel NDA by using a discounted cash flows model. As a result of this assessment, we recorded an impairment of $6.7 million in the year ended December 31, 2016. In addition, the remaining $0.9 million asset was recorded as a short-term asset held for sale as of December 31, 2016 in the prepaid expenses and other assets caption in the accompanying consolidated balance sheets. Throughout 2017, we continued to attempt to sell the Testosterone Gel NDA and were unable to complete a sale. As a result, in the fourth quarter of 2017, we determined that the asset could be impaired. After performing an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value, we recorded an additional impairment of $0.9 million in the year ended December 31, 2017, writing off the asset in its entirety.

5. INTANGIBLE ASSETS (Continued)

Marketing and Distribution Rights

In January 2016, we purchased from H2-Pharma, LLC the rights to market, sell, and distribute the authorized generic of Lipofen® and a generic hydrocortisone rectal cream product, along with the rights to an early-stage development project, for total consideration of $10.0 million. The consideration consisted of a cash payment of $8.8 million and the assumption of $1.2 million in existing royalties owed on the acquired rights. We capitalized $42 thousand of costs directly related to the purchase. We accounted for this transaction as an asset purchase. No value was ascribed to the early-stage development project because the development was still at the preliminary stage, with no expenses incurred or research performed to date. The $10.0 million marketing and distribution rights assets are being amortized in full over their average estimated useful lives of approximately four years.

In August 2015, we entered into a distribution agreement with IDT Australia Limited ("IDT") to market several products in the U.S. The products, all of which are approved ANDAs, require various FDA filings and approvals prior to commercialization. In general, IDT will be responsible for regulatory submissions to the FDA and the manufacturing of certain products. We made an upfront payment to IDT of $1.0 million and will make additional milestone payments upon FDA approval for commercialization of certain products. Upon approval, IDT will manufacture some of the products and we will manufacture the other products. We will market and distribute all the products under our label in the United States, remitting a percentage of profits from sales of the drugs to IDT. We accounted for this transaction as an asset purchase. The $1.0 million upfront payment was recorded as a marketing and distribution rights intangible asset and is being amortized in full over its estimated useful life of seven years.

The components of net definite-lived intangible assets are as follows:

	December 31, 2017		December 31, 2016		Weighted Average
(in thousands)	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization	Amortization Period
Acquired ANDA intangible assets	$ 42,076	$ (12,592)	$ 42,076	$ (8,390)	10.0 years
NDAs and product rights	230,974	(37,091)	150,250	(17,081)	10.0 years
Marketing and distribution rights	11,042	(5,087)	11,042	(2,662)	4.7 years
Non-compete agreement	624	(156)	624	(67)	7.0 years
	$ 284,716	$ (54,926)	$ 203,992	$ (28,200)	

Definite-lived intangible assets are stated at cost, net of amortization, generally using the straight-line method over the expected useful lives of the intangible assets. In the case of the Inderal XL and InnoPran XL asset purchases, because we anticipate that the acquired assets will provide a greater economic benefit in the earlier years, we are amortizing 80% of the value of the intangible assets over the first five years of useful lives of the assets and amortizing the remaining 20% of the value of the intangible assets over the second five years of useful lives of the assets. Amortization expense was $26.7 million, $21.4 million, and $6.2 million for the years ended December 31, 2017, 2016, and 2015, respectively.

We test for impairment of definite-lived intangible assets when events or circumstances indicate that the carrying value of the assets may not be recoverable. We recorded impairments of $0.9 million and $6.7 million in the years ended December 31, 2017 and 2016, respectively, in relation to the Testosterone Gel NDA. No events or circumstances arose in 2017, 2016, or 2015 that indicated that the carrying value of any of our other definite-lived intangible assets may not be recoverable. No impairment losses related to intangible assets were recognized in the year ended December 31, 2015.

5. INTANGIBLE ASSETS (Continued)

Expected future amortization expense is as follows for the years ending December 31:

(in thousands)		
2018	$	31,492
2019		31,492
2020		31,010
2021		29,564
2022		26,158
2023 and thereafter		80,074
Total	$	229,790

6. FAIR VALUE DISCLOSURES

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

The inputs used in measuring the fair value of cash and cash equivalents are considered to be Level 1 in accordance with the three-tier fair value hierarchy. The fair market values are based on period-end statements supplied by the various banks and brokers that held the majority of our funds. The fair value of short-term financial instruments (primarily accounts receivable, prepaid expenses, accounts payable, accrued expenses, and other current liabilities) approximate their carrying values because of their short-term nature. While our Notes are recorded on our consolidated balance sheets at their net carrying value of $128.2 million as of December 31, 2017, the Notes are being traded on the bond market and their full fair value is $164.3 million, based on their closing price on December 31, 2017, a Level 1 input. The estimated fair value of the outstanding Term Loan at December 31, 2017 approximates its carrying value since the loan was established on December 29, 2017.

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

Our contingent value rights (“CVRs”), which were granted coincident with our merger with BioSante and expire in June 2023, are considered to be contingent consideration and are classified as liabilities. As such, the CVRs were recorded as purchase consideration at their estimated fair value, using Level 3 inputs, and are marked to market each reporting period until settlement. The fair value of CVRs is estimated using the present value of management’s projection of the expected payments pursuant to the terms of the CVR agreement, which is the primary unobservable input. If our projection or expected payments were to increase substantially, the value of the CVRs could increase as a result. The present value of the liability was calculated using a discount rate of 15%. We determined that the fair value of the CVRs was immaterial as of December 31, 2017 and 2016. We also determined that the changes in such fair value were immaterial for the years ended December 31, 2017, 2016, and 2015.

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

In December 2014, we issued $143.8 million of Notes (Note 2). Because we have the option to cash settle the potential conversion of the Notes in cash, we separated the embedded conversion option feature from the debt feature and account for each component separately, based on the fair value of the debt component assuming no conversion option. The calculation of the fair value of the debt component required the use of Level 3 inputs, and was determined by calculating the fair value of similar non-convertible debt, using a theoretical interest rate of 9%. The theoretical interest rate was determined from market comparables to estimate what the interest rate would have been if there was no conversion option embedded in the Notes. The fair value of the embedded conversion option was calculated using the residual value method and is classified as equity.

6. FAIR VALUE DISCLOSURES (Continued)

A portion of the offering proceeds was used to simultaneously enter into "bond hedge" (or purchased call) and "warrant" (or written call) transactions with an affiliate of one of the offering underwriters (Note 2). The exercise price of the bond hedge is $69.48 per share, with an underlying 2,068,792 common shares; the exercise price of the warrant is $96.21 per share of our common stock, also with an underlying 2,068,792 common shares. We calculated the fair value of the bond hedge based on the price we paid to purchase the call. We calculated the fair value of the warrant based on the price at which the affiliate purchased the warrants from us. Because the bond hedge and warrant are both indexed to our common stock and otherwise would be classified as equity, we recorded both elements as equity, resulting in a net reduction to APIC of $15.6 million.

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

We have no non-financial assets and liabilities that are measured at fair value on a recurring basis.

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

We measure our long-lived assets, including property, plant and equipment, intangible assets and goodwill, at fair value on a non-recurring basis. These assets are recognized at fair value when they are deemed to be other-than-temporarily impaired. No such fair value impairment was recognized in the year ended December 31, 2015.

In the fourth quarter of 2016, the facts and circumstances surrounding our testosterone gel NDA indicated that the asset could be impaired. The Testosterone Gel NDA intangible asset was initially acquired as part of the Merger, when we acquired a testosterone gel product that was licensed to Teva. This product was assigned an intangible asset value of $10.9 million in accounting for the Merger. In May 2015, Teva transferred the rights of the product back to ANI. In exchange, we will pay Teva a royalty of up to $5.0 million, at a rate of 5% of the consideration we receive as a result of commercial sale of the product. We assessed the value of the Testosterone Gel NDA under the new arrangement and determined that the net asset value was recoverable as of the May 2015 transfer date and subsequent balance sheet dates. We began the commercialization process for the product during the second half of 2015 and it continued throughout 2016. In late 2016, we determined that the development and manufacturing costs required to commercialize the product had increased and would pose a significant barrier to commercializing the product ourselves. Generic competition in the testosterone replacement market had increased substantially by the end of 2016, leading to significant decreases in pricing for the product. In the fourth quarter, management began putting forth efforts to sell the Testosterone Gel NDA rather than commercialize it ourselves. As a result of all these factors, in the fourth quarter of 2016, we determined that the facts and circumstances indicated that the asset could be impaired. We performed an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value. We determined the fair value of the Testosterone Gel NDA by using a discounted cash flows model. Due to the uncertainty and risk regarding the potential commercialization of the testosterone gel NDA, we used a discount rate of 30% in our valuation. As a result of this assessment, we recorded an impairment of $6.7 million in the year ended December 31, 2016. We also determined in the fourth quarter of 2016 that the asset met the criteria for being held for sale. As of December 31, 2016, the Testosterone Gel NDA was recorded as a short-term asset held for sale in the prepaid expenses and other assets caption in the accompanying consolidated balance sheets at $0.9 million, which was the fair value of the asset less estimated costs to sell. Throughout 2017, we continued to attempt to sell the Testosterone Gel NDA and were unable to complete a sale. As a result, in the fourth quarter of 2017, we determined that the asset could be impaired. After performing an impairment assessment, which indicated that the fair value of the asset was lower than the carrying value, we recorded an additional impairment of $0.9 million in the year ended December 31, 2017, writing off the asset in its entirety. No events or circumstances arose in 2016 or 2017 that indicated that the carrying value of any of our other definite-lived intangible assets may not be recoverable.

6. FAIR VALUE DISCLOSURES (Continued)

In December 2017, we entered into an agreement with AstraZeneca AB and AstraZeneca UK Limited to purchase the right, title, and interest in the NDAs and the U.S. right to market Atacand, Atacand HCT, Arimidex, and Casodex, for $46.5 million in cash (Note 5). We also licensed these trademarks for use in the U.S. We made the $46.5 million cash payment with funds from our Term Loan (Note 2). We also capitalized $0.2 million of costs directly related to the asset purchase. The agreement included a $3.0 million contingent payment due in early 2023 if the annual net sales of the Atacand and Atacand HCT products equals or exceeds certain threshold amounts in 2020, 2021, and 2022. Because we believe that the likelihood of meeting or exceeding the threshold amounts is not probable, we did not record a contingent liability in relation to the agreement. We accounted for this transaction as an asset purchase. The $46.7 million product rights intangible assets were recorded at their relative fair value, determined using Level 3 unobservable inputs. In order to determine the fair value of the product rights intangible assets, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The product rights will be amortized in full over their 10-year useful lives, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the year ended December 31, 2017.

In February 2017, we entered into an agreement with Cranford Pharmaceuticals, LLC to purchase a distribution license, trademark, and certain finished goods inventory for Inderal XL for $20.2 million in cash (Note 5). We made the $20.2 million cash payment using cash on hand and capitalized $40 thousand of costs directly related to the asset purchase. We accounted for this transaction as an asset purchase. The $15.1 million product rights intangible asset was recorded at its relative fair value, determined using Level 3 unobservable inputs. In order to determine the fair value of the product rights intangible asset, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The product rights will be amortized in full over its 10-year useful life, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the year ended December 31, 2017. We also recorded $5.0 million of finished goods inventory. The fair value of the finished goods inventory was determined based on the estimated selling price to be generated from the finished goods, less costs to sell, including a reasonable margin.

In February 2017, we entered into an agreement with Holmdel Pharmaceuticals, LP to purchase the NDA, trademark, and certain finished goods inventory for InnoPran XL, including a license to an Orange Book listed patent, for $30.6 million in cash (Note 5). We made the $30.6 million cash payment using $30.0 million of funds from our Line of Credit (Note 2) and $0.6 million of cash on hand. We also capitalized $0.1 million of costs directly related to the asset purchase. We accounted for this transaction as an asset purchase. The $19.0 million product rights intangible asset was recorded at its relative fair value, determined using Level 3 unobservable inputs. In order to determine the fair value of the product rights intangible asset, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The product rights will be amortized in full over its 10-year useful life, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the year ended December 31, 2017. We also recorded $11.6 million of finished goods inventory. The fair value of the finished goods inventory was determined based on the estimated selling price to be generated from the finished goods, less costs to sell, including a reasonable margin.

6. FAIR VALUE DISCLOSURES (Continued)

In April 2016, we purchased the rights, title, and interest in the NDA for Inderal LA, as well as certain documentation, trademark rights, and finished goods from Cranford Pharmaceuticals, LLC for $60.0 million in cash and milestone payments based on future gross profits from sales of products under the NDA (Note 5). In addition, at closing, we transferred $5.0 million to an escrow account as security for future milestone payments. This escrow account balance is not expected to be released in less than one year and is included in restricted cash in our accompanying consolidated balance sheets as of December 31, 2016. We made the $60.0 million upfront cash payment using cash on hand, capitalized $0.3 million of costs directly related to the transaction, and recognized $3.9 million of minimum milestone payments for a total purchase price of $64.2 million. We accounted for this transaction as an asset purchase. These assets were recorded at their relative fair values, which were determined based on Level 3 unobservable inputs. In order to determine the fair value of the NDA, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 12%. The $52.4 million NDA will be amortized in full over its 10-year useful life, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2016 and therefore no impairment loss was recognized for the year ended December 31, 2016. We recorded $10.9 million of finished goods. The fair value of the finished goods was determined based on the estimated sales to be generated from the finished goods, less costs to sell, including a reasonable margin. We recorded the $3.9 million of minimum milestone payments as accrued royalties. We recorded $0.6 million for the non-compete agreement associated with the transaction. In order to determine the fair value of the non-compete agreement, we used the probability-weighted lost cash flows method, using a discount rate of 10%. The non-compete agreement will be amortized in full over its seven-year useful life, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the years ended December 31, 2016 and 2017. We also recorded a $0.3 million prepaid balance related to a partially paid purchase order for inventory.

In January 2016, we purchased from Merck Sharp & Dohme B.V. the NDAs for two previously marketed generic drug products for $75.0 million in cash and a percentage of future net sales from product sales (Note 5). In addition, we capitalized $0.3 million in legal costs directly related to the transaction. We accounted for this transaction as an asset purchase. These assets were recorded at their relative fair values, which were determined based on Level 3 unobservable inputs. In order to determine the fair value of the NDAs, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The NDAs will be amortized in full over their 10-year useful lives, and will be tested for impairment when events or circumstances indicate that the carrying value of the assets may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the years ended December 31, 2016 and 2017.

In January 2016, we purchased from H2-Pharma, LLC the rights to market, sell, and distribute the authorized generic of Lipofen® and a generic hydrocortisone rectal cream product, along with the rights to an early-stage development project, for total consideration of $10.0 million (Note 5). The consideration consisted of a cash payment of $8.8 million and the assumption of $1.2 million in existing royalties owed on the acquired rights. In addition, we capitalized $42 thousand of costs directly related to the transaction. We accounted for this transaction as an asset purchase. These assets were recorded at their relative fair values, which were determined based on Level 3 unobservable inputs. In order to determine the fair value of the rights for purposes of purchase price allocation, we used the present value of the estimate cash flows related to the product rights, using a discount rate of 10%. No value was ascribed to the early-stage development project because the development is still at the preliminary stage, with no expenses incurred or research performed to date. The marketing and distribution rights will be amortized in full over their average estimated useful lives of approximately four years, and will be tested for impairment when events or circumstances indicate that the carrying value of the assets may not be recoverable. No such triggering events were identified from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized for the years ended December 31, 2016 and 2017.

6. FAIR VALUE DISCLOSURES (Continued)

In July 2015, we purchased from Teva the ANDAs for 22 previously marketed generic drug products for $25.0 million in cash and a percentage of future gross profits from product sales (Note 5). The value of the ANDAs was based on the total purchase price of $25.0 million. We accounted for this transaction as an asset purchase. These assets were recorded at their relative fair values, which were determined based on Level 3 unobservable inputs. In order to determine the fair value of the ANDAs, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The $25.0 million of ANDAs will be amortized over their 10-year useful lives, and will be tested for impairment when events or circumstances indicate that the carrying value of the assets may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized in the years ended December 31, 2016 and 2017.

In March 2015, we purchased from Teva the ANDA for Flecainide for $4.5 million in cash and a percentage of future gross profits from product sales (Note 5). The value of the ANDA was based on the purchase price of $4.5 million. We accounted for this transaction as an asset purchase. This asset was recorded at fair value, which was determined based on Level 3 unobservable inputs. In order to determine the fair value of the ANDA, we used the present value of the estimated cash flows related to the product rights, using a discount rate of 10%. The $4.5 million ANDA will be amortized over its 10-year useful life, and will be tested for impairment when events or circumstances indicate that the carrying value of the asset may not be recoverable. No such triggering events were identified during the period from the date of acquisition to December 31, 2017 and therefore no impairment loss was recognized in the years ended December 31, 2015, 2016, and 2017.

7. STOCKHOLDERS' EQUITY

Authorized shares

We are authorized to issue up to 33.3 million shares of common stock with a par value of $0.0001 per share, 0.8 million shares of class C special stock with a par value of $0.0001 per share, and 1.7 million shares of undesignated preferred stock with a par value of $0.0001 per share at December 31, 2017.

There were 11.7 million and 11.6 million shares of common stock issued and outstanding as of December 31, 2017 and 2016, respectively.

There were 11 thousand shares of class C special stock issued and outstanding as of December 31, 2017 and 2016. Each share of class C special stock entitles its holder to one vote per share. Each share of class C special stock is exchangeable, at the option of the holder, for one share of our common stock, at an exchange price of $90.00 per share, subject to adjustment upon certain capitalization events. Holders of class C special stock are not entitled to receive dividends or to participate in the distribution of our assets if we were to liquidate, dissolve, or wind-up the company. The holders of class C special stock have no cumulative voting, preemptive, subscription, redemption, or sinking fund rights.

There were no shares of undesignated preferred stock outstanding as of December 31, 2017 and 2016.

Stock Repurchase Program

In October 2015, our Board of Directors authorized a program to repurchase up to $25.0 million of our outstanding common stock through December 31, 2016. The authorization allows for repurchases to be conducted through open market or privately negotiated transactions. Shares acquired under the stock repurchase program are returned to the status of authorized but unissued shares of common stock. The stock repurchase program could be suspended, modified, or discontinued at any time at our discretion.

In January 2016, we purchased 65 thousand shares under the stock repurchase program for $2.5 million. The repurchased shares were returned to the status of authorized but unissued shares of common stock. This program terminated on December 31, 2016.

Warrants

Warrants to purchase an aggregate of 2.1 million shares of our common stock were outstanding and exercisable as of December 31, 2017:

Issue Date	Number of Underlying Shares of Common Stock (in thousands)	Per Share Exercise Price	Expiration Date
December 4, 2014	1,799	$ 96.21	March 1, 2020
December 5, 2014	270	$ 96.21	March 1, 2020

All outstanding warrants are classified as equity. No warrants were granted, exercised, or expired unexercised during the year ended December 31, 2017 and 2016.

No warrants were issued or exercised during the year ended December 31, 2015. Warrants to purchase 405 thousand shares of common stock expired during the year ended December 31, 2015.

8. STOCK-BASED COMPENSATION

In July 2016, we commenced administration of the ANI Pharmaceuticals, Inc. 2016 Employee Stock Purchase Plan, which was approved by shareholders in our May 25, 2016 annual shareholder meeting. The Board of Directors and shareholders approved a maximum of 0.2 million shares of common stock, which were reserved and made available for issuance under the ESPP. Under the ESPP, participants can purchase shares of our stock at a 15% discount. We issued four thousand and one thousand shares in the years ended December 31, 2017 and 2016, respectively. In the year ended December 31, 2017, we recognized $6 thousand, $1 thousand, and $61 thousand of stock-based compensation expense related to the ESPP in cost of sales, research and development, and sales, general, and administrative expense in our consolidated statements of operations, respectively. In the year ended December 31, 2016, we recognized $2 thousand and $23 thousand of stock-based compensation expense related to the ESPP in cost of sales and sales, general, and administrative expense in our consolidated statements of operations, respectively.

All equity-based service awards are granted under the ANI Pharmaceuticals, Inc. Amended and Restated 2008 Stock Incentive Plan (the "2008 Plan"). As of December 31, 2017, 0.8 million shares of our common stock remained available for issuance under the 2008 Plan.

We measure the cost of equity-based service awards based on the grant-date fair value of the award. The cost is recognized over the period during which an employee is required to provide service in exchange for the award or the requisite service period. We recognize stock-based compensation expense ratably over the vesting periods of the awards.

The following table summarizes stock-based compensation expense incurred under the 2008 Plan and included in our consolidated statements of operations:

	Years Ended December 31,		
(in thousands)	**2017**	**2016**	**2015**
Cost of sales	$ 86	$ 60	$ 82
Research and development	677	112	109
Selling, general, and administrative	5,259	5,870	3,665
	$ 6,022	$ 6,042	$ 3,856

We recognized income tax benefits of $0.6 million, $1.0 million, and $0.4 million for stock-based compensation-related tax deductions in our 2017, 2016, and 2015 consolidated statements of operations, respectively.

Separation Agreement

On April 26, 2016, we entered into a Separation Agreement and Release (the "Separation Agreement") with our former Chief Financial Officer (the "Former Officer"), who resigned effective May 6, 2016. Under the Separation Agreement, 25,167 stock options previously granted to the Former Officer vested on May 6, 2016. In addition, 4,050 restricted stock awards and 2,000 stock options previously granted to the Former Officer vested on March 15, 2017. These actions were accounted for as a modification of the underlying awards and the full expense for the modified awards was recorded in the second quarter 2016. In the second quarter of 2016, we recorded $0.9 million of stock-based compensation expense, net of forfeitures, in relation to the Separation Agreement. In the second quarter 2016, we recognized $0.4 million of additional expense related to the Separation Agreement and transition that was not related to stock-based compensation. All expenses related to the Separation Agreement and transition were recognized in the second quarter 2016.

8. STOCK-BASED COMPENSATION (Continued)

Stock Options

Outstanding stock options granted to employees and consultants generally vest over a period of four years and have 10-year contractual terms. Outstanding stock options granted to non-employee directors generally vest over a period of one to four years and have 10-year contractual terms. Upon exercise of an option, we issue new shares of our common stock or issue shares from treasury stock.

For 2017, 2016, and 2015, the fair value of each option grant was estimated using the Black-Scholes option-pricing model, using the following assumptions:

	Years Ended December 31,		
	2017	**2016**	**2015**
Expected option life (years)	5.33 - 7.00	5.50 - 6.25	5.50 - 6.25
Risk-free interest rate	1.93% - 2.33%	1.14% - 1.55%	1.31% - 1.82%
Expected stock price volatility	50.3% - 57.4%	49.4% - 51.7%	47.9% - 50.5%
Dividend yield	—	—	—

We use the simplified method to estimate the life of options. The risk-free interest rate used is the yield on a U.S. Treasury note as of the grant date with a maturity equal to the estimated life of the option. We calculated an estimated volatility rate based on the closing prices of several competitors that manufacture similar products. We have not issued a cash dividend in the past nor do we have any current plans to do so in the future; therefore, an expected dividend yield of zero was used.

In 2017, we granted options to two consultants. We used the Black-Scholes option-pricing model to determine the fair value of the option grants and the valuation of the grants will be marked to market each quarter-end until the options are vested.

8. STOCK-BASED COMPENSATION (Continued)

A summary of stock option activity under the 2008 Plan during the years ended December 31, 2017, 2016, and 2015 is presented below:

(in thousands, except per share and remaining term data)	Option Shares	Weighted Average Exercise Price	Weighted Average Grant-date Fair Value	Weighted Average Remaining Term (years)	Aggregate Intrinsic Value
Outstanding December 31, 2014	458	$ 14.44		8.7	$ 19,472
Granted	138	62.07	$ 30.08		
Exercised	(89)	9.24			3,937
Forfeited	(33)	11.81			
Expired	-	-			
Outstanding December 31, 2015	474	$ 29.40		8.2	$ 10,136
Granted	265	45.60	$ 22.45		
Exercised	(127)	11.79			5,837
Forfeited	(32)	47.84			
Expired	(2)	139.32			
Outstanding December 31, 2016	578	$ 39.28		8.2	$ 12,928
Granted	207	51.66	$ 27.04		
Exercised	(13)	15.92			542
Forfeited	(5)	53.29			
Expired	-	-			
Outstanding December 31, 2017	767	$ 42.93		7.8	$ 16,785
Exercisable at December 31, 2017	308	$ 32.94		6.6	$ 9,901

As of December 31, 2017, there was $8.8 million of total unrecognized compensation cost related to non-vested stock options granted under the 2008 Plan. The cost is expected to be recognized over a weighted-average period of 2.7 years. During the year ended December 31, 2017, we received $0.2 million in cash from the exercise of stock options and recorded a $0.2 million tax benefit related to these exercises. During the year ended December 31, 2016, we received $1.5 million in cash from the exercise of stock options and recorded a $0.7 million tax benefit related to these exercises. During the year ended December 31, 2015, we received $0.8 million in cash from the exercise of stock options and recorded a $0.3 million tax benefit related to these exercises.

8. STOCK-BASED COMPENSATION (Continued)

Restricted Stock Awards

Restricted stock awards ("RSAs") granted to employees generally vest over a period of four years. RSAs granted to non-officer directors generally vest over a period of one year.

Shares of our common stock delivered to employees and directors will be unrestricted upon vesting. During the vesting period, the recipient of the restricted stock has full voting rights as a stockholder and would receive dividends, if declared, even though the restricted stock remains subject to transfer restrictions and will generally be forfeited upon termination of the officer prior to vesting. The fair value of each RSA is based on the market value of our stock on the date of grant.

A summary of RSA activity under the Plan during the years ended December 31, 2017, 2016, and 2015 is presented below:

(in thousands, except per share and remaining term data)	Shares	Weighted Average Grant Date Fair Value	Weighted Average Remaining Term (years)
Unvested at December 31, 2014	63	$ 19.34	2.6
Granted	28	67.26	
Vested	(23)	15.82	
Forfeited	(5)	19.41	
Unvested at December 31, 2015	63	$ 42.72	2.2
Granted	38	40.59	
Vested	(30)	33.89	
Forfeited	(8)	46.05	
Unvested at December 31, 2016	63	$ 45.72	2.2
Granted	50	49.51	
Vested	(28)	44.49	
Forfeited	-	-	
Unvested at December 31, 2017	86	$ 48.34	2.6

As of December 31, 2017, there was $3.0 million of total unrecognized compensation cost related to non-vested RSAs granted under the Plan, which is expected to be recognized over a weighted-average period of 2.6 years.

9. INCOME TAXES

Our total provision from income taxes consists of the following for the years ended December 31, 2017, 2016, and 2015:

(in thousands)	2017	2016	2015
Current income tax provision:			
Federal	$ 13,175	$ 11,717	$ 7,264
State	690	1,321	611
Total	13,865	13,038	7,875
Deferred income tax provision/(benefit):			
Federal	4,065	(8,387)	(1,468)
State	(556)	(658)	(409)
Total	3,509	(9,045)	(1,877)
Change in valuation allowance	51	134	-
Excess tax benefit from stock-based compensation awards	-	617	360
Total provision for income taxes	$ 17,425	$ 4,744	$ 6,358

The difference between our expected income tax provision from applying federal statutory tax rates to the pre-tax income and actual income tax provision relates primarily to the effect of the following:

	As of December 31,		
	2017	2016	2015
US Federal statutory rate	35.0%	35.0%	35.0%
State taxes, net of Federal benefit	2.0%	2.1%	2.1%
Impact of Tax Cuts and Jobs Act	81.9%	-%	-%
International tax structure impacts	-%	23.3%	-%
Domestic production activities deduction	(8.8)%	(14.4)%	(5.3)%
Change in valuation allowance	-%	1.6%	-%
Stock-based compensation – no windfall tax benefits	1.0%	5.7%	1.1%
Stock-based compensation – windfall tax benefit	(0.2)%	-%	(0.1)%
Change in tax rates and other	(4.3)%	1.4%	(3.5)%
Total income tax provision/(benefit)	106.6%	54.7%	29.3%

The most significant impact on our effective tax rate in 2017 was the revaluation of our deferred tax assets and liabilities at the lower 21% U.S. corporate tax rate, as proscribed by the Tax Cuts and Jobs Act, which was enacted on December 22, 2017 and will lower the U.S. corporate tax rate from 35% to 21%, beginning in 2018. We measure our deferred tax assets and liabilities using the tax rates that we believe will apply in the years in which the temporary differences are expected to be recovered or paid. As a result, we remeasured our deferred tax assets and deferred tax liabilities to reflect the reduction in the enacted U.S. corporate income tax rate, resulting in a net $13.4 million increase in income tax expense for the year ended December 31, 2017.

9. INCOME TAXES (Continued)

Deferred income taxes reflect the net tax effects of differences between the bases of assets and liabilities for financial reporting and income tax purposes. Our deferred income tax assets and liabilities consisted of the following:

	As of December 31,	
(in thousands)	**2017**	**2016**
Deferred tax assets:		
Accruals and advances	$ 5,254	$ 3,002
Bond hedge	5,617	10,921
Accruals for chargebacks and returns	4,927	7,137
Inventory	857	1,255
Intangible asset	6,355	6,302
Net operating loss carryforward	3,029	5,095
Other	3,030	1,680
Total deferred tax assets	$ 29,069	$ 35,392
Deferred tax liabilities:		
Depreciation	$ (1,110)	$ (857)
Debt discount	(3,256)	(7,664)
Intangible assets	(11)	(353)
Other	(1,699)	(16)
Total deferred tax liabilities	$ (6,076)	$ (8,890)
Valuation allowance	(326)	(275)
Total deferred tax asset, net	$ 22,667	$ 26,227

As of December 31, 2017, we had federal net operating loss carryforwards of approximately $12.9 million, all of which arose as a result of the Merger and, if not used, expire in annual increments through 2033. The utilization of the net operating loss carryforwards are limited in future years as prescribed by Section 382 of the U.S. Internal Revenue Code; our current annual limitation of the federal net operating loss is approximately $0.8 million per year.

We are required to establish a valuation allowance for deferred tax assets if, based on the weight of available evidence, it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. We consider the projected future taxable income and tax planning strategies in making this assessment. As of December 31, 2017, and 2016, we have provided a valuation allowance against certain state net operating loss carryforwards of $0.3 million.

We are subject to income taxes in numerous jurisdictions in the U.S. Significant judgment is required in evaluating our tax positions and determining our provision for income taxes. We establish liabilities for tax-related uncertainties based on estimates of whether, and the extent to which, additional taxes will be due. These liabilities are established when we believe that certain positions might be challenged despite our belief that our tax return positions are fully supportable. We adjust these liabilities in light of changing facts and circumstances, such as the outcome of a tax audit. The provision for income taxes includes the impact of changes to the liability that is considered appropriate. We identified no material uncertain tax positions as of December 31, 2017 and 2016.

We are subject to income tax audits in all jurisdictions for which we file tax returns. Tax audits by their nature are often complex and can require several years to complete. Neither ANI Pharmaceuticals, Inc. nor any of its subsidiaries is currently under audit in any jurisdiction. All of our income tax returns remain subject to examination by tax authorities due to the availability of net operating loss carryforwards.

10. COMMITMENTS AND CONTINGENCIES

Vendor Purchase Minimums

We have supply agreements with four vendors that include purchase minimums. Pursuant to these agreements, we will be required to purchase a total of $11.8 million of API from these four vendors during the year ended December 31, 2018.

Government Regulation

Our products and facilities are subject to regulation by a number of federal and state governmental agencies. The FDA, in particular, maintains oversight of the formulation, manufacture, distribution, packaging, and labeling of all of our products. The Drug Enforcement Administration ("DEA") maintains oversight over our products that are considered controlled substances.

Unapproved Products

Two of our products, Esterified Estrogen with Methyltestosterone (“EEMT”) and Opium Tincture, are marketed without approved NDAs or ANDAs. During the years ended December 31, 2017, 2016, and 2015, net revenues for these products totaled $27.6 million, $34.3 million, and $44.3 million, respectively.

The FDA's policy with respect to the continued marketing of unapproved products is stated in the FDA's September 2011 Compliance Policy Guide Sec. 440.100 titled “Marketed New Drugs without Approved NDAs or ANDAs.” Under this policy, the FDA has stated that it will follow a risk-based approach with regard to enforcement against such unapproved products. The FDA evaluates whether to initiate enforcement action on a case-by-case basis, but gives higher priority to enforcement action against products in certain categories, such as those marketed as unapproved drugs with potential safety risks or that lack evidence of effectiveness. We believe that, so long as we comply with applicable manufacturing standards, the FDA will not take action against us under the current enforcement policy. There can be no assurance, however, that the FDA will continue this policy or not take a contrary position with any individual product or group of products. If the FDA were to take a contrary position, we may be required to seek FDA approval for these products or withdraw such products from the market. If we decide to withdraw the products from the market, our net revenues for generic pharmaceutical products would decline materially, and if we decide to seek FDA approval, we would face increased expenses and might need to suspend sales of the products until such approval was obtained, and there are no assurances that we would receive such approval.

In addition, one group of products that we manufacture on behalf of a contract customer is marketed by that customer without an approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our contract manufacturing revenues for the group of unapproved products for the years ended December 31, 2017, 2016, and 2015 were $2.0 million, $1.5 million, and $1.6 million, respectively.

We received royalties on the net sales of a group of contract-manufactured products, which are marketed by the contract customer without an approved NDA. If the FDA took enforcement action against such customer, the customer may be required to seek FDA approval for the group of products or withdraw them from the market. Our royalties on the net sales of these unapproved products were less than 1% of total revenues for the three years ended December 31, 2017, 2016, and 2015.

Louisiana Medicaid Lawsuit

On September 11, 2013, the Attorney General of the State of Louisiana filed a lawsuit in Louisiana state court against numerous pharmaceutical companies, including us, under various state laws, alleging that each defendant caused the state’s Medicaid agency to provide reimbursement for drug products that allegedly were not approved by the FDA and therefore allegedly not reimbursable under the federal Medicaid program. The lawsuit relates to three cough and cold prescription products manufactured and sold by our former Gulfport, Mississippi operation, which was sold in September 2010. Through its lawsuit, the state seeks unspecified damages, statutory fines, penalties, attorneys’ fees, and costs. While we cannot predict the outcome of the lawsuit at this time, we could be subject to material damages, penalties, and fines. We intend to vigorously defend against all claims in the lawsuit.

10. COMMITMENTS AND CONTINGENCIES (Continued)

Civil Action

In November of 2017, we were served with a complaint filed by Arbor Pharmaceuticals, LLC, in the United States District Court, District of Minnesota. The complaint alleges false advertising and unfair competition in violation of Section 43(a) of the Lanham Act, Section 1125(a) of Title 15 of the United States Code, and Minnesota State law, and seeks injunctive relief and damages. In December of 2017, we filed a motion to dismiss, which is currently pending before the Court. We intend to defend this action vigorously.

Other Commitments and Contingencies

All manufacturers of the drug Reglan and its generic equivalent metoclopramide, including ANI, have faced allegations from plaintiffs in various states, including California, New Jersey, and Pennsylvania, claiming bodily injuries as a result of ingestion of metoclopramide or its brand name, Reglan, prior to the FDA's February 2009 Black Box warning requirement. In August 2012, we were dismissed with prejudice from all New Jersey complaints. In August 2016, we settled the outstanding California short form complaints and in February 2018, we settled the remaining four complaints that were not captured in the 2016 settlement. We consider our exposure to this litigation to be limited due to several factors: (1) the only generic metoclopramide that we manufactured prior to the implementation of the FDA's warning requirement was an oral solution introduced after May 28, 2008; (2) our market share for the oral solution was a very small portion of the overall metoclopramide market; and (3) once we received a request for change of labeling from the FDA, we submitted our proposed changes within 30 days, and such changes were subsequently approved by the FDA.

At the present time, we are unable to assess the likely outcome of the complaints in the remaining states. Our insurance company has assumed the defense of this matter and paid all losses in settlement of the California complaints. We cannot provide assurances that the outcome of these matters will not have an adverse effect on our business, financial condition, and operating results. Furthermore, like all pharmaceutical manufacturers, we may be exposed to other product liability claims in the future, which could limit our coverage under future insurance policies or cause those policies to become more expensive, which could harm our business, financial condition, and operating results.

We launched Erythromycin Ethylsuccinate (“EES”) on September 27, 2016 under a previously approved ANDA. In August 2016, we filed with the FDA to reintroduce this product under a Changes Being Effected in 30 Days submission (a “CBE-30 submission”). Under a CBE-30 submission, certain defined changes to an ANDA can be made if the FDA does not object in writing within 30 days. The FDA’s regulations, guidance documents, and historic actions support the filing of a CBE-30 for the types of changes that we proposed for our EES ANDA. We received no formal written letter from the FDA within 30 days of the CBE-30 submission date, and as such, launched the product in accordance with FDA regulations. On December 16, 2016, and nearly four months after our CBE-30 submission, the FDA sent us a formal written notice that a Prior Approval Supplement (“PAS”) was required for this ANDA. Under a PAS, proposed changes to an ANDA cannot be implemented without prior review and approval by the FDA. Because we did not receive this notice in the timeframe prescribed by the FDA’s regulations, we believe that our supplemental ANDA is valid, and as such continue to market the product. In addition, we filed a PAS which was accepted by the FDA and was originally assigned action date of June 2017. This date was later revised to October 2017 due to the election by the FDA to perform a Pre-Approval Inspection (“PAI”) of our Baudette manufacturing facilities. The FDA conducted its PAI between May 15, 2017 and May 18, 2017. On July 31, 2017, we received an Establishment Inspection Report from the FDA documenting that no objectionable conditions resulted from the inspection and that no FDA-483 or verbal observations were issued. On September 21, 2017, we received a Major CR Letter (Complete Response Letter). In February 2018, we submitted our response to the letter. We continue to reserve all of our legal options in this matter.

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

11. QUARTERLY FINANCIAL DATA (unaudited)

The following table presents unaudited quarterly consolidated operating results for each of our last eight fiscal quarters. The information below has been prepared on a basis consistent with our audited consolidated financial statements.

	2017 Quarters (unaudited)			
(in thousands, except per share data)	**First**	**Second**	**Third**	**Fourth**
Net revenues	$ 36,628	$ 44,764	$ 48,164	$ 47,286
Total operating expenses	32,003	37,770	38,833	39,907
Operating income	4,625	6,994	9,331	7,379
Provision for income taxes	(523)	(1,269)	(1,654)	(13,979)
Net income/(loss)	$ 1,152	$ 2,681	$ 4,720	$ (9,629)
Basic and diluted earnings/(loss) per share:				
Basic earnings/(loss) per share	$ 0.10	$ 0.23	$ 0.41	$ (0.83)
Diluted earnings/(loss) per share	$ 0.10	$ 0.23	$ 0.40	$ (0.83)

	2016 Quarters (unaudited)			
(in thousands, except per share data)	**First**	**Second**	**Third**	**Fourth**
Net revenues	$ 20,555	$ 31,337	$ 38,525	$ 38,205
Total operating expenses	14,889	26,143	30,604	36,907
Operating income	5,666	5,194	7,921	1,298
(Provision)/benefit for income taxes	(1,540)	(1,227)	(2,501)	524
Net income/(loss)	$ 1,346	$ 1,125	$ 2,543	$ (1,080)
Basic and diluted earnings/(loss) per share:				
Basic earnings/(loss) per share	$ 0.12	$ 0.10	$ 0.22	$ (0.09)
Diluted earnings/(loss) per share	$ 0.12	$ 0.10	$ 0.22	$ (0.09)

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

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

Our management has carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), as of December 31, 2017. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act as a process designed by, or under the supervision of, a company's principal executive and principal financial officers and effected by a company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP. Our internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect transactions and dispositions of its assets;

- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that could have a material effect on our consolidated financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. 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.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2017. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control — Integrated Framework (2013).

Based on this assessment, our management has concluded that, as of December 31, 2017, our internal control over financial reporting is effective based on those criteria.

The effectiveness of our internal control over financial reporting as of December 31, 2017 has been audited by EisnerAmper LLP, an independent registered public accounting firm, as stated in their attestation report, which is included herein.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting during the quarter ended December 31, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers of the Registrant

The text of our Code of Ethics, which applies to our principal executive officer, principal financial officer, principal accounting officer or controller, and persons performing similar functions, is posted on our website, www.anipharmaceuticals.com, under the "Corporate Governance" subsection of the "Investors" section of the site. We will disclose on our website amendments to, and, if any are granted, waivers of, our Code of Ethics for our principal executive officer, principal financial officer, or principal accounting officer, controller, or persons performing similar functions.

Information required by this item with respect to our directors will be set forth under the caption "Election of Directors" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Information required by this item with respect to our executive officers will be set forth under the caption "Executive Officers of the Company" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Information required by this item with respect to compliance with Section 16(a) of the Exchange Act will be set forth under the caption "Section 16(a) Beneficial Ownership Reporting Compliance" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Information required by this item with respect to our audit committee, our audit committee financial expert, and any material changes to the way in which our security holders may recommend nominees to our Board of Directors will be set forth under the caption "Corporate Governance" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Item 11. Executive Compensation

Information required by this item with respect to executive compensation will be set forth under the caption "Executive Compensation" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

Information required by this item with respect to security ownership of certain beneficial owners and management will be set forth under the captions "Security Ownership of Certain Beneficial Owners" and "Security Ownership of Directors and Executive Officers" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Information required by this item with respect to certain relationships and related transactions and director independence will be set forth under the captions "Certain Relationships and Related Transactions" and "Corporate Governance" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

Information required by this item with respect to principal accounting fees and services will be set forth under the caption "Ratification of Selection of Independent Registered Public Accountants" in our definitive proxy statement for our 2018 annual meeting, to be filed with the SEC pursuant to Regulation 14A no later than 120 days after the close of our fiscal year, and is incorporated herein by reference.

PART IV.

Item 15. Exhibits, Financial Statement Schedules

Documents filed as part of this report on Form 10-K:

(a) Financial Statements:
The consolidated balance sheets of the Registrant as of December 31, 2017 and 2016, the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the years ended December 31, 2017, 2016, and 2015, the footnotes thereto, and the reports of EisnerAmper LLP, independent registered public accounting firm, are filed herewith.

(b) Financial Statement Schedules:
All schedules have been omitted because they are not applicable or the required information is included in the consolidated financial statements or notes thereto.

(c) Exhibits
Exhibits included or incorporated by reference herein: see Exhibit Index on page 110.

ANI PHARMACEUTICALS, INC.
EXHIBIT INDEX TO ANNUAL REPORT ON FORM 10-K
FOR THE YEAR ENDED DECEMBER 31, 2017

Exhibit No.	Exhibit	Method of Filing
2.1	Amended and Restated Agreement and Plan of Merger, dated as of April 12, 2013, by and among BioSante Pharmaceuticals, Inc., ANI Merger Sub, Inc. and ANIP Acquisition Company (1)	Incorporated by reference to Exhibit 2.1 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on April 12, 2013 (File No. 001-31812)
2.2	Asset Purchase Agreement, dated as of December 26, 2013, by and between ANI Pharmaceuticals, Inc. and Teva Pharmaceuticals USA, Inc. (2)	Incorporated by reference to Exhibit 2.2 to ANI's Annual Report on Form 10-K as filed for the fiscal year ended December 31, 2013 (File No. 001-31812)
3.1	Certificate of Amendment of the Restated Certificate of Incorporation of BioSante Pharmaceuticals, Inc., dated as of July 17, 2013, Certificate of Amendment of the Restated Certificate of Incorporation of BioSante Pharmaceuticals, Inc., dated as of June 1, 2012, and Restated Certificate of Incorporation of BioSante Pharmaceuticals, Inc.	Incorporated by reference to Exhibit 3.1 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2013 (File No. 001-31812)
3.2	Amended and Restated Bylaws of ANI Pharmaceuticals, Inc.	Incorporated by reference to Exhibit 3.1 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on February 16, 2017 (File No. 001-31812)
4.1	Indenture, dated December 10, 2014, between ANI Pharmaceuticals, Inc. and The Bank of New York Mellon	Incorporated by reference to Exhibit 4.1 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 10, 2014 (File No. 001-31812)
4.2	First Supplemental Indenture, dated December 10, 2014, between ANI Pharmaceuticals, Inc. and The Bank of New York Mellon (including the form of the 3.00% Convertible Senior Note due 2019)	Incorporated by reference to Exhibit 4.2 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 10, 2014 (File No. 001-31812)
4.3	Form of Note	Incorporated by reference to Exhibit 4.2 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 10, 2014 (File No. 001-31812)
10.1*	ANI Pharmaceuticals, Inc. Fifth Amended and Restated 2008 Stock Incentive Plan	Incorporated by reference to Appendix A to ANI's Definitive Proxy Statement on Schedule 14A as filed with the Securities and Exchange Commission on April 6, 2017 (File No. 001-31812)

Exhibit No.	Exhibit	Method of Filing
10.2*	Form of Incentive Stock Option Agreement under the ANI Pharmaceuticals, Inc. Fifth Amended and Restated 2008 Stock Incentive Plan (included in Exhibit 10.1)	Incorporated by reference to Appendix A to ANI's Definitive Proxy Statement on Schedule 14A as filed with the Securities and Exchange Commission on April 6, 2017 (File No. 001-31812)
10.3*	Form of Non-Statutory Option Agreement under the ANI Pharmaceuticals, Inc. Fifth Amended and Restated 2008 Stock Incentive Plan (included in Exhibit 10.1)	Incorporated by reference to Appendix A to ANI's Definitive Proxy Statement on Schedule 14A as filed with the Securities and Exchange Commission on April 6, 2017 (File No. 001-31812)
10.4*	BioSante Pharmaceuticals, Inc. Amended and Restated 1998 Stock Plan	Incorporated by reference to Exhibit 10.1 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on June 12, 2006 (File No. 001-31812)
10.6*	Form of Incentive Stock Option Agreement Under the BioSante Pharmaceuticals, Inc. Amended and Restated 1998 Stock Plan	Incorporated by reference to Exhibit 10.30 to ANI's Annual Report on Form 10-KSB for the fiscal year ended December 31, 2003 (File No. 001-31812)
10.7*	Form of Indemnification Agreement between BioSante Pharmaceuticals, Inc. and each of its Directors and Executive Officers	Incorporated by reference to Exhibit 10.30 to ANI's Annual Report on Form 10-K for the fiscal year ended December 31, 2007 (File No. 001-31812)
10.8	Generic Wholesale Service Agreement, dated as of May 1, 2006, between ANI Pharmaceuticals, Inc. and Cardinal Health, First Amendment to Generic Wholesale Service Agreement, dated as of July 10, 2008, Letter Agreement, dated as of July 10, 2008, regarding assignment of the Generic Wholesale Service Agreement to ANIP Acquisition Company, d/b/a ANI Pharmaceuticals, Inc., Letter from Cardinal Health, dated December 22, 2008 Regarding Increase in Base Service Fee, and Second Amendment to Generic Wholesale Service Agreement, dated May 7, 2012 (2)	Incorporated by reference to Exhibit 10.59 to ANI's Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on December 11, 2012 (File No. 333-185391)
10.9*	Employment Letter Agreement, dated February 25, 2009, by and between ANIP Acquisition Company, d/b/a ANI Pharmaceuticals, Inc., and Arthur S. Przybyl	Incorporated by reference to Exhibit 10.62 to ANI's Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on December 11, 2012 (File No. 333-185391)
10.10*	Employment Agreement, dated as of May 1, 2007, by and between ANIP Acquisition Company and James Marken	Incorporated by reference to Exhibit 10.64 to ANI's Registration Statement on Form S-4 as filed with the Securities and Exchange Commission on December 11, 2012 (File No. 333-185391)
10.11	Employment Letter Agreement, dated July 12, 2013, by and between ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc. and Robert Schrepfer	Incorporated by reference to Exhibit 10.52 to ANI's Annual Report on Form 10-K for the fiscal year ended December 31, 2013 (File No. 001-31812)

Exhibit No.	Exhibit	Method of Filing
10.12*	Convertible note hedge transaction confirmation, dated December 4, 2014, by and between Nomura Global Financial Products Inc. and ANI	Incorporated by reference to Exhibit 10.1 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 8, 2014 (File No. 001-31812)
10.13	Warrant transaction confirmation, dated December 4, 2014, by and between Nomura Global Financial Products Inc. and ANI	Incorporated by reference to Exhibit 10.2 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 8, 2014 (File No. 001-31812)
10.14	Additional convertible note hedge transaction confirmation, dated December 5, 2014, by and between Nomura Global Financial Products Inc. and ANI	Incorporated by reference to Exhibit 10.3 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 10, 2014 (File No. 001-31812)
10.15	Additional warrant transaction confirmation, dated December 5, 2014, by and between Nomura Global Financial Products Inc. and ANI	Incorporated by reference to Exhibit 10.4 to ANI's Current Report on Form 8-K as filed with the Securities and Exchange Commission on December 10, 2014 (File No. 001-31812)
10.16	Amendment No. 2 to Asset Purchase Agreement, dated as of July 10, 2015, between Teva Pharmaceuticals, Inc. and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.1 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2015 (File No. 001-31812)
10.17	Asset Purchase Agreement, dated as of September 18, 2015, between Merck Sharp & Dohme B.V. and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.2 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2015 (File No. 001-31812)
10.18	ANI Pharmaceuticals, Inc. 2016 Employee Stock Purchase Plan	Incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on April 14, 2016
10.19	Asset Purchase Agreement between H2-Pharma, LLC and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.1 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2016 (File No. 001-31812)
10.20	Asset Purchase Agreement between Cranford Pharmaceuticals, LLC and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.2 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2016 (File No. 001-31812)

Exhibit No.	Exhibit	Method of Filing
10.21*	Employment Offer Letter between the Company and Stephen P. Carey	Incorporated by reference to Exhibit 10.1 to ANI's Current Report on Form 8-K for the fiscal quarter ended April 27, 2016 (File No. 001-31812)
10.22	Loan and Security Agreement between Citizens Business Capital and ANI Pharmaceuticals, Inc.	Incorporated by reference to Exhibit 10.1 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2016 (File No. 001-31812)
10.23	Asset Purchase Agreement between Cranford Pharmaceuticals, LLC and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.1 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2017 (File No. 001-31812)
10.24	Asset Purchase Agreement between Holmdel Pharmaceuticals, LP and ANI Pharmaceuticals, Inc. (2)	Incorporated by reference to Exhibit 10.2 to ANI's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2017 (File No. 001-31812)
10.25	Asset Purchase Agreement between AstraZeneca AB, AstraZeneca UK Limited, and ANI Pharmaceuticals, Inc. (3)	Filed herewith
10.26	Credit Agreement between Citizens Bank, N.A. and ANI Pharmaceuticals, Inc. (3)	Filed herewith
10.27	First Amendment to Credit Agreement between Citizens Bank N.A. and ANI Pharmaceuticals, Inc.	Filed herewith
21	List of subsidiaries	Filed herewith
23.1	Consent of EisnerAmper LLP	Filed herewith
31.1	Certification of Chief Executive Officer Pursuant to SEC Rule 13a-14	Filed herewith
31.2	Certification of Chief Financial Officer Pursuant to SEC Rule 13a-14	Filed herewith
32.1	Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Rule 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished herewith
101	The following materials from ANI Pharmaceuticals, Inc.'s Annual Report on Form 10-K for the fiscal year ended December 31, 2016, formatted in XBRL (Extensible Business Reporting Language): (i) the audited consolidated Balance Sheets, (ii) the audited consolidated Statements of Operations, (iii) the audited consolidated Statements of Stockholders' Equity; (iv) the audited consolidated Statements of Cash Flows, and (v) Notes to consolidated Financial Statements.	Filed herewith

(1) All exhibits to this exhibit have been omitted pursuant to Item 601(b)(2) of Regulation S-K. ANI will furnish the omitted exhibits to the SEC upon request by the SEC.

(2) Confidential treatment has been granted with respect to redacted portions of this document.

(3) Confidential treatment has been requested with respect to redacted portions of this document.

* Management contract or compensatory plan or arrangement required to be filed as an exhibit to this Annual Report on Form 10-K pursuant to Item 15(a).

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.

ANI PHARMACEUTICALS, INC.

By: /s/ Arthur S. Przybyl
Arthur S. Przybyl
President and Chief Executive Officer
(principal executive officer)

Date: February 27, 2018

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

Date: February 27, 2018

Pursuant to the requirements 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.

Name	Capacity	Date
/s/ Arthur S. Przybyl Arthur S. Przybyl	Director, President and Chief Executive Officer	February 27, 2018
/s/ Robert E. Brown, Jr. Robert E. Brown, Jr.	Director and Chairman of the Board of Directors	February 27, 2018
/s/ Fred Holubow Fred Holubow	Director	February 27, 2018
/s/ Tracy L. Marshbanks, Ph.D. Tracy L. Marshbanks, Ph.D.	Director	February 27, 2018
/s/ Thomas A. Penn Thomas A. Penn	Director	February 27, 2018
/s/ Daniel Raynor Daniel Raynor	Director	February 27, 2018

Exhibit 10.25

EXECUTION COPY
CONFIDENTIAL

Confidential Materials Omitted and Filed Separately with the Securities and Exchange Commission Pursuant to a Request for Confidential Treatment under Rule 406 under the Securities Act of 1933, as amended.
Confidential Portions are marked: [***]

ASSET PURCHASE AGREEMENT

by and among

ASTRAZENECA AB,

ASTRAZENECA UK LIMITED

and

ANI PHARMACEUTICALS, INC.

Dated as of December 29, 2017

Confidential Materials Omitted and Filed Separately with the Securities and Exchange Commission Pursuant to a Request for Confidential Treatment under Rule 406 under the Securities Act of 1933, as amended.
Confidential Portions are marked: [***]

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

INDEX OF DEFINED TERMS

ASSET PURCHASE AGREEMENT (this " **Agreement** ") is made and executed as of December 29, 2017, by and among AstraZeneca AB, a company incorporated in Sweden under no. 556011-7482 with its registered office at SE-151 85 Södertälje, Sweden and with offices at SE-431 83 Mölndal, Sweden (" **Sweden Seller** "), AstraZeneca UK Limited, a company incorporated in England under no. 03674842 whose registered office is at 1 Francis Crick Avenue, Cambridge Biomedical Campus, Cambridge, England CB2 0AA (" **UK Seller** "), and ANI Pharmaceuticals, Inc., a Delaware corporation (" **Buyer** ").

Sweden Seller and UK Seller are sometimes referred to herein individually as " **Seller** " and collectively referred as " **Sellers** ". Sweden Seller, UK Seller and Buyer are sometimes referred to herein individually as a " **Party** " and collectively as the " **Parties** ."

RECITALS

WHEREAS , Sellers and certain of their respective Affiliates are engaged in the Product Business and, in this regard (a) Sweden Seller is responsible for the Exploitation of Atacand and Atacand HCT; and (b) UK Seller is responsible for the Exploitation of Arimidex and Casodex;

WHEREAS , Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers, certain assets and rights associated with the Product Business, upon the terms and conditions hereinafter set forth; and

WHEREAS , concurrently with the execution of this Agreement, the Parties are entering into certain of the Ancillary Agreements.

NOW, THEREFORE , in consideration of the mutual benefits to be derived from this Agreement, the representations, warranties, conditions, agreements and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Certain Defined Terms . As used herein, the following terms shall have the following meanings:

" **AB-Rated** " means "therapeutically equivalent" as set forth in the Preface to the current edition of the Orange Book, as such requirements may be amended in the future, as evidenced by the assignment of any 'A' rating, such that one pharmaceutical product that is therapeutically equivalent to another pharmaceutical product is generally substitutable by the pharmacist for such other pharmaceutical product when filling a prescription written for such other pharmaceutical product without having to seek authorization to do so from the physician writing such prescription.

" **Accounts Receivable** " means all accounts receivable, notes receivable and other indebtedness due and owed by any Third Party to Sellers or any of their respective Affiliates arising from sales of the Products by or on behalf of Sellers or their respective Affiliates prior to the Closing Date.

" **Act** " means the United States Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq.).

" **Adverse Event** " means, with respect to a product, any undesirable, untoward or noxious event or experience associated with the use, or occurring during or following administration, of such product in humans, occurring at any dose, whether expected and whether considered related to or caused by such product, including such an event or experience as occurs in the course of the use of such product in professional practice, in a clinical trial, from overdose, whether accidental or intentional, from abuse, from withdrawal or from a failure of expected pharmacological or biological therapeutic action of such product, and including those events or experiences that are required to be reported to the FDA under 21 C.F.R. sections 312.32 or 314.80, as applicable.

" **Affiliate** " means, with respect to a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such first Person at any time for so long as such Person controls, is controlled by or is under common control with such first Person. For purposes of this definition, "control" and, with correlative meanings, the terms "controlled by" and "under common control with" mean (a) the possession, directly or indirectly, of the power to direct the management or policies of a business entity, whether through the ownership of voting securities, by contract relating to voting rights or corporate governance, or otherwise or (b) the ownership, directly or indirectly, of more than 50% of the voting securities or other ownership interest of a business entity (or, with respect to a limited partnership or other similar entity, its general partner or controlling entity).

" **AG Abandonment Date** " means the first date on which [***].

" **AG Agreement** " means the Distribution Agreement, dated October 22, 2012, by and between AstraZeneca LP and [***], relating to the distribution of authorized generic versions of Atacand, as subsequently amended by the Extension Agreements dated June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017.

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

" **Ancillary Agreements** " means the Bill of Sale, the License Agreement, the Pharmacovigilance Agreement, the Quality Assurance Agreement, the Supply Agreements and the Transitional Services Agreement and each other agreement delivered pursuant thereto.

" **Arimidex** " means the pharmaceutical product described on Schedule 1.1.1 containing anastrozole as the active pharmaceutical ingredient described in NDA #020541 and #022214 that is distributed and sold in 1.0 milligram dosage strength under the brand name Arimidex ® in the Territory as of the Closing Date by or on behalf of UK Seller or any of its Affiliates.

" **Atacand** " means the pharmaceutical product described on Schedule 1.1.1 containing the Candesartan Compound as the active pharmaceutical ingredient described in NDA #20-838 that is distributed and sold in 4, 8, 16 and 32 milligram dosage strengths under the brand name Atacand ® and in the Territory as of the Closing Date by or on behalf of Sweden Seller or any of its Affiliates.

" **Atacand Generic Entry Date** " means the earlier to occur of (a) [***] and (b) the [***] anniversary of the Closing Date.

" **Atacand HCT** " means the pharmaceutical product described on Schedule 1.1.1 containing the Fixed-Dose Combination as the active pharmaceutical ingredients described in NDA #21-093 that is distributed and sold in 16/12.5, 32/12.5 and 32/25 milligram dosage strengths under the brand name Atacand ® HCT in the Territory as of the Closing Date by or on behalf of Sweden Seller or any of its Affiliates.

" **Atacand HCT Generic Product** " means any medicinal product that (a) is approved under 21 U.S.C. 355(b) or 355(j) (or any respective successor Law), and (b) contains the Fixed Dose Combination as the sole active pharmaceutical ingredient.

" **Atacand Other Authorized or Owned Generic Product** " means, other than the Authorized Generic Product, any medicinal product that (a) is approved under 21 U.S.C. 355(b) or 355(j) (or any respective successor Law), and (b) contains the Candesartan Compound as the sole active pharmaceutical ingredient.

" **Authorized Generic Product** " means the pharmaceutical product that is AB rated by the FDA for Atacand and marketed, distributed and sold by or on behalf of Sweden Seller pursuant to the AG Agreement or otherwise.

" **Bill of Sale** " means the Bill of Sale and Assignment and Assumption Agreement, attached as Exhibit A .

" **Business Day** " means any day other than Saturday, Sunday or a day on which banking institutions in New York, New York, London, England or Mölndal, Sweden are permitted or obligated by Law to remain closed.

" **Buyer FDA Transfer Letters** " means the letters to FDA in substantially the form attached as Exhibit B , accepting the transfer of rights to the Purchased Regulatory Approvals issued by FDA from Sellers.

" **Buyer Regulatory Documentation** " means, with respect to the Products, (a) all documentation and materials referred to in the definition of Purchased Regulatory Documentation that are created following the Closing and (b) all data (including clinical and pre-clinical data) referenced in any of the documentation and materials referred to in the preceding clause (a).

" **Calendar Year** " means each successive period of 12 calendar months commencing on January 1 and ending on December 31, except that the first Calendar Year of this Agreement shall commence on the Closing Date and end on December 31 of the year in which the Closing Date occurs.

" **Candesartan Compound** " means the pharmaceutical compound candesartan cilexetil, with the chemical name (±)-1-Hydroxyethyl 2-ethoxy-1-[p-(o-1H-tetrazol-5-ylphenyl)benzyl]-7-benzimidazolecarboxylate, cyclohexyl carbonate (ester), as more fully described on Schedule 1.1.1 .

" **Casodex** " means the pharmaceutical product described on Schedule 1.1.1 containing bicalutamide as the active pharmaceutical ingredient described in NDA #020498 and #022310 that is distributed and sold in 50.0 milligram dosage strength under the brand name Casodex ® in the Territory as of the Closing Date by or on behalf of UK Seller or any of its Affiliates.

" **cGMP** " means the then-current standards of good manufacturing practice for the manufacture, processing, packaging, testing or holding of a medicinal product for human use to assure that such medicinal product meets (a) the requirements of applicable Law and other requirements of any applicable Governmental Authority, including FDA, as to safety, identity and strength, and (b) the quality and purity characteristics that such medicinal product purports or is represented to possess, including as set forth by FDA in 21 C.F.R. Parts 210 and 211.

" **Closing Date** " means the date on which the Closing occurs.

" **Closing Inventory** " means finished Products (together with any Product packaging materials thereon) labeled and held for sale in the Territory, owned as of the Closing by Sellers or any of Sellers' Affiliates that has not been sold to a Third Party, including any wholesaler or distributor, together with samples of finished Products labeled and held for use in the Territory.

" **Code** " means the Internal Revenue Code of 1986.

" **Confidentiality Agreement** " means the Confidentiality Agreement, dated August 14, 2017, by and between AstraZeneca Pharmaceuticals LP and Buyer.

" **Contract** " means any binding contract, agreement, lease, sublease, license, sublicense or other legally binding commitment or arrangement.

" **Control** " means, with respect to any Regulatory Approval, Purchased Product Records, Product Promotional Materials or Purchased Regulatory Documentation, possession of the right, whether directly or indirectly, and whether by ownership, license or otherwise, to assign or grant a license, sublicense or other right to or under such Regulatory Approval, Purchased Product Records, Product Promotional Materials or Purchased Regulatory Documentation, as provided for herein or in any Ancillary Agreement without violating the terms of any Contract or other arrangement with any Third Party.

"[***] **Agreement** " means that certain Supply Agreement dated January 1, 2013 between [***] and UK Seller.

" **Disclosure Schedules** " means the disclosure schedules of Sellers delivered by Sellers pursuant to this Agreement.

" **Domain Names** " means each of the domain names set forth on Schedule 2.1.1(f) .

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

" **Excluded Assets** " means (a) all intellectual property and intellectual property rights of Sellers and their respective Affiliates other than Buyer's rights to the Licensed Manufacturing Know-How and the Licensed Packaging Know-How (each such term as defined in the Supply Agreements) set forth in Section 4.18; (b) all employees, real property and tangible personal property of Sellers or any of their respective Affiliates (but excluding the Purchased Product Records, the Purchased Regulatory Documentation and the Product Promotional Materials); (c) all Accounts Receivable; (d) all Manufacturing-related tangible assets of Sellers or any of their respective Affiliates; (e) all refunds, claims for refunds or rights to receive refunds from any Taxing Authority with respect to any and all Taxes paid or to be paid by Sellers or any of their respective Affiliates (including any and all Taxes paid or to be paid by any of Sellers' Affiliates on behalf of Sellers); (f) all insurance policies and insurance Contracts insuring the Purchased Assets, together with any claim, action or other right a Seller or any Affiliate of such Seller may have for insurance coverage under any past or present policies and insurance Contracts insuring the Purchased Assets; (g) the global safety database relating to the Products and source documents associated with individual case safety reports other than the Purchased Information; (h) any rights or interests relating to the Products outside the Territory; (i) all Excluded Items; (j) until the AG Abandonment Date with respect to the Authorized Generic Product or the Atacand Generic Entry Date with respect to any Atacand Other Authorized or Owned Generic Product, as the case may be, all assets, properties, rights and interests of Sweden Seller and its Affiliates that are necessary for the Exploitation by Sweden Seller of the Authorized Generic Product or any Atacand Other Authorized or Owned Generic Product, as the case may be (for the avoidance of doubt, other than assets, properties, rights and interests that are expressly identified as Purchased Assets or necessary for Buyer's Exploitation of (i) Atacand, Atacand HCT, any Atacand HCT Generic Product or, after the AG Abandonment Date, the Authorized Generic Product or, after the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, in all cases, in the Territory, or (ii) any branded pharmaceutical product that contains the Candesartan Compound or the Fixed-Dose Combination in the Territory and in the ordinary course, in accordance with past practices); and (k) all other assets, property, rights and interests of Sellers and their respective Affiliates not described in Section 2.1.1.

" **Excluded Items** " means any and all (a) books, documents, records, files and other items prepared in connection with or relating to the negotiation and consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, including all (i) bids received from Third Parties and analyses relating to the Products or the Product Business, (ii) joint defense or similar agreements with prospective purchasers of the Products or Product Business, and (iii) strategic, financial or Tax analyses relating to the divestiture of the Purchased Assets, the Assumed Liabilities, the Products and the Product Business; (b) trade secrets to the extent not related to the Products; (c) attorney work product, attorney-client communications and other items protected by established legal privilege, unless the books and records can be transferred without losing such privilege; (d) human resources and any other employee books and records; (e) financial, Tax and accounting records to the extent not related to the Products; (f) items to the extent applicable Law prohibits their transfer; (g) electronic mail; and (h) any materials, information or data related to the Manufacture of the Products other than the Purchased Information and the Buyer's rights to the Licensed Manufacturing Know-How and the Licensed Packaging Know-How (each such term as defined in the Supply Agreements) set forth in Section 4.18.

" **Exploit** " means (and, with correlative meanings, the terms " **Exploited** ", " **Exploitation** " and " **Exploiting** " mean) to have made, import, export, use, have used, sell, offer for sale, have sold, commercialize, register, hold or keep (whether for disposal or otherwise), transport, distribute, promote, market, or otherwise dispose of, and have Manufactured by Sellers, but excludes to Manufacture or have Manufactured by Buyer, an Affiliate of Buyer or a Third Party until such date that Sellers confirm in writing to Buyer that the transfer of all technology and know-how necessary for Buyer to Manufacture, and have Manufactured, the applicable Products has been completed in accordance with the applicable Supply Agreement, after which time the term "Exploit" shall include such actions.

" **FDA** " means the United States Food and Drug Administration and any successor agency thereto.

" **Fixed-Dose Combination** " means a fixed-dose combination of the Candesartan Compound and the HCT Compound.

" **Fundamental Representations** " means the representations and warranties set forth in Sections 3.1.1 (*Entity Status*), 3.1.2 (*Authority*), 3.1.4 (*No Broker*), 3.1.6(a) (*Title to Purchased Assets*), 3.1.14 *(Taxes),* Section 3.2.1 (*Corporate Status*), Section 3.2.2 (*Authority*), Section 3.2.4 (*No Broker*) and Section 3.2.7(b) (*Solvency*).

" **Governmental Authority** " means any supranational, international, federal, state or local court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, including FDA.

" **HCT Compound** " means the pharmaceutical compound hydrochlorothiazide with the chemical name 6-chloro-3,4-dihydro-2H-1,2,4-benzothiadiazine-7-sulfonamide 1,1-dioxide, as more fully described on Schedule 1.1.1 .

" **IFRS** " means the International Financial Reporting Standards developed by the International Accounting Standards Board.

" **IND** " means an Investigational New Drug Application submitted in accordance with 21 C.F.R. Part 312.

" **Indirect Taxes** " shall mean value added, sales, consumption, goods and services taxes or other similar taxes required by applicable Laws to be disclosed as a separate item on the relevant invoice.

" **IRS** " means the Internal Revenue Service.

" **Law** " means any domestic or foreign, federal, state or local statute, law, treaty, judgment, ordinance, rule, administrative interpretation, regulation, order or other requirement having the force of law of any Governmental Authority.

" **Liabilities** " means any and all Losses, debts, liabilities, obligations, commitments, claims or complaints, whether accrued or unaccrued, fixed, known or unknown, absolute or contingent, matured or un-matured, determined or determinable (including those arising under any Law, those arising under any Contract, instrument, permit, franchise or undertaking and those arising as a result of any action or omission) and whether or not the same would be required by IFRS to be reflected in financial statements or disclosed in the notes thereto.

" **License Agreement** " means the License Agreement, attached as Exhibit C .

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

" **Litigation** " means any action, arbitration, mediation, proceeding or suit (whether in contract, in tort, at law or otherwise).

" **Loss** " or " **Losses** " means any liabilities, losses, damages, deficiencies, assessments, judgments, fines, penalties, amounts paid in settlement and reasonable costs and expenses incurred in connection therewith, that are suffered or sustained or that have required an outlay or payment of cash or other non-cash consideration, whether resulting from a judgement, settlement or award, including any Litigation, Law or Contract, including Taxes and including reasonable costs and expenses of suits and proceedings and investigations, and reasonable fees and disbursements of counsel, consultants, experts and other professionals.

" **Manufacture** " and " **Manufacturing** " means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, shipping and holding of the Products or any intermediate thereof prior to the distribution of the Products, including process development, process qualification and validation, scale-up, pre-clinical, clinical and commercial manufacture and analytic development, product characterization, stability testing, quality assurance and quality control.

" **Material Adverse Effect** " means an event, fact, condition, occurrence, change or effect that is or would reasonably be expected to be materially adverse to the business, results of operations or financial condition of the Product Business, the Purchased Assets and the Assumed Liabilities, taken as a whole; *provided* , *however* , that none of the following, and no events, facts, conditions, occurrences, changes or effects resulting from the following, shall be deemed (individually or in combination) to constitute, or shall be taken into account in determining whether there has been, a "Material Adverse Effect": (i) political or economic conditions or conditions affecting the capital or financial markets generally, including the worsening of any existing conditions; (ii) conditions generally affecting any industry or industry sector in which the Product Business operates or competes or in which the Products are Manufactured or Exploited, including increases in operating costs; (iii) any change or prospective change in applicable accounting requirements or applicable Law; (iv) any hostility, act of war, sabotage, terrorism or military actions, or any escalation of any of the foregoing; (v) any hurricane, flood, tornado, earthquake or other natural disaster or force majeure event; and (vi) the failure of the Product Business to achieve any financial projections, predictions, forecasts or estimates of revenues for any period (*provided* , that the underlying causes of such failure shall not be excluded unless otherwise excluded pursuant to this definition); except, in each of clauses (i) through (iii), for those conditions that have a materially disproportionate effect on the Product Business, the Purchased Assets and Assumed Liabilities, taken as a whole, relative to other Persons operating businesses similar to the Product Business.

" **NDA** " means a New Drug Application as defined in the Act.

" **NDC** " means "National Drug Code," which is the 10 or 11 digit code registered by a company with FDA with respect to a pharmaceutical product.

" **Non-Recourse Party** " means, with respect to a Party to this Agreement, any of such Party's former, current and future equity holders, controlling persons, directors, officers, employees, agents, representatives, Affiliates, members, managers, or general or limited partners (or any former, current or future equity holder, controlling person, director, officer, employee, agent, representative, Affiliate, member, manager, or general or limited partner of any of the foregoing).

" **Order** " means any writ, judgment, edict, decree, injunction, ruling, order or other binding obligation, pronouncement or determination of any Governmental Authority having the force of Law.

" **Permitted Encumbrance** " means any (a) Encumbrance for Taxes not yet due or delinquent or otherwise subject to penalties for non-payment or for those Taxes being contested in good faith by appropriate proceedings; (b) Encumbrance imposed by Law that are not delinquent, such as mechanics', materialmens', carriers', workmens', warehousemens', repairmens', landlords' or other similar encumbrances that do not or would not be reasonably expected to materially detract from the current value of, or materially interfere with, the present use and enjoyment of any Purchased Asset subject thereto or affected thereby in the ordinary course of business of the Product Business; (c) Encumbrance (i) with respect to a Liability incurred in the ordinary course of business, (ii) that is not delinquent, (iii) that is not securing indebtedness or guarantees of indebtedness, and (iv) that does not materially detract from the current value of, or materially interfere with, the present use and enjoyment of such Purchased Asset in the ordinary course of business of the Product Business; and (d) Encumbrance disclosed on Schedule 1.1.2 .

" **Person** " means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, corporation, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, or any other legal entity, including a Governmental Authority.

" **Pharmacovigilance Agreement** " means the Pharmacovigilance Agreement with respect to the Products to be entered into by a Seller or a Third Party, on one hand, and Buyer (or their respective Affiliates), on the other hand, in accordance with Section 4.7.1.

" **Product Business** " means the Exploitation of the Products in the Territory, but excluding the research, development, registration, storage, use, transport, import and export of the Products in the Territory in support of the Exploitation of the Products outside of the Territory.

" **Product NDAs** " means, collectively, (a) NDA #20-838, (b) NDA #21-093, (c) NDA #020541, (d) NDA #022214, (e) NDA #020498 and (f) NDA #022310.

" **Product Promotional Materials** " means, with respect to Arimidex, the promotional materials used in connection with AstraZeneca Pharmaceuticals LP's Direct Program and the Statement of Work effective January 1, 2017 under the Master Services Agreement, dated April 3, 2013, with Eagle Pharmacy LLC.

" **Products** " means (a) Atacand, (b) Atacand HCT, (c) Arimidex and (d) Casodex.

" **Purchased Information** " means copies of the portion of the global safety database that is the local U.S. safety database, including case data required for reporting to the FDA on a periodic or expedited basis from foreign and domestic origin, or for the purposes of surveillance, as well as FDA submission records, but excluding source documentation associated with individual case reports and excluding submission records to Governmental Authorities outside of the Territory or other such data required outside of the Territory or protected under privacy Laws.

" **Purchased Product Records** " means all books and records to the extent relating to the Product Business (other than the Purchased Regulatory Documentation) to the extent owned, maintained and in the possession or Control of Sellers or any of their respective Affiliates, but excluding, in all cases, the Excluded Items.

" **Purchased Regulatory Approvals** " means the Regulatory Approvals listed in Schedule 1.1.3 , including all materials, information or data related to the Manufacture of the Products included therein (including any such information included in the Chemistry, Manufacturing and Controls section of any such Regulatory Approvals), but excluding, in all cases, the Excluded Items. For the avoidance of doubt, Purchased Regulatory Approvals shall not include inactive INDs.

" **Purchased Regulatory Documentation** " means, with respect to the Products, all documentation comprising the Purchased Regulatory Approvals related to the Products and the Territory: (a) original NDAs and associated amendments, any post-approval correspondence and any official correspondence and reports submitted to or received from Governmental Authorities (including minutes and official contact reports relating to any communications with any Governmental Authority); (b) copies of all clinical studies performed in association and in support of the Purchased Regulatory Approvals, (c) copies of all periodic safety reports (PBRER, PSUR or PADERs) submitted to the FDA, (d) relevant supporting documents with respect to such correspondence and reports, including all regulatory drug lists, materials submitted to FDA under FDA Form 2253, final versions of advertising and promotion materials, and adverse drug experience reports (periodic and expedited), and (e) the Purchased Information, in each case, (x) to the extent in the possession or Control of Sellers or any of their respective Affiliates as of the Closing Date and (y) excluding the Excluded Items and all intellectual property rights of Sellers or their respective Affiliates or their respective licensors contained or depicted therein.

" **Quality Assurance Agreement** " means the Quality Assurance Agreement with respect to the Manufacture of the Products to be entered into by Sellers and Buyer (or their respective Affiliates) in accordance with Section 4.14.

" **Regulatory Approval** " means, with respect to the Products, any and all approvals (including NDAs and supplements and amendments thereto and INDs), licenses, registrations (except manufacturing establishment registrations) or authorizations of any Governmental Authority necessary to commercially distribute, sell or market the Products in the Territory, including, where applicable in the Territory, (a) pricing or reimbursement approvals, (b) pre- and post-approval marketing authorizations and (c) labeling approvals.

" **Representatives** " means, with respect to any Party, its officers, employees, agents, attorneys, consultants, advisors and other representatives.

" **Seller Business** " means the (a) Exploitation of the Products in the Seller Territory, (b) Exploitation of, until the AG Abandonment Date, the Authorized Generic Product and, until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, in each case, worldwide, (c) Manufacture of the Products or the Authorized Generic Product worldwide and (d) Exploitation of any pharmaceutical product (other than the Products and subject to the limitations in clause (b)) containing the same active ingredient as the Products; *provided* , *however* , that notwithstanding any of the foregoing, the Seller Business shall not include (i) the Exploitation of any prescription product in the Territory that is AB-Rated to the Products or (ii) the Manufacture of any prescription product that is AB-Rated to the Products for Exploitation in the Territory, in each case other than, until the AG Abandonment Date, the Authorized Generic Product and, until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product.

" **Sellers FDA Transfer Letters** " means the letters to FDA in the form attached as Exhibit D , transferring the rights to the Purchased Regulatory Approvals issued by FDA to Buyer.

" **Sellers' Knowledge** " means the actual knowledge any of the individuals listed on Schedule 1.1.4 has or would have after reasonable investigation into the subject matter in the ordinary course of each such individual's respective duties.

" **Seller Territory** " means the entire world, except the Territory.

" **Straddle Period** " means any taxable period which includes (but does not end on) the Closing Date.

" **Supply Agreement – Arimidex and Casodex** " means the supply agreement to be entered into at Closing by UK Seller and Buyer (or their respective Affiliates) pursuant to which UK Seller and its Affiliates will supply Arimidex and Casodex to Buyer (or its applicable Affiliate) on the terms set forth on Exhibit E-1 .

" **Supply Agreement – Atacand and Atacand HCT** " means the supply agreement to be entered into at Closing by Sweden Seller and Buyer (or their respective Affiliates) pursuant to which Sweden Seller and its respective Affiliates will supply the Atacand and Atacand HCT to Buyer (or its applicable Affiliate) on the terms set forth on Exhibit E-2 .

" **Supply Agreements** " means the (a) Supply Agreement – Arimidex and Casodex and (b) Supply Agreement – Atacand and Atacand HCT.

" **[***]** " means [***], with its head office at [***].

" **[***]** " mean that certain Agreement, dated as of January 1, 2016, by and between Sweden Seller and [***], pursuant to which, among other things, [***] grants to Sweden Seller certain rights to develop, manufacture, use and sell the Product (as such term is defined in the [***] Agreement) and [***] agrees to supply, and Sweden Seller agrees to exclusively purchase from [***], the Compound (as such term is defined in the [***] Agreement).

" **Taxes** " or " **Tax** " means all taxes of any kind, and all charges, fees, customs, tariffs, levies, duties, imposts, required deposits or other assessments, including all federal, state, local or non-U.S. net income, capital gains, gross income, gross receipt, property (real or personal), franchise, value added, sales, use, excise, good and services, stamp, environmental, withholding, payroll, employment, social security, worker's compensation, unemployment, occupation, franchise, capital stock, transfer, gains, escheat, windfall profits, net worth, asset, transaction and other taxes, and any interest, penalties or additions to tax with respect thereto, imposed upon any Person by any Taxing Authority or other Governmental Authority under applicable Law.

" **Taxing Authority** " means any Governmental Authority or any subdivision, agency, commission, authority, body or instrumentality thereof or any quasi-governmental body exercising any authority to impose, regulate or administer the imposition of Taxes.

" **Tax Return** " means any return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment thereto, filed or maintained, or required to be filed or maintained, in connection with the calculation, determination, assessment or collection of any Tax or the administration of any Laws relating to any Tax, and includes any amended returns required as a result of examination adjustments made by the IRS or other Taxing Authority.

" **Territory** " means the United States of America and its territories and possessions, including Puerto Rico.

" **Third Party** " means any Person other than Sweden Seller, UK Seller, Buyer and their respective Affiliates and permitted successors and assigns.

" **Transitional Services Agreement** " means the Transitional Services Agreement attached as Exhibit F .

1.2 Construction . Except where the context otherwise requires, wherever used, the singular includes the plural, the plural includes the singular, the use of any gender shall be applicable to all genders and the word "or" is used in the inclusive sense (and/or). The table of contents and captions of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The term "including" or its variations as used herein does not limit the generality of any description preceding such term and shall be construed as "including, without limitation." The language of this Agreement shall be deemed to be the language mutually chosen by the Parties and no rule of strict construction shall be applied against either Party. Unless otherwise specified or where the context otherwise requires, (a) references in this Agreement to any Article, Section, Schedule or Exhibit are references to such Article, Section, Schedule or Exhibit of this Agreement, and references to this "Agreement" are references to this Agreement and all exhibits and schedules hereto; (b) references in any Section to any clause are references to such clause of such Section; (c) "hereof," "hereto," "hereby," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement; (d) references to a Person are also to its permitted successors and assigns; (e) references to a Law include any amendment or modification to such Law and any rules, regulations or legally binding guidelines issued thereunder, in each case, as in effect at the relevant time of reference thereto; (f) references to any agreement, instrument or other document in this Agreement refer to such agreement, instrument or other document as originally executed or, if subsequently amended, replaced or supplemented from time to time, as so amended, replaced or supplemented and in effect at the relevant time of reference thereto; (g) "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if"; (h) references to monetary amounts are denominated in United States Dollars; and (i) references to days (excluding Business Days) or months shall be deemed references to calendar days or months.

ARTICLE 2
SALE AND PURCHASE OF ASSETS; LIABILITIES

2.1 Sale of Purchased Assets .

2.1.1 Purchase and Sale of Purchased Assets . Upon the terms and subject to the conditions of this Agreement and the Ancillary Agreements, at and effective as of the Closing, Sellers shall (or shall cause their applicable Affiliates to) sell, transfer, convey, assign and deliver to Buyer, and Buyer shall purchase and accept from Sellers (or such Affiliates), all of Sellers' (or such Affiliates') right, title and interest to the following (collectively, the " **Purchased Assets** "), free and clear of any Encumbrances (other than Permitted Encumbrances):

(a) the benefit of any confidentiality Contracts with prospective purchasers of the Products or the Product Business;

(b) research data to the extent related to the Products and in the possession or Control of Sellers or any Affiliates thereof and reasonably necessary and used to Exploit the Products in the Territory;

(c) all refunds for Taxes relating to the Purchased Assets other than refunds of Taxes described in the definition of "Excluded Assets";

(d) all of Sellers' rights under warranties, guaranties, indemnities and similar rights against Third Parties, including any predecessors in title, to the extent related to the Assumed Liabilities or the Exploitation of the Purchased Assets and the Products (" **Sellers' Rights** ") after the Closing Date in the Territory, other than Sellers' Rights that arise from or relate to activities or events occurring prior to Closing;

(e) all of Sellers' claims, counterclaims, causes of action and all other rights of any kind against any Third Party in connection with the Assumed Liabilities or related to the Exploitation of the Purchased Assets (" **Sellers' Claims** ") after the Closing Date in the Territory, other than Sellers' Claims that arise from or relate to activities or events occurring prior to Closing;

(f) the Domain Names;

(g) following (i) with respect to the Authorized Generic Product, the AG Abandonment Date, and (ii) with respect to any Atacand Other Authorized or Owned Generic Product, the Atacand Generic Entry Date, the applicable Excluded Assets provided for in clause (j) of the definition thereof;

(h) the Purchased Regulatory Approvals;

(i) the Purchased Regulatory Documentation;

(j) the Purchased Product Records; and

(k) the Product Promotional Materials.

2.1.2 Excluded Assets . Notwithstanding anything to the contrary in this Agreement or any Ancillary Agreement, Buyer shall not acquire pursuant to this Agreement or any Ancillary Agreement the Excluded Assets, and the Purchased Assets shall not include, and Sellers or their respective Affiliates shall retain following the Closing Date, the Excluded Assets.

2.1.3 Retention of Rights . Notwithstanding anything to the contrary in this Agreement or any Ancillary Agreement, Sellers retain, on behalf of themselves and their respective Affiliates, licensees, sublicensees, licensors and distributors, the non-exclusive right to use and the right of reference in, to and under the Purchased Assets, in each case, as may be necessary or useful to (a) exercise their or their respective Affiliates' respective rights or perform their or their respective Affiliates' respective obligations under this Agreement or any Ancillary Agreement or (b) to the extent not prohibited by this Agreement or the Ancillary Agreements, conduct the Seller Business. Without limiting the generality of the foregoing, Sellers and their respective Affiliates retain the right (x) to Manufacture, or have Manufactured, and (y) to Exploit (i) the Authorized Generic Product until the AG Abandonment Date, and (ii) any Atacand Other Authorized or Owned Generic Product until the Atacand Generic Entry Date; *provided* , *however* , that the foregoing retention of rights shall terminate automatically upon the AG Abandonment Date with respect to the Authorized Generic Product and the Atacand Generic Entry Date with respect to any Atacand Other Authorized and Owned Generic Product, following which Sellers shall have no right to Exploit the Authorized Generic Product or any Atacand Other Authorized or Owned Generic Product in the Territory.

2.2 Liabilities .

2.2.1 Assumed Liabilities . Upon the terms and subject in all respects to the conditions of this Agreement and the Ancillary Agreements, at the Closing, Sellers shall assign to Buyer and Buyer shall unconditionally assume from Sellers or their respective Affiliates and agree to pay and discharge when due only the following Liabilities, in each case, to the extent not included in the Excluded Liabilities: except as provided in the Ancillary Agreements, all Liabilities arising from the Exploitation of the Products in the Territory arising after the Closing Date (other than, for the avoidance of doubt, any Liabilities arising out of or related to Products sold on or prior to the Closing Date) (the " **Assumed Liabilities** ").

2.2.2 Excluded Liabilities . Buyer shall not assume or have or incur any responsibility of any nature for any Liabilities of Sellers or any of their respective Affiliates (including any Liabilities arising out of or related to Products sold or act or omission occurring on or prior to the Closing Date and all Liabilities related to the Excluded Assets relating to the period ending on or prior to the Closing Date (" **Excluded Liabilities** ").

Notwithstanding Section 2.2.1, and for the avoidance of doubt, the Excluded Liabilities shall include (and not be limited to):

(a) all Liabilities for Taxes of Sellers or any of their respective Affiliates, whether arising prior to, after the Closing Date;

(b) all Liabilities for Taxes relating to the Purchased Assets or the Product Business arising from or attributable to any taxable period ending on or before the Closing Date (or the portion of any Straddle Period beginning on the first day of such Straddle Period and ending on the day prior to the Closing Date);

(c) all Liabilities of Sellers and/or any of their Affiliates under the Ancillary Agreements;

(d) all Liabilities of Seller and/or any of their Affiliates in respect of any Litigation (whether class, individual or otherwise in nature, in law or in equity) commenced or asserted on or prior to the Closing, or based on acts or omissions of Sellers and/or any of their Affiliates or their respective equityholders, officers, directors or managers occurring on or prior to the Closing, and arising out of or to the extent relating to or otherwise in any way relating to the Purchased Assets or the Products, including any Liability to any equityholder of Sellers or any Affiliates of Seller;

(e) all Liabilities of Sellers to their suppliers for materials and services relating to the Products that were delivered or provided to Sellers on or prior to Closing;

(f) all Liabilities arising out of or relating to any product liability, breach of warranty or similar claim for injury to any Person or property that resulted from the use or misuse of the Products sold on or prior to the Closing Date or otherwise relates to the Products sold (including any Litigation relating to any such Liabilities) on or prior to the Closing Date, which, in the case of any split lots of Products, shall be determined as set forth in the Transitional Services Agreement;

(g) all Liabilities for Transfer Taxes, Apportioned Obligations or Indirect Taxes allocated to Sellers under Sections 4.9.2 or 4.9.4; and

(h) all Liabilities arising out of or related to the Seller Business.

2.3 Consideration .

2.3.1 Purchase Price .

(a) Upon the terms and subject to the conditions of this Agreement, in consideration of the conveyances contemplated under Section 2.1 and the license of the Licensed Trademarks pursuant to the License Agreement, Buyer shall, on the Closing Date, (i) pay to (A) Sweden Seller an amount equal to $28,000,000 for the Purchased Assets related to Atacand and Atacand HCT (the " **Atacand Closing Payment** ") and (B) UK Seller an amount equal to $18,500,000 for the Purchased Assets related to Arimidex and Casodex (the " **Arimidex/Casodex Closing Payment** ", and together with the Atacand Closing Payment, the " **Closing Payments** "), in each case, by wire transfer of immediately available funds to the account designated by the applicable Seller (or its Affiliates or permitted assignee) by written notice to Buyer at least two Business Days prior to the Closing Date, and (ii) assume the Assumed Liabilities.

(b) In addition to the Closing Payments, in the event that the combined annual Net Sales (as defined in the License Agreement) of both Atacand and Atacand HCT (and, for the avoidance of doubt, not the Authorized Generic Product) for each of the 2020, 2021 and 2022 Calendar Years equals or exceeds [***] each year (i.e., equals or exceeds [***] each of the three (3) years for a combined total equal to or exceeding [***] for the three (3) year period), then Buyer shall pay to Sweden Seller (or its Affiliates or permitted assignees, identified in writing prior thereto) an aggregate amount equal to $3,000,000 by wire transfer of immediately available funds to the account designated by Sweden Seller (or its Affiliates or permitted assignees, identified in writing prior thereto) by written notice (the " **Contingent Payment** "). The Contingent Payment shall be paid within 60 days following the end of the 2022 Calendar Year. Concurrently with the payment of the Contingent Payment, if any, Buyer will provide Sweden Seller (or its Affiliates or permitted assignees, identified in writing prior thereto) with a report setting forth its calculation of the combined annual Net Sales (as defined in the License Agreement) of Atacand and Atacand HCT for the 2020, 2021 and 2022 Calendar Years.

2.3.2 .Allocation of Consideration . Buyer shall allocate the Closing Payments (and other payments taken into account under Section 1060 of the Code) among the Purchased Assets in accordance with Section 1060 of the Code (the " **Allocation** ") prior to or within 60 days following the Closing and shall deliver to Sellers a copy of such Allocation (IRS Form 8594) promptly after such determination. Each Seller shall have the right to review and raise any objections in writing to the Allocation during the 10-day period after its receipt thereof. If a Seller disagrees with respect to any item in the Allocation, the applicable Parties shall negotiate in good faith to resolve the dispute. Each Party shall have the right to allocate the Closing Payments (and other payments taken into account under Section 1060 of the Code) among the Purchased Assets in its discretion if the Parties are unable to agree on an Allocation despite their good faith negotiations.

2.4 Closing .

2.4.1 Closing . Pursuant to the terms and subject to the conditions of this Agreement, the closing of the transactions contemplated hereby (the " **Closing** ") shall take place remotely via the exchange of documents and signatures by facsimile or electronic mail on the date hereof, or at such other time and place as Buyer and Sellers may agree to in writing. The Closing shall be deemed to have occurred at 11:59 p.m., Eastern Time, on the Closing Date, such that Buyer shall be deemed the owner of the Purchased Assets on and after the Closing Date.

2.4.2 Closing Deliveries .

(a) Except as otherwise indicated below, at the Closing, Sellers shall deliver the following to Buyer:

(i) each of the Ancillary Agreements (other than the Pharmacovigilance Agreement and the Quality Assurance Agreement) to which a Seller or any of its Affiliates is a party, validly executed by a duly authorized officer of such Seller or its applicable Affiliate;

(ii) a receipt by Sweden Seller acknowledging receipt of the Atacand Closing Payment in satisfaction of Buyer's obligations pursuant to Section 2.3.1, validly executed by a duly authorized representative of Sweden Seller;

(iii) a receipt by UK Seller acknowledging receipt of the Arimidex/Casodex Closing Payment in satisfaction of Buyer's obligations pursuant to Section 2.3.1, validly executed by a duly authorized representative of UK Seller;

(iv) evidence reasonably satisfactory to Buyer that the Purchased Assets are being transferred free and clear of any Encumbrance other than Permitted Encumbrances; and

(v) the Purchased Assets; *provided* , that (A) with respect to tangible Purchased Assets, delivery shall, unless the Parties otherwise mutually agree, be to the locations and on the timeframes set forth in Schedule 2.4.2(a)(v) , (B) with respect to physical delivery of the Purchased Information, Purchased Product Records, Purchased Regulatory Approvals and Purchased Regulatory Information, the provisions of Section 4.6.3 shall apply; and (C) Sellers may retain copies of the Purchased Regulatory Documentation and the Purchased Product Records included within the Purchased Assets (and, for the avoidance of doubt, prior to delivering or making available any files, documents, instruments, papers, books and records containing Purchased Product Records or constituting Purchased Regulatory Documentation to Buyer, Sellers shall be entitled to redact from such files, documents, instruments, papers, books and records any information to the extent that it does not relate to the Product Business).

(b) At the Closing, Buyer shall deliver the following to Sellers:

(i) each of the Ancillary Agreements (other than the Pharmacovigilance Agreement and the Quality Assurance Agreement) to which Buyer or any of its Affiliates is a party, validly executed by a duly authorized officer of Buyer or its applicable Affiliate; and

(ii) the Closing Payments in accordance with Section 2.3.1 (along with a U.S. Federal Reserve reference or similar number evidencing execution of such payment).

(c) Buyer shall conduct a quality and completeness review of the Purchased Regulatory Documentation transferred to it pursuant to Section 2.4.2(a)(v) and the Transitional Services Agreement promptly following such transfer and, within 30 days after such transfer, shall notify Sellers in writing of any problems or issues experienced by Buyer regarding the completeness, navigation or readability of such transferred Purchased Regulatory Documentation that Buyer reasonably and in good faith believes are related to the transfer of such Purchased Regulatory Documentation (and not, for example, related to Buyer system capabilities or compatibility). Sellers shall use their commercially reasonable efforts to assist Buyer in remedying any such problems or issues (if any) with respect to the Purchased Regulatory Documentation as soon as reasonably practicable following Sellers' receipt of Buyer's notice of the same.

2.4.3 Risk of Loss . Notwithstanding anything to the contrary herein or otherwise, until 11:59 p.m., Eastern Time, on the Closing Date, any Loss of or damage to any of the Purchased Assets (of any nature or type) from fire, casualty or any other occurrence shall be the sole responsibility of and at the sole cost of Sellers.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Sellers . Sellers jointly and severally represent and warrant to Buyer as follows, with each such representation and warranty subject to such exceptions, if any, as are set forth in the Disclosure Schedules. Disclosures in any section or paragraph of the Disclosure Schedules shall address the corresponding section or paragraph of this Agreement, but also other sections or paragraphs of this Agreement to the extent that it is reasonably apparent from the face of such disclosure that such disclosure is applicable to such other sections or paragraphs.

3.1.1 Entity Status . Each Seller is a company duly organized, validly existing and in good standing (to the extent such concept is recognized by the applicable jurisdiction) under the Laws of the jurisdiction of its formation or incorporation. Each Seller is duly qualified to do business and in good standing (to the extent such concept is recognized by the applicable jurisdiction) in each jurisdiction in which the ownership of the Purchased Assets or operation of the Product Business so requires, except to the extent the failure to be so qualified and in good standing would not reasonably be expected to constitute a Material Adverse Effect.

3.1.2 Authority .

(a) Each Seller has the requisite organizational power and authority to (i) own, use and operate the Purchased Assets and to carry on the Product Business as now being conducted and (ii) enter into this Agreement and the Ancillary Agreements to which it is a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements to which a Seller is a party and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary organizational actions of such Seller. This Agreement and each Ancillary Agreement to which it is a party (assuming the due authorization, execution and delivery hereof and thereof by Buyer) constitute the valid and legally binding obligation of each Seller, enforceable against such Seller in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or similar Laws of general application affecting or relating to the enforcement of creditors' rights generally, and subject to equitable principles of general applicability, whether considered in a proceeding at law or in equity (the " **Enforceability Exceptions** ").

(b) Each Affiliate of a Seller entering into an Ancillary Agreement has the requisite entity power and authority to perform its obligations under each Ancillary Agreement to which it is a party and to consummate the transactions contemplated thereby. The execution and delivery of the Ancillary Agreements to which any Affiliate of a Seller is a party and the consummation of the transactions contemplated thereby have been duly and validly authorized by all necessary organizational actions of such Affiliate. Each Ancillary Agreement (assuming the due authorization, execution and delivery thereof by each other party thereto) constitutes the valid and legally binding obligation of such Affiliate, enforceable against such Affiliate in accordance with its terms, subject to the Enforceability Exceptions.

3.1.3 Non-Contravention . The execution, delivery and performance by each Seller of this Agreement and each Ancillary Agreement to which it is a party and the execution, delivery and performance by each Affiliate of a Seller of each Ancillary Agreement to which such Affiliate is a party do not (a) violate the certificate of formation or operating agreement or comparable organizational documents of such Seller or such Affiliate, as applicable, (b) violate, in any material respect, any Law applicable to such Seller or such Affiliate, as applicable, the Product Business or the Purchased Assets or (c) in any material respect, (i) violate, breach or constitute a default under or result in the termination of any Contract to which such Seller or such Affiliate is a party or to which any Purchased Asset is subject, or (ii) violate any Order to which such Seller or any of its Affiliates is subject relating to the Product Business.

3.1.4 No Broker . There is no broker, finder or financial advisor acting or who has acted on behalf of a Seller or any of its Affiliates that is entitled to receive any brokerage or finder's or financial advisory fee from Buyer or any of its Affiliates in connection with the transactions contemplated by this Agreement.

3.1.5 No Litigation; Consents .

(a) (i) There is no Litigation pending or, to Sellers' Knowledge, threatened in writing against either Seller or any of its Affiliates before any Governmental Authority in respect of the Product Business or the Purchased Assets, (ii) there is no Order to which a Seller or any of its Affiliates is subject in respect of the Product Business or the Purchased Assets, or (iii) Litigation that in any manner challenges or seeks to prevent, enjoin, alter, or materially delay the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Except for (i) consents, permits or authorizations that if not received, or declarations, filings or registrations that if not made, would not reasonably be expected to be material to the Product Business or the Purchased Assets, (ii) consents, permits, authorizations, declarations, filings or registrations that have become applicable solely as a result of the specific regulatory status of Buyer or its Affiliates, and (iii) the Sellers FDA Transfer Letters, no notice to, filing with, permit of, authorization of, exemption by, or consent of, any Governmental Authority is required for Sellers to consummate the transactions contemplated hereby or by the Ancillary Agreements.

3.1.6 Title to Purchased Assets; Sufficiency .

(a) The Sellers have, or their respective Affiliates have, good and valid title to, or valid contract rights in, as applicable, the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) Other than (i) Accounts Receivable, (ii) cash and other current assets (including working capital items, employees engaged in the Product Business, and assets related to such employees), (iii) Tax attributes and goodwill associated with the Product Business, (iv) tangible Manufacturing-related assets, including assets relating to the Manufacture of the Products, (v) tangible assets, properties, rights and software not primarily related to the Product Business and that may otherwise be commercially acquired (such as tangible personal property, office space, furniture, office equipment and information technology services), and (vi) information technology and other assets, properties, rights and services made available or provided by a Seller or its Affiliates under this Agreement, the Supply Agreements or the Transitional Services Agreements, the Purchased Assets, the intellectual property licensed to Buyer under this Agreement and the License Agreement and the Supply Agreements, and the product to be supplied to Buyer under this Agreement and the Supply Agreements constitute all assets necessary for the conduct of the Product Business in all material respects as has been conducted by Sellers and their respective Affiliates since January 1, 2017.

3.1.7 Compliance with Law . Each Seller and its respective Affiliates, with respect to the operation of the Product Business, are and during the past two years have been in compliance in all material respects with all applicable Laws in the Territory, including (a) any applicable Laws governing the approval, Manufacture, sale, marketing, promotion, or distribution of drugs and the purchase or prescription of or reimbursement for drugs by any Governmental Authority, private health plan or other Person, and (b) the U.S. Foreign Corrupt Practices Act of 1977 (15 U.S.C. §78 et seq.), the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7(b)) and the False Claims Act (42 U.S.C. § 3729 et seq.). During the past two years, neither Seller nor any of its Affiliates has received any written notices of any alleged violation of any Law with respect to the Product Business, the Purchased Assets or the Assumed Liabilities.

3.1.8 Regulatory Matters .

(a) Each Seller, or an Affiliate of such Seller, possesses, and is the exclusive owner of, all Purchased Regulatory Approvals, which constitute all Regulatory Approvals necessary for the operation of the Product Business as currently conducted. The Purchased Regulatory Approvals are in full force and effect, all Product fees, establishment fees and other fees invoiced or payable to any Governmental Authority with respect to any Purchased Regulatory Approval for the annual period commencing January 1, 2017 have been paid, including branded drug fees. No proceeding is pending or, to Sellers' Knowledge, threatened in writing that could result in the revocation, cancellation or suspension of any Purchased Regulatory Approval. Neither Seller nor any of its Affiliates has received any written communication from any Governmental Authority threatening to withdraw or suspend any Purchased Regulatory Approval. Neither Seller nor any of its Affiliates is in material violation of the terms of any Purchased Regulatory Approval. No right of reference has been granted to any Third Party with respect to any Purchased Regulatory Approval.

(b) During the past two years, there has not been any product recall or market withdrawal or replacement conducted by or on behalf of a Seller concerning the Products or, to Sellers' Knowledge, any product recall, market withdrawal or replacement conducted by or on behalf of any Third Party as a result of any alleged defect in the Products in the Territory. Each Seller has made available to Buyer copies of material complaints and notices of alleged defect or adverse reaction with respect to the Products in the Territory that have been received in writing by such Seller and its Affiliates during the past two years.

(c) During the past two years, the Products distributed and sold in the Territory have been Manufactured in compliance in all material respects with applicable Law, including cGMP, and applicable Regulatory Approvals. None of Sellers, any Affiliate of Sellers or, to Sellers' Knowledge, any Third Party engaged by Sellers in connection with the Manufacture of the Products for distribution and sale in the Territory has received in the past two years or is subject to a Warning Letter (as defined in the Act) with respect to any facility Manufacturing Product for distribution and sale in the Territory.

(d) The base period AMP set forth on Schedule 3.1.8(d) for each of the Products has been calculated in accordance with all applicable Laws, and to Sellers' Knowledge, there are no facts or circumstances that would require a restatement of the base period AMP for any Product.

3.1.9 Debarred Personnel . During the past two years, neither Seller, nor any of its Affiliates or employees or, to Sellers' Knowledge, any consultant who has undertaken activities for or on behalf of the Product Business, has been debarred or deemed subject to debarment pursuant to Section 306 of the Act nor, to Sellers' Knowledge, are any such Persons the subject of a conviction described in such section.

3.1.10 Inventory . Schedule 3.1.10(a) sets forth a true and complete list of all Closing Inventory, by SKU and with associated expiration dates, as of December 22, 2017. Schedule 3.1.10(b) , which shall be delivered by Sellers to Buyer on or before January 2, 2018, sets forth a true and complete list of all Closing Inventory, by SKU and with associated expiration dates, as of December 28, 2017. All Closing Inventory (a) is useable or saleable in the ordinary course of the Product Business and (b) is not held on consignment. Since December 1, 2017, none of Sellers nor any of their respective Affiliates has (x) conducted sales of any Products in the Territory outside of the ordinary course of business in any material respect, (y) shipped or sold any Products in the Territory in quantities that were not materially consistent with demand and the ordinary shipment and sales practices of the Product Business or (z) engaged in "channel stuffing" of any Products in the Territory.

3.1.11 Product Distribution Practices . Since January 1, 2016, neither Seller nor any of its Affiliates has (a) materially altered their activities and practices with respect to inventory levels of the Products maintained at the wholesale levels in the Territory, including their practices with respect to samples of the Products, or (b) sold, transferred, or given any supplies or samples of Products to any Third Party in or for use in the Territory except in the ordinary course of business and in a manner that is consistent with past practice. Since January 1, 2016, there has not been any material disruption in the supply of the Products.

3.1.12 Intellectual Property .

(a) With respect to the Product Business, there is no Litigation pending or, to the Sellers' Knowledge, threatened against a Seller or any of its Affiliates: (i) alleging any infringement or misappropriation of any Third Party's intellectual property; or (ii) challenging such Seller's ownership, or the validity or enforceability, of any Licensed Trademarks or Licensed Patents (each such term as defined in the License Agreement) and, to Sellers' Knowledge, no such Litigation is threatened in writing.

(b) A Seller or one of its Affiliates has good and valid title to all trademark registrations for the Licensed Trademarks in the Territory.

(c) To Sellers' Knowledge, no Third Party is infringing any of the Licensed Trademarks in the Territory.

(d) To Sellers' Knowledge, the operation of the Product Business, as currently conducted, does not infringe any intellectual property rights of any Third Party in the Territory.

(e) Sellers and their respective Affiliates have the authority and right to grant the rights of reference granted pursuant to Section 4.6.5 and the licenses granted pursuant to the License Agreement.

(f) None of the Licensed Trademarks or Licensed Patents are subject to any Encumbrance, other than Permitted Encumbrances.

3.1.13 Product Liability . No Litigation related to product liability is pending and no such Litigation has been threatened or filed against a Seller, in each case relating to the Products.

3.1.14 Taxes . Each Seller has properly prepared and timely filed or will timely file with the appropriate Taxing Authorities, all material Tax Returns required to be filed by it for all taxable periods ending on or before the Closing Date. Each Seller has paid or will pay all material Taxes that have become due. There have been no material federal, state or local audits or examinations by Taxing Authorities of a Seller with respect to the Purchased Assets which have not been completed or are pending. None of the Purchased Assets is currently classified as an interest in a partnership for U.S. federal income Tax purposes. There are no Encumbrances for Taxes upon any of the Purchased Assets, except for Permitted Encumbrances.

3.2 Representations and Warranties of Buyer . Buyer represents and warrants to Sellers as follows:

3.2.1 Corporate Status . Buyer is a legal entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization or incorporation.

3.2.2 Authority .

Buyer has the requisite organizational power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and Ancillary Agreements to which Buyer is a party and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by the necessary organizational actions of Buyer. This Agreement and each Ancillary Agreement to which Buyer is a party (assuming the due authorization, execution and delivery hereof and thereof by Sellers) constitute the valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the Enforceability Exceptions.

3.2.3 Non-Contravention . The execution, delivery and performance by Buyer of this Agreement and of each Ancillary Agreement to which it is a party and the execution, delivery and performance by each Affiliate of Buyer of each Ancillary Agreement to which such Affiliate is a party do not (a) violate the certificate of incorporation or bylaws, or comparable organizational documents, of Buyer or such Affiliate, as applicable, (b) violate, in any material respect, any Law or other restriction of any Governmental Authority applicable to Buyer or such Affiliate, as applicable, (c) in any material respect, (i) violate, breach or constitute a default under or result in the termination of any Contract to which Buyer or any of its Affiliates is a party, or (ii) violate any Order to which Buyer or any of its Affiliates is subject relating to the Product Business.

3.2.4 No Broker . There is no broker, finder, financial advisor or other Person acting or who has acted on behalf of Buyer or its Affiliates that is entitled to receive any brokerage or finder's or financial advisory fee from Sellers or any of their respective Affiliates in connection with the transactions contemplated by this Agreement.

3.2.5 No Litigation; Consents .

(a) (i) To the knowledge of Buyer, there is no material Litigation pending or threatened against Buyer or any of its Affiliates before any Governmental Authority, and (ii) there is no material Order to which Buyer or any of its Affiliates is subject.

(b) Except for (i) consents, permits or authorizations that if not received, or declarations, filings or registrations that if not made, would not reasonably be expected to be material to the Product Business or the Purchased Assets, and (ii) consents, permits, authorizations, declarations, filings or registrations that have become applicable solely as a result of the specific regulatory status of Sellers or their respective Affiliates, no notice to, filing with, permit of, authorization of, exemption by, or consent of, Governmental Authority or other Person is required for Buyer to consummate the transactions contemplated hereby or by the Ancillary Agreements.

3.2.6 Debarred Personnel . Neither Buyer nor any of its Affiliates nor any of Buyer's or its Affiliates' employees or consultants has been debarred or deemed subject to debarment pursuant to Section 306 of the Act nor, to the knowledge of Buyer, are any such Persons the subject of a conviction described in such section.

3.2.7 Financial Capacity; Solvency .

(a) Buyer has immediately available cash that is sufficient to enable it to pay the full consideration payable hereunder and to make all other payments required to be made by Buyer in connection with the transactions contemplated hereby and by the Ancillary Agreements and to pay all related fees and expenses of Buyer and its Affiliates as described herein and in the Ancillary Agreements.

(b) After giving effect to the transactions contemplated hereby, including the payment of the Closing Payments and all other amounts required to be paid by Buyer and its Affiliates in connection with the consummation of the transactions contemplated hereby, including the payment of all related fees and expenses, Buyer will not (i) be insolvent (because (A) Buyer's financial condition is such that the sum of its debts is greater than the fair value of its assets, (B) the present fair saleable value of Buyer's assets will be less than the amount required to pay Buyer's probable liability on its debts as they become absolute and matured or (C) Buyer is unable to pay all of its debts as and when they become due and payable), (ii) have unreasonably small capital with which to engage in its business or (iii) have incurred or plan to incur debts beyond its ability to pay as they become absolute and matured.

3.2.8 Compliance with Applicable Law . Buyer is aware of applicable Laws relating to marketing, distribution and sale of the Products in the Territory, and can legally import, export, store, market, distribute and sell the Products in the Territory immediately as of the Closing.

3.3 Exclusivity of Representations . Buyer acknowledges and agrees that, except for the express representations and warranties contained in Section 3.1 or in any Ancillary Agreement, (a) Sellers have made no representation or warranty whatsoever herein or otherwise related to the transactions contemplated hereby and (b) Buyer has not relied on any representation or warranty, express or implied, in connection with the transactions contemplated hereby. Without limiting the generality of the foregoing, Buyer acknowledges and agrees that, subject to the express representations and warranties of Sellers contained in Section 3.1 and except as otherwise expressly provided in this Agreement or any Ancillary Agreement, Buyer is acquiring the Purchased Assets on an "as is, where is" basis without any express or implied warranties, either in fact or by operation of law, by statute or otherwise, including any warranty as to quality, the fitness for a particular purpose, merchantability, condition of the Purchased Assets or as to any other matter. Buyer acknowledges that it has been permitted full access to the books and records of the Product Business that it has desired or requested to see and review, and that it has had a full opportunity to meet with employees of Sellers and their respective Affiliates to discuss the Product Business, the Products, the Purchased Assets and the Assumed Liabilities. Buyer has received and may continue to receive from Sellers and their respective Affiliates certain estimates, projections, plans, budgets and other forecasts for the Product Business. Except as expressly set forth in any representation or warranty in Section 3.1 and except for claims of fraud and intentional misconduct, Buyer acknowledges and agrees that it and other Buyer Indemnitees shall have no claim or right to indemnification pursuant to Article 5 (or otherwise) with respect to any information, documents, or materials furnished to Buyer by Sellers or any of their respective Affiliates or any of their respective officers, directors, employees, agents or advisors, including any information, documents, or material made available to Buyer in any "data room", management presentation, or any other form in connection with the transactions contemplated by this Agreement or any Ancillary Agreement. Buyer acknowledges that these estimates, projections, forecasts, plans and budgets, and the assumptions on which they are based, were prepared for specific purposes and may vary significantly from each other. Further, Buyer acknowledges that there are uncertainties inherent in attempting to make such estimates, projections, forecasts, plans and budgets, that Buyer is taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts, plans and budgets so furnished to it (including the reasonableness of the underlying assumptions) and that Buyer is not relying on any estimates, projections, forecasts, plans or budgets made available or otherwise furnished by Sellers or their respective Affiliates, and Buyer shall not, and shall cause its Affiliates not to, hold any such Person liable with respect thereto (whether in warranty, contract, tort (including negligence or strict liability) or otherwise).

ARTICLE 4
ADDITIONAL AGREEMENTS

4.1 Cooperation in Litigation and Investigations . Buyer and Sellers shall reasonably cooperate with each other in the defense or prosecution of any Litigation, examination or audit instituted prior to the Closing or that may be instituted thereafter against or by either Party relating to or arising out of the conduct of the Product Business or the Exploitation or Manufacture of the Products prior to or after the Closing (other than Litigation between Buyer and Sellers or their respective Affiliates arising out of the transactions contemplated hereby or by the Ancillary Agreements and other than Litigation which would not reasonably be expected to adversely affect the other Party). In connection therewith, and except as set forth in any Ancillary Agreement, from and after the Closing Date, each of Sellers and Buyer shall make available to the other during normal business hours and upon reasonable prior written notice, but without unreasonably disrupting its business, all records to the extent relating to the Purchased Assets, the Assumed Liabilities or the Excluded Liabilities held by it and reasonably necessary to permit the defense or investigation of any such Litigation, examination or audit (other than Litigation between Buyer and Sellers or their respective Affiliates arising out of the transactions contemplated hereby or by the Ancillary Agreements, with respect to which applicable rules of discovery shall apply and other than Litigation which would not reasonably be expected to adversely affect the other Party), and shall preserve and retain all such records for the length of time contemplated by its standard record retention policies and schedules; *provided* , that Buyer or Sellers, as applicable, shall not be required to make available such documents if such disclosure could, in such Party's reasonable discretion, (a) violate applicable Law, (b) jeopardize any attorney/client privilege or other established legal privilege or (c) disclose any trade secrets. Sellers and Buyer shall cooperate in good faith to implement appropriate and mutually agreeable measures to permit the cooperation in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided. The Party requesting such cooperation shall pay the reasonable out-of-pocket costs and expenses of providing such cooperation (including legal fees and disbursements) incurred by the Party providing such cooperation and by its officers, directors, employees and agents, and any applicable Taxes in connection therewith.

4.2 Further Assurances .

4.2.1 Each of Sellers and Buyer shall, at any time or from time to time after the Closing, at the request and expense of the other, execute and deliver to the other all such instruments and documents or further assurances as the other may reasonably request in order to (i) vest in Buyer all of Sellers' right, title and interest in and to the Purchased Assets as contemplated hereby, (ii) effectuate Buyer's assumption of the Assumed Liabilities and (iii) grant to each Party all rights contemplated herein to be granted to such Party under the Ancillary Agreements; *provided* , *however* , that after the Closing, apart from such foregoing customary further assurances, neither Sellers nor Buyer shall have any other obligations except as specifically set forth and described herein or in the Ancillary Agreements. Without limitation of the foregoing, except as expressly set forth herein or in the Ancillary Agreements, neither Sellers nor Buyer shall have any obligation to assist or otherwise participate in the amendment or supplementation of the Purchased Regulatory Approvals or otherwise to participate in any filings or other activities relating to the Purchased Regulatory Approvals other than as necessary to effect the assignment thereof to Buyer in connection with the Closing pursuant to this Agreement. In furtherance hereof, the Sellers covenant and agree to deliver tangible copies of the Purchased Product Records and the Purchased Regulatory Documents in accordance with Section 4.6.3 to the extent electronic copies of such Purchased Product Records and the Purchased Regulatory Documents have not been or will not be made available to Buyer.

4.2.2 To the extent that Sellers' rights under any Purchased Asset may not be assigned without the approval, consent or waiver of another Person and such approval, consent or waiver has not been obtained prior to the Closing, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful. If any such approval, consent or waiver shall not have been obtained prior to the Closing, Sellers shall, (a) use their commercially reasonable efforts to obtain all necessary approvals, consents and waivers to the assignment and transfer thereof (the " **Required Consents** "), to the extent not obtained prior to Closing; *provided* , that neither Sellers nor any of their respective Affiliates shall be required to pay money to any Third Party, commence any Litigation or offer or grant any accommodation (financial or otherwise) to any Third Party in connection with such efforts; and (b) until any such approval, consent or waiver is obtained and the related Purchased Asset is transferred and assigned to Buyer or Buyer's assignee, use its commercially reasonable efforts to provide to Buyer substantially comparable benefits thereof and enforce, at the request of and for the account of Buyer, any rights of Sellers arising under any such Purchased Asset against any Person. To the extent that Buyer is provided with benefits of any such Purchased Asset, Buyer shall perform the obligations of Sellers thereunder.

4.2.3 Sellers shall provide written notice to Buyer no later than 10 Business Days following the AG Abandonment Date with respect to the Authorized Generic Product, of the occurrence of such AG Abandonment Date. As soon as practicable after delivery of such notice, with respect to the Authorized Generic Product, or after the Atacand Generic Entry Date, with respect to any Atacand Other Authorized or Owned Generic Product, as the case may be, Sellers shall use reasonable efforts to convey to Buyer the Excluded Assets provided for in clause (j) of the definition thereof, which shall thereafter be deemed Purchased Assets.

4.3 **Publicity** . No public announcement related to this Agreement or the transactions contemplated herein will be issued without the joint approval of Sellers and Buyer, which approval shall not be unreasonably withheld, conditioned or delayed, except in any public disclosure which either Sellers or Buyer, in its good faith judgment, believes is required by applicable Law or by any stock exchange on which its securities or those of its Affiliates are listed. If either Party, in its good faith judgment, believes such disclosure is required, such Party shall use its commercially reasonable efforts to consult with the other Party and its Representatives, and to consider in good faith any revisions proposed by the other Party or its Representatives, as applicable, prior to making (or prior to any of its Affiliates making) such disclosure, and shall limit such disclosure to only that information which is legally required to be disclosed.

4.4 Confidentiality .

4.4.1 From and after the Closing, all Confidential Information provided by one Party (or its Representatives or Affiliates) (collectively, the " **Disclosing Party** ") to another Party (or such Party's Representatives or Affiliates) (collectively, the " **Receiving Party** ") shall be subject to and treated in accordance with the terms of this Section 4.4. As used in this Section 4.4, " **Confidential Information** " means (a) all information disclosed to the Receiving Party by the Disclosing Party in connection with this Agreement or any Ancillary Agreement (other than the License Agreement, the Supply Agreements and the Transitional Services Agreement, which are subject to the confidentiality and non-use obligations contained therein), including all information with respect to the Disclosing Party's licensors, licensees or Affiliates, (b) all information disclosed to the Receiving Party by the Disclosing Party under the Confidentiality Agreement, (c) the terms of this Agreement and (d) all memoranda, notes, analyses, compilations, studies and other materials prepared by or for the Receiving Party to the extent containing or reflecting the information in the preceding clause (a) or (b); *provided* that the terms of this Agreement shall be deemed to be both Buyer Confidential Information and Seller Confidential Information (*provided* , *however* , that notwithstanding anything to the contrary, in addition to the other disclosure rights set forth herein, either Party may disclose the terms of this Agreement, subject to confidentiality and non-use obligations at least as restrictive as those set forth in this Section 4.4, to any existing or bona fide prospective investors, other bona fide financing sources or acquirers of such Party (including, in the case of Buyer, prospective acquirers of the rights to the Products) and each of their respective advisors (each, a " **Permitted Financing Recipient** ")). Notwithstanding the foregoing, Confidential Information shall not include information that, in each case as demonstrated by competent written documentation:

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

(ii) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

(iii) became generally available to the public or otherwise part of the public domain after its disclosure to the Receiving Party other than through any act or omission of the Receiving Party in breach of this Agreement or the Confidentiality Agreement;

(iv) is subsequently disclosed to the Receiving Party by a Third Party without obligations of confidentiality with respect thereto; or

(v) is subsequently independently discovered or developed by the Receiving Party without the aid, application or use of Confidential Information;

provided , that none of the foregoing exceptions shall apply to the Purchased Assets, which shall, for all purposes, be deemed to be Buyer Confidential Information, as provided below.

4.4.2 The Confidentiality Agreement shall expire and be of no further force and effect upon the Closing solely with respect to the Confidential Information (but in no other respect); *provided* , *however* , such expiration of the Confidentiality Agreement shall in no way prejudice or adversely affect a Seller's or its Affiliates' ability after the Closing to seek damages, or any other remedy available to such Seller or its Affiliates, with respect to a violation by Buyer (or its Affiliates or Representatives) of the Confidentiality Agreement relating to Confidential Information (as defined therein) prior to the Closing.

4.4.3 From and after the Closing, all Confidential Information obtained by Sellers (or their respective Affiliates or Representatives) from Buyer (or its Affiliates or Representatives) and all Confidential Information to the extent relating to the Product Business, the Purchased Assets and the Assumed Liabilities, including the Licensed Packaging Know-How and the Licensed Manufacturing Know-How (the " **Buyer Confidential Information** ") shall be deemed to be Confidential Information disclosed by Buyer to Sellers or their respective Affiliates or Representatives for purposes of this Section 4.4 (and shall not be subject to Section 4.4.1) and, during the period from the Closing through the [***] anniversary of the date of the termination or expiration of the [***] Agreement (the " **Confidentiality Period** "), shall be used by Sellers or their respective Affiliates or Representatives solely as required to (a) perform their respective obligations or exercise or enforce their respective rights and remedies under this Agreement or any Ancillary Agreement, (b) undertake Manufacturing activities in support of Buyer's operations, (c) conduct the Seller Business (including with respect to obligations owed to licensees, sublicensees and distributors) to the extent not prohibited by this Agreement and the Ancillary Agreements, (d) comply with applicable Law or its or its Affiliates' respective regulatory, stock exchange, Tax or financing reporting requirements or (e) in connection with the assignment or potential assignment, in whole or in part, of its rights to receive payments under the License Agreement to any Third Party (each of (a) through (e), a " **Seller Permitted Purpose** "), and for no other purpose. During the Confidentiality Period, each Seller shall (i) not disclose, or permit the disclosure of, any of the Buyer Confidential Information to any Person except those Persons to whom such disclosure is necessary in connection with any Seller Permitted Purpose and who are advised of the confidential nature of the Confidential Information and directed to comply with the confidentiality and non-use obligations under this Section 4.4; and (ii) treat, and will cause its respective Affiliates and the Representatives of such Seller or any of its Affiliates to treat, the Buyer Confidential Information as confidential, using the same degree of care as a Seller normally employs to safeguard its own confidential information from unauthorized use or disclosure, but in no event less than a reasonable degree of care. Sellers shall be responsible for any use or disclosure of Buyer Confidential Information by any of Sellers' respective Affiliates, Representatives or Permitted Financing Recipients that would breach this Section 4.4 if such Affiliate, Representative or Permitted Financing Recipient was a party hereto.

4.4.4 During the Confidentiality Period, all Confidential Information obtained by Buyer (or its Affiliates or Representatives) from Sellers (or their respective Affiliates or Representatives) other than the Buyer Confidential Information (the " **Seller Confidential Information** ") shall be used by Buyer solely as required to (a) perform its obligations or exercise or enforce its rights and remedies under this Agreement or any Ancillary Agreement, (b) conduct the Product Business, (c) comply with applicable Law or its or its Affiliates' respective regulatory, stock exchange, Tax or financing reporting requirements or (d) in connection with the sale or other disposition of any portion of the Product Business or the Purchased Assets, *so long as* any potential buyers are bound by confidentiality agreements covering such Seller Confidential Information that are comparably restrictive to those included in this Agreement (each of (a) through (d), a " **Buyer Permitted Purpose** "), and for no other purpose. During the Confidentiality Period, Buyer shall (i) not disclose, or permit the disclosure of, any of Seller Confidential Information to any Person except those Persons to whom such disclosure is necessary in connection with a Buyer Permitted Purpose to the extent such Persons are advised of the confidential nature of the Confidential Information and directed to comply with the confidentiality and non-use obligations under this Section 4.4; and (ii) treat, and will cause its Affiliates and the Representatives of Buyer or any of its Affiliates to treat, Seller Confidential Information as confidential, using the same degree of care as Buyer normally employs to safeguard its own confidential information from unauthorized use or disclosure, but in no event less than a reasonable degree of care. Buyer shall be responsible for any use or disclosure of Seller Confidential Information by any of Buyer's Affiliates, Representatives or Permitted Financing Recipients that would breach this Section 4.4 if such Affiliate, Representative or Permitted Financing Recipient was a party hereto.

4.4.5 In the event either Party is requested pursuant to, or required by, applicable Law to disclose any of the other Party's Confidential Information (*i.e* ., Seller Confidential Information or Buyer Confidential Information, as applicable), it will, to the extent permitted by Law, notify the other Party in writing in a timely manner so that such Party may seek a protective order or other appropriate remedy or, in such Party's sole discretion, waive compliance with the confidentiality provisions of this Agreement. Each Party will cooperate in all reasonable respects in connection with any reasonable actions to be taken for the foregoing purpose. In any event, the Party requested or required to disclose such Confidential Information may furnish it as requested or required pursuant to applicable Law (subject to any such protective order or other appropriate remedy) without liability hereunder, *provided* that such Party furnishes only that portion of the Confidential Information which such Party is advised by an opinion of its counsel is legally required, and such Party exercises commercially reasonable efforts to obtain reliable assurances that confidential treatment will be accorded such Confidential Information.

4.4.6 Nothing in this Section 4.4 shall be construed as preventing or in any way inhibiting either Party from complying with applicable Law governing activities and obligations undertaken pursuant to this Agreement or any Ancillary Agreement in any manner which it reasonably deems appropriate.

4.5 Regulatory Transfers . Buyer and Sellers shall file the Buyer FDA Transfer Letters and the Sellers FDA Transfer Letters, respectively, with FDA on the date reasonably determined by Sellers that is no later than January 30, 2018. Except to the extent provided otherwise in the Transitional Services Agreement, transfer of title to the Purchased Regulatory Approvals shall be effective as of the Closing. Except to the extent provided otherwise in the Transitional Services Agreement, promptly after the Closing and in any event within 120 calendar days after the Closing, *provided* that Buyer transfers the relevant delegation of authority to Sellers prior to such time, Sellers and Buyer shall make all appropriate filings and submissions with Governmental Authorities, including the Centers for Medicare & Medicaid Services, the Veteran's Administration and the FDA to transfer all regulatory responsibilities in respect of the Products, if any (excluding all retained Liabilities and except as contemplated by Section 4.6 and the Transitional Services Agreement).

4.6 Regulatory Responsibilities .

4.6.1 NDCs . Buyer shall (a) use commercially reasonable efforts to obtain its own NDCs for the Products no later than 180 days after the Closing Date and (b) have in place all resources such that sales of the Products in the Territory can be accomplished under the NDCs of Buyer, as provided in the Transitional Services Agreement. Following the Closing Date, except as otherwise provided in the Transitional Services Agreement, neither Seller nor any of their respective Affiliates shall distribute or sell any Product in the Territory labeled with such Seller's NDCs.

4.6.2 Certificate of Pharmaceutical Product . From and after the Closing Date, if a legalized Certificate of Pharmaceutical Product (" **CPP** ") is required in connection with any Regulatory Approval for Arimidex in any country in the Seller Territory, upon Seller's reasonable request, Buyer shall use commercially reasonable efforts to assist Sellers, at Sellers' sole expense, in obtaining such CPP. Seller shall provide Buyer with reasonable advance notice of the need for any such CPP and such notice shall contain sufficient information and instructions as to minimize the impact on Buyer's normal business activities. Upon Seller's request for any CPP, the Parties shall use commercially reasonable efforts to agree upon the process cost and timelines with respect thereto. Seller shall reimburse Buyer for all documented out-of-pocket costs and expenses incurred in connection with processing or otherwise assisting Seller in obtaining any requested CPP. Seller shall reimburse Buyer for such costs and expenses within 45 days after receipt of an invoice and reasonable supporting documentation with respect to such costs.

4.6.3 Post-Closing Regulatory Matters . As promptly as practicable but no later than thirty (30) days following Closing, Buyer and Sellers shall agree on a detailed timeline and methodology plan that shall set forth the process for the physical delivery of the Purchased Information, the Purchased Product Records, the Purchased Regulatory Approvals and the Purchased Regulatory Documentation and the timeframes within which such delivery will take place; *provided* such timeline shall provide that electronic copies of the Purchased Product Records and Purchased Regulatory Approvals will be delivered no later than 120 days following the Closing Date.

4.6.4 Other Regulatory Responsibilities .

(a) From and after the date the Parties have filed the Buyer FDA Transfer Letters and the Sellers FDA Transfer Letters (the " **NDA Transfer Date** "), Buyer shall have the sole right and responsibility for (and shall bear the cost of) preparing, obtaining and maintaining all Regulatory Approvals, and for conducting communications with Governmental Authorities of competent jurisdiction, for the Products in the Territory. Without limitation of the foregoing, promptly following the Closing, but in any event within such periods required by applicable Law, Buyer shall obtain, with respect to the Territory, such Regulatory Approvals as are necessary for Buyer's own Product labeling and shall comply with such Regulatory Approvals upon receipt thereof. Prior to the NDA Transfer Date, Sellers shall (at Buyer's cost and expense) comply with Buyer's reasonable directions with respect to the Regulatory Approvals for the Products in the Territory; *provided* that it no event shall Sellers be obligated to take any action or refrain from taking any action that is inconsistent with Sellers' respective internal compliance policies or that Sellers reasonably believe would violate applicable Law.

(b) Except as set forth in the Transitional Services Agreement, from the applicable NDA Transfer Date, Buyer shall have the exclusive responsibility for maintenance of the Product NDAs and the conduct of all regulatory actions with respect to, and communications and filings with and submissions to, FDA with respect to the Product NDAs, including making all filings with FDA required for any specification or Manufacturing change, as well as reporting of Adverse Events. Sellers shall provide Buyer with such information as Buyer reasonably requests to enable Buyer to obtain and maintain the Regulatory Approvals for the Products or as may be requested by Governmental Authorities from time to time and that is in possession or Control of Sellers, including information about the Authorized Generic Product that Sellers obtain in connection with performance of the AG Agreement. Any such requests by Buyer shall be made in writing and at least 10 Business Days in advance, unless a shorter time period is required to satisfy applicable regulatory requirements or the request of a Governmental Authority.

(c) Without limitation of Section 4.1, each Party shall immediately notify the other Party of any information received regarding any threatened or pending Litigation by FDA or other Governmental Authority which may affect the Products or the Exploitation of the Products and, upon receipt of any such information, the Parties shall consult with each other in good faith unless otherwise prohibited by Law and use commercially reasonable efforts to arrive at a mutually acceptable procedure for taking appropriate action; *provided* , *however* , that nothing set forth in this sentence shall be construed as restricting the right of either Party to make a timely report of such matter to any Governmental Authority or take other action that it deems appropriate under or required by applicable Law.

(d) Effective from and after the Closing, except as required by applicable Law or in order to effect (i) the transfer of a Regulatory Approval, (ii) renewal of a Regulatory Approval or (ii) any term of this Agreement or the Ancillary Agreements, Buyer shall not, without the prior written consent of Sellers, not to be unreasonably withheld, conditioned or delayed, make any alterations to the Specifications (as defined in the Supply Agreements) of any Product to the extent that such alterations would, individually or in the aggregate, necessitate the filing of variations to Regulatory Approvals outside of the Territory that are material to a Seller.

4.6.5 Right of Reference . Effective from and after the Closing, Buyer hereby grants to Sellers, on behalf of itself and its Affiliates, licensees, sublicensees, licensors and distributors, a perpetual, irrevocable, worldwide, exclusive, royalty-free and non-transferable license and right of reference (with a right to grant sublicenses and further rights of reference) to the Buyer Regulatory Documentation and Purchased Regulatory Documentation, as may be necessary to (a) exercise Sellers' and their respective Affiliates' respective rights and perform its or their respective obligations under this Agreement or any Ancillary Agreement and (b) conduct the Seller Business to the extent not prohibited by this Agreement and the Ancillary Agreements. As soon as reasonably practicable following a Seller's request therefor and at Sellers' sole cost and expense, Buyer shall (i) provide to such Seller copies of the Buyer Regulatory Documentation or Purchased Regulatory Documentation as shall be reasonably requested by such Seller solely for purposes of (A) exercising such Seller's or its Affiliates' respective rights or performing its or their respective obligations under this Agreement or any Ancillary Agreement or (B) conducting the Seller Business to the extent not prohibited by this Agreement and the Ancillary Agreements; and (ii) provide to such Seller and to any Governmental Authority specified by such Seller a letter, in the form reasonably requested by such Seller, acknowledging that such Seller and its Affiliates have the rights of reference to the Buyer Regulatory Documentation and Purchased Regulatory Documentation granted pursuant to Section 2.1.1 and this Section 4.6.5.

4.6.6 NDA . Following the NDA Transfer Date and until the expiration of the Term (as such term is defined in the License Agreement), Buyer shall not abandon or withdraw the Product NDAs without the prior written consent of Sellers, such consent not to be unreasonably conditioned, withheld or delayed, if a Seller is then (x) Exploiting the Products (or any pharmaceutical product containing the same active ingredient as the Products) in the Seller Territory or, (y) Exploiting (i) until the AG Abandonment Date, the Authorized Generic Product, or (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, and such abandonment or withdrawal would adversely affect such Seller's ability to (a) Exploit the Products (or any pharmaceutical product containing the same active ingredient as the Products) in the Seller Territory or (b) Exploit (i) until the AG Abandonment Date, the Authorized Generic Product, or (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product. If Buyer intends to abandon or withdraw NDA # 20-838 (to the extent related to the Authorized Generic Product) and Sweden Seller is then Exploiting the Authorized Generic Product, then Buyer shall, and shall cause its Affiliates instead to execute and deliver to Sweden Seller, at Sweden Seller's sole cost and expense, all such instruments and documents and further assurances and take such other actions as Sweden Seller may reasonably request in order to vest in Sweden Seller or its Affiliate all of Buyer's right, title and interest in and to NDA # 20-838 (to the extent related to (i) until the AG Abandonment Date, the Authorized Generic Product, or (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product) to enable Sweden Seller to continue to Exploit (i) until the AG Abandonment Date, the Authorized Generic Product, and (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product.

4.6.7 No Clinical Trials . Without the prior written consent of Sellers, not to be unreasonably withheld, conditioned or delayed, Buyer shall not, and shall cause its Affiliates not to, conduct, or sponsor or cause to be conducted or sponsored, any clinical trial with respect to the Products or the active pharmaceutical ingredient of the Products, whether alone or in combination with any other active pharmaceutical ingredient; *provided* , *however* , Buyer and its Affiliates may conduct or sponsor, or cause to be conducted or sponsored, any clinical trial with respect to the Products solely to support the filing and approval of additional Regulatory Approvals for the Products (but not the Products in combination with any other product or active pharmaceutical ingredient) in the Territory after the Closing Date (such clinical trial sponsored or conducted by or on behalf of Buyer or its Affiliates, a " **Clinical Trial** "). Buyer, on behalf of itself and its Affiliates, hereby grants to each Seller, on behalf of itself and its Affiliates, licensees, sublicensees, licensors and distributors, a perpetual, irrevocable, worldwide, non-exclusive, royalty-free and non-transferable license and right of reference (with a right to grant sublicenses and further rights of reference) and use to all results and data (including drug safety data) generated in or arising from any Clinical Trial solely for use and Exploitation outside of the Territory and (i) until the AG Abandonment Date, for Exploitation in the Territory of the Authorized Generic Product and (ii) until the Atacand Generic Entry Date, for Exploitation in the Territory of any Atacand Other Authorized or Owned Generic Product.

4.7 Pharmacovigilance and Other Obligations .

4.7.1 Pharmacovigilance Agreement .

(a) Sellers and Buyer shall enter into the Pharmacovigilance Agreement as soon as reasonably practicable after, and in any event no later than 90 days after, the Closing Date, outlining their respective responsibilities with respect to the exchange of safety information and the performance of pharmacovigilance activities for each of the Products.

(b) Except to the extent provided otherwise in the Transitional Services Agreement, pending execution and delivery of the Pharmacovigilance Agreement, and unless otherwise agreed in writing, Buyer shall notify Sellers of any Adverse Events or special situations (including, but not limited to, reports of exposure during pregnancy or breastfeeding; overdose, abuse and misuse; off-label use, mediation errors; lack of therapeutic effect, occupational exposure, unexpected therapeutic or clinical benefit and infectious agents) associated with the Products in the Territory within one (1) calendar day after the first receipt of such information. Such notice shall be provided to [***], as applicable unless another method of notice is agreed in writing by the Buyer and Sellers.

(c) If a case is received during a period of two or less non-Business Days, the case will be forwarded on the next Business Day. In the event the Parties are aware that a case may be received during a period of three or more consecutive non-Business days, the Parties must put in place procedures to ensure that they continue to forward all Adverse Events in accordance with the provisions of this Agreement in order to ensure the safety of patients. The Parties shall cooperate to investigate and follow-up any reports of Adverse Events or other safety-relevant information associated with the Products. Each Party shall confirm receipt of notice of an Adverse Event to the other Party by email within two (2) Business Days. If such confirmation of receipt is not received within such time, the Party reporting the Adverse Event shall follow up by email to verify the case has been received.

(d) Notwithstanding Section 4.7.1(a), upon a Seller's request at any time after the Closing Date, Buyer shall (i) within 30 days of such request, enter into a pharmacovigilance side letter with a Third Party designated by such Seller, and (ii) within 120 days of such request, enter directly with such Third Party into the Pharmacovigilance Agreement, in the form and substance acceptable to such Seller and Buyer, including the terms outlining the parties' respective responsibilities with respect to the exchange of safety information and the performance of pharmacovigilance activities for each of the Products, notification of the parties thereof of any Adverse Events or special situations referred to in Section 4.7.1(b) associated with the Products in the Territory, and cooperation to comply with applicable Laws. Buyer shall provide Sellers with reasonably detailed reports confirming that the parties under the Pharmacovigilance Agreement executed between Buyer and a Third Party are in compliance in all material respects with the terms thereof no less frequently than monthly.

(c) Buyer acknowledges that for the purposes of pharmacovigilance reporting Sellers may share amongst their respective Affiliates and/or any Persons to whom or they have assigned or granted any rights in respect of the Products any of the following:

(i) information which Buyer or its Affiliates share with Sellers or their respective Affiliates in accordance with Section 4.7.1(a), (b) or (c); or

(ii) information which Buyer or its Affiliates share with Sellers or their respective Affiliates, or which Sellers or their respective Affiliates learn in connection with the performance of this Agreement and the Ancillary Agreements, in respect of any actual or alleged defect in any Product, any injury alleged to have occurred as a result of the use or application of any Product, and/or any circumstances that may give rise to a Liability in respect of any Product, a Product recall or market withdrawal or any regulatory action that reasonably would be expected to adversely affect the commercialization or Manufacture of the Products.

4.7.2 Other Obligations .

(a) Medical Inquiries . Except to the extent otherwise provided in this Agreement or any Ancillary Agreement, from and after the NDA Transfer Date, Buyer (i) shall be responsible for handling and responding to all medical inquiries related to the Products used, marketed, distributed or sold in the Territory, and (ii) shall be responsible for all correspondence and communication with physicians and other health care professionals in the Territory relating to the Products. Except to the extent otherwise provided in this Agreement or any Ancillary Agreement, from and after the NDA Transfer Date, the Sellers shall notify the Buyer of any incoming medical inquiry associated with the Products in the Territory within one (1) calendar day after the first receipt of such information. In the case of incoming questions by telephone, the call shall be transferred to the Buyer at [***] or if received in any other format, they shall be reported to [***].

(b) Other Inquiries . Except to the extent otherwise provided in this Agreement or any Ancillary Agreement, from and after the NDA Transfer Date, Buyer (i) shall be responsible for handling and responding to all customer complaints and other non-medical inquiries related to the Products used, marketed, distributed or sold in the Territory, and (ii) shall be responsible for all correspondence and communication with customers or patients in the Territory relating to the Products. Except to the extent otherwise provided in this Agreement or any Ancillary Agreement, from and after the NDA Transfer Date, the Sellers shall notify the Buyer of any customer inquiry, product complaint or other non-medical inquiry associated with the Products in the Territory within one (1) calendar day after the first receipt of such information. In the case of incoming questions by telephone, the call shall be transferred to the Buyer at [***] ext. [***] or if received in any other format, they shall be reported to [***].

(c) Product Liability Claims . From and after the Closing Date, as soon as it becomes aware, each Party shall give the other Party prompt written notice of any defect or alleged defect in a Product, any injury alleged to have occurred as a result of the use or application of a Product, and any circumstances that may give rise to Litigation relating to a Product, recall or market withdrawal of a Product or regulatory action that reasonably would be expected to adversely affect the Exploitation of a Product, specifying, to the extent the Party has such information, the time, place and circumstances thereof and the names and addresses of the Persons involved. Each Party also shall furnish promptly to the other Party copies of all documents received in respect of any Litigation arising out of such alleged defect, injury or regulatory action; *provided* , that neither Party shall be required to furnish such documents if such disclosure could, in such Party's reasonable discretion, (i) violate applicable Law, (ii) jeopardize any attorney/client privilege or other established legal privilege, or (iii) disclose any trade secrets.

4.8 Commercialization . Except to the extent otherwise provided in the Transitional Services Agreement or License Agreement, from and after the Closing Date, (a) Buyer, at its own cost and expense, shall be responsible for the Exploitation of the Products in the Territory and shall independently determine and set prices for the Products in the Territory, including the selling price, volume discounts, rebates and similar matters; *provided* , that Buyer shall not increase prices for a Product from the price in effect on the Closing Date until such time as such Product is no longer being sold or distributed by or on behalf of Buyer or any of its Affiliates (including under the Transitional Services Agreement or by any Third Party wholesaler or distributor) that includes an NDC of a Seller or its Affiliates on the Product labeling; (b) Buyer shall be responsible, at its own cost and expense, for all marketing, advertising and promotional materials related to the Product in the Territory; and (c) Buyer or its Affiliates shall be responsible for receiving and processing all orders, undertaking all invoicing, collection and receivables, and providing all customer service related to the sale of the Product in each case in the Territory.

4.9 Certain Tax Matters .

4.9.1 Withholding Taxes . The amounts payable by one Party (the " **Payer** ") to another Party (the " **Payee** ") pursuant to this Agreement (" **Payments** ") shall not be reduced on account of any Taxes unless required by applicable Law. The Payee alone shall be responsible for paying any and all Taxes (other than withholding Taxes required to be paid by the Payer) levied on account of, or measured in whole or in part by reference to, any Payments it receives. The Payer shall deduct or withhold from the Payments any Taxes that it is required by applicable Law to deduct or withhold, and all such amounts deducted and withheld shall be treated for all purposes of this Agreement as having been paid to Payee. Notwithstanding the foregoing, if the Payee is entitled under any applicable Tax treaty to a reduction of rate of, or the elimination of, or recovery of, applicable withholding Tax, it shall timely deliver to the Payer or the appropriate Taxing Authority (with the assistance of the Payer to the extent that this is reasonably required and is expressly requested in writing) the prescribed forms necessary to reduce the applicable rate of withholding or to relieve the Payer of its obligation to withhold Tax, and the Payer shall apply the reduced rate of withholding, or dispense with the withholding, as the case may be, to the extent it complies with the applicable Tax treaty. If, in accordance with the foregoing, the Payer withholds any amount, it shall make timely payment to the proper Taxing Authority of the withheld amount, and send to the Payee proof of such payment as soon as reasonably practicable.

4.9.2 Transfer Taxes and Apportioned Obligations .

(a) All amounts payable hereunder or under any Ancillary Agreement are exclusive of all recordation, transfer, documentary, stamp, conveyance or other similar Taxes imposed or levied by reason of, in connection with or attributable to this Agreement and the Ancillary Agreements or the transactions contemplated hereby and thereby (collectively, " **Transfer Taxes** ") (for the avoidance of doubt, value added Taxes, goods and services Taxes and other similar Taxes are not Transfer Taxes). Buyer and Sellers shall be equally responsible for the payment of all Transfer Taxes to a U.S. Taxing Authority and Seller shall be responsible and pay all Transfer Taxes payable to a non-U.S. Taxing Authority, and each such Party shall pay all amounts due and owing in respect of any Transfer Taxes, these amounts in addition to the sums otherwise payable, at the rate in force at the due time for payment or such other time as is stipulated under applicable Law. Buyer and Sellers shall cooperate in the filing of any returns with respect to Transfer Taxes, including by promptly supplying any information in their respective possession that is reasonably necessary to complete such returns.

(b) All personal property and similar ad valorem obligations levied with respect to the Purchased Assets (other than arising as a result of this Agreement) for a Straddle Period (collectively, the " **Apportioned Obligations** ") shall be apportioned between Sellers and Buyer based on the number of days of such Straddle Period ending on the day prior to the Closing Date (such portion of such Straddle Period, the " **Pre-Closing Tax Period** ") and the number of days of such Straddle Period on and after the Closing Date (such portion of such Straddle Period, the " **Post-Closing Tax Period** "). Sellers shall be liable for the proportionate amount of such Apportioned Obligations that is attributable to the Pre-Closing Tax Period, and Buyer shall be liable for the proportionate amount of such Apportioned Obligations that is attributable to the Post-Closing Tax Period.

(c) Apportioned Obligations and Transfer Taxes shall be timely paid, and all applicable filings, reports and returns shall be filed, as provided by applicable Law. The paying Party shall be entitled to reimbursement from the non-paying Party in accordance with Section 4.9.2(a) or Section 4.9.2(b), as the case may be. Upon payment of any such Apportioned Obligation or Transfer Tax, the paying Party shall present a statement to the non-paying Party setting forth the amount of reimbursement to which the paying Party is entitled under Section 4.9.2(a) or Section 4.9.2(b), as the case may be, together with such supporting evidence as is reasonably necessary to calculate the amount to be reimbursed. The non-paying Party shall make such reimbursement promptly but in no event later than 10 days after the presentation of such statement.

4.9.3 Cooperation and Exchange of Information . Each of Sellers and Buyer shall (a) provide the other with such assistance as may reasonably be requested by the other (subject to reimbursement of reasonable out-of-pocket expenses) in connection with the preparation of any Tax Return, audit or other examination by any Taxing Authority or judicial or administrative proceeding relating to Liability for Taxes in connection with the Product Business or the Purchased Assets, (b) retain and provide the other with any records or other information that may be relevant to such Tax Return, audit or examination, proceeding or determination and (c) inform the other of any final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any Tax Return of the other for any period.

4.9.4 Indirect Taxes . Notwithstanding anything to the contrary contained in this Section 4.9 or elsewhere in this Agreement, the following shall apply with respect to Indirect Taxes. All Payments are stated exclusive of Indirect Taxes. If any Indirect Taxes are chargeable in respect of any Payments, Buyer shall pay such Indirect Taxes at the applicable rate in respect of any such Payments following the receipt, where applicable, of an Indirect Taxes invoice issued in the appropriate form by the applicable Seller in respect of those Payments, such Indirect Taxes to be payable on the due date of the payment of the Payments to which such Indirect Taxes relate or at the time such Indirect Taxes are required to be collected by such Seller, in the case of payment of any such Indirect Taxes to such Seller. The Parties shall issue invoices for all Payments under this Agreement consistent with Indirect Tax requirements, and to the extent any invoice is not initially issued in an appropriate form, Buyer shall promptly inform the applicable Seller and shall cooperate with such Seller to provide such information or assistance as may be necessary to enable the issuance of such invoice consistent with Indirect Tax requirements.

4.9.5 Survival of Covenants . The covenants contained in this Section 4.9 shall survive until 45 days after the expiration of the applicable statute of limitations (including extensions thereof).

4.10 Wrong Pockets; Correspondence .

4.10.1 Assets . If either Buyer or Sellers becomes aware that any of the Purchased Assets has not been transferred to Buyer or that any of the Excluded Assets has been transferred to Buyer, it shall promptly notify the other Party in writing and the Parties shall, as soon as reasonably practicable, ensure that such property is transferred, and with any necessary prior Third Party consent or approval, to (a) Buyer, in the case of any Purchased Asset which was not transferred to Buyer at the Closing; or (b) Sellers, in the case of any Excluded Asset which was transferred to Buyer at the Closing.

4.10.2 Payments . If, on or after the Closing Date, either Party shall receive any payments or other funds due to the other pursuant to the terms of this Agreement or any Ancillary Agreement, then the Party receiving such funds shall, within 30 days after receipt of such funds, forward such funds to the proper Party. The Parties acknowledge and agree there is no right of offset regarding such payments and a Party may not withhold funds received from Third Parties for the account of the other Party in the event there is a dispute regarding any other issue under this Agreement or any of the Ancillary Agreements. For the avoidance of doubt, the Parties acknowledge and agree that all Accounts Receivable outstanding on the Closing Date shall remain the property of Sellers or their respective Affiliates.

4.10.3 Correspondence . Sellers authorize Buyer after the Closing Date to receive and open all mail and other communications received by Buyer relating to the Purchased Assets and to deal with the contents of such communications in good faith and in a proper manner, including forwarding any Third Party invoice with respect to the Product Business relating to the period on or prior to the Closing Date to Sellers within 30 days after its receipt thereof. Sellers shall deliver within 30 days after its receipt thereof to Buyer any Third Party invoices or other mail or other communications received by Sellers or any Affiliates of Sellers from any Third Party (including the FDA) related to the Purchased Assets (including any mail or other communications in respect of the Products, the subject matter of this Agreement and the Ancillary Agreements) and the period following Closing.

4.11 Covenant Not to Sue . Effective as of the Closing, (a) Buyer, on behalf of itself, its Affiliates and its and their respective transferees, successors and assigns (collectively, the " **Buyer Group** "), hereby irrevocably and perpetually covenants that no member of the Buyer Group shall, directly or indirectly, sue Sellers or any of their respective Affiliates or any of their respective licensees, sublicensees, distributors or agents (collectively, the " **Seller Group** ")(the Buyer Group and the Seller Group together, the " **Groups** " and each a " **Group** "), or commence, knowingly aid or prosecute or cause to be commenced, knowingly aided or prosecuted any action, suit or proceeding against any member of the Seller Group with respect to (i) any Exploitation or Manufacture by any member of the Seller Group of any Product (or any product that contains the same active pharmaceutical ingredient as the Product) outside the Territory in respect of Products distributed and sold outside the Territory, or (ii) any Manufacture, research, development, use, holding, keeping, transport, disposition, import or export of any Product (or any product that contains the same active pharmaceutical ingredient as the Products) in the Territory solely in support of any Exploitation of the Product (or any product that contains the same active pharmaceutical ingredient as the Products) outside the Territory and (b) both Parties, on behalf of themselves and their respective Group, hereby irrevocably and perpetually covenants that no member of the Group shall, directly or indirectly, sue the other Party or any member of the other Group, or commence, knowingly aid or prosecute or cause to be commenced, knowingly aided or prosecuted any action, suit or proceeding against any member of the other Group with respect to any Exploitation or Manufacture by any member of the other Group of any Product (or any product that contains the same active pharmaceutical ingredient as the Product) in the Territory. Buyer shall bind any assignee or transferee of any of the Purchased Assets and any (sub)licensee with respect to the Products to adhere to the foregoing as if such assignee, transferee or (sub)licensee were Buyer hereunder. Nothing in this Section 4.11 shall prohibit either Party from exercising any remedies available to it under this Agreement or any Ancillary Agreement as a result of any breach hereof or thereof by the other Party or any of their respective Affiliates.

4.12 Unauthorized Exploitation .

(a) Buyer shall not, and shall cause its Affiliates not to, and shall use commercially reasonable efforts to cause its, licensees, sublicensees and distributors not to, (a) Exploit the Products or any of the Purchased Assets outside the Territory; (b) Exploit (i) until the AG Abandonment Date, the Authorized Generic Product or (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, in the Territory or outside the Territory; or (c) distribute, market, promote, offer for sale or sell the Products directly or indirectly to any Person inside the Territory that is reasonably likely to directly or indirectly distribute, market, promote, offer for sale or sell the Products in the Seller Territory or assist another Person to do so. Sellers shall not, and shall cause their Affiliates not to, and shall use commercially reasonable efforts to cause their licensees, sublicensees and distributors not to, (i) Exploit the Products inside the Territory or (ii) distribute, market, promote, offer for sale or sell the Products directly or indirectly to any Person outside the Territory that is reasonably likely to directly or indirectly distribute, market, promote, offer for sale or sell the Products in the Territory or assist another Person to do so. If Buyer or any of its Affiliates receives, or becomes aware of receipt by a licensee, sublicensee or distributor of, any orders for the Products (or any product that contains the same active pharmaceutical ingredient as the Products) for the Seller Territory, such Person shall refer such orders to Sellers. Buyer shall cause its Affiliates, and shall use commercially reasonable efforts to cause its licensees, sublicensees and distributors to notify Buyer of any receipt of any orders for the Products in the Seller Territory. If Sellers or any of their Affiliates receives, or becomes aware of receipt by a licensee, sublicensee or distributor of, any orders for the Products (or any product that contains the same active pharmaceutical ingredient as the Products) for the Territory, such Person shall refer such orders to Buyer. Sellers shall cause their Affiliates, and shall use commercially reasonable efforts to cause their licensees, sublicensees and distributors to notify Sellers of any receipt of any orders for the Products in the Territory.

(b) The Parties acknowledge and agree that, notwithstanding anything to the contrary set forth in this Section 4.12, Section 4.13, elsewhere in this Agreement or in any Ancillary Agreement, following Closing, Sweden Seller and its Affiliates shall be permitted to Exploit (i) until the AG Abandonment Date, the Authorized Generic Product and (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, and nothing in this Agreement or any Ancillary Agreement is intended to prevent, impair or delay Sweden Seller's Exploitation of (i) until the AG Abandonment Date, the Authorized Generic Product and (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product. Buyer shall not, and shall cause its Affiliates not to, and shall use commercially reasonable efforts to cause its licensees, sublicensees and distributors not to, directly or indirectly, Exploit (i) until the AG Abandonment Date, the Authorized Generic Product and (ii) until the Atacand Generic Entry Date, any Atacand Other Authorized or Owned Generic Product, in each case, in the Territory or outside the Territory.

4.13 Incidental Crossover Within Territories . Notwithstanding anything in Section 4.12 to the contrary, each Party (the " **IT Party** ") acknowledges and agrees the advertising, promotion or marketing of the Products (or any product that contains the same active pharmaceutical ingredient as the Products) by the other Party (the " **OT Party** "), including the advertising, promotion and marketing of the Products through the use of the internet and pan-regional print advertisements and at conferences and seminars held in the OT Party's territory, may reach Persons in the IT Party's territory, and that the OT Party shall not be in breach of this Agreement for such activities so long as (a) the objective of such advertising, promotion or marketing of such OT Party is to reach Persons within its territory or otherwise to promote sales of the Products (or such other product that contains the same active pharmaceutical ingredient as the Products) (as applicable) in its territory, and (b) the receipt by Persons located inside the IT Party's territory of such advertising, promotion or marketing with respect to the Products (or such other product that contains the same active pharmaceutical ingredient as the Products) is merely incidental to the objectives of such advertising, promotion or marketing. Further, each Party acknowledges that Products (or any product that contains the same active pharmaceutical ingredient as the Products) sold to distributors outside of its territory and intended for resale to end users outside of its territory (may end up being resold (through, for example, an internet sales channel) to end users in its territory, and that the other Party shall not be in breach of this Agreement based on such resales so long as such other Party or any of its Affiliates, licensee, sublicensees or distributors did not authorize, encourage or facilitate such resales into the other Party's territory, makes commercially reasonable efforts to restrict such incidental sales and, complies with its obligations set forth in this Section 4.13.

4.14 Ancillary Agreements . Following the Closing, the Parties shall negotiate in good faith and use their respective commercially reasonable efforts to negotiate and finalize the Pharmacovigilance Agreement in accordance with Section 4.7.1, and the Quality Assurance Agreement as promptly as practicable but, in any event, within 120 days following the Closing Date. The initial draft of the Quality Assurance Agreement shall be substantially in the form of Sellers' Quality Assurance Agreement template form that Sellers' customarily use for transactions similar to the transactions contemplated by this Agreement and the Ancillary Agreements.

4.15 Transfer of Products . Any transfer, sale, license, sublicense (including a sublicense under the License Agreement), conveyance or other disposition of any Product, Purchased Regulatory Approval or any material right related to a Product (other than sales of the Products in the ordinary course of business) by Buyer (a " **Transfer of Products** ") shall require that the transferee, licensee, sublicensee or assignee thereof agree to be bound by the obligations set forth in Section 4.6, Section 4.7, Section 4.8, Section 4.12, this Section 4.15, the Pharmacovigilance Agreement and, if such transfer is of an Atacand Branded Licensed Product (as defined in the License Agreement), Section 4.2 of the License Agreement. Any Transfer of Products that constitutes all or substantially all of Buyer's right, title or interest in any Products shall, as a condition thereof, require the assignment of the License Agreement to the transferee, licensee or assignee in such Transfer of Products, subject to Section 10.8 of the License Agreement.

4.16 [***] Agreement . From and after the Closing and until the date on which the [***] Agreement expires or is terminated in accordance with its terms, or the relevant rights under the [***] Agreement are assigned, and the relevant obligations under the [***] Agreement are delegated, in each case, to Buyer, as such rights and obligations are relevant to Buyer's Exploitation of Atacand and Atacand HCT in the Territory, Sweden Seller agrees to pay, perform and discharge its obligations under and otherwise comply in all material respects with the terms of the [***] Agreement as in effect on the date hereof and that it will not waive or amend or agree to waive or amend any provision of the [***] Agreement that is relevant to Buyer's Exploitation of Atacand and Atacand HCT in the Territory in a manner that increases the amounts payable by the Buyer under the Supply Agreement – Atacand and Atacand HCT or otherwise adversely affects Buyer's Exploitation of Atacand and Atacand HCT in the Territory without Buyer's prior written consent. Sweden Seller shall not terminate the [***] Agreement without the prior written consent of the Buyer, unless (a) in connection therewith the relevant rights and obligations under the [***] Agreement are delegated, in each case, to Buyer pursuant to a separate written agreement, as such rights and obligations are relevant to Buyer's Exploitation of Atacand and Atacand HCT in the Territory or (b) any such termination would not reasonably be expected to increase the amounts payable by the Buyer under the Supply Agreement – Atacand and Atacand HCT or adversely affect Buyer's Exploitation of Atacand and Atacand HCT in the Territory.

4.17 [***] Agreement . From and after the Closing and until the date on which the [***] Agreement expires or is terminated in accordance with its terms, or the relevant rights under the [***] Agreement are assigned, and the relevant obligations under the [***] Agreement are delegated, in each case, to Buyer, as such rights and obligations are relevant to Buyer's Exploitation of Casodex in the Territory, UK Seller agrees to pay, perform and discharge its obligations under and otherwise comply in all material respects with the terms of the [***] Agreement as in effect on the date hereof and that it will not waive or amend or agree to waive or amend any provision of the [***] Agreement that is relevant to Buyer's Exploitation Casodex in the Territory in a manner that increases the amounts payable by the Buyer under the Supply Agreement – Arimadex and Casodex or adversely affects Buyer's Exploitation of Casodex in the Territory without Buyer's prior written consent. UK Seller shall not terminate the [***] Agreement (a) as a result of its ceasing to market and sell Casodex and/or (b) without the prior written consent of the Buyer, unless in connection therewith the relevant rights and obligations under the [***] Agreement are delegated, in each case, to Buyer pursuant to a separate written agreement, as such rights and obligations are relevant to Buyer's Exploitation of Casodex in the Territory.

4.18 License . Sellers hereby grant to Buyer a perpetual, non-exclusive, non-terminable, royalty-free, fully paid-up, transferable and sub-licensable license to the Licensed Packaging Know-How and the Licensed Manufacturing Know-How (each such term as defined in the Supply Agreements), each of which such licenses shall (a) automatically, without any action by any of the Parties, take effect upon (and not until) the earlier of (x) the completion of the Manufacturing Technology Transfer (as such term is defined in the Supply Agreements) or the Packaging Technology Transfer (as such term is defined in the Supply Agreements), as the case may be and (y) in the event any such Technology Transfer (as defined in the Supply Agreements) is not completed in accordance the terms of the Supply Agreements by the end of the Packaging TT Period (as defined in the Supply Agreements) or the Manufacturing TT Period (as defined in the Supply Agreement – Atacand and Atacand HCT), as the case may be, or any extension thereof pursuant to the applicable Supply Agreement, as a direct result of any action or inaction by Sellers, upon written notice from Buyer, and (b) survive the termination of the applicable Supply Agreement.

4.19 API Supply . If requested by Buyer, Sellers and Buyer agree to negotiate a supply agreement for hydrochlorothiazide in good faith, which will be on commercially reasonable terms and conditions and which will include a price therefor equal to Sellers' supply cost plus a commercially reasonable mark-up and will in no event require Sellers to provide such supply after termination of the [***] Agreement.

ARTICLE 5
INDEMNIFICATION

5.1 Indemnification .

5.1.1 Indemnification by Sellers . Following the Closing, but subject to the provisions of this Article 5 and Section 6.10, Sellers shall jointly and severally indemnify and hold harmless Buyer and its Affiliates, and their respective officers, directors, employees, agents, successors and permitted assigns (collectively, " **Buyer Indemnitees** ") from and against, and compensate and reimburse the Buyer Indemnitees for, any and all Losses incurred by any Buyer Indemnitee arising out of or related to:

(a) any inaccuracy in, or breach by a Seller of any of, the representations or warranties made by such Seller in Article 3 of this Agreement or in any Ancillary Agreement (to the extent such Ancillary Agreement does not provide a right to indemnification for such breach);

(b) any failure of a Seller to perform or any breach by such Seller of any of its covenants, agreements or obligations contained in this Agreement or in any Ancillary Agreement (to the extent such Ancillary Agreement does not provide a right to indemnification for such breach);

(c) any Excluded Liability; or

(d) any failure of a Seller to pay Transfer Taxes, Apportioned Obligations or Indirect Taxes allocated to such Seller under Section 4.9.2 and 4.9.4.

5.1.2 Indemnification by Buyer . Following the Closing, but subject to the provisions of this Article 5 and Section 6.10, Buyer shall indemnify and hold harmless Sellers and their respective Affiliates, and their respective officers, directors, employees, agents, successors and permitted assigns (collectively, " **Seller Indemnitees** ") from and against, and compensate and reimburse the Seller Indemnitees for, any and all Losses incurred by any Seller Indemnitee arising out of or related to:

(a) any inaccuracy in, or breach by Buyer of, any of the representations or warranties made by Buyer in Article 3 of this Agreement or in any Ancillary Agreement (to the extent such Ancillary Agreement does not provide a right to indemnification for such breach);

(b) any failure of Buyer to perform or any breach by Buyer of any of its covenants, agreements or obligations contained in this Agreement or in any Ancillary Agreement (to the extent such Ancillary Agreement does not provide a right to indemnification for such breach);

(c) any Assumed Liability, except to the extent any Buyer Indemnitee is entitled to indemnification for any such Losses under any Ancillary Agreement; or

(d) any failure of Buyer to pay Transfer Taxes, Apportioned Obligations or Indirect Taxes allocated to such Seller under Section 4.9.2 and 4.9.4.

5.2 Claim Procedure .

5.2.1 Indemnification Claim Procedure . Except as provided in Section 5.2.2 with respect to Third Party Claims, in the event of a claim made by a Buyer Indemnitee or a Seller Indemnitee (the " **Indemnified Party** "), the Indemnified Party shall give reasonably prompt written notice to the other Party (the " **Indemnifying Party** "), which notice (an " **Indemnification Certificate** ") shall: (a) state that the Indemnified Party has paid or properly accrued or reasonably anticipates that it will have to pay or accrue Losses that are subject to indemnification by the Indemnifying Party pursuant to Section 5.1.1 or Section 5.1.2, as applicable, and (b) specify in reasonable detail the individual items and amounts of such Losses, the date each such item was paid or properly accrued, or the basis for such anticipated Liability, and a description of the basis of such Indemnified Party's claim for indemnification; *provided* , *however* , that the failure to give reasonably prompt notice shall not relieve the applicable Indemnifying Party of its indemnification obligations under this Agreement except to the extent that the Indemnifying Party is materially prejudiced by any delay in receiving such notice. In the event that the Indemnifying Party agrees to or is determined to have an obligation to reimburse the Indemnified Party for Losses as provided in this Article 5, the Indemnifying Party shall, subject to the provisions of Section 5.3, promptly (but, in any event, within 30 days following such agreement or determination) pay such amount to the Indemnified Party by wire transfer of immediately available funds to the account specified in writing by the Indemnified Party. The Indemnifying Party may defer making such payment if it objects in a written statement to the claim made in the Indemnification Certificate (specifying in reasonable detail the individual items and amounts to which it objects and a reasonably detailed description of the basis of all such objections) and delivers such statement to the Indemnifying Party prior to the expiration of such 30-day period. If an Indemnifying Party shall so object in writing to any claim or claims made in any Indemnification Certificate in accordance with the immediately preceding sentence, the Indemnifying Party and the Indemnified Party shall attempt in good faith for a period of 20 days following the Indemnified Party's receipt of such objection notice to agree upon the respective rights of the Parties with respect to each of such claims. If no such agreement can be reached after such 20-day period of good faith negotiation, either the Indemnifying Party or the Indemnified Party may initiate Litigation for purposes of having the matter settled in accordance with the terms of this Agreement.

5.2.2 Third Party Claim Procedure . In the event an Indemnified Party becomes aware of a claim made by a Third Party (including any action or proceeding commenced or threatened to be commenced by any Third Party) (each a " **Third Party Claim** ") that such Indemnified Party reasonably believes may result in an indemnification claim pursuant to Section 5.1, such Indemnified Party shall promptly notify the Indemnifying Party in writing of such claim (such notice, the " **Claim Notice** "). The Claim Notice shall be accompanied by the material documentation submitted by the Third Party making such claim and shall describe in reasonable detail (to the extent known by the Indemnified Party) the facts constituting the basis for such Third Party Claim and the amount of the claimed damages; *provided* , *however* , that no delay or failure on the part of the Indemnified Party in delivering a Claim Notice shall relieve the Indemnifying Party from any Liability except to the extent that the Indemnifying Party is materially prejudiced by any delay in receiving such notice. Within 30 days after receipt of any Claim Notice, the Indemnifying Party may, upon written notice thereof to the Indemnified Party, assume control of the defense of the Third Party Claim referred to therein at the Indemnifying Party's sole cost and expense (which shall be subject to Section 5.3) with counsel reasonably satisfactory to the Indemnified Party; *provided* , *however* , that the Indemnifying Party shall not be entitled to assume or control the defense of such Third Party Claim if (i) the Indemnifying Party does not deliver to the Indemnified Party within 30 days after receipt of the applicable Claim Notice an acknowledgment of its indemnification obligations under, and subject to the terms of, this Agreement (including the limitations set forth in this Article 5), with respect to such Third Party Claim, (ii) such Third Party Claim seeks an injunction or other equitable relief against the Indemnified Party or its Affiliates that would materially and adversely impact the Product Business (except where non-monetary relief is merely incidental to a primary claim or claims for monetary damages), or (iii) such Third Party Claim alleges that the Indemnified Party or any of its Affiliates are engaged in criminal conduct, or the claim is based on alleged criminal conduct and arises as part of any criminal proceeding, action, indictment, allegation or investigation. If the Indemnifying Party does not so assume control of the defense of such Third Party Claim, the Indemnified Party shall control the defense of such Third Party Claim and shall employ counsel of its own choice for such purpose. The Party not controlling the defense of such claim (the " **Non-Controlling Party** ") may participate therein at its own expense; *provided* , *however* , that if the Indemnifying Party assumes control of the defense of such claim and the Indemnifying Party and the Indemnified Party have materially conflicting interests or different defenses available with respect to such Third Party Claim that cause the Indemnified Party to hire its own separate counsel with respect to such proceeding, the reasonable fees and expenses of a single counsel to the Indemnified Party shall be considered "Losses" for purposes of this Agreement. The Party controlling the defense of a Third Party Claim (the " **Controlling Party** ") shall keep the Non-Controlling Party reasonably advised of the status of such claim and the defense thereof and shall consider in good faith recommendations made by the Non-Controlling Party with respect thereto. The Non-Controlling Party shall furnish the Controlling Party with such information as it may have with respect to such Third Party Claim (including copies of any summons, complaint or other pleading that may have been served on such party and any written claim, demand, invoice, billing or other document evidencing or asserting the same) and shall otherwise reasonably cooperate with and assist the Controlling Party in the defense of such Third Party Claim; *provided* , that neither the Controlling Party nor the Non-Controlling Party will be required to furnish any such information which would (in the reasonable judgment of such Party upon advice of counsel) be reasonably likely to (a) waive any privileges, including the attorney-client privilege, held by such Party or any of its Affiliates or (b) breach any duty of confidentiality owed to any Person (whether such duty arises contractually, statutorily or otherwise) or any Contract with any other Person or violate any applicable Law (*provided* , that such Party shall use commercially reasonable efforts to obtain any Required Consents and take such other reasonable action (such as the entry into a joint defense agreement or other arrangement to avoid loss of attorney-client privilege) to permit such access). Neither the Indemnified Party nor the Indemnifying Party shall agree to any settlement of, or the entry of any judgment arising from, any such claim without the prior written consent of the other such Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided* , *however* , that the consent of the Indemnified Party shall not be required with respect to any such settlement or judgment if (w) the Indemnifying Party agrees in writing to pay or cause to be paid any and all amounts payable pursuant to such settlement or judgment (net of the applicable deductible amount specified in Section 5.3.1), (x) such settlement or judgment includes no admission of liability or fault by or other obligation on the part of the Indemnified Party, (y) includes a complete and unconditional release of the Indemnified Party from further Liability, and (z) will not impose any material obligations or restrictions on or result in the Indemnified Party becoming subject to any injunctive or other equitable relief.

5.3 Limitations on Indemnification .

5.3.1 The provisions for indemnity under Section 5.1.1(a) shall be effective only (a) for any individual claim or series of related claims arising from the same facts and circumstances where the Loss exceeds [***] and (b) when the aggregate amount of all Losses for claims or series of related claims arising from the same facts and circumstances in excess of [***] for which indemnification is sought from Sellers exceeds [***], in which case the Buyer Indemnitee shall be entitled to indemnification of such Buyer Indemnitee's Losses in excess thereof. In no event shall Sellers have liability for indemnification under Section 5.1.1(a) for any amount exceeding, in the aggregate, [***]; *provided* , *however* , that (x) the foregoing limitations on indemnification under this Section 5.3.1 shall not apply to breaches of any Fundamental Representations or to any claims for indemnification based on common law fraud and (y) Sellers shall not have liability for indemnification under Section 5.1.1(a) with respect to breaches of any Fundamental Representations or Section 5.1.1(b) for any amount exceeding, in the aggregate, the Closing Payments. Notwithstanding anything to the contrary, no Party shall be liable for any Loss to the extent arising from (a) a change in accounting or taxation Law, policy or practice made after the Closing, other than a change required to comply with any Law, policy or practice in effect on the Closing Date, (b) any Law not in force on the date hereof or any change in Law which takes effect retroactively, or (c) any increase in the rates of taxation in force on the Closing Date.

5.3.2 The Indemnified Party shall take all commercially reasonable steps to mitigate any Losses incurred by such Party upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any indemnification rights hereunder. The amount of Losses recovered by an Indemnified Party under Section 5.1.1 or Section 5.1.2, as applicable, shall be reduced by (a) any amounts actually recovered by the Indemnified Party from a Third Party in connection with such claim and (b) the amount of any insurance proceeds actually paid to the Indemnified Party relating to such claim, in each case ((a) and (b)), net of the Indemnified Party's costs of recovery. Buyer and Sellers each shall use commercially reasonable efforts to pursue claims against Third Parties and to collect insurance proceeds for any Loss that is subject to indemnification by Sellers under Section 5.1.1. If any amounts referenced in the preceding clauses (a) and (b) are received after payment by the Indemnifying Party of the full amount otherwise required to be paid to an Indemnified Party pursuant to this Article 5, the Indemnified Party shall repay to the Indemnifying Party, promptly after such receipt, any amount that the Indemnifying Party would not have had to pay pursuant to this Article 5 had such amounts been received prior to such payment.

5.3.3 If the Indemnified Party receives any payment from an Indemnifying Party in respect of any Losses pursuant to Section 5.1.1 or Section 5.1.2 and the Indemnified Party could have recovered all or a part of such Losses from a Third Party based on the underlying claim asserted against the Indemnifying Party, the Indemnified Party shall assign such of its rights to proceed against such Third Party as are necessary to permit the Indemnifying Party to recover from the Third Party the amount of such payment.

5.3.4 Except for the Fundamental Representations, which shall survive until 45 days after the expiration of the applicable statute of limitations, the representations and warranties of Sellers and Buyer contained in this Agreement shall survive the Closing and continue in full force and effect thereafter through and including the first anniversary of the Closing Date. Any obligation of a Party to indemnify the other Party in respect of any breach of any covenant or agreement which is to be performed following the Closing shall survive until the earlier of performance of the covenant or agreement and the applicable statute of limitations, except as otherwise specified herein.

5.3.5 For the avoidance of doubt, no Indemnified Party shall be entitled to indemnification under this Article 5 in respect of any Loss to the extent such Indemnified Party has been previously indemnified or reimbursed in respect of such Loss pursuant to any other provision of this Agreement or any provision of any Ancillary Agreement.

5.3.6 For purposes of calculating the amount of any Losses arising out of or related to (a) any breach by Sellers of any of the representations of warranties made by Sellers in Article 3 and (b) any breach by Buyer of any of the representations of warranties made by Buyer in Article 3, any references in any such representation or warranty to "material," "materiality," "Material Adverse Effect," or similar materiality-based qualifications shall be disregarded.

5.4 Tax Treatment of Indemnification Payments . All payments made pursuant to this Article 5 shall be treated as adjustments to the Closing Payments for all Tax purposes, unless otherwise required by applicable Law.

5.5 Exclusive Remedy . Except as expressly provided otherwise in this Agreement, each Party acknowledges and agrees that, following the Closing, the remedies provided for in this Article 5 shall be the sole and exclusive remedies for claims for monetary damages available to the Parties and their respective Affiliates arising out of or relating to this Agreement and the transactions contemplated hereby, except that nothing herein shall limit the Liability of either Party for common law fraud with respect to matters addressed herein; *provided* , *however* , that either Party may also seek equitable relief, including the remedies of specific performance or injunction, in accordance with Section 6.9 with respect to the breach of any covenant or agreement to be performed pursuant to this Agreement at or after the Closing. This Section 5.5 shall not affect either Party's ability to exercise any rights or remedies available to such Party under any Ancillary Agreement with respect to claims arising under such Ancillary Agreement. Notwithstanding anything to the contrary contained in this Agreement, no breach of any representation, warranty, covenant or agreement contained herein shall, after the consummation of the transactions contemplated by this Agreement, give rise to any right on the part of Buyer, on the one hand, or Sellers, on the other hand, to rescind this Agreement or any of the transactions contemplated hereby. Notwithstanding any provision of this Agreement or otherwise, the Parties agree on their own behalf and on behalf of their respective Affiliates that no Non-Recourse Party of a Party shall have any liability relating to this Agreement or any of the transactions contemplated herein, other than in the case of any claim based on common law fraud or intentional misconduct.

5.6 Setoff Rights . Neither Party shall have any right of setoff of any amounts due and payable, or any Liabilities arising, under this Agreement against any other amounts due and payable under this Agreement or any amounts due and payable, or any Liabilities arising, under any Ancillary Agreement, except, that Buyer shall be entitled to offset any indemnification payments owed by Sellers under this Article 5 against the Royalty Payments (as such term is defined in the License Agreement) and otherwise under the License Agreement; *provided, however,* that if Buyer so offsets any indemnification payment owed by Sellers under this Article 5, and it is later finally determined, through judicial process or otherwise by mutual agreement of the Parties, that Seller did not owe the indemnification payment to Buyer that Buyer so offset, then Buyer shall promptly pay to Sellers such wrongfully withheld amount, which amount shall accrue interest at a per annum rate equal to the U.S. Prime Rate, as reported in The Wall Street Journal, Eastern Edition, on the first date on which such payment was delinquent (or, if not available on such date, the U.S. Prime Rate for the last date for which such rate was reported in the Wall Street Journal, Eastern Edition), plus 2% or, if less, the maximum rate permitted by applicable Law, based on the actual number of days elapsed from the due date to the date of actual payment. The payment obligations under each of this Agreement and the Ancillary Agreements remain independent obligations of each Party, irrespective of any amounts owed to any other Party under this Agreement or the respective Ancillary Agreements.

ARTICLE 6
MISCELLANEOUS

6.1 Governing Law, Jurisdiction, Venue and Service .

6.1.1 Governing Law . This Agreement shall be governed by and construed in accordance with the Laws of the State of New York, excluding any conflicts or choice of Law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive Law of another jurisdiction.

6.1.2 Jurisdiction; Waiver of Trial by Jury . Subject to Section 6.9, the Parties hereby irrevocably and unconditionally consent to the exclusive jurisdiction of the courts of the State of New York and the United States District Court for the Southern District of New York for any action, suit or proceeding (other than appeals therefrom) arising out of or relating to this Agreement, and agree not to commence any action, suit or proceeding (other than appeals therefrom) related thereto except in such courts. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT THE PARTIES MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

6.1.3 Venue . The Parties further hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding (other than appeals therefrom) arising out of or relating to this Agreement in the courts of the State of New York or in the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

6.1.4 Service . Each Party further agrees that service of any process, summons, notice or document by registered mail to its address set forth in Section 6.2.2 shall be effective service of process for any action, suit or proceeding brought against it under this Agreement in any such court. Sellers hereby appoint the below Person as their agent to receive service of process in the United States for purposes of this Agreement:

c/o AstraZeneca Pharmaceuticals LP
1800 Concord Pike
Wilmington, Delaware 19803
U.S.A.
Attention: General Counsel

6.2 Notices .

6.2.1 Notice Requirements . Any notice, request, demand, waiver, consent, approval or other communication permitted or required under this Agreement (each, a " **Notice** ") shall be in writing, shall refer specifically to this Agreement and shall be deemed given only if delivered by hand or sent by internationally recognized overnight delivery service that maintains records of delivery, addressed to the Parties, as applicable, at their respective addresses specified in Section 6.2.2 or to such other address as the party to whom notice is to be given may have provided to the other Party (or, in the case of Seller) at least five Business Days prior to such address taking effect in accordance with this Section 6.2. Such Notice shall be deemed to have been given as of the date delivered by hand or internationally recognized overnight delivery service (with receipt confirmed by telephone, solely in the case of delivery of such communication by internationally recognized overnight delivery service that maintains records of delivery).

6.2.2 Address for Notice .

If to Sweden Seller, to:

AstraZeneca AB
SE-431 83 Mölndal, Sweden
Attention: Legal Department

If to UK Seller, to:

AstraZeneca UK Limited
1 Francis Crick Avenue
Cambridge Biomedical Campus
Cambridge CB2 0AA
England
Attention: Company Secretary

and, in each case, a copy (which shall not constitute effective notice) to:

Greenberg Traurig LLP
The Shard, Level 8
32 London Bridge Street
London, SE1 9SG United Kingdom
Attention: Fiona Adams

and

Greenberg Traurig, LLP
200 Park Avenue
New York, New York 10166
Attention: Michael Helsel

If to Buyer, to:

ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
Attention: Arthur Przybyl

with a copy (which shall not constitute effective notice) to:

Dentons US LLP
1221 Avenue of the Americas
New York, NY 10022
Attention: Paul A Gajer

6.3 **No Benefit to Third Parties** . The covenants and agreements set forth in this Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and, except for the rights of Buyer Indemnitees and Seller Indemnitees under Article 5, they shall not be construed as conferring any rights on any other Persons.

6.4 Waiver and Non-Exclusion of Remedies . 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. The waiver by either Party of any right hereunder or of the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by applicable Law or otherwise available except as expressly set forth herein.

6.5 Expenses . Except as otherwise specified herein, and whether or not the Closing takes place, each Party shall bear any costs and expenses incurred by it with respect to the transactions contemplated herein.

6.6 Assignment . Neither this Agreement nor either Party's rights or obligations hereunder may be assigned or delegated by such Party without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed), and any attempted assignment or delegation of this Agreement or any of such rights or obligations by either Party without the prior written consent of the other Party shall be void and of no effect; *provided* , *however* , that (a) each Seller may (i) assign or delegate any or all of its rights or obligations hereunder to (A) an Affiliate or (B) any Third Party that acquires rights to (1) the Products in the Seller Territory, (2) the Authorized Generic Product worldwide, or (3) any product Exploited by Sellers or their respective Affiliates in the Seller Territory or (ii) assign, in whole or in part, its rights to receive any payments hereunder or under the License Agreement to any Third Party, in each case ((a) (i) and (ii)), without the prior written consent of Buyer; and (b) Buyer may assign any or all of its rights and obligations hereunder to (A) an Affiliate or (B) any Third Party that acquires rights to the Products, without the prior written consent of Sellers; *provided* , *further* , that, in each case ((a) and (b)), the assigning Party shall remain liable for the performance or non-performance of any such delegated or assigned obligations notwithstanding any such assignment. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns. Notwithstanding the foregoing, in the event a Party assigns its rights or obligations under this Agreement or otherwise makes payments from a jurisdiction other than the jurisdiction in which such party is organized (each an " **Assignment** "), and immediately after such Assignment the amount of Tax required to be withheld on any payment pursuant to this Agreement is greater than the amount of such Tax that would have been required to have been withheld absent such Assignment, then such increased withholding Tax shall be borne by the Party making such Assignment.

6.7 Amendment . This Agreement, the Exhibits and the Disclosure Schedules may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by both Parties.

6.8 Severability . If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of either Party under this Agreement will not be materially and adversely affected thereby, (a) such provision shall be fully severable, (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and reasonably acceptable to the Parties.

6.9 Equitable Relief . The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement and the transactions contemplated hereby were not performed in accordance with their specific terms or were otherwise breached, and that money damages would be inadequate and the non-breaching Party may have no adequate remedy at law. Accordingly, the Parties agree that such non-breaching Party shall have the right, in addition to any other rights and remedies existing in its favor at law or in equity, to enforce its rights and the other Party's obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive or other equitable relief, in any court of the United States or any state having jurisdiction. Each of the Parties agrees that it shall not oppose the granting of an injunction, specific performance or other equitable relief when expressly available pursuant to the terms of this Agreement, and hereby waives (x) any defenses in any action for an injunction, specific performance or other equitable relief, including the defense that the other Party has an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or equity, and (y) any requirement under law to post a bond, undertaking or other security as a prerequisite to obtaining equitable relief.

6.10 Damages Waiver . TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS A RESULT OF COMMON LAW FRAUD OR WILLFUL MISCONDUCT WITH RESPECT TO MATTERS ADDRESSED HEREIN, NEITHER BUYER NOR SELLERS SHALL BE LIABLE TO THE OTHER, OR THEIR RESPECTIVE AFFILIATES, FOR ANY CLAIMS, DEMANDS OR SUITS FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR MULTIPLE DAMAGES, FOR LOSS OF PROFITS, REVENUE OR INCOME, DIMINUTION IN VALUE OR LOSS OF BUSINESS OPPORTUNITY (WHETHER OR NOT FORESEEABLE ON THE CLOSING DATE), CONNECTED WITH OR RESULTING FROM ANY BREACH OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION HEREWITH, OR RELATED HERETO, INCLUDING ANY SUCH DAMAGES WHICH ARE BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW OR ANY OTHER THEORY OF RECOVERY.

6.11 English Language . This Agreement shall be written and executed in, and all other communications under or in connection with this Agreement shall be in, the English language. Any translation into any other language shall not be an official version thereof, and in the event of any conflict in interpretation between the English version and such translation, the English version shall control.

6.12 Bulk Sales Statutes . Buyer hereby waives compliance by Sellers with the requirements and provisions of any applicable bulk sales or bulk transfer Laws in any jurisdiction that may otherwise be applicable in connection with the transactions under this Agreement; *provided* , for the avoidance of doubt, that Sellers shall indemnify Buyer for any Losses incurred by any Buyer Indemnitee arising out of or related to Sellers' failure to comply with any such applicable bulk sales or bulk transfer Laws.

6.13 Counterparts . This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement. This Agreement and each Ancillary Agreement, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or scanned pages via electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as physical delivery of the paper document bearing the original signature. At the request of any party to this Agreement or any Ancillary Agreement, each other party shall re-execute original forms hereof or thereof, as the case may be, and deliver them to each other such party. No party to this Agreement or any Ancillary Agreement shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or contract was transmitted or communicated through the use of facsimile machine or email as a defense to the formation of a contract, and each party to this Agreement or any such Ancillary Agreement forever waives any such defense.

6.14 Entire Agreement . This Agreement, together with the Schedules and Exhibits expressly contemplated hereby and attached hereto, the Disclosure Schedules, the Ancillary Agreements and the other agreements, certificates and documents delivered in connection herewith or therewith or otherwise in connection with the transactions contemplated hereby and thereby, contain the entire agreement between the Parties with respect to the transactions contemplated hereby or thereby and supersede all prior agreements, understandings, promises and representations, whether written or oral, between the Parties with respect to the subject matter hereof and thereof, including the Confidentiality Agreement. In the event of any inconsistency between any such Schedules and Exhibits and this Agreement, the terms of this Agreement shall govern.

[*Signature page follows*]

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

ASTRAZENECA AB (publ)

By: /s/ Yvonne Bertlin
Name: Yvonne Bertlin
Title: CFO

ASTRAZENECA UK LIMITED

By: /s/ William McIlveen
Name: William Mcilveen
Title: Authorised Signatory

ANI PHARMACEUTICALS, INC.

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

Exhibit 10.26

Execution Version

Confidential Materials Omitted and Filed Separately with the Securities and Exchange Commission Pursuant to a Request for Confidential Treatment under Rule 406 under the Securities Act of 1933, as amended. Confidential Portions are marked: [***]

Published CUSIP Number: 03524QAA1
Revolving Credit CUSIP Number: 03524QAC7
Term Loan CUSIP Number: 03524QAB9

$125,000,000

CREDIT AGREEMENT

among

ANI PHARMACEUTICALS, INC.,
as Borrower,

CERTAIN DOMESTIC SUBSIDIARIES OF THE BORROWER
FROM TIME TO TIME PARTY HERETO,
as Guarantors,

THE LENDERS PARTY HERETO,

and

CITIZENS BANK, N.A.,
as Administrative Agent

Dated as of December 29, 2017

CITIZENS BANK, N.A.,
as Lead Arranger and Bookrunner

Confidential Materials Omitted and Filed Separately with the Securities and Exchange Commission Pursuant to a Request for Confidential Treatment under Rule 406 under the Securities Act of 1933, as amended. Confidential Portions are marked: [***]

TABLE OF CONTENTS

Schedules

Exhibits

Confidential Materials Omitted and Filed Separately with the Securities and Exchange Commission Pursuant to a Request for Confidential Treatment under Rule 406 under the Securities Act of 1933, as amended. Confidential Portions are marked: [***]

THIS CREDIT AGREEMENT , dated as of December 29, 2017, is by and among **ANI PHARMACEUTICALS, INC.** , a Delaware corporation (the " Borrower "), the Guarantors (as hereinafter defined), the Lenders (as hereinafter defined) and **CITIZENS BANK, N.A.** , a national banking association, as administrative agent for the Lenders hereunder (in such capacity, the " Administrative Agent ").

WITNESSETH :

WHEREAS, the Credit Parties (as hereinafter defined) have requested that the Lenders make loans and other financial accommodations to the Credit Parties in an aggregate amount of up to $125,000,000, as more particularly described herein; and

WHEREAS , the Lenders have agreed to make such loans and other financial accommodations to the Credit Parties on the terms and conditions contained herein.

NOW, THEREFORE , for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, such parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Defined Terms .

As used in this Agreement, terms defined in the preamble to this Agreement have the meanings therein indicated, and the following terms have the following meanings:

" Accessible Borrowing Availability " shall mean, as of any date of determination, the amount that the Borrower is able to borrow on such date under the Revolving Committed Amount without a Default or Event of Default occurring or existing after giving pro forma effect to such borrowing.

" Account Designation Notice " shall mean the Account Designation Notice dated as of the Closing Date from the Borrower to the Administrative Agent in substantially the form attached hereto as Exhibit 1.1(a) .

" Acquired Assets " shall mean a collective reference to certain new drug applications and related assets with respect to Atacand, Atacand HCT, Arimidex and Casodex, purchased pursuant to the Acquisition Documents.

" Acquisition " shall mean the purchase of the Acquired Assets by the Borrower pursuant to the Acquisition Documents.

" Acquisition Documents " shall mean (a) that certain Asset Purchase Agreement dated as of December 29, 2017 by and among the Borrower, as the purchaser, and AstraZeneca AB and AstraZeneca UK Limited, as the sellers, and (b) any other material agreement, document or instrument executed in connection with the foregoing, in each case as in effect on the Closing Date.

" Additional Credit Party " shall mean each Person that becomes a Guarantor by execution of a Joinder Agreement in accordance with Section 5.10.

" Administrative Agent " or " Agent " shall have the meaning set forth in the first paragraph of this Agreement and shall include any permitted successors in such capacity.

" Administrative Questionnaire " shall mean an Administrative Questionnaire in a form supplied by the Administrative Agent.

" Affiliate " shall mean, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

" Agreement " or " Credit Agreement " shall mean this Agreement, as amended, modified, extended, restated, replaced, or supplemented from time to time in accordance with its terms.

" Alternate Base Rate " shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% and (c) the sum of (i) LIBOR (as determined pursuant to the definition of LIBOR), for an Interest Period of one (1) month commencing on such day plus (ii) 1.00%, in each instance as of such date of determination. For purposes hereof: " Prime Rate " shall mean, at any time, the rate of interest per annum publicly announced or otherwise identified from time to time by Citizens at its principal office in Boston, Massachusetts as its prime rate. Each change in the Prime Rate shall be effective as of the opening of business on the day such change in the Prime Rate occurs. The parties hereto acknowledge that the rate announced publicly by Citizens as its Prime Rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks; and " Federal Funds Effective Rate " shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published on the next succeeding Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. If for any reason the Administrative Agent shall have determined (which determination shall be conclusive in the absence of manifest error) (A) that it is unable to ascertain the Federal Funds Effective Rate, for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms above or (B) that the Prime Rate or LIBOR no longer accurately reflects an accurate determination of the prevailing Prime Rate or LIBOR, the Administrative Agent may select a reasonably comparable index or source to use as the basis for the Alternate Base Rate, until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in any of the foregoing will become effective on the effective date of such change in the Federal Funds Rate, the Prime Rate or LIBOR for an Interest Period of one (1) month. Notwithstanding anything contained herein to the contrary, to the extent that the provisions of Section 2.13 shall be in effect in determining LIBOR pursuant to clause (c) hereof, the Alternate Base Rate shall be the greater of (i) the Prime Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. In no event shall the Alternate Base Rate be less than 0%.

" Alternate Base Rate Loans " shall mean Loans that bear interest at an interest rate based on the Alternate Base Rate.

" Anti-Terrorism Law " shall mean any Requirement of Law related to money laundering or financing terrorism, including, without limitation, (a) the Patriot Act, (b) The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act", 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), (c) the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) and (d) Executive Order 13224 (effective September 24, 2001).

" Applicable Margin " shall mean, for any day, the rate per annum set forth below opposite the applicable level then in effect (based on the Senior Secured Leverage Ratio), it being understood that the Applicable Margin for (a) Revolving Loans and Term Loans that are Alternate Base Rate Loans shall be the percentage set forth under the column "Base Rate Margin", (b) Revolving Loans and Term Loans that are LIBOR Rate Loans shall be the percentage set forth under the column "LIBOR Margin & L/C Fee", (c) the Letter of Credit Fee shall be the percentage set forth under the column "LIBOR Margin & L/C Fee", and (d) the Commitment Fee shall be the percentage set forth under the column "Commitment Fee":

Applicable Margin

Level	Senior Secured Leverage Ratio	LIBOR Margin & L/C Fee	Base Rate Margin	Commitment Fee
I	Greater than 2.00 to 1.00	2.25%	1.25%	0.350%
II	Greater than 1.50 to 1.00 but less than or equal to 2.00 to 1.00	2.00%	1.00%	0.300%
III	Greater than 1.00 to 1.00 but less than or equal to 1.50 to 1.00	1.75%	0.75%	0.250%
IV	Less than or equal to 1.00 to 1.00	1.50%	0.50%	0.250%

The Applicable Margin shall, in each case, be determined and adjusted quarterly on the date five (5) Business Days after the date on which the Administrative Agent has received from the Borrower the financial information and the certifications required to be delivered to the Administrative Agent and the Lenders in accordance with the provisions of Sections 5.1(a), 5.1(b) and 5.2(b) (each an " Interest Determination Date "). Such Applicable Margin shall be effective from such Interest Determination Date until the next such Interest Determination Date. After the Closing Date, if the Credit Parties shall fail to provide the financial information or certifications in accordance with the provisions of Sections 5.1(a), 5.1(b) and 5.2(b), the Applicable Margin shall, on the date five (5) Business Days after the date by which the Credit Parties were so required to provide such financial information or certifications to the Administrative Agent and the Lenders, be based on Level I until such time as such information or certifications or corrected information or corrected certificates are provided, whereupon the Level shall be determined by the then current Senior Secured Leverage Ratio. Notwithstanding the foregoing, the initial Applicable Margins shall be set at Level III until the financial information and certificates required to be delivered pursuant to Section 5.1 and 5.2 for the fiscal quarter ending March 31, 2018 have been delivered to the Administrative Agent, for distribution to the Lenders. In the event that any financial statement or certification delivered pursuant to Sections 5.1 or 5.2 is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an " Applicable Period ") than the Applicable Margin applied for such Applicable Period, the Borrower shall immediately (a) deliver to the Administrative Agent a corrected compliance certificate for such Applicable Period, (b) determine the Applicable Margin for such Applicable Period based upon the corrected compliance certificate, and (c) promptly pay to the Administrative Agent for the benefit of the Lenders the accrued additional interest and other fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly distributed by the Administrative Agent to the Lenders entitled thereto. It is acknowledged and agreed that nothing contained herein shall limit the rights of the Administrative Agent and the Lenders under the Credit Documents, including their rights under Sections 2.8 and 7.1.

" Applicable Percentage " shall mean, with respect to any Revolving Lender, the percentage of the total Revolving Commitments represented by such Revolving Lender's Revolving Commitment. If the Revolving Commitments have terminated or expired, the Applicable Percentage shall be determined based on the Revolving Commitments most recently in effect, giving effect to any assignments.

" Approved Bank " shall have the meaning set forth in the definition of "Cash Equivalents."

" Approved Fund " shall mean any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

" Arranger " shall mean Citizens.

" Asset Disposition " shall mean the disposition of any or all of the assets (including, without limitation, the Equity Interests of a Subsidiary or any ownership interest in a joint venture) of any Credit Party or any Subsidiary whether by sale, lease, transfer or otherwise, in a single transaction or in a series of transactions. The term "Asset Disposition" shall not include (a) the sale, lease, transfer or other disposition of assets permitted by Subsections 6.4(a)(i) through (v), or (b) any Equity Issuance.

" Assignment and Assumption " shall mean an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.6), and accepted by the Administrative Agent, in substantially the form of Exhibit 1.1(b) or any other form approved by the Administrative Agent.

" Authorized Officers " shall mean the Responsible Officers set forth on Schedule 3.28 .

" Bail-In Action " shall mean the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

" Bail-In Legislation " shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

" Bank Product " shall mean any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) Cash Management Services; (b) products under any Hedging Agreement; and (c) commercial credit card, purchase card and merchant card services; provided , however , that for any of the foregoing to be included as "Credit Party Obligations" for purposes of a distribution under Section 2.11(b), the applicable Bank Product Provider must have previously provided a Bank Product Provider Notice to the Administrative Agent which shall provide the following information: (i) the existence of such Bank Product and (ii) the maximum dollar amount (if reasonably capable of being determined) of obligations arising thereunder (the " Bank Product Amount "). The Bank Product Amount may be changed from time to time upon written notice to the Administrative Agent by the Bank Product Provider. Any Bank Product established from and after the time that the Lenders have received written notice from the Company or the Administrative Agent that an Event of Default exists, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Credit Party Obligations" for purposes of a distribution under Section 2.11(b).

" Bank Product Amount " shall have the meaning set forth in the definition of Bank Product.

" Bank Product Debt " shall mean the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

" Bank Product Provider " shall mean any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that (a) such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under the Credit Agreement or (b) such Person is a Lender or an Affiliate of a Lender on the Closing Date and the Bank Product was entered into on or prior to the Closing Date (even if such Person ceases to be a Lender or such Person's Affiliate ceased to be a Lender).

" Bank Product Provider Notice " shall mean a notice substantially in the form of Exhibit 1.1(g) .

" Bankruptcy Code " shall mean the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

" Bankruptcy Event " shall mean any of the events described in Section 7.1(f).

" Borrower " shall have the meaning set forth in the first paragraph of this Agreement.

" Borrowing Date " shall mean, in respect of any Loan, the date such Loan is made.

" Business " shall have the meaning set forth in Section 3.10.

" Business Day " shall mean any day other than a Saturday, Sunday or other day on which commercial banks in Boston, Massachusetts or New York, New York are authorized or required by law to close; provided , however , that when used in connection with a rate determination, borrowing or payment in respect of a LIBOR Rate Loan, the term "Business Day" shall also exclude any day on which banks in London, England are not open for dealings in Dollar deposits in the London interbank market.

" Capital Lease " shall mean any lease of property, real or personal, the obligations with respect to which are required to be capitalized on a balance sheet of the lessee in accordance with GAAP.

" Capital Lease Obligations " shall mean the capitalized lease obligations relating to a Capital Lease determined in accordance with GAAP.

" Cash Collateralize " shall mean to deposit in a Controlled Account or to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the Issuing Lenders or Lenders, as collateral for LOC Obligations or obligations of Lenders to fund participations in respect of LOC Obligations, cash or deposit account balances or, if the Administrative Agent and each applicable Issuing Lender shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and each applicable Issuing Lender. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

" Cash Equivalents " shall mean (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition (" Government Obligations "), (b) Dollar denominated time deposits, certificates of deposit, Eurodollar time deposits and Eurodollar certificates of deposit of (i) any domestic commercial bank of recognized standing having capital and surplus in excess of $500,000,000 or (ii) any bank whose short-term commercial paper rating at the time of the acquisition thereof is at least A-1 or the equivalent thereof from S&P or from Moody's is at least P-1 or the equivalent thereof from Moody's (any such bank being an " Approved Bank "), in each case with maturities of not more than 364 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within six months of the date of acquisition, (d) repurchase agreements with a term of not more than thirty (30) days with a bank or trust company (including a Lender) or a recognized securities dealer having capital and surplus in excess of $500,000,000 for direct obligations issued by or fully guaranteed by the United States of America, (e) obligations of any state of the United States or any political subdivision thereof for the payment of the principal and redemption price of and interest on which there shall have been irrevocably deposited Government Obligations maturing as to principal and interest at times and in amounts sufficient to provide such payment, (f) money market accounts subject to Rule 2a-7 of the Investment Company Act of 1940 (" Rule 2a-7 ") which consist primarily of cash and cash equivalents set forth in clauses (a) through (e) above and of which 95% shall at all times be comprised of First Tier Securities (as defined in Rule 2a-7) and any remaining amount shall at all times be comprised of Second Tier Securities (as defined in Rule 2a-7) and (g) shares of any so-called "money market fund"; provided that such fund is registered under the Investment Company Act of 1940, has net assets of at least $500,000,000 and has an investment portfolio with an average maturity of 365 days or less.

" Cash Management Services " shall mean any services provided from time to time to any Credit Party or Subsidiary in connection with operating, collections, payroll, trust, or other depository or disbursement accounts, including automatic clearinghouse, controlled disbursement, depository, electronic funds transfer, information reporting, lockbox, stop payment, overdraft and/or wire transfer services and all other treasury and cash management services.

" CFC " shall mean a "controlled foreign corporation" within the meaning of Section 957(a) of the Code.

" CFC Holding Company " shall mean any Domestic Subsidiary with no material assets other than the Equity Interests in one or more CFCs.

" Change in Law " shall mean the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided , that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

" Change of Control " shall mean at any time the occurrence of any of the following events:

(a) the Borrower shall fail to own 100% of the Equity Interests of each Credit Party, except as otherwise permitted under the Credit Documents;

(b) (i) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act), is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a person shall be deemed to have "beneficial ownership" of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of thirty-five percent (35%) or more of the then outstanding Voting Stock of the Borrower or (ii) any Person or two or more Persons acting in concert, shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of the Borrower or control over the Voting Stock of the Borrower on a fully-diluted basis (and taking into account all such Voting Stock that such Person or group has the right to acquire pursuant to any option right) representing thirty-five percent (35%) or more of the then outstanding Voting Stock of the Borrower; or

(c) there shall have occurred under the Existing Notes any "Fundamental Change" (as defined in the Existing Notes Indenture).

" Citizens " shall mean Citizens Bank, N.A., a national banking association, together with its permitted successors and/or assigns.

" Closing Date " shall mean the date of this Agreement.

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

" Collateral " shall mean a collective reference to the collateral which is identified in, and at any time will be covered by, the Security Documents and any other property or assets of a Credit Party, whether tangible or intangible and whether real or personal, that may from time to time secure the Credit Party Obligations; provided that there shall be excluded from the Collateral (a) any account, instrument, chattel paper or other obligation or property of any kind due from, owed by, or belonging to, a Sanctioned Person or Sanctioned Entity, (b) any lease in which the lessee is a Sanctioned Person or Sanctioned Entity and (c) property described in Section 2(e) of the Security Agreement.

" Commitment " shall mean the Revolving Commitments, the LOC Commitment, the Term Loan Commitments and the Swingline Commitment, individually or collectively, as appropriate.

" Commitment Fee " shall have the meaning set forth in Section 2.5(a).

" Commitment Percentage " shall mean the Revolving Commitment Percentage and/or the Term Loan Commitment Percentage, as appropriate.

" Commitment Period " shall mean (a) with respect to Revolving Loans and Swingline Loans, the period from and including the Closing Date to but excluding the Maturity Date and (b) with respect to Letters of Credit, the period from and including the Closing Date to but excluding the date that is thirty (30) days prior to the Maturity Date.

" Committed Funded Exposure " shall mean, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Loans, LOC Obligations and Participation Interests at such time.

" Commodity Exchange Act " means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

" Commonly Controlled Entity " shall mean an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 4001(b)(1) of ERISA or is part of a group which includes the Borrower and which is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 412 of the Code to the extent required by such Section, Section 414(m) or 414(o) of the Code.

" Connection Income Taxes " shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

" Consolidated " shall mean, when used with reference to financial statements or financial statement items of the Borrower and its Subsidiaries or any other Person, such statements or items on a consolidated basis in accordance with the consolidation principles of GAAP.

" Consolidated Capital Expenditures " shall mean, as of any date of determination for the four (4) consecutive fiscal quarter period ending on such date, all expenditures of the Credit Parties and their Subsidiaries on a Consolidated basis for such period in respect of fixed or capital assets that in accordance with GAAP would be classified as capital expenditures, including, without limitation, Capital Lease Obligations. The term "Consolidated Capital Expenditures" shall not include (a) the Acquisition or any Permitted Acquisition, (b) capital expenditures in respect of the reinvestment of proceeds from Extraordinary Receipts in accordance with the terms of Section 2.7(b)(vi), (c) any Investment, or (d) any expenditures which are contractually required to be made and are reimbursed to the Credit Party in cash by a third party, during the period of determination.

" Consolidated EBITDA " shall mean, as of any date of determination for the four (4) consecutive fiscal quarter period ending on such date, without duplication, (a) Consolidated Net Income for such period plus (b) the sum of the following to the extent deducted in calculating Consolidated Net Income for such period: (i) Consolidated Interest Expense for such period, (ii) tax expense (including, without limitation, any federal, state, local and foreign income and similar taxes) of the Credit Parties and their Subsidiaries for such period, (iii) depreciation and amortization expense of the Credit Parties and their Subsidiaries for such period and, to the extent they do not result in a cash charge or expense in any future period, any other non-cash charges and expenses, including amortization of goodwill, debt issue costs and amortization under FAS Rule 123 for such period, (iv) fees and reasonable and documented out-of-pocket expenses incurred in connection with the negotiation, execution and delivery on the Closing Date of the Credit Documents and consummation on the Closing Date of the Transactions in an aggregate amount not to exceed $5,000,000 during any four (4) consecutive fiscal quarter period, (v) non-recurring transaction costs, fees, expenses and charges incurred in connection with Permitted Acquisitions, any other acquisitions, any Dispositions, any Equity Issuance or any issuance of Indebtedness (whether or not such transaction was completed), in each case, permitted hereunder in an aggregate amount during any four (4) consecutive fiscal quarter period not to exceed 5% of the Consolidated EBITDA in such period (calculated prior to giving pro forma effect to such amounts), (vi) non-cash deductions or charges attributable to purchase accounting adjustments made in accordance with GAAP and taken in such period, (vii) non-cash charges incurred during such period with respect to stock based compensation to employees and directors of the Credit Parties, (viii) upfront cash payments in respect of any Hedging Agreement made in such period, (ix) in each case to the extent calculated in good faith by the Credit Parties, the amount of any non-recurring restructuring charge, reserve, integration cost or other business optimization expense or cost that is deducted in such period, including charges directly related to implementation of cost-savings initiatives (including, without limitation, severance, retention, signing bonuses, relocation, recruiting and other employee related costs) in an aggregate amount during any four (4) consecutive fiscal quarter period not to exceed 10% of the Consolidated EBITDA in such period (calculated prior to giving pro forma effect to such amounts), (x) any provision for the reduction in carrying value of assets (including deferred Tax assets) recorded in accordance with GAAP, (xi) any non-cash losses resulting from mark to market activity and (xii) the amount of any expenses, charges or losses for such period that are covered by indemnification or other reimbursement provisions in connection with any Permitted Acquisition, any other acquisition, Investment, Restricted Payment, Equity Issuance, issuance of Indebtedness or Disposition, in each case, permitted hereunder, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and such amount is actually reimbursed within 365 days of such date of determination (it being understood that to the extent not actually received within such 365-day period, such proceeds shall be deducted in the applicable future periods when calculating Consolidated EBITDA), minus (c) non-cash charges previously added back to Consolidated Net Income in determining Consolidated EBITDA to the extent such non-cash charges have become cash charges during such period minus (d) any other non-recurring, non-cash gains during such period (including, without limitation, (i) gains from the sale or exchange of assets and (ii) gains from early extinguishment of Indebtedness or Hedging Agreements of the Credit Parties and their Subsidiaries); provided that, notwithstanding the foregoing, Consolidated EBITDA for the fiscal quarters ending December 31, 2016, March 31, 2017, June 30, 2017 and September 30, 2017 shall be the amounts corresponding to such fiscal quarters set forth on Schedule 1.1(c).

" Consolidated Funded Debt " shall mean, as of any date of determination, Funded Debt of the Credit Parties and their Subsidiaries on a Consolidated basis.

" Consolidated Interest Expense " shall mean, as of any date of determination for the four (4) consecutive fiscal quarter period ending on such date, all interest expense (excluding amortization of debt discount and premium, but including the interest component under Capital Leases and synthetic leases, tax retention operating leases, off-balance sheet loans and similar off-balance sheet financing products) for such period of the Credit Parties and their Subsidiaries on a Consolidated basis, excluding any interest paid or payable with respect to discontinued operations and any upfront fees in connection with the issuance or amendment of Indebtedness and any agent fees and expenses in connection with the issuance or amendment of any Indebtedness.

" Consolidated Net Income " shall mean, as of any date of determination for the four (4) consecutive fiscal quarter period ending on such date, the net income (excluding (a) extraordinary losses and gains, (b) all non-cash income, (c) interest income, (d) tax credits, rebates and other benefits and (e) income received from joint venture investments to the extent not received in cash) of the Credit Parties and their Subsidiaries on a Consolidated basis for such period, all as determined in accordance with GAAP.

" Contingent Payments " shall mean additional consideration to be paid by any Credit Party or its Subsidiary for any Registration that has been previously acquired or that may be acquired by any such Person, in each case, in accordance with the terms of this Agreement, that is payable out of a portion of net sales, net profits or other sales-based milestone with respect to the acquired Registration; provided that the foregoing shall not include any royalty payments or obligations.

" Contractual Obligation " shall mean, as to any Person, any provision of any security issued by such Person or of any contract, agreement, instrument or undertaking to which such Person is a party or by which it or any of its property is bound.

" Control " shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. " Controlling " and " Controlled " shall have meanings correlative thereto.

" Controlled Account " shall mean each deposit account and securities account that is subject to an account control agreement in form and substance satisfactory to the Administrative Agent and each applicable Issuing Lender.

" Copyright Licenses " shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right under any Copyright.

" Copyrights " shall mean all copyrights in all Works, all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof, or otherwise and all renewals thereof.

" Credit Documents " shall mean this Agreement, each of the Notes, any Joinder Agreement, the Letters of Credit, LOC Documents and the Security Documents and all other agreements, documents, certificates and instruments delivered to the Administrative Agent or any Lender by any Credit Party in connection therewith (other than any agreement, document, certificate or instrument related to a Bank Product).

" Credit Party " shall mean any of the Borrower or the Guarantors.

" Credit Party Obligations " shall mean, without duplication, (a) the Obligations and (b) for purposes of the Guaranty, the Security Documents and all provisions under the other Credit Documents relating to the Collateral, the sharing thereof and/or payments from proceeds of the Collateral, all Bank Product Debt, but in all cases excluding Excluded Swap Obligations.

" Debt Issuance " shall mean the issuance of any Indebtedness by any Credit Party or any of its Subsidiaries (excluding any Equity Issuance or any Indebtedness of any Credit Party and its Subsidiaries permitted to be incurred hereunder).

" Debtor Relief Laws " shall mean the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

" Default " shall mean any of the events specified in Section 7.1, whether or not any requirement for the giving of notice or the lapse of time, or both, or any other condition, has been satisfied.

" Default Rate " shall mean (a) when used with respect to the Obligations, other than Letter of Credit Fees, an interest rate equal to (i) for Alternate Base Rate Loans (A) the Alternate Base Rate plus (B) the Applicable Margin applicable to Alternate Base Rate Loans plus (C) 2.00% per annum and (ii) for LIBOR Rate Loans, (A) the LIBOR Rate plus (B) the Applicable Margin applicable to LIBOR Rate Loans plus (C) 2.00% per annum, (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Margin applicable to Letter of Credit Fees plus 2.00% per annum and (c) when used with respect to any other fee or amount due hereunder, a rate equal to (A) the Alternate Base Rate plus (B) the Applicable Margin applicable to Alternate Base Rate Loans plus (C) 2.00% per annum.

" Defaulting Lender " shall mean, subject to Section 2.21(b), any Lender that, (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Lender, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Lender or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.21(b)) upon delivery of written notice of such determination to the Borrower, each Issuing Lender, each Swingline Lender and each Lender.

" Deposit Account Control Agreement " shall mean an agreement, among a Credit Party, a depository institution, and the Administrative Agent, which agreement is in a form acceptable to the Administrative Agent and which provides the Administrative Agent with "control" (as such term is used in Article 9 of the UCC) over the deposit account(s) described therein, as the same may be amended, modified, extended, restated, replaced, or supplemented from time to time.

" Disposition " shall have the meaning set forth in Section 6.4.

" Dollars " and " $ " shall mean dollars in lawful currency of the United States of America.

" Domestic Lending Office " shall mean, initially, the office of each Lender designated as such Lender's Domestic Lending Office shown in such Lender's Administrative Questionnaire; and thereafter, such other office of such Lender as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office of such Lender at which Alternate Base Rate Loans of such Lender are to be made.

" Domestic Subsidiary " shall mean any Subsidiary that is organized and existing under the laws of the United States or any state or commonwealth thereof or under the laws of the District of Columbia.

" EEA Financial Institution " shall mean (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

" EEA Member Country " shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

" EEA Resolution Authority " shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

" Eligible Assignee " shall mean any Person that meets the requirements to be an assignee under Section 9.6(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 9.6(b)(iii)).

" Environmental Laws " shall mean any and all applicable foreign, federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirement of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, as now or may at any time be in effect during the term of this Agreement.

" Equity Interests " shall mean (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general, preferred or limited), (d) in the case of a limited liability company, membership interests and (e) any other interest or participation that confers or could confer on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, without limitation, options, warrants and any other "equity security" as defined in Rule 3a11-1 of the Exchange Act.

" Equity Issuance " shall mean any issuance by any Credit Party or any Subsidiary to any Person which is not a Credit Party or a Subsidiary of (a) shares or interests of its Equity Interests, (b) its Equity Interests pursuant to the exercise of options or warrants or similar rights, (c) any shares or interests of its Equity Interests pursuant to the conversion of any debt securities to equity or (d) warrants or options or similar rights that are exercisable or convertible into shares or interests of its Equity Interests. The term "Equity Issuance" shall not include (i) any Equity Interests issued as consideration for a Permitted Acquisition for which there are no net cash proceeds, (ii) any Disposition or (iii) any Debt Issuance.

" ERISA " shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

" ERISA Plan " shall mean, as of any date of determination, any employee benefit plan which is covered by Title IV of ERISA and in respect of which any Credit Party or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

" EU Bail-In Legislation Schedule " shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

" Eurodollar Reserve Percentage " shall mean for any day, the percentage (expressed as a decimal and rounded upwards, if necessary, to the next higher 1/100th of 1%) which is in effect for such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement (including, without limitation, any basic, supplemental or emergency reserves) in respect of Eurocurrency liabilities, as defined in Regulation D of such Board as in effect from time to time, or any similar category of liabilities for a member bank of the Federal Reserve System in New York City.

" Event of Default " shall mean any of the events specified in Section 7.1; provided , however , that any requirement for the giving of notice or the lapse of time, or both, or any other condition, has been satisfied.

" Exchange Act " shall mean the Securities Exchange Act of 1934, as amended.

" Excluded Domestic Subsidiary " shall mean any Domestic Subsidiary that is (a) a direct or indirect Subsidiary of an Excluded Foreign Subsidiary or (b) a CFC Holding Company.

" Excluded Foreign Subsidiary " shall mean a Foreign Subsidiary which is (a) a CFC, (b) owned by a CFC or (c) all or substantially all of whose assets consist of Equity Interests of a CFC, in each case that has not guaranteed or pledged any of its assets to secure, or with respect to which there shall not have been pledged 65% or more of the Voting Stock to secure, any Indebtedness (other than the Loans) of a Credit Party or any other Subsidiary of the Borrower which is a United States person within the meaning of Section 7701(a)(30) of the Code.

" Excluded Swap Obligation " means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guaranty of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty or security interest is or becomes illegal.

" Excluded Taxes " shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.16, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.16(g) and (d) any U.S. federal withholding Taxes imposed under FATCA.

" Existing Notes " shall mean the 3.00% Convertible Senior Notes due 2019 in the aggregate principal amount of $143,750,000 issued pursuant to the Existing Notes Indenture.

" Existing Notes Condition " shall mean, as of any date, (a) (i) cash of the Credit Parties in an amount sufficient for the full repayment of the principal and interest on the Existing Notes shall have been irrevocably deposited in a lockbox account subject to a Deposit Account Control Agreement pending the repayment and redemption in full of the Existing Notes and (ii) Liquidity, after giving pro forma effect to any such deposit as if such deposit has been used to redeem the Existing Notes, is no less than [***], (b) the outstanding aggregate principal and interest amount of the Existing Notes as of such date is no greater than [***], or (c) the Existing Notes have been refinanced in full with Permitted Refinancing Indebtedness.

" Existing Notes Indenture " shall mean the Indenture, dated as of December 10, 2014 between the Borrower and The Bank of New York Mellon, as trustee, and as supplemented by the First Supplemental Indenture.

" Extension of Credit " shall mean, as to any Lender, the making of a Loan by such Lender, any conversion of a Loan from one Type to another Type, any extension of any Loan or the issuance, extension or renewal of, or participation in, a Letter of Credit or Swingline Loan by such Lender.

" Extraordinary Receipt " shall mean any cash received by or paid to or for the account of any Person not in the ordinary course of business, including Recovery Events, pension plan reversions, proceeds of insurance (other than proceeds of business interruption insurance to the extent such proceeds constitute compensation for lost earnings), condemnation awards (and payments in lieu thereof), indemnity payments (except indemnity payments reimbursing a Credit Party for out of pocket expenses) and any purchase price adjustments (except standard net working capital adjustments); provided , however , that an Extraordinary Receipt shall not include indemnity payments to the extent that payments are received by any Person in respect of any third party claim against such Person and applied to pay (or to reimburse such Person for its prior payment of) such claim and the costs and expenses of such Person with respect thereto.

" FATCA " shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

" FDA " shall mean the United States Food and Drug Administration and any successor thereto.

" Federal Funds Effective Rate " shall have the meaning set forth in the definition of "Alternate Base Rate".

" Fee Letter " shall mean the letter agreement dated December 21, 2017, addressed to the Borrower from Citizens, as amended, modified, extended, restated, replaced, or supplemented from time to time.

" Fixed Charge Coverage Ratio " shall mean, as of any date of determination, for the Credit Parties and their Subsidiaries on a Consolidated basis, the ratio of (a) Consolidated EBITDA for the four (4) consecutive fiscal quarters ending on such date minus Consolidated Capital Expenditures made during the four (4) consecutive fiscal quarter period ending on such date and not financed with Funded Debt minus dividends, distributions, stock repurchases and redemptions and repayments of Indebtedness made pursuant to Section 6.9, in each case paid in cash, during the four (4) consecutive fiscal quarter period ending on such date minus all cash income taxes paid during the four (4) consecutive fiscal quarter period ending on such date to (b) the sum of (i) Consolidated Interest Expense paid or payable in cash during the four (4) consecutive fiscal quarter period ending on such date, (ii) Scheduled Funded Debt Payments made (or required (as of the Closing Date) to be made) during the four (4) consecutive fiscal quarter period ending on such date (including the principal component of payments due on Capital Leases) as such Scheduled Funded Debt Payments are reduced by prepayments of Funded Debt solely to the extent such prepayments were applied to ratably reduce the scheduled amortization of such Funded Debt, if applicable and (iii) except to the extent previously deducted in calculating Consolidated Net Income or Consolidated EBITDA, Contingent Payments made during the four (4) consecutive fiscal quarter period ending on such date. Notwithstanding the foregoing, for purposes of calculating the Fixed Charge Coverage Ratio for the fiscal quarters ending December 31, 2017, March 31, 2018 and June 30, 2018, the components of the Fixed Charge Coverage Ratio attributable to (1) Consolidated Interest Expense and (2) Scheduled Funded Debt Payments during such period ((1) and (2) collectively, the " Fixed Charges ") shall be annualized during such fiscal quarters such that (I) for the calculation of the Fixed Charge Coverage Ratio as of December 31, 2017, Fixed Charges for the fiscal quarter then ending will be multiplied by four (4), (II) for the calculation of the Fixed Charge Coverage Ratio as of March 31, 2018, Fixed Charges for the two fiscal quarter period then ending will be multiplied by two (2) and (III) for the calculation of the Fixed Charge Coverage Ratio as of June 30, 2018, Fixed Charges for the three fiscal quarter period then ending will be multiplied by one and one third (1 1/3).

" Flood Hazard Property " shall mean any Mortgaged Property that is in an area designated by the Federal Emergency Management Agency as having special flood or mudslide hazards.

" Foreign Lender " shall mean (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

" Foreign Subsidiary " shall mean any Subsidiary that either (i) is not a Domestic Subsidiary or (ii) is a CFC Holding Company.

" Fronting Exposure " shall mean, at any time there is a Defaulting Lender, (a) with respect to any Issuing Lender, such Defaulting Lender's Applicable Percentage of the outstanding LOC Obligations with respect to Letters of Credit issued by such Issuing Lender other than LOC Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to any Swingline Lender, such Defaulting Lender's Applicable Percentage of outstanding Swingline Loans made by such Swingline Lender other than Swingline Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders.

" Fund " shall mean any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its activities.

" Funded Debt " shall mean, with respect to any Person, without duplication, all Indebtedness of such Person (other than Indebtedness set forth in clauses (e), (i), (m) (to the extent non-recourse to such Person) and (n) of such definition).

" GAAP " shall mean generally accepted accounting principles in effect in the United States of America (or, in the case of Foreign Subsidiaries with significant operations outside the United States of America, generally accepted accounting principles in effect from time to time in their respective jurisdictions of organization or formation) applied on a consistent basis, subject , however , in the case of determination of compliance with the financial covenants set out in Section 5.9 to the provisions of Section 1.3.

" Government Acts " shall have the meaning set forth in Section 2.17.

" Government Obligations " shall have the meaning set forth in the definition of "Cash Equivalents."

" Governmental Authority " shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

" Guarantor " shall mean the Domestic Subsidiaries of the Borrower as are, or may from time to time become parties to this Agreement.

" Guaranty " shall mean the guaranty of the Guarantors set forth in Article X.

" Guaranty Obligations " shall mean, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including, without limitation, any obligation, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting security therefor, (b) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including, without limitation, keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (c) to lease or purchase property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, or (d) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum principal amount, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made.

" Health Care Laws " shall mean the federal Anti-kickback Statute (42 U.S.C. § 1320a-7b(b)), the Anti-Inducement Law (42 U.S.C. § 1320a-7a(a)(5)), the civil False Claims Act (31 U.S.C. §§ 3729 et seq.), the administrative False Claims Law (42 U.S.C. § 1320a-7b(a)), the civil monetary penalty laws (42 U.S.C. § 1320a-7a), the federal Food, Drug & Cosmetic Act (21 U.S.C. §§ 301 et seq.), the federal Controlled Substances Act (21 U.S.C. § 801 et seq.), HIPAA, the Medicaid Drug Rebate Program (42 U.S.C. § 1396r-8), Medicare average sales price reporting (42 U.S.C. § 1395w-3a), the Public Health Service Act (42 U.S.C. § 256b), the federal TRICARE program (10 U.S.C. §1071 et seq.), the VA Federal Supply Schedule (38 U.S.C. § 8126), and the regulations promulgated pursuant to such laws, each as amended from time to time.

" Hedging Agreements " shall mean, with respect to any Person, any agreement entered into to protect such Person against fluctuations in interest rates, or currency or raw materials values, including, without limitation, any interest rate swap, cap or collar agreement or similar arrangement between such Person and one or more counterparties, any foreign currency exchange agreement, currency protection agreements, commodity purchase or option agreements or other interest or exchange rate hedging agreements.

" Included Products " shall mean any and all drug products that, as of the Closing Date, the Borrower or any of the Subsidiaries sells, offers for sale, imports, promotes, markets, distributes or otherwise commercializes (or possesses the rights to sell, offer for sale, import, promote, market, distribute or otherwise commercialize) anywhere.

" Incremental Facility Increase Amount " shall have the meaning set forth in Section 2.22(f).

" Incremental Term Facility " shall have the meaning set forth in Section 2.22.

" Indebtedness " shall mean, with respect to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations (including, without limitation, earnout obligations) of such Person incurred, issued or assumed as the deferred purchase price of property or services purchased by such Person (other than trade debt incurred in the ordinary course of business) which would appear as liabilities on a balance sheet of such Person, (e) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guaranty Obligations of such Person with respect to Indebtedness of another Person, (h) the principal portion of all Capital Lease Obligations plus any accrued interest thereon, (i) all net obligations of such Person under Hedging Agreements, (j) the maximum amount of all letters of credit issued or bankers' acceptances facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (k) all preferred Equity Interests issued by such Person and which by the terms thereof could be (at the request of the holders thereof or otherwise) subject to mandatory sinking fund payments, redemption or other acceleration, (l) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product plus any accrued interest thereon, (m) all obligations of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer and (n) obligations of such Person under non-compete agreements to the extent such obligations are quantifiable contingent obligations of such Person under GAAP principles.

" Indemnified Taxes " shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

" Indemnitee " shall have the meaning set forth in Section 9.5(b).

" Insolvency " shall mean, with respect to any Multiemployer Plan, the condition that such ERISA Plan is insolvent within the meaning of such term as used in Section 4245 of ERISA.

" Intellectual Property " shall mean, collectively, all Copyrights, Copyright Licenses, Patents, Patent Licenses, Trademarks and Trademark Licenses of the Credit Parties and their Subsidiaries, all goodwill associated therewith and all rights to sue for infringement thereof.

" Intercompany Debt " shall have the meaning set forth in Section 9.19.

" Interest Determination Date " shall have the meaning specified in the definition of "Applicable Margin".

" Interest Payment Date " shall mean (a) as to any Alternate Base Rate Loan, the last Business Day of each March, June, September and December and on the applicable Maturity Date, (b) as to any LIBOR Rate Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any LIBOR Rate Loan having an Interest Period longer than three months, (i) each three (3) month anniversary following the first day of such Interest Period and (ii) the last day of such Interest Period and (d) as to any Loan which is the subject of a mandatory prepayment required pursuant to Section 2.7(b), the date on which such mandatory prepayment is due.

" Interest Period " shall mean, with respect to any LIBOR Rate Loan,

(a) initially, the period commencing on the Borrowing Date or conversion date, as the case may be, with respect to such LIBOR Rate Loan and ending one, two, three or six months thereafter (or twelve months thereafter, subject to availability to all applicable Lenders), as selected by the Borrower in the Notice of Borrowing or Notice of Conversion/Extension given with respect thereto; and

(b) thereafter, each period commencing on the last day of the immediately preceding Interest Period applicable to such LIBOR Rate Loan and ending one, two, three, six, or twelve months thereafter, subject to availability to all applicable Lenders, as selected by the Borrower by irrevocable notice to the Administrative Agent not less than three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that the foregoing provisions are subject to the following:

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

(ii) any Interest Period pertaining to a LIBOR Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month;

(iii) if the Borrower shall fail to give notice as provided above, the Borrower shall be deemed to have selected an Alternate Base Rate Loan to replace the affected LIBOR Rate Loan;

(iv) no Interest Period in respect of any Loan shall extend beyond the applicable Maturity Date and, further with regard to the Term Loan, no Interest Period shall extend beyond any principal amortization payment date with respect to such Term Loan unless the portion of such Term Loan consisting of Alternate Base Rate Loans together with the portion of such Term Loan consisting of LIBOR Rate Loans with Interest Periods expiring prior to or concurrently with the date such principal amortization payment date is due, is at least equal to the amount of such principal amortization payment due on such date; and

(v) no more than six (6) LIBOR Rate Loans may be in effect at any time. For purposes hereof, LIBOR Rate Loans with different Interest Periods shall be considered as separate LIBOR Rate Loans, even if they shall begin on the same date and have the same duration, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new LIBOR Rate Loan with a single Interest Period.

" Internal Control Event " shall mean a material weakness in, or fraud that involves management or other employees who have a significant role in, any Credit Party's internal controls over financial reporting, in each case as described in the Securities Laws.

" Investment " shall mean (a) the acquisition (whether for cash, property, services, assumption of Indebtedness, securities or otherwise) of Equity Interests, other ownership interests or other securities of any Person or bonds, notes, debentures or all or substantially all of the assets of any Person, (b) any deposit with, or advance, loan or other extension of credit to, any Person (other than deposits made in the ordinary course of business) or (c) any other capital contribution to or investment in any Person, including, without limitation, any Guaranty Obligation (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person.

" IRS " shall mean the United States Internal Revenue Service.

" Issuing Lender " shall mean Citizens, in its capacity as issuer of Letters of Credit hereunder, or such other Lender as designated by the Borrower and approved by the Administrative Agent; provided that such Lender has agreed to be an Issuing Lender, together with any permitted successor thereto.

" Issuing Lender Fees " shall have the meaning set forth in Section 2.5(c).

" Joinder Agreement " shall mean a Joinder Agreement in substantially the form of Exhibit 1.1(c) , executed and delivered by an Additional Credit Party in accordance with the provisions of Section 5.10.

" Lenders " shall mean the Persons listed on Schedule 2.1(a) and any other Person that shall have become party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context requires otherwise, the term "Lenders" includes the Swingline Lenders.

" Letter of Credit " shall mean any letter of credit issued by the Issuing Lender pursuant to the terms hereof, as such letter of credit may be amended, modified, restated, extended, renewed, increased, replaced or supplemented from time to time in accordance with the terms of this Agreement.

" Letter of Credit Facing Fee " shall have the meaning set forth in Section 2.5(c).

" Letter of Credit Fee " shall have the meaning set forth in Section 2.5(b).

" LIBOR " shall mean, for any LIBOR Rate Loan for any Interest Period therefor, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time), on the date that is two (2) Business Days prior to the commencement of such Interest Period by reference to the rate set by ICE Benchmark Administration for deposits in Dollars (as set forth by any service selected by the Administrative Agent that has been nominated by ICE Benchmark Administration as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period; provided , however, that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition (other than as a result of LIBOR (or the publishing of LIBOR) being discontinued), "LIBOR" shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two (2) Business Days prior to the beginning of such Interest Period. If such day is not a Business Day, LIBOR shall be determined on the next preceding day which is a Business Day. If the LIBOR rate (or the publishing thereof) is discontinued at any time, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend this definition to provide for a reference rate to replace LIBOR (subject to the approval of the Required Lenders); provided that until such alternative reference rate is agreed, the Administrative Agent may, in its reasonable discretion, use an alternative method to select a rate calculated by the Administrative Agent to adequately and fairly reflect the cost to the Lenders of funding Loans hereunder. Notwithstanding the foregoing, for purposes of this Agreement, LIBOR shall in no event be less than 0% at any time.

" LIBOR Lending Office " shall mean, initially, the office(s) of each Lender designated as such Lender's LIBOR Lending Office in such Lender's Administrative Questionnaire; and thereafter, such other office of such Lender as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office of such Lender at which the LIBOR Rate Loans of such Lender are to be made.

" LIBOR Rate " shall mean a rate per annum (rounded upwards, if necessary, to the next higher 1/100th of 1%) determined by the Administrative Agent pursuant to the following formula:

$$\text{LIBOR Rate} = \frac{\text{LIBOR}}{\text{1.0 - Eurodollar Reserve Percentage}}$$

" LIBOR Rate Loan " shall mean Loans the rate of interest applicable to which is based on the LIBOR Rate.

" LIBOR Tranche " shall mean the collective reference to LIBOR Rate Loans whose Interest Periods begin and end on the same day.

" Lien " shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, (a) any conditional sale or other title retention agreement and any Capital Lease having substantially the same economic effect as any of the foregoing and (b) the filing of, or the agreement to give, any UCC financing statement).

" Liquidity " shall mean the aggregate amount of (a) Unrestricted Cash plus (b) Accessible Borrowing Availability.

" Loan " shall mean a Revolving Loan, the Term Loan, a Swingline Loan and/or an Incremental Term Facility, as appropriate.

" LOC Commitment " shall mean the commitment of the Issuing Lender to issue Letters of Credit and with respect to each Revolving Lender, the commitment of such Revolving Lender to purchase Participation Interests in the Letters of Credit up to such Lender's LOC Commitment as specified in Schedule 2.1(a) , or in the Assignment and Assumption pursuant to which such Lender became a Lender hereunder, as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 9.6(b), as such amount may be reduced from time to time in accordance with the provisions hereof.

" LOC Committed Amount " shall have the meaning set forth in Section 2.3(a).

" LOC Documents " shall mean, with respect to each Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (a) the rights and obligations of the parties concerned or (b) any collateral for such obligations.

" LOC Obligations " shall mean, at any time, the sum of (a) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus (b) the aggregate amount of all drawings under Letters of Credit honored by the Issuing Lender but not theretofore reimbursed.

" Mandatory LOC Borrowing " shall have the meaning set forth in Section 2.3(e).

" Mandatory Swingline Borrowing " shall have the meaning set forth in Section 2.4(b)(ii).

" Material Adverse Effect " shall mean a material adverse effect on (a) the business, operations, property, assets, condition (financial or otherwise) or liabilities (actual or contingent) of the Borrower or of the Credit Parties and their Subsidiaries taken as a whole, (b) the ability of the Borrower, individually, or the Guarantors, taken as a whole, to perform its or their obligations, as applicable, when such obligations are required to be performed, under this Agreement, any of the Notes or any other Credit Document or (c) the validity or enforceability of this Agreement, any of the Notes or any of the other Credit Documents, the Administrative Agent's Liens (for the benefit of the Secured Parties) on the Collateral or the priority of such Liens or the rights or remedies of the Administrative Agent or the Lenders hereunder or thereunder.

" Material Contract " shall mean (a) any contract or other agreement listed on Schedule 3.23 , (b) any contract or other agreement, written or oral, of the Credit Parties or any of their Subsidiaries involving monetary liability of or to any such Person in an amount in excess of $10,000,000 per annum, (c) any contract or other agreement, written or oral, of the Credit Parties or any of their Subsidiaries representing at least $10,000,000 of the total Consolidated revenues of the Credit Parties and their Subsidiaries for any fiscal year and (d) any other contract, agreement, permit or license, written or oral, of the Credit Parties or any of their Subsidiaries as to which the breach, nonperformance, cancellation or failure to renew by any party thereto, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

" Materials of Environmental Concern " shall mean any gasoline or petroleum (including crude oil or any extraction thereof) or petroleum products or any pollutants, contaminants, hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Law, including, without limitation, asbestos, perchlorate, polychlorinated biphenyls and urea-formaldehyde insulation.

" Maturity Date " shall mean the earlier of (a) the date that is five (5) years following the Closing Date or (b) August 30, 2019, unless one or more of the Existing Notes Conditions has occurred by such date; provided , however , if such date is not a Business Day, the Maturity Date shall be the preceding Business Day.

" Minimum Collateral Amount " shall mean, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 105% of the Fronting Exposure of all Issuing Lenders with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the Issuing Lenders in their sole discretion

" Moody's " shall mean Moody's Investors Service, Inc.

" Mortgage Instrument " shall mean any mortgage, deed of trust or deed to secure debt executed by a Credit Party in favor of the Administrative Agent, for the benefit of the Secured Parties, as the same may be amended, modified, extended, restated, replaced, or supplemented from time to time.

" Mortgage Policy " shall mean, with respect to any Mortgage Instrument, an ALTA mortgagee title insurance policy issued by a title insurance company (the " Title Insurance Company ") selected by the Administrative Agent in an amount satisfactory to the Administrative Agent, in form and substance satisfactory to the Administrative Agent.

" Mortgaged Property " shall mean any owned real property of a Credit Party listed on Schedule 3.16(f)(i) and any other owned real property of a Credit Party that is or will become encumbered by a Mortgage Instrument in favor of the Administrative Agent in accordance with the terms of this Agreement.

" Multiemployer Plan " shall mean an ERISA Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

" Net Cash Proceeds " shall mean the aggregate cash proceeds received by any Credit Party or any Subsidiary in respect of any Asset Disposition, Equity Issuance, Debt Issuance or Extraordinary Receipt, net of (a) reasonable and customary direct costs (including, without limitation, legal, accounting and investment banking fees, underwriting discounts, principal, interest and prepayment or penalty amounts of any Indebtedness that is secured by applicable assets and that is required to be repaid and sales commissions) associated therewith and paid to Persons who are not Credit Parties or their Affiliates, (b) amounts held in escrow to be applied as part of the purchase price of any Asset Disposition, (c) taxes paid or reasonably estimated to be payable as a result thereof and (d) amounts retained by or paid to parties having superior rights to such proceeds; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received by any Credit Party or any Subsidiary in any Asset Disposition, Debt Issuance or Extraordinary Receipt and any cash released from escrow as part of the purchase price in connection with any Asset Disposition, to the extent not used to replace any asset, as permitted herein.

" Non-Consenting Lender " shall mean any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all or all affected Lenders in accordance with the terms of Section 9.1 and (ii) has been approved by the Required Lenders.

" Non-Defaulting Lender " shall mean, at any time, each Lender that is not a Defaulting Lender at such time.

" Note " or " Notes " shall mean the Revolving Loan Notes, the Term Loan Notes and/or the Swingline Loan Note, collectively, separately or individually, as appropriate.

" Notice of Borrowing " shall mean a request for a Revolving Loan borrowing pursuant to Section 2.1(b)(i), a Term Loan borrowing pursuant to Section 2.2(a), a Swingline Loan borrowing pursuant to Section 2.4(b)(i) or an Incremental Term Loan or Revolving Facility Increase borrowing, as applicable, pursuant to Section 2.22, as appropriate. A Form of Notice of Borrowing is attached as Exhibit 1.1(d) .

" Notice of Conversion/Extension " shall mean the written notice of conversion of a LIBOR Rate Loan to an Alternate Base Rate Loan or an Alternate Base Rate Loan to a LIBOR Rate Loan, or extension of a LIBOR Rate Loan, in each case substantially in the form of Exhibit 1.1(e) .

" Obligations " shall mean, collectively, all of the obligations, Indebtedness and liabilities of the Credit Parties to the Lenders (including the Issuing Lender) and the Administrative Agent, whenever arising, under this Agreement, the Notes or any of the other Credit Documents, including principal, interest, fees, costs, charges, expenses, professional fees, reimbursements, all sums chargeable to the Credit Parties or for which any Credit Party is liable as an indemnitor and whether or not evidenced by a note or other instrument and indemnification obligations and other amounts (including, but not limited to, any interest accruing after the occurrence of a filing of a petition of bankruptcy under the Bankruptcy Code with respect to any Credit Party, regardless of whether such interest is an allowed claim under the Bankruptcy Code). In no event shall the Obligations include any Excluded Swap Obligations.

" OFAC " shall mean the U.S. Department of the Treasury's Office of Foreign Assets Control.

" OID " shall have the meaning set forth in Section 2.22(c).

" Operating Lease " shall mean, as applied to any Person, any lease (including, without limitation, leases which may be terminated by the lessee at any time) of any property (whether real, personal or mixed) which is not a Capital Lease other than any such lease in which that Person is the lessor.

" Other Connection Taxes " shall mean, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Credit Document, or sold or assigned an interest in any Loan or Credit Document).

" Other Taxes " shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

" Participant " shall have the meaning specified in Section 9.6(d).

" Participant Register " shall have the meaning specified in Section 9.6(d).

" Participation Interest " shall mean a participation interest purchased by a Revolving Lender in LOC Obligations as provided in Section 2.3(c) and in Swingline Loans as provided in Section 2.4.

" Patent Licenses " shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right to manufacture, use or sell any invention covered by a Patent.

" Patents " shall mean (a) all letters patent of the United States or any other country, now existing or hereafter arising, and all improvement patents, reissues, reexaminations, patents of additions, renewals and extensions thereof and (b) all applications for letters patent of the United States or any other country and all provisionals, divisions, continuations and continuations-in-part and substitutes thereof.

" Patriot Act " shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

" Payment Event of Default " shall mean an Event of Default specified in Section 7.1(a).

" PBGC " shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA.

" Permit " shall mean, with respect to any Person, any permit, approval, consent, clearance, authorization, license, registration, accreditation, certificate, certification, certificate of need, concession, grant, franchise, variance or permission from, and any other contractual obligation with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or Products or to which such Person or any of its property or Products is subject, including without limitation all Registrations and all Health Care Laws.

" Permitted Acquisition " shall mean an acquisition or any series of related acquisitions by a Credit Party of (a) all or substantially all of the assets or a majority of the outstanding Voting Stock or economic interests of a Person that is incorporated, formed or organized in the United States, (b) a Person that is incorporated, formed or organized in the United States by a merger, amalgamation or consolidation or any other combination with such Person or (c) any division, line of business or other business unit (including new drug applications or abbreviated new drug applications, together with associated inventory in the ordinary course of business) of a Person that is incorporated, formed or organized in the United States (such Person or such division, line of business or other business unit of such Person shall be referred to herein as the " Target "), in each case that is a type of business (or assets used in a type of business) permitted to be engaged in by the Credit Parties and their Subsidiaries pursuant to Section 6.3, in each case so long as:

(i) no Default or Event of Default shall then exist or would exist after giving effect thereto;

(ii) the Credit Parties shall demonstrate to the reasonable satisfaction of the Administrative Agent that, after giving effect to the acquisition on a Pro Forma Basis, (A) the Credit Parties are in compliance with each of the financial covenants set forth in Section 5.9, (B) the Total Leverage Ratio shall be not greater than 0.25 to 1.0 less than the then applicable level set forth in Section 5.9 and (C) the Senior Secured Leverage Ratio shall be not greater than 0.25 to 1.0 less than the then applicable level set forth in Section 5.9;

(iii) the Administrative Agent, on behalf of the Secured Parties, shall have received (or shall receive in connection with the closing of such acquisition) a first priority perfected security interest in all property (including, without limitation, Equity Interests) acquired with respect to the Target in accordance with the terms of Sections 5.10 and 5.12 and the Target, if a Person, shall have executed a Joinder Agreement in accordance with the terms of Section 5.10;

(iv) the Administrative Agent and the Lenders shall have received (A) a description of the material terms of such acquisition, (B) if the Target is a Person, audited financial statements (or, if unavailable, management-prepared financial statements) of the Target for its two most recent fiscal years and for any fiscal quarters ended within the fiscal year to date, (C) Consolidated projected balance sheet, income and cash flow statements of the Credit Parties and their Subsidiaries (giving effect to such acquisition), and (D) not less than five (5) Business Days prior to the consummation of any Permitted Acquisition with a purchase price in excess of $10,000,000, a certificate substantially in the form of Exhibit 1.1(f) , executed by an Authorized Officer of the Borrower certifying that such Permitted Acquisition complies with the requirements of this Agreement;

(v) if the Target is a Person, such acquisition shall not be a "hostile" acquisition and shall have been approved by the Board of Directors (or equivalent) and/or shareholders (or equivalent) of the applicable Credit Party and the Target; and

(vi) after giving effect to such acquisition, Liquidity shall be no less than [***].

" Permitted Investments " shall have the meaning set forth in Section 6.5.

" Permitted Liens " shall have the meaning set forth in Section 6.2.

" Permitted Refinancing Indebtedness " shall mean Indebtedness incurred by the Borrower solely to refinance the Existing Notes so long as such refinanced Indebtedness (a) is not subject to a Lien, (b) does not mature prior to the date that is 180 days after the Maturity Date and (c) is otherwise subject to terms and conditions reasonably acceptable to the Administrative Agent.

" Person " shall mean any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

" Platform " shall mean Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system.

" Pledge Agreement " shall mean the Pledge Agreement dated as of the Closing Date executed by the Credit Parties in favor of the Administrative Agent, for the benefit of the Secured Parties, as the same may from time to time be amended, modified, extended, restated, replaced, or supplemented from time to time in accordance with the terms hereof and thereof.

" Prime Rate " shall have the meaning set forth in the definition of Alternate Base Rate.

" Pro Forma Basis " shall mean, with respect to any transaction, that such transaction shall be deemed to have occurred as of the first day of the four-quarter period (or twelve month period, as applicable) ending as of the most recent quarter end (or month end, as applicable) preceding the date of such transaction for which financial statement information is available.

" Products " shall mean any item or any service that is designed, created, manufactured, managed, performed, or otherwise used, offered, or handled by or on behalf of the Credit Parties or any of their Subsidiaries.

" Properties " shall have the meaning set forth in Section 3.10(a).

" Public Health Laws " shall mean all applicable Requirements of Law relating to the procurement, development, manufacture, production, analysis, distribution, dispensing, importation, exportation, use, handling, quality, sale, or promotion of any drug, medical device, food, dietary supplement, or other product (including, without limitation, any ingredient or component of the foregoing products) subject to regulation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. et seq.) and similar state laws, controlled substances laws, pharmacy laws, or consumer product safety laws.

" Qualified ECP Guarantor " shall mean, in respect of any Swap Obligation, each Guarantor that has total assets exceeding $10,000,000 at the time such Swap Obligation is incurred or such other person as constitutes an ECP under the Commodity Exchange Act or any regulations promulgated thereunder.

" Recipient " shall mean (a) the Administrative Agent, (b) any Lender or (c) any Issuing Lender, as applicable.

" Recovery Event " shall mean the receipt by any Credit Party or its Subsidiaries of any cash insurance proceeds or condemnation award payable by reason of theft, loss, physical destruction or damage, taking or similar event with respect to any of their respective property or assets.

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

" Registrations " shall mean all Permits and exemptions issued or allowed by any Governmental Authority (including but not limited to new drug applications, abbreviated new drug applications, biologics license applications, investigational new drug applications, over-the-counter drug monograph, device pre-market approval applications, device pre-market notifications, investigational device exemptions, product recertifications, manufacturing approvals and authorizations, pricing and reimbursement approvals, labeling approvals or their foreign equivalent, controlled substance registrations, pharmacy registrations, and wholesale distributor permits) held by, or applied by contract to, any Credit Party or any of its Subsidiaries, that are required for the research, development, manufacture, distribution, marketing, storage, transportation, use and sale of the Products of any Credit Party or any of its Subsidiaries.

" Regulatory Matters " shall mean, collectively, activities and Products that are subject to Public Health Laws.

" Reimbursement Obligation " shall mean the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 2.3(d) for amounts drawn under Letters of Credit.

" Related Parties " shall mean, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

" Reorganization " shall mean, with respect to any Multiemployer Plan, the condition that such ERISA Plan is in reorganization within the meaning of such term as used in Section 4241 of ERISA.

" Reportable Event " shall mean any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty-day notice period is waived under PBGC Reg. §4043.

" Required Lenders " shall mean, at any time, Lenders having Total Credit Exposures representing more than fifty percent (50)% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time **.**

" Requirement of Law " shall mean, as to any Person, (a) the articles or certificate of incorporation, by-laws or other organizational or governing documents of such Person, and (b) all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority (in each case whether or not having the force of law); in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

" Responsible Officer " shall mean, for any Credit Party, the chief executive officer, the president or chief financial officer of such Credit Party and any additional responsible officer that is designated as such to the Administrative Agent.

" Restricted Payment " shall mean (a) any dividend or other distribution, direct or indirect, on account of any shares (or equivalent) of any class of Equity Interests of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares (or equivalent) of any class of Equity Interests of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Equity Interests of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (d) [reserved], (e) any payment or prepayment of principal of, premium, if any, or interest on, redemption, purchase, retirement, defeasance, sinking fund or similar payment with respect to, the Existing Notes or any Subordinated Debt of any Credit Party or any of its Subsidiaries, (f) the payment by any Credit Party or any of its Subsidiaries of any management, advisory or consulting fee to any Affiliate (excluding ordinary course investment banking fees and consulting fees) or (g) the payment of any extraordinary salary, bonus or other form of compensation to any Person who is directly or indirectly a significant partner, shareholder or owner of any such Person, to the extent such extraordinary salary, bonus or other form of compensation is not included in the corporate overhead of such Credit Party or such Subsidiary.

" Revolving Commitment " shall mean, with respect to each Revolving Lender, the commitment of such Revolving Lender to make Revolving Loans in an aggregate principal amount at any time outstanding up to an amount equal to such Revolving Lender's Revolving Commitment Percentage of the Revolving Committed Amount as specified in Schedule 2.1(a) , or in the Assignment and Assumption pursuant to which such Lender became a Lender hereunder, as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 9.6(b), as such amount may be reduced from time to time in accordance with the provisions hereof.

" Revolving Commitment Percentage " shall mean, for any Revolving Lender, the percentage identified as its Revolving Commitment Percentage on Schedule 2.1(a) , or in the Assignment and Assumption pursuant to which such Lender became a Lender hereunder, as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 9.6(b).

" Revolving Committed Amount " shall have the meaning set forth in Section 2.1(a).

" Revolving Credit Exposure " shall mean, as to any Revolving Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Revolving Lender's participation in LOC Obligations and Swingline Loans at such time.

" Revolving Facility " shall have the meaning set forth in Section 2.1(a).

" Revolving Facility Increase " shall have the meaning set forth in Section 2.22.

" Revolving Lender " shall mean, as of any date of determination, a Lender holding a Revolving Commitment, a Revolving Loan or a Participation Interest on such date.

" Revolving Loan " shall have the meaning set forth in Section 2.1.

" Revolving Loan Note " or " Revolving Loan Notes " shall mean the promissory notes of the Borrower provided pursuant to Section 2.1(e) in favor of any of the Revolving Lenders evidencing the Revolving Loan provided by any such Revolving Lender pursuant to Section 2.1(a), individually or collectively, as appropriate, as such promissory notes may be amended, modified, extended, restated, replaced, or supplemented from time to time.

" S&P " shall mean Standard & Poor's Financial Services LLC, a subsidiary of The McGraw Hill Companies, Inc.

" Sanctioned Entity " shall mean (a) a country or a government of a country, (b) an agency of the government of a country, (c) an organization directly or indirectly controlled by a country or its government, or (d) a person or entity resident in or determined to be resident in a country, that is subject to a country sanctions program administered and enforced by OFAC.

" Sanctioned Person " shall mean a person named on the list of Specially Designated Nationals maintained by OFAC.

" Sanctions " shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the United Nations Security Council, (c) the European Union, (d) any European Union member state, (e) Her Majesty's Treasury of the United Kingdom or (f) any other relevant sanctions authority.

" Sarbanes-Oxley " shall mean the Sarbanes-Oxley Act of 2002.

" Scheduled Funded Debt Payments " shall mean, as of any date of determination for the four (4) consecutive fiscal quarter period ending on such date, the sum of all regularly scheduled payments of principal on Funded Debt of the Credit Parties and their Subsidiaries on a Consolidated basis for the applicable period ending on the date of determination (including the principal component of payments due on Capital Leases during the applicable period ending on the date of determination).

" SEC " shall mean the Securities and Exchange Commission or any successor Governmental Authority.

" Secured Parties " shall mean the Administrative Agent, the Lenders and the Bank Product Providers.

" Securities Account Control Agreement " shall mean an agreement, among a Credit Party, a securities intermediary, and the Administrative Agent, which agreement is in a form reasonably acceptable to the Administrative Agent and which provides the Administrative Agent with "control" (as such term is used in Articles 8 and 9 of the UCC) over the securities account(s) described therein, as the same may be as amended, modified, extended, restated, replaced, or supplemented from time to time.

" Securities Act " shall mean the Securities Act of 1933, together with any amendment thereto or replacement thereof and any rules or regulations promulgated thereunder.

" Securities Laws " shall mean the Securities Act, the Exchange Act, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date hereunder.

" Security Agreement " shall mean the Security Agreement dated as of the Closing Date executed by the Credit Parties in favor of the Administrative Agent, for the benefit of the Secured Parties, as amended, modified, extended, restated, replaced, or supplemented from time to time in accordance with its terms.

" Security Documents " shall mean the Security Agreement, the Pledge Agreement, any Deposit Account Control Agreement, any Securities Account Control Agreement, the Mortgage Instruments and all other agreements, documents and instruments relating to, arising out of, or in any way connected with any of the foregoing documents or granting to the Administrative Agent, for the benefit of the Secured Parties, Liens or security interests to secure, inter alia, the Credit Party Obligations whether now or hereafter executed and/or filed, each as may be amended from time to time in accordance with the terms hereof, executed and delivered in connection with the granting, attachment and perfection of the Administrative Agent's security interests and liens arising thereunder, including, without limitation, UCC financing statements.

" Senior Funded Debt " shall mean, as of any date of determination for the Credit Parties and their Subsidiaries, all Funded Debt (including, without limitation, Extensions of Credit hereunder) which is not Subordinated Debt.

" Senior Secured Leverage Ratio " shall mean, as of any date of determination, for the Credit Parties and their Subsidiaries on a Consolidated basis, the ratio of (a) Senior Funded Debt on such date, subject to a Lien, to (b) Consolidated EBITDA for the four (4) consecutive fiscal quarters ending on such date.

" Single Employer Plan " shall mean any ERISA Plan that is not a Multiemployer Plan.

" Specified Equity Contribution " shall have the meaning set forth in Section 5.9(d).

" Subordinated Debt " shall mean any Indebtedness incurred by any Credit Party which by its terms is specifically subordinated in right of payment to the prior payment of the Credit Party Obligations and contains subordination and other terms acceptable to the Administrative Agent.

" Subsidiary " shall mean, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, limited liability company, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

" Swap Obligations " shall mean, with respect to any Guarantor, an obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of § 1a(47) of the Commodity Exchange Act.

" Swingline Commitment " shall mean the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding up to the Swingline Committed Amount, and the commitment of the Revolving Lenders to purchase participation interests in the Swingline Loans as provided in Section 2.4(b)(ii), as such amounts may be reduced from time to time in accordance with the provisions hereof.

" Swingline Committed Amount " shall mean the amount of the Swingline Lender's Swingline Commitment as specified in Section 2.4(a).

" Swingline Lender " shall mean Citizens, in its capacity as lender of Swingline Loans hereunder, or such other Lender as designated by the Borrower and approved by the Administrative Agent; provided that such Lender has agreed to be a Swingline Lender, together with any permitted successor thereto.

" Swingline Loan " shall have the meaning set forth in Section 2.4(a).

" Swingline Loan Note " shall mean the promissory note of the Borrower in favor of the Swingline Lender evidencing the Swingline Loans provided pursuant to Section 2.4(d), as such promissory note may be amended, modified, extended, restated, replaced, or supplemented from time to time.

" Target " shall have the meaning set forth in the definition of "Permitted Acquisition".

" Taxes " shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

" Term Loan " shall have the meaning set forth in Section 2.2(a).

" Term Loan Commitment " shall mean, with respect to each Term Loan Lender, the commitment of such Term Loan Lender to make its portion of the Term Loan in a principal amount equal to such Term Loan Lender's Term Loan Commitment Percentage of the Term Loan Committed Amount.

" Term Loan Commitment Percentage " shall mean, for any Term Loan Lender, the percentage identified as its Term Loan Commitment Percentage on Schedule 2.1(a) , or in the Assignment and Assumption pursuant to which such Lender became a Lender hereunder, as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 9.6(b).

" Term Loan Committed Amount " shall have the meaning set forth in Section 2.2(a).

" Term Loan Facility " shall have the meaning set forth in Section 2.2(a).

" Term Loan Lender " shall mean a Lender holding a Term Loan Commitment or a portion of the outstanding Term Loan.

" Term Loan Note " or " Term Loan Notes " shall mean the promissory notes of the Borrower (if any) in favor of any of the Term Loan Lenders evidencing the portion of the Term Loan provided by any such Term Loan Lender pursuant to Section 2.2(a), individually or collectively, as appropriate, as such promissory notes may be amended, modified, extended, restated, replaced, or supplemented from time to time.

" Title Insurance Company " shall have the meaning set forth in the definition of " Mortgage Policy ".

" Total Credit Exposure " shall mean, as to any Lender at any time, the unused Commitments, Revolving Credit Exposure and outstanding Term Loans of such Lender at such time.

" Total Leverage Ratio " shall mean, as of any date of determination, for the Credit Parties and their Subsidiaries on a Consolidated basis, the ratio of (a) Consolidated Funded Debt on such date to (b) Consolidated EBITDA for the four (4) consecutive quarters ending on such date.

" Trademark License " shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right to use any Trademark.

" Trademarks " shall mean (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, service marks, elements of package or trade dress of goods or services, logos and other source or business identifiers, together with the goodwill associated therewith, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof and (b) all renewals thereof.

" Tranche " shall mean the collective reference to (a) LIBOR Rate Loans whose Interest Periods begin and end on the same day and (b) Alternate Base Rate Loans made on the same day.

" Transactions " shall mean the closing of this Agreement and the other Credit Documents and the consummation of the Acquisition and the other transactions contemplated hereby and pursuant to the other Credit Documents (including, without limitation, the initial borrowings under the Credit Documents and the payment of fees and expenses in connection with all of the foregoing).

" Transfer Effective Date " shall have the meaning set forth in each Assignment and Assumption.

" Type " shall mean, as to any Loan, its nature as an Alternate Base Rate Loan or LIBOR Rate Loan, as the case may be.

" UCC " shall mean the Uniform Commercial Code from time to time in effect in any applicable jurisdiction.

" Unrestricted Cash " shall mean cash and Cash Equivalents of the Credit Parties, excluding cash and Cash Equivalents that are "restricted" (in accordance with GAAP) on the consolidated balance sheet of the Borrower and its Subsidiaries as of such date but including the aggregate amount of cash and Cash Equivalents restricted in respect of the Obligations.

" U.S. Borrower " shall mean any Borrower that is a U.S. Person.

" U.S. Person " shall mean any Person that is a "United States Person" as defined in section 7701(a)(30) of the Code.

" U.S. Tax Compliance Certificate " shall have the meaning assigned to such term in Section 2.16(g).

" Voting Stock " shall mean, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote may be or have been suspended by the happening of such a contingency.

" Withholding Agent " shall mean any Credit Party and the Administrative Agent.

" Works " shall mean all works which are subject to copyright protection pursuant to Title 17 of the United States Code.

" Write-Down and Conversion Powers " shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.2 Other Definitional Provisions .

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented, amended and restated or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's permitted successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (f) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.3 Accounting Terms .

(a) Generally . All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the most recently delivered audited Consolidated financial statements of the Borrower, except as otherwise specifically prescribed herein. Notwithstanding anything to the contrary contained herein, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP . If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Credit Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that , until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, any lease that is treated as an operating lease for purposes of GAAP as of the Closing Date shall continue to be treated as an operating lease (and any future lease, if it were in effect on the Closing Date, that would be treated as an operating lease for purposes of GAAP as of the Closing Date shall be treated as an operating lease), in each case for purposes of this Agreement, notwithstanding any change in GAAP after the Closing Date.

(c) Financial Covenant Calculations . The parties hereto acknowledge and agree that, for purposes of all calculations made in determining compliance for any applicable period with the financial covenants set forth in Section 5.9 and for purposes of determining the Applicable Margin, (i) after consummation of any Permitted Acquisition, (A) income statement items and other balance sheet items (whether positive or negative) attributable to the Target acquired in such transaction shall be included in such calculations to the extent relating to such applicable period (including by adding any cost saving synergies associated with such Permitted Acquisition in a manner reasonably satisfactory to the Administrative Agent), subject to adjustments mutually acceptable to the Borrower and the Administrative Agent and (B) Indebtedness of a Target which is retired in connection with a Permitted Acquisition shall be excluded from such calculations and deemed to have been retired as of the first day of such applicable period and (ii) after any Disposition permitted by Section 6.4(a)(vi), (A) income statement items, cash flow statement items and balance sheet items (whether positive or negative) attributable to the property or assets disposed of shall be excluded in such calculations to the extent relating to such applicable period, subject to adjustments mutually acceptable to the Borrower and the Administrative Agent and (B) Indebtedness that is repaid with the proceeds of such Disposition shall be excluded from such calculations and deemed to have been repaid as of the first day of such applicable period.

Section 1.4 Time References .

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.5 Execution of Documents .

Unless otherwise specified, all Credit Documents and all other certificates executed in connection therewith must be signed by an Authorized Officer.

ARTICLE II

THE LOANS; AMOUNT AND TERMS

Section 2.1 Revolving Loans .

(a) Revolving Commitment . During the Commitment Period, subject to the terms and conditions hereof, each Revolving Lender severally, but not jointly, agrees to make revolving credit loans in Dollars (" Revolving Loans ") to the Borrower from time to time in an aggregate principal amount of up to FIFTY MILLION DOLLARS ($50,000,000) (as increased from time to time as provided in Section 2.22 and as such aggregate maximum amount may be reduced from time to time as provided in Section 2.6, the " Revolving Committed Amount ") for the purposes hereinafter set forth (such facility, the " Revolving Facility "); provided , however , that (i) with regard to each Revolving Lender individually, the sum of such Revolving Lender's Revolving Commitment Percentage of the aggregate principal amount of outstanding Revolving Loans plus such Revolving Lender's Revolving Commitment Percentage of outstanding Swingline Loans plus such Revolving Lender's Revolving Commitment Percentage of outstanding LOC Obligations shall not exceed such Revolving Lender's Revolving Commitment and (ii) with regard to the Revolving Lenders collectively, the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect. Revolving Loans may consist of Alternate Base Rate Loans or LIBOR Rate Loans, or a combination thereof, as the Borrower may request, and may be repaid and reborrowed in accordance with the provisions hereof; provided , however , the Revolving Loans made on the Closing Date or any of the three (3) Business Days following the Closing Date, may only consist of Alternate Base Rate Loans unless the Borrower delivers a funding indemnity letter, substantially in the form of Exhibit 2.1(a) , reasonably acceptable to the Administrative Agent not less than three (3) Business Days prior to the Closing Date. LIBOR Rate Loans shall be made by each Revolving Lender at its LIBOR Lending Office and Alternate Base Rate Loans at its Domestic Lending Office.

(b) Revolving Loan Borrowings.

(i) Notice of Borrowing. The Borrower shall request a Revolving Loan borrowing by delivering a written Notice of Borrowing (or telephone notice promptly confirmed in writing by delivery of a written Notice of Borrowing, which delivery may be by fax) to the Administrative Agent not later than 11:00 A.M. on the Business Day prior to the date of the requested borrowing in the case of Alternate Base Rate Loans, and on the third Business Day prior to the date of the requested borrowing in the case of LIBOR Rate Loans. Each such Notice of Borrowing shall be irrevocable and shall specify (A) that a Revolving Loan is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed and (D) whether the borrowing shall be comprised of Alternate Base Rate Loans, LIBOR Rate Loans or a combination thereof, and if LIBOR Rate Loans are requested, the Interest Period(s) therefor. If the Borrower shall fail to specify in any such Notice of Borrowing (1) an applicable Interest Period in the case of a LIBOR Rate Loan, then such notice shall be deemed to be a request for an Interest Period of one month, or (2) the Type of Revolving Loan requested, then such notice shall be deemed to be a request for an Alternate Base Rate Loan hereunder. The Administrative Agent shall give notice to each Revolving Lender promptly upon receipt of each Notice of Borrowing, the contents thereof and each such Revolving Lender's share thereof.

(ii) Minimum Amounts. Each Revolving Loan that is made as an Alternate Base Rate Loan shall be in a minimum aggregate amount of $100,000 and in integral multiples of $100,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less). Each Revolving Loan that is made as a LIBOR Rate Loan shall be in a minimum aggregate amount of $100,000 and in integral multiples of $100,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less).

(iii) Advances. Each Revolving Lender will make its Revolving Commitment Percentage of each Revolving Loan borrowing available to the Administrative Agent for the account of the Borrower at the office of the Administrative Agent specified in Section 9.2, or at such other office as the Administrative Agent may designate in writing, by 1:00 P.M. on the date specified in the applicable Notice of Borrowing, in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent by crediting the account of the Borrower on the books of such office (or such other account that the Borrower may designate in writing to the Administrative Agent) with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

(c) Repayment. Subject to the terms of this Agreement, Revolving Loans may be borrowed, repaid and reborrowed during the Commitment Period, subject to Section 2.7(a). The principal amount of all Revolving Loans shall be due and payable in full on the Maturity Date, unless accelerated sooner pursuant to Section 7.2.

(d) Interest . Subject to the provisions of Section 2.8, Revolving Loans shall bear interest as follows:

(i) Alternate Base Rate Loans . During such periods as any Revolving Loans shall be comprised of Alternate Base Rate Loans, each such Alternate Base Rate Loan shall bear interest at a per annum rate equal to the sum of the Alternate Base Rate plus the Applicable Margin; and

(ii) LIBOR Rate Loans . During such periods as Revolving Loans shall be comprised of LIBOR Rate Loans, each such LIBOR Rate Loan shall bear interest at a per annum rate equal to the sum of the LIBOR Rate plus the Applicable Margin.

Interest on Revolving Loans shall be payable in arrears on each Interest Payment Date.

(e) Revolving Loan Notes; Covenant to Pay . The Borrower's obligation to pay each Revolving Lender shall be evidenced by this Agreement and, upon such Revolving Lender's request, by a duly executed promissory note of the Borrower to such Revolving Lender in substantially the form of Exhibit 2.1(e) . The Borrower covenants and agrees to pay the Revolving Loans in accordance with the terms of this Agreement.

Section 2.2 Term Loan .

(a) Term Loan .

(i) Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, each Term Loan Lender severally, but not jointly, agrees to make available to the Borrower (through the Administrative Agent) on the Closing Date such Term Loan Lender's Term Loan Commitment Percentage of a term loan in Dollars (the " Term Loan ") in the aggregate principal amount of SEVENTY-FIVE MILLION DOLLARS ($75,000,000) (the " Term Loan Committed Amount ") for the purposes hereinafter set forth (such facility, the " Term Loan Facility "). Upon receipt by the Administrative Agent of the proceeds of the Term Loan, such proceeds will then be made available to the Borrower by the Administrative Agent by crediting the account of the Borrower on the books of the office of the Administrative Agent specified in Section 9.2, or at such other office as the Administrative Agent may designate in writing, with the aggregate of such proceeds made available to the Administrative Agent by the Term Loan Lenders and in like funds as received by the Administrative Agent (or by crediting such other account(s) as directed by the Borrower). The Term Loan may consist of Alternate Base Rate Loans or LIBOR Rate Loans, or a combination thereof, as the Borrower may request in the Notice of Borrowing delivered to the Administrative Agent prior to the Closing Date; provided , however , that the Term Loan made on the Closing Date may only consist of Alternate Base Rate Loans unless the Borrower delivers a funding indemnity letter, substantially in the form of Exhibit 2.1(a) , reasonably acceptable to the Administrative Agent not less than three (3) Business Days prior to the Closing Date. LIBOR Rate Loans shall be made by each Term Loan Lender at its LIBOR Lending Office and Alternate Base Rate Loans at its Domestic Lending Office. Amounts repaid or prepaid on the Term Loan may not be reborrowed.

(ii) Repayment of Term Loan . The principal amount of the Term Loan shall be repaid in consecutive quarterly installments on the dates set forth below, based on the quarterly percentages of the original principal amount of the Term Loan set forth on the table below (provided , however , if such payment date is not a Business Day, such payment shall be due on the preceding Business Day), unless accelerated sooner pursuant to Section 7.2:

Quarterly Amortization Payment Dates	Amortization
March 31, 2018	1.250%
June 30, 2018	1.250%
September 30, 2018	1.250%
December 31, 2018	1.250%
March 31, 2019	1.875%
June 30, 2019	1.875%
September 30, 2019	1.875%
December 31, 2019	1.875%
March 31, 2020	1.875%
June 30, 2020	1.875%
September 30, 2020	1.875%
December 31, 2020	1.875%
March 31, 2021	2.500%
June 30, 2021	2.500%
September 30, 2021	2.500%
December 31, 2021	2.500%
March 31, 2022	2.500%
June 30, 2022	2.500%
September 30, 2022	2.500%
Maturity Date	The remaining outstanding principal amount of the Term Loan

The outstanding principal amount of the Term Loan and all accrued but unpaid interest and other amounts payable with respect to the Term Loan shall be repaid on the Maturity Date.

(b) Interest on the Term Loan . Subject to the provisions of Section 2.8, the Term Loan shall bear interest as follows:

(i) Alternate Base Rate Loans . During such periods as the Term Loan shall be comprised of Alternate Base Rate Loans, each such Alternate Base Rate Loan shall bear interest at a per annum rate equal to the sum of the Alternate Base Rate plus the Applicable Margin; and

(ii) LIBOR Rate Loans . During such periods as the Term Loan shall be comprised of LIBOR Rate Loans, each such LIBOR Rate Loan shall bear interest at a per annum rate equal to the sum of the LIBOR Rate plus the Applicable Margin.

Interest on the Term Loan shall be payable in arrears on each Interest Payment Date.

(c) Term Loan Notes; Covenant to Pay . The Borrower's obligation to pay each Term Loan Lender shall be evidenced by this Agreement and, upon such Term Loan Lender's request, by a duly executed promissory note of the Borrower to such Term Loan Lender in substantially the form of Exhibit 2.2(c) . The Borrower covenants and agrees to pay the Term Loan in accordance with the terms of this Agreement.

Section 2.3 Letter of Credit Subfacility .

(a) Issuance . Subject to the terms and conditions hereof and of the LOC Documents, if any, and any other terms and conditions which the Issuing Lender may reasonably require, during the Commitment Period the Issuing Lender shall issue, and the Revolving Lenders shall participate in, standby Letters of Credit for the account of the Borrower from time to time upon request in a form acceptable to the Issuing Lender; provided , however , that (i) the aggregate amount of LOC Obligations shall not at any time exceed FIVE MILLION DOLLARS ($5,000,000) (the " LOC Committed Amount "), (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations shall not at any time exceed the Revolving Committed Amount then in effect, (iii) all Letters of Credit shall be denominated in Dollars and (iv) Letters of Credit shall be issued for any lawful corporate purposes and shall be issued as standby letters of credit, including in connection with workers' compensation and other insurance programs. Except as otherwise expressly agreed in writing upon by all the Revolving Lenders, no Letter of Credit shall have an original expiry date more than twelve (12) months from the date of issuance; provided , however , so long as no Default or Event of Default has occurred and is continuing and subject to the other terms and conditions to the issuance of Letters of Credit hereunder, the expiry dates of Letters of Credit may be extended annually or periodically from time to time on the request of the Borrower or by operation of the terms of the applicable Letter of Credit to a date not more than twelve (12) months from the date of extension; provided , further , that no Letter of Credit, as originally issued or as extended, shall have an expiry date extending beyond the date that is ten (10) days prior to the Maturity Date. Each Letter of Credit shall comply with the related LOC Documents. The issuance and expiry date of each Letter of Credit shall be a Business Day. Each Letter of Credit issued hereunder shall be in a minimum original face amount of $100,000 or such lesser amount as approved by the Issuing Lender.

(b) Notice and Reports . The request for the issuance of a Letter of Credit shall be submitted to the Issuing Lender at least five (5) Business Days prior to the requested date of issuance. The Issuing Lender will promptly upon request provide to the Administrative Agent for dissemination to the Revolving Lenders a detailed report specifying the Letters of Credit which are then issued and outstanding and any activity with respect thereto which may have occurred since the date of any prior report, and including therein, among other things, the account party, the beneficiary, the face amount, expiry date as well as any payments or expirations which may have occurred. The Issuing Lender will further provide to the Administrative Agent promptly upon request copies of the Letters of Credit. The Issuing Lender will provide to the Administrative Agent promptly upon request a summary report of the nature and extent of LOC Obligations then outstanding.

(c) Participations . Each Revolving Lender upon issuance of a Letter of Credit, shall be deemed to have purchased without recourse a risk participation from the Issuing Lender in such Letter of Credit and the obligations arising thereunder and any Collateral relating thereto, in each case in an amount equal to its Revolving Commitment Percentage of the obligations under such Letter of Credit and shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and be obligated to pay to the Issuing Lender therefor and discharge when due, its Revolving Commitment Percentage of the obligations arising under such Letter of Credit; provided that any Person that becomes a Revolving Lender after the Closing Date shall be deemed to have purchased a Participation Interest in all outstanding Letters of Credit on the date it becomes a Lender hereunder and any Letter of Credit issued on or after such date, in each case in accordance with the foregoing terms. Without limiting the scope and nature of each Revolving Lender's participation in any Letter of Credit, to the extent that the Issuing Lender has not been reimbursed as required hereunder or under any LOC Document, each such Revolving Lender shall pay to the Issuing Lender its Revolving Commitment Percentage of such unreimbursed drawing in same day funds pursuant to and in accordance with the provisions of subsection (d) hereof. The obligation of each Revolving Lender to so reimburse the Issuing Lender shall be absolute and unconditional and shall not be affected by the occurrence of a Default, an Event of Default or any other occurrence or event. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Lender under any Letter of Credit, together with interest as hereinafter provided.

(d) Reimbursement . In the event of any drawing under any Letter of Credit, the Issuing Lender will promptly notify the Borrower and the Administrative Agent. The Borrower shall reimburse the Issuing Lender on the day of drawing under any Letter of Credit if notified prior to 3:00 P.M. on a Business Day or, if after 3:00 P.M., on the following Business Day (either with the proceeds of a Revolving Loan obtained hereunder or otherwise) in same day funds as provided herein or in the LOC Documents. If the Borrower shall fail to reimburse the Issuing Lender as provided herein, the unreimbursed amount of such drawing shall automatically bear interest at a per annum rate equal to the Default Rate. Unless the Borrower shall immediately notify the Issuing Lender and the Administrative Agent of its intent to otherwise reimburse the Issuing Lender, the Borrower shall be deemed to have requested a Mandatory LOC Borrowing in the amount of the drawing as provided in subsection (e) hereof, the proceeds of which will be used to satisfy the Reimbursement Obligations, in which event any such drawing shall not automatically bear interest at the Default Rate. The Borrower's Reimbursement Obligations hereunder shall be absolute and unconditional under all circumstances irrespective of any rights of set-off, counterclaim or defense to payment the Borrower may claim or have against the Issuing Lender, the Administrative Agent, the Lenders, the beneficiary of the Letter of Credit drawn upon or any other Person, including, without limitation, any defense based on any failure of the Borrower to receive consideration or the legality, validity, regularity or unenforceability of the Letter of Credit. The Administrative Agent will promptly notify the other Revolving Lenders of the amount of any unreimbursed drawing and each Revolving Lender shall promptly pay to the Administrative Agent for the account of the Issuing Lender, in Dollars and in immediately available funds, the amount of such Revolving Lender's Revolving Commitment Percentage of such unreimbursed drawing. Such payment shall be made on the Business Day such notice is received by such Revolving Lender from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 P.M. on the Business Day next succeeding the Business Day such notice is received. If such Revolving Lender does not pay such amount to the Administrative Agent for the account of the Issuing Lender in full upon such request, such Revolving Lender shall, on demand, pay to the Administrative Agent for the account of the Issuing Lender interest on the unpaid amount during the period from the date of such drawing until such Revolving Lender pays such amount to the Administrative Agent for the account of the Issuing Lender in full at a rate per annum equal to, if paid within two (2) Business Days of the date of drawing, the Federal Funds Effective Rate and thereafter at a rate equal to the Alternate Base Rate. Each Revolving Lender's obligation to make such payment to the Issuing Lender, and the right of the Issuing Lender to receive the same, shall be absolute and unconditional, shall not be affected by any circumstance whatsoever and without regard to the termination of this Agreement or the Commitments hereunder, the existence of a Default or Event of Default or the acceleration of the Obligations hereunder and shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Repayment with Revolving Loans . On any day on which the Borrower shall have requested, or been deemed to have requested, a Revolving Loan to reimburse a drawing under a Letter of Credit, the Administrative Agent shall give notice to the Revolving Lenders that a Revolving Loan has been requested or deemed requested in connection with a drawing under a Letter of Credit, in which case a Revolving Loan borrowing comprised entirely of Alternate Base Rate Loans (each such borrowing, a " Mandatory LOC Borrowing ") shall be made (without giving effect to any termination of the Commitments pursuant to Section 7.2) pro rata based on each Revolving Lender's respective Revolving Commitment Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 7.2) and the proceeds thereof shall be paid directly to the Administrative Agent for the account of the Issuing Lender for application to the respective LOC Obligations. Each Revolving Lender hereby irrevocably agrees to make such Revolving Loans on the day such notice is received by the Revolving Lenders from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 P.M. on the Business Day next succeeding the day such notice is received, in each case notwithstanding (i) the amount of Mandatory LOC Borrowing may not comply with the minimum amount for borrowings of Revolving Loans otherwise required hereunder, (ii) whether any conditions specified in Section 4.2 are then satisfied, (iii) whether a Default or an Event of Default then exists, (iv) failure for any such request or deemed request for Revolving Loan to be made by the time otherwise required in Section 2.1(b), (v) the date of such Mandatory LOC Borrowing, or (vi) any reduction in the Revolving Committed Amount after any such Letter of Credit may have been drawn upon. In the event that any Mandatory LOC Borrowing cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the occurrence of a Bankruptcy Event), then each such Revolving Lender hereby agrees that it shall forthwith fund its Participation Interests in the outstanding LOC Obligations on the Business Day such notice to fund is received by such Revolving Lender from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 Noon on the Business Day next succeeding the Business Day such notice is received; provided , further , that in the event any Lender shall fail to fund its Participation Interest as required herein, then the amount of such Revolving Lender's unfunded Participation Interest therein shall automatically bear interest payable by such Revolving Lender to the Administrative Agent for the account of the Issuing Lender upon demand, at the rate equal to, if paid within two (2) Business Days of such date, the Federal Funds Effective Rate, and thereafter at a rate equal to the Alternate Base Rate.

(f) Modification, Extension . The issuance of any supplement, modification, amendment, renewal, or extension to any Letter of Credit shall, for purposes hereof, be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(g) ISP98 . Unless otherwise expressly agreed by the Issuing Lender and the Borrower, when a Letter of Credit is issued, the rules of the "International Standby Practices 1998," published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit.

(h) Conflict with LOC Documents . In the event of any conflict between this Agreement and any LOC Document (including any letter of credit application), this Agreement shall control.

(i) Designation of Subsidiaries as Account Parties . Notwithstanding anything to the contrary set forth in this Agreement, including, without limitation, Section 2.3(a), a Letter of Credit issued hereunder may contain a statement to the effect that such Letter of Credit is issued for the account of a Subsidiary of the Borrower; provided that, notwithstanding such statement, the Borrower shall be the actual account party for all purposes of this Agreement for such Letter of Credit and such statement shall not affect the Borrower's Reimbursement Obligations hereunder with respect to such Letter of Credit.

(j) Cash Collateral . At any point in time in which there is a Defaulting Lender, the Issuing Lender may require the Borrower to Cash Collateralize the LOC Obligations in accordance with and to the extent provided in Section 2.20.

Section 2.4 Swingline Loan Subfacility .

(a) Swingline Commitment . During the Commitment Period, subject to the terms and conditions hereof, the Swingline Lender, in its individual capacity, may, in its discretion and in reliance upon the agreements of the other Lenders set forth in this Section, make certain revolving credit loans to the Borrower (each a " Swingline Loan " and, collectively, the " Swingline Loans ") for the purposes hereinafter set forth; provided , however , (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed FIVE MILLION DOLLARS ($5,000,000) (the " Swingline Committed Amount "), and (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect. Swingline Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof.

(b) Swingline Loan Borrowings .

(i) Notice of Borrowing and Disbursement . Upon receiving a Notice of Borrowing from the Borrower not later than 12:00 P.M. on any Business Day requesting that a Swingline Loan be made, the Swingline Lender will make Swingline Loans available to the Borrower on the same Business Day such request is received by the Administrative Agent. Swingline Loan borrowings hereunder shall be made in minimum amounts of $100,000 (or the remaining available amount of the Swingline Committed Amount if less) and in integral amounts of $100,000 in excess thereof.

(ii) Repayment of Swingline Loans . Each Swingline Loan borrowing shall be due and payable on the earlier of (A) the Maturity Date and (B) fifteen (15) days following such borrowing. The Swingline Lender may, at any time, in its sole discretion, by written notice to the Borrower and the Administrative Agent, demand repayment of its Swingline Loans by way of a Revolving Loan borrowing, in which case the Borrower shall be deemed to have requested a Revolving Loan borrowing comprised entirely of Alternate Base Rate Loans in the amount of such Swingline Loans; provided , however , that, in the following circumstances, any such demand shall also be deemed to have been given one Business Day prior to each of (A) the Maturity Date, (B) the occurrence of any Bankruptcy Event, (C) upon acceleration of the Obligations hereunder, whether on account of a Bankruptcy Event or any other Event of Default, and (D) the exercise of remedies in accordance with the provisions of Section 7.2 hereof (each such Revolving Loan borrowing made on account of any such deemed request therefor as provided herein being hereinafter referred to as " Mandatory Swingline Borrowing "). Each Revolving Lender hereby irrevocably agrees to make such Revolving Loans promptly upon any such request or deemed request on account of each Mandatory Swingline Borrowing in the amount and in the manner specified in the preceding sentence on the date such notice is received by the Revolving Lenders from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 P.M. on the Business Day next succeeding the date such notice is received notwithstanding (1) the amount of Mandatory Swingline Borrowing may not comply with the minimum amount for borrowings of Revolving Loans otherwise required hereunder, (2) whether any conditions specified in Section 4.2 are then satisfied, (3) whether a Default or an Event of Default then exists, (4) failure of any such request or deemed request for Revolving Loans to be made by the time otherwise required in Section 2.1(b)(i), (5) the date of such Mandatory Swingline Borrowing, or (6) any reduction in the Revolving Committed Amount or termination of the Revolving Commitments immediately prior to such Mandatory Swingline Borrowing or contemporaneously therewith. In the event that any Mandatory Swingline Borrowing cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code), then each Revolving Lender hereby agrees that it shall forthwith purchase (as of the date the Mandatory Swingline Borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Swingline Lender such Participation Interest in the outstanding Swingline Loans as shall be necessary to cause each such Revolving Lender to share in such Swingline Loans ratably based upon its respective Revolving Commitment Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 7.2); provided that (x) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective Participation Interest is purchased, and (y) at the time any purchase of a Participation Interest pursuant to this sentence is actually made, the purchasing Revolving Lender shall be required to pay to the Swingline Lender interest on the principal amount of such Participation Interest purchased for each day from and including the day upon which the Mandatory Swingline Borrowing would otherwise have occurred to but excluding the date of payment for such Participation Interest, at the rate equal to, if paid within two (2) Business Days of the date of the Mandatory Swingline Borrowing, the Federal Funds Effective Rate, and thereafter at a rate equal to the Alternate Base Rate. The Borrower shall have the right to repay the Swingline Loan in whole or in part from time to time in accordance with Section 2.7(a).

(c) Interest on Swingline Loans . Subject to the provisions of Section 2.8, Swingline Loans shall bear interest at a per annum rate equal to the Alternate Base Rate plus the Applicable Margin for Revolving Loans that are Alternate Base Rate Loans. Interest on Swingline Loans shall be payable in arrears on each Interest Payment Date.

(d) Swingline Loan Note; Covenant to Pay . The Swingline Loans shall be evidenced by this Agreement and, upon request of the Swingline Lender, by a duly executed promissory note of the Borrower in favor of the Swingline Lender in the original amount of the Swingline Committed Amount and substantially in the form of Exhibit 2.4(d) . The Borrower covenants and agrees to pay the Swingline Loans in accordance with the terms of this Agreement.

(e) Cash Collateral . At any point in time in which there is a Defaulting Lender, the Swingline Lender may require the Borrower to Cash Collateralize the outstanding Swingline Loans pursuant to Section 2.20.

Section 2.5 Fees .

(a) Commitment Fee . Subject to Section 2.21, in consideration of the Revolving Commitments, the Borrower agrees to pay to the Administrative Agent, for the ratable benefit of the Revolving Lenders, a commitment fee (the " Commitment Fee ") in an amount equal to the Applicable Margin per annum on the average daily unused amount of the Revolving Committed Amount; provided , however that until March 31, 2018, the Commitment Fee shall be in an amount equal to 0.25% per annum on the average daily unused amount of the Revolving Committed Amount. The Commitment Fee shall be calculated quarterly in arrears. For purposes of computation of the Commitment Fee, LOC Obligations shall be considered usage of the Revolving Committed Amount but Swingline Loans shall not be considered usage of the Revolving Committed Amount. The Commitment Fee shall be payable quarterly in arrears on the last Business Day of each calendar quarter.

(b) Letter of Credit Fees . Subject to Section 2.21, in consideration of the LOC Commitments, the Borrower agrees to pay to the Administrative Agent, for the ratable benefit of the Revolving Lenders, a fee (the " Letter of Credit Fee ") equal to the Applicable Margin for Revolving Loans that are LIBOR Rate Loans per annum on the average daily maximum amount available to be drawn under each Letter of Credit from the date of issuance to the date of expiration. The Letter of Credit Fee shall be payable quarterly in arrears on the last Business Day of each calendar quarter.

(c) Issuing Lender Fees . In addition to the Letter of Credit Fees payable pursuant to subsection (b) hereof, the Borrower shall pay to the Issuing Lender for its own account without sharing by the other Lenders the reasonable and customary charges from time to time of the Issuing Lender with respect to the amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit (collectively, the " Issuing Lender Fees "). The Issuing Lender may charge, and retain for its own account without sharing by the other Lenders, an additional facing fee (the " Letter of Credit Facing Fee ") of 0.125% per annum on the average daily maximum amount available to be drawn under each such Letter of Credit issued by it. The Issuing Lender Fees and the Letter of Credit Facing Fee shall be payable quarterly in arrears on the last Business Day of each calendar quarter.

(d) Administrative Fee . The Borrower agrees to pay to the Administrative Agent the annual administrative fee as described in the Fee Letter.

Section 2.6 Commitment Reductions .

(a) Voluntary Reductions . The Borrower shall have the right to terminate or permanently reduce the unused portion of the Revolving Committed Amount at any time or from time to time upon not less than five (5) Business Days' prior written notice to the Administrative Agent (which shall notify the Lenders thereof as soon as practicable) of each such termination or reduction, which notice shall specify the effective date thereof and the amount of any such reduction which shall be in a minimum amount of $100,000 or a whole multiple of $100,000 in excess thereof and shall be irrevocable and effective upon receipt by the Administrative Agent; provided that no such reduction or termination shall be permitted if after giving effect thereto, and to any prepayments of the Revolving Loans made on the effective date thereof, the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations would exceed the Revolving Committed Amount then in effect. Any reduction in the Revolving Committed Amount shall be applied to the Commitment of each Revolving Lender in accordance to its Revolving Commitment Percentage.

(b) LOC Committed Amount. If the Revolving Committed Amount is reduced below the then current LOC Committed Amount, the LOC Committed Amount shall automatically be reduced by an amount such that the LOC Committed Amount equals the Revolving Committed Amount.

(c) Swingline Committed Amount. If the Revolving Committed Amount is reduced below the then current Swingline Committed Amount, the Swingline Committed Amount shall automatically be reduced by an amount such that the Swingline Committed Amount equals the Revolving Committed Amount.

(d) Maturity Date. The Revolving Commitments, the Swingline Commitment and the LOC Commitment shall automatically terminate on the Maturity Date.

Section 2.7 Prepayments.

(a) Optional Prepayments and Repayments. The Borrower shall have the right to prepay the Term Loans and repay the Revolving Loans and Swingline Loans in whole or in part from time to time; provided, however, that each partial prepayment or repayment of (i) Revolving Loans or Term Loans that are Alternate Base Rate Loans shall be in a minimum principal amount of $500,000 and integral multiples of $100,000 in excess thereof (or the remaining outstanding principal amount), (ii) Revolving Loans or Term Loans that LIBOR Rate Loans shall be in a minimum principal amount of $500,000 and integral multiples of $100,000 in excess thereof (or the remaining outstanding principal amount) and (iii) Swingline Loans shall be in a minimum principal amount of $500,000 and integral multiples of $100,000 in excess thereof (or the remaining outstanding principal amount). The Borrower shall give three (3) Business Days' irrevocable notice of prepayment in the case of LIBOR Rate Loans and same-day irrevocable notice on any Business Day in the case of Alternate Base Rate Loans, to the Administrative Agent (which shall notify the Lenders thereof as soon as practicable). To the extent that the Borrower elects to prepay the Term Loans, amounts prepaid under this Section shall be applied first to Alternate Base Rate Loans and then to LIBOR Rate Loans in each case, ratably to the then remaining amortization payments therof; provided, that all prepayments pursuant to this Section 2.7(a) that are applied to the Term Loans shall be applied pro rata between the Term Loan and any Incremental Term Facilities based on the then outstanding principal balances thereof. To the extent the Borrower elects to repay the Revolving Loans and/or Swingline Loans, amounts prepaid under this Section shall be applied to the Revolving Loans and/or Swingline Loans, as applicable of the Revolving Lenders in accordance with their respective Revolving Commitment Percentages. Within the foregoing parameters, prepayments under this Section shall be applied first to Alternate Base Rate Loans and then to LIBOR Rate Loans in direct order of Interest Period maturities. All prepayments under this Section shall be subject to Section 2.15, but otherwise without premium or penalty. Interest on the principal amount prepaid shall be payable on the next occurring Interest Payment Date that would have occurred had such loan not been prepaid or, at the request of the Administrative Agent, interest on the principal amount prepaid shall be payable on any date that a prepayment is made hereunder through the date of prepayment.

(b) Mandatory Prepayments.

(i) Revolving Committed Amount. If at any time after the Closing Date, the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations shall exceed the Revolving Committed Amount, the Borrower shall immediately prepay the Revolving Loans and Swingline Loans and (after all Revolving Loans and Swingline Loans have been repaid) Cash Collateralize the LOC Obligations in an amount sufficient to eliminate such excess (such prepayment to be applied as set forth in clause (vii) below).

(ii) Asset Dispositions. Following any Asset Disposition (or related series of Asset Dispositions), the Borrower shall prepay the Loans and/or Cash Collateralize the LOC Obligations in an aggregate amount equal to one hundred percent (100%) of the Net Cash Proceeds derived from such Asset Disposition (or related series of Asset Dispositions) (such prepayment to be applied as set forth in clause (vii) below) within five (5) Business Days of the receipt thereof; provided, however, that, so long as no Default or Event of Default has occurred and is continuing, such Net Cash Proceeds shall not be required to be so applied to the extent the Borrower delivers to the Administrative Agent a certificate stating that the Credit Parties intend to use such Net Cash Proceeds to acquire operating or capital assets (and pay transaction expenses associated therewith) useful to the business of the Credit Parties, including pursuant to a Permitted Acquisition, and such reinvestment is consummated within 180 days of the receipt of such Net Cash Proceeds or the subject of a binding written agreement with a third party entered into such 180 day period which is consummated with 120 days after the end of such 180 day period, it being expressly agreed that Net Cash Proceeds not so reinvested shall be applied to prepay the Loans and/or Cash Collateralize the LOC Obligations immediately thereafter (such prepayment to be applied as set forth in clause (vii) below).

(iii) Debt Issuances. Immediately upon receipt by any Credit Party or any of its Subsidiaries of proceeds from any Debt Issuance, the Borrower shall prepay the Loans and/or Cash Collateralize the LOC Obligations in an aggregate amount equal to one hundred percent (100%) of the Net Cash Proceeds of such Debt Issuance (such prepayment to be applied as set forth in clause (vii) below); provided, however, that such Net Cash Proceeds shall not be required to be so applied to the extent they are (A) held in a deposit account subject to a Deposit Account Control Agreement and (B) used solely for the purpose of repaying principal and interest on the Existing Notes.

(iv) [Reserved].

(v) [Reserved].

(vi) Extraordinary Receipts. Within five (5) Business Days following receipt by any Credit Party or any of its Subsidiaries of proceeds from any Extraordinary Receipt, the Borrower shall prepay the Loans and/or Cash Collateralize LOC Obligations in an aggregate amount equal to one hundred percent (100%) of the Net Cash Proceeds of such Extraordinary Receipt in excess of $500,000 (such prepayment to be applied as set forth in clause (vii) below); provided, however, that, so long as no Event of Default has occurred and is continuing, Net Cash Proceeds from insurance or condemnation proceeds shall not be required to be so applied to the extent the Borrower delivers to the Administrative Agent a certificate stating that Credit Parties intend to use such Net Cash Proceeds to acquire operating or capital assets (and pay transaction expenses associated therewith) useful to the business of the Credit Parties within 180 days (or committed to be reinvested within such period and actually reinvested within 120 days thereafter) of the receipt of such Net Cash Proceeds, it being expressly agreed that any Net Cash Proceeds not so reinvested shall be applied to prepay the Loans and/or Cash Collateralize the LOC Obligations immediately thereafter (such prepayment to be applied as set forth in clause (vii) below).

(vii) Application of Mandatory Prepayments . All amounts required to be paid pursuant to this Section shall be applied as follows:

(A) with respect to all amounts prepaid pursuant to Section 2.7(b)(i), (1) first to the outstanding Swingline Loans, (2) second to the outstanding Revolving Loans and (3) third to Cash Collateralize the LOC Obligations; and

(B) with respect to all amounts prepaid pursuant to Sections 2.7(b)(ii) through (vi), (1) first to the Term Loan and any Incremental Term Facilities on a pro rata basis (in each case, ratably to the remaining amortization payments thereof) (including the bullet payment due on the Maturity Date), (2) second to the Swingline Loans (without a simultaneous corresponding reduction of the Swingline Committed Amount), (3) third to the Revolving Loans (without a simultaneous corresponding reduction of the Revolving Committed Amount) and (4) fourth to a cash collateral account in respect of LOC Obligations (without a simultaneous corresponding reduction of the LOC Committed Amount). Within the parameters of the applications set forth above, prepayments shall be applied first to Alternate Base Rate Loans and then to LIBOR Rate Loans in each case, ratably to the remaining amortization payments thereof. All prepayments under this Section shall be subject to Section 2.15 and be accompanied by interest on the principal amount prepaid through the date of prepayment, but otherwise without premium or penalty.

(c) Bank Product Obligations Unaffected . Any repayment or prepayment made pursuant to this Section shall not affect the Borrower's obligation to continue to make payments under any Bank Product, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Bank Product.

Section 2.8 Default Rate and Payment Dates .

(a) If all or a portion of the principal amount of any Loan which is a LIBOR Rate Loan shall not be paid when due or continued as a LIBOR Rate Loan in accordance with the provisions of Section 2.9 (whether at the stated maturity, by acceleration or otherwise), such overdue principal amount of such Loan shall be converted to an Alternate Base Rate Loan at the end of the Interest Period applicable thereto.

(b) Upon the occurrence and during the continuance of a (i) Bankruptcy Event or a Payment Event of Default, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall automatically bear interest at a rate per annum which is equal to the Default Rate and (ii) any other Event of Default hereunder, at the option of the Required Lenders, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall automatically bear interest, at a per annum rate which is equal to the Default Rate, in each case from the date of such Event of Default until such Event of Default is waived in accordance with Section 9.1. Any default interest owing under this Section 2.8(b) shall be due and payable on the earlier to occur of (x) demand by the Administrative Agent (which demand the Administrative Agent shall make if directed by the Required Lenders) and (y) the Maturity Date.

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

Section 2.9 Conversion Options .

(a) The Borrower may, in the case of Revolving Loans and the Term Loan, elect from time to time to convert Alternate Base Rate Loans to LIBOR Rate Loans or to continue LIBOR Rate Loans, by delivering a Notice of Conversion/Extension to the Administrative Agent at least three Business Days prior to the proposed date of conversion or continuation. In addition, the Borrower may elect from time to time to convert all or any portion of a LIBOR Rate Loan to an Alternate Base Rate Loan by giving the Administrative Agent irrevocable written notice thereof by 11:00 A.M. one (1) Business Day prior to the proposed date of conversion. If the date upon which an Alternate Base Rate Loan is to be converted to a LIBOR Rate Loan is not a Business Day, then such conversion shall be made on the next succeeding Business Day and during the period from such last day of an Interest Period to such succeeding Business Day such Loan shall bear interest as if it were an Alternate Base Rate Loan. LIBOR Rate Loans may only be converted to Alternate Base Rate Loans on the last day of the applicable Interest Period. If the date upon which a LIBOR Rate Loan is to be converted to an Alternate Base Rate Loan is not a Business Day, then such conversion shall be made on the next succeeding Business Day and during the period from such last day of an Interest Period to such succeeding Business Day such Loan shall bear interest as if it were an Alternate Base Rate Loan. All or any part of outstanding Alternate Base Rate Loans may be converted as provided herein; provided that (i) no Loan may be converted into a LIBOR Rate Loan when any Default or Event of Default has occurred and is continuing and (ii) partial conversions shall be in an aggregate principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. All or any part of outstanding LIBOR Rate Loans may be converted as provided herein; provided that partial conversions shall be in an aggregate principal amount of $500,000 or a whole multiple of $100,000 in excess thereof.

(b) Any LIBOR Rate Loans may be continued as such upon the expiration of an Interest Period with respect thereto by compliance by the Borrower with the notice provisions contained in Section 2.9(a); provided , that no LIBOR Rate Loan may be continued as such when any Default or Event of Default has occurred and is continuing, in which case such Loan shall be automatically converted to an Alternate Base Rate Loan at the end of the applicable Interest Period with respect thereto. If the Borrower shall fail to give timely notice of an election to continue a LIBOR Rate Loan, or the continuation of LIBOR Rate Loans is not permitted hereunder, such LIBOR Rate Loans shall be automatically converted to Alternate Base Rate Loans at the end of the applicable Interest Period with respect thereto.

Section 2.10 Computation of Interest and Fees; Usury .

(a) Interest payable hereunder with respect to any Alternate Base Rate Loan based on the Prime Rate shall be calculated on the basis of a year of 365 days (or 366 days, as applicable) for the actual days elapsed. All other fees, interest and all other amounts payable hereunder shall be calculated on the basis of a 360-day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the Lenders of each determination of a LIBOR Rate on the Business Day of the determination thereof. Any change in the interest rate on a Loan resulting from a change in the Alternate Base Rate shall become effective as of the opening of business on the day on which such change in the Alternate Base Rate shall become effective. The Administrative Agent shall as soon as practicable notify the Borrower and the Lenders of the effective date and the amount of each such change.

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

(c) It is the intent of the Lenders and the Credit Parties to conform to and contract in strict compliance with applicable usury law from time to time in effect. All agreements between the Lenders and the Credit Parties are hereby limited by the provisions of this subsection which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no way, nor in any event or contingency (including, but not limited to, prepayment or acceleration of the maturity of any Obligation), shall the interest taken, reserved, contracted for, charged, or received under this Agreement, under the Notes or otherwise, exceed the maximum nonusurious amount permissible under applicable law. If, from any possible construction of any of the Credit Documents or any other document, interest would otherwise be payable in excess of the maximum nonusurious amount, any such construction shall be subject to the provisions of this paragraph and such interest shall be automatically reduced to the maximum nonusurious amount permitted under applicable law, without the necessity of execution of any amendment or new document. If any Lender shall ever receive anything of value which is characterized as interest on the Loans under applicable law and which would, apart from this provision, be in excess of the maximum nonusurious amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the Loans and not to the payment of interest, or refunded to the Borrower or the other payor thereof if and to the extent such amount which would have been excessive exceeds such unpaid principal amount of the Loans. The right to demand payment of the Loans or any other Indebtedness evidenced by any of the Credit Documents does not include the right to receive any interest which has not otherwise accrued on the date of such demand, and the Lenders do not intend to charge or receive any unearned interest in the event of such demand. All interest paid or agreed to be paid to the Lenders with respect to the Loans shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of the Loans so that the amount of interest on account of such Indebtedness does not exceed the maximum nonusurious amount permitted by applicable law.

Section 2.11 Pro Rata Treatment and Payments .

(a) Allocation of Payments Prior to Exercise of Remedies . Each borrowing of Revolving Loans and any reduction of the Revolving Commitments shall be made pro rata according to the respective Revolving Commitment Percentages of the Revolving Lenders. Unless otherwise required by the terms of this Agreement, each payment under this Agreement shall be applied, first , to any fees then due and owing by the Borrower pursuant to Section 2.5, second , to interest then due and owing hereunder of the Borrower and, third , to principal then due and owing hereunder and under this Agreement of the Borrower. Each payment on account of any fees pursuant to Section 2.5 shall be made pro rata in accordance with the respective amounts due and owing (except as to the Letter of Credit Facing Fees and the Issuing Lender Fees which shall be paid to the Issuing Lender). Each optional repayment and prepayment by the Borrower on account of principal of and interest on the Revolving Loans and on the Term Loan, as applicable, shall be applied to such Loans, as applicable, on a pro rata basis and, to the extent applicable, in accordance with the terms of Section 2.7(a) hereof. Each mandatory prepayment on account of principal of the Loans shall be applied to such Loans, as applicable, on a pro rata basis and, to the extent applicable, in accordance with Section 2.7(b). All payments (including prepayments) to be made by the Borrower on account of principal, interest and fees shall be made without defense, set-off or counterclaim and shall be made to the Administrative Agent for the account of the Lenders at the Administrative Agent's office specified on Section 9.2 in Dollars and in immediately available funds not later than 1:00 P.M. on the date when due. The Administrative Agent shall distribute such payments to the Lenders entitled thereto promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the LIBOR Rate Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. If any payment on a LIBOR Rate Loan becomes due and payable on a day other than a Business Day, such payment date shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day.

(b) Allocation of Payments After Exercise of Remedies . Notwithstanding any other provisions of this Agreement to the contrary, after the exercise of remedies (other than the application of default interest pursuant to Section 2.8) by the Administrative Agent or the Lenders pursuant to Section 7.2 (or after the Commitments shall automatically terminate and the Loans (with accrued interest thereon) and all other amounts under the Credit Documents (including, without limitation, the maximum amount of all contingent liabilities under Letters of Credit) shall automatically become due and payable in accordance with the terms of such Section), all amounts collected or received by the Administrative Agent or any Lender on account of the Credit Party Obligations or any other amounts outstanding under any of the Credit Documents or in respect of the Collateral shall be paid over or delivered as follows (irrespective of whether the following costs, expenses, fees, interest, premiums, scheduled periodic payments or Credit Party Obligations are allowed, permitted or recognized as a claim in any proceeding resulting from the occurrence of a Bankruptcy Event):

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents and any protective advances made by the Administrative Agent with respect to the Collateral under or pursuant to the terms of the Security Documents;

SECOND, to the payment of any fees owed to the Administrative Agent and the Issuing Lender;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Credit Party Obligations owing to such Lender;

FOURTH, to the payment of all of the Credit Party Obligations consisting of accrued fees and interest, and including, with respect to any Bank Product, any fees, premiums and scheduled periodic payments due under such Bank Product and any interest accrued thereon;

FIFTH, to the payment of the outstanding principal amount of the Credit Party Obligations and the payment or cash collateralization of the outstanding LOC Obligations, and including with respect to any Bank Product, any breakage, termination or other payments due under such Bank Product and any interest accrued thereon;

SIXTH, to all other Credit Party Obligations and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (a) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (b) each of the Lenders and any Bank Product Provider shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans and LOC Obligations held by such Lender or the outstanding obligations payable to such Bank Product Provider bears to the aggregate then outstanding Loans and LOC Obligations and obligations payable under all Bank Products) of amounts available to be applied pursuant to clauses "THIRD", "FOURTH", "FIFTH" and "SIXTH" above; and (c) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent in a cash collateral account and applied (i) first, to reimburse the Issuing Lender from time to time for any drawings under such Letters of Credit and (ii) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "FIFTH" and "SIXTH" above in the manner provided in this Section. Notwithstanding the foregoing terms of this Section, only Collateral proceeds and payments under the Guaranty (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product. Amounts distributed with respect to any Bank Product Debt shall be the last Bank Product Amount reported to the Administrative Agent; provided that any such Bank Product Provider may provide an updated Bank Product Amount to the Administrative Agent prior to payments made pursuant to this Section. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the applicable Bank Product Provider. In the absence of such notice, the Administrative Agent may assume the amount to be distributed is the Bank Product Amount last reported to the Administrative Agent.

Section 2.12 Non-Receipt of Funds; Administrative Agent's Clawback .

(a) Funding by Lenders; Presumption by Administrative Agent . Unless the Administrative Agent shall have received written notice from a Lender prior to the proposed date of any Extension of Credit that such Lender will not make available to the Administrative Agent such Lender's share of such Extension of Credit, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with this Agreement and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Extension of Credit available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Alternate Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Extension of Credit to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Extension of Credit. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(b) Payments by Borrower; Presumptions by Administrative Agent . Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the Issuing Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under subsections (a) and (b) of this Section shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent . If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Extension of Credit set forth in Article IV are not satisfied or waived in accordance with the terms thereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several . The obligations of the Lenders hereunder to make Term Loans and Revolving Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 9.5(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any such payment under Section 9.5(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 9.5(c).

(e) Funding Source . Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

Section 2.13 Inability to Determine Interest Rate .

Notwithstanding any other provision of this Agreement, if (a) the Administrative Agent shall reasonably determine (which determination shall be conclusive and binding absent manifest error) that, by reason of circumstances affecting the relevant market, reasonable and adequate means do not exist for ascertaining the LIBOR Rate for such Interest Period, or (b) the Required Lenders shall reasonably determine (which determination shall be conclusive and binding absent manifest error) that the LIBOR Rate does not adequately and fairly reflect the cost to such Lenders of funding LIBOR Rate Loans that the Borrower has requested be outstanding as a LIBOR Tranche during such Interest Period, the Administrative Agent shall forthwith give telephone notice of such determination, confirmed in writing, to the Borrower, and the Lenders at least two (2) Business Days prior to the first day of such Interest Period. Unless the Borrower shall have notified the Administrative Agent upon receipt of such telephone notice that it wishes to rescind or modify its request regarding such LIBOR Rate Loans, any Loans that were requested to be made as LIBOR Rate Loans shall be made as Alternate Base Rate Loans and any Loans that were requested to be converted into or continued as LIBOR Rate Loans shall remain as or be converted into Alternate Base Rate Loans. Until any such notice has been withdrawn by the Administrative Agent, no further Loans shall be made as, continued as, or converted into, LIBOR Rate Loans for the Interest Periods so affected.

Section 2.14 Yield Protection .

(a) Increased Costs Generally . If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the LIBOR Rate) or the Issuing Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the Issuing Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, Issuing Lender or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, Issuing Lender or other Recipient, the Borrower will pay to such Lender, Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the Issuing Lender determines that any Change in Law affecting such Lender or the Issuing Lender or any lending office of such Lender or such Lender's or the Issuing Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Lender's capital or on the capital of such Lender's or the Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by the Issuing Lender, to a level below that which such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Lender's policies and the policies of such Lender's or the Issuing Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or the Issuing Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the Issuing Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the Issuing Lender pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date such Lender or Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or Issuing Lender's intention to claim compensation therefore (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 2.15 Compensation for Losses.

Promptly following demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than an Alternate Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than an Alternate Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a LIBOR Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 2.19;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section, each Lender shall be deemed to have funded each LIBOR Rate Loan made by it at the LIBOR Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan was in fact so funded.

Section 2.16 Taxes .

(a) Defined Terms . For purposes of this Section 2.16, the term "Lender" includes any Issuing Lender and the term "applicable law" includes FATCA.

(b) Payments Free of Taxes . Any and all payments by or on account of any obligation of any Credit Party under any Credit Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Credit Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Borrower . The Credit Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower . The Credit Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders . Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.6(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Credit Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Evidence of Payments . As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority pursuant to this Section 2.16, such Credit Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders . (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.16(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Borrower,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(ii) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Credit Document, executed copies of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Credit Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(iii) executed copies of IRS Form W-8ECI;

(iv) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit 2.16(a) to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a " U.S. Tax Compliance Certificate ") and (y) executed copies of IRS Form W-8BEN; or

(v) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.16(b) or Exhibit 2.16(c), IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.16(d) on behalf of each such direct and indirect partner;

(A) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(B) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) Treatment of Certain Refunds . If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.16 (including by the payment of additional amounts pursuant to this Section 2.16), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival . Each party's obligations under this Section 2.16 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.

Section 2.17 Indemnification; Nature of Issuing Lender's Duties .

(a) In addition to its other obligations under Section 2.3, the Credit Parties hereby agree to protect, indemnify, pay and save the Issuing Lender and each Lender harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) that the Issuing Lender or such Lender may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit or (ii) the failure of the Issuing Lender to honor a drawing under a Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority (all such acts or omissions, herein called " Government Acts ").

(b) As between the Credit Parties, the Issuing Lender and each Lender, the Credit Parties shall assume all risks of the acts, omissions or misuse of any Letter of Credit by the beneficiary thereof. Neither the Issuing Lender nor any Lender shall be responsible: (i) for the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason; (iii) for failure of the beneficiary of a Letter of Credit to comply fully with conditions required in order to draw upon a Letter of Credit; (iv) for errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) for errors in interpretation of technical terms; (vi) for any loss or delay in the transmission or otherwise of any document required in order to make a drawing under a Letter of Credit or of the proceeds thereof; and (vii) for any consequences arising from causes beyond the control of the Issuing Lender or any Lender, including, without limitation, any Government Acts. None of the above shall affect, impair, or prevent the vesting of the Issuing Lender's rights or powers hereunder.

(c) In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by the Issuing Lender or any Lender, under or in connection with any Letter of Credit or the related certificates, if taken or omitted in the absence of gross negligence or willful misconduct, shall not put such Issuing Lender or such Lender under any resulting liability to the Credit Parties. It is the intention of the parties that this Agreement shall be construed and applied to protect and indemnify the Issuing Lender and each Lender against any and all risks involved in the issuance of the Letters of Credit, all of which risks are hereby assumed by the Credit Parties, including, without limitation, any and all risks of the acts or omissions, whether rightful or wrongful, of any Governmental Authority. The Issuing Lender and the Lenders shall not, in any way, be liable for any failure by the Issuing Lender or anyone else to pay any drawing under any Letter of Credit as a result of any Government Acts or any other cause beyond the control of the Issuing Lender and the Lenders.

(d) Nothing in this Section is intended to limit the Reimbursement Obligation of the Borrower contained in Section 2.3(d) hereof. The obligations of the Credit Parties under this Section shall survive the termination of this Agreement. No act or omissions of any current or prior beneficiary of a Letter of Credit shall in any way affect or impair the rights of the Issuing Lender and the Lenders to enforce any right, power or benefit under this Agreement.

(e) Notwithstanding anything to the contrary contained in this Section, the Credit Parties shall have no obligation to indemnify the Issuing Lender or any Lender in respect of any liability incurred by the Issuing Lender or such Lender arising out of the gross negligence or willful misconduct of the Issuing Lender (including action not taken by the Issuing Lender or such Lender), as determined by a court of competent jurisdiction or pursuant to arbitration.

Section 2.18 Illegality .

Notwithstanding any other provision of this Credit Agreement, if any Change in Law shall make it unlawful for such Lender or its LIBOR Lending Office to make or maintain LIBOR Rate Loans as contemplated by this Credit Agreement or to obtain in the interbank eurodollar market through its LIBOR Lending Office the funds with which to make such Loans, (a) such Lender shall promptly notify the Administrative Agent and the Borrower thereof, (b) the commitment of such Lender hereunder to make LIBOR Rate Loans or continue LIBOR Rate Loans as such shall forthwith be suspended until the Administrative Agent shall give notice that the condition or situation which gave rise to the suspension shall no longer exist, and (c) such Lender's Loans then outstanding as LIBOR Rate Loans, if any, shall be converted on the last day of the Interest Period for such Loans or within such earlier period as required by law as Alternate Base Rate Loans. The Borrower hereby agrees to promptly pay any Lender, promptly following its demand, any additional amounts necessary to compensate such Lender for actual and direct costs (but not including anticipated profits) reasonably incurred by such Lender in making any repayment in accordance with this Section including, but not limited to, any interest or fees payable by such Lender to lenders of funds obtained by it in order to make or maintain its LIBOR Rate Loans hereunder. A certificate (which certificate shall include a description of the basis for the computation) as to any additional amounts payable pursuant to this Section submitted by such Lender, through the Administrative Agent, to the Borrower shall be conclusive in the absence of manifest error. Each Lender agrees to use reasonable efforts (including reasonable efforts to change its LIBOR Lending Office) to avoid or to minimize any amounts which may otherwise be payable pursuant to this Section; provided , however , that such efforts shall not cause the imposition on such Lender of any additional costs or legal or regulatory burdens deemed by such Lender in its sole discretion to be material.

Section 2.19 Mitigation Obligations; Replacement of Lenders .

(a) Designation of a Different Lending Office . If any Lender requests compensation under Section 2.14, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or Section 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders . If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.19(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 9.6), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or Section 2.16) and obligations under this Agreement and the related Credit Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 9.6;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 2.15) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 2.20 Cash Collateral .

(a) Cash Collateral . At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent or any Issuing Lender (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize all Fronting Exposure of the Issuing Lender with respect to such Defaulting Lender (determined after giving effect to Section 2.21(b) and any Cash Collateral provided by the Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(b) Grant of Security Interest . The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Lenders, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of LOC Obligations, to be applied pursuant to clause (c) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Lenders as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(c) Application . Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.20 or Section 2.21 in respect of Letters of Credit, shall be applied to the satisfaction of the Defaulting Lender's obligations to fund participations in respect of LOC Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Termination of Requirement . Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Lender's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.20 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and each Issuing Lender that there exists excess Cash Collateral; provided that, subject to Section 2.21, the Person providing Cash Collateral and each Issuing Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Credit Documents.

Section 2.21 Defaulting Lenders .

(a) Defaulting Lender Adjustments . Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments . Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 9.1.

(ii) Defaulting Lender Waterfall . Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.7 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first* , to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second* , to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Lender or Swingline Lender hereunder; *third* , to Cash Collateralize the Issuing Lender's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.20; *fourth* , as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth* , if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.20; *sixth* , to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lenders or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh* , so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth* , to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (A) such payment is a payment of the principal amount of any Loans or LOC Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share and (B) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LOC Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LOC Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in LOC Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments under the applicable facility without giving effect to Section 2.21(a) (iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.21(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees .

(A) Commitment Fees . No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Letter of Credit Fees . Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant Section 2.20.

(C) Reallocation of Fees . With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in LOC Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Lender and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure . All or any part of such Defaulting Lender's participation in LOC Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that such reallocation does not cause the aggregate Committed Funded Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans . If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) *first* , prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (y) *second* , Cash Collateralize the Issuing Lender's Fronting Exposure in accordance with the procedures set forth in Section 2.20.

(b) Defaulting Lender Cure . If the Borrower, the Administrative Agent and each Swingline Lender and Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.21(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided , further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swingline Loans/Letters of Credit . So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan and (ii) no Issuing Lender shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

Section 2.22 Incremental Facilities .

(a) Revolving Facility Increases .

(i) General Terms . Subject to the terms and conditions set forth herein and notwithstanding any previous reduction in or prepayment of the Revolving Committed Amount or the Term Loan, as provided in Section 2.6, the Borrower shall have the right, at any time and from time to time until the Maturity Date (but, when combined with the number of Incremental Term Facilities, no more than five (5) times during the term of this Agreement), to increase the Revolving Committed Amount (each such increase, a " Revolving Facility Increase ") by an aggregate principal amount not to exceed, when combined with the amount of any Incremental Term Facilities, the Incremental Facility Increase Amount.

(ii) Terms and Conditions . The following terms and conditions shall apply to any Revolving Facility Increase: (A) any Revolving Credit Facility Increase shall be identical (including with respect to Applicable Margin) to the existing Revolving Loans, (B) no Default or Event of Default shall exist immediately prior to or after giving effect to such Revolving Facility Increase, (C) any loans made pursuant to a Revolving Facility Increase shall constitute Obligations and will be secured and guaranteed with the other Obligations on a pari passu basis, (D) any Lenders providing such Revolving Facility Increase shall be entitled to the same voting rights as the existing Lenders and shall be entitled to receive proceeds of prepayments on the same terms as the existing Revolving Lenders, (E) any such Revolving Facility Increase shall be in a minimum principal amount of $15,000,000 and integral multiples of $5,000,000 in excess thereof (or the remaining amount of the Revolving Facility Increase, if less), (F) the Borrower shall execute a Revolving Loan Note in favor of any new Lender or any existing Lender whose Revolving Commitment is increased pursuant to this Section, in each case, if requested by such Lender, (G) the conditions to Extensions of Credit in Section 4.2 shall have been satisfied, (H) the Administrative Agent shall have received (1) upon request of the Administrative Agent, an opinion or opinions of counsel for the Credit Parties, addressed to the Administrative Agent and the Lenders, in form and substance reasonably acceptable to the Administrative Agent and substantially similar to the opinion delivered to the Administrative Agent on the Closing Date, (2) any authorizing corporate documents as the Administrative Agent may reasonably request and (3) if applicable, a duly executed Notice of Borrowing, (I) the maturity date of any Revolving Facility Increase shall be no sooner than the Maturity Date, and (J) the Administrative Agent shall have received from the Borrower an updated Compliance Certificate, in form and substance reasonably satisfactory to the Administrative Agent, demonstrating that, both immediately prior to and after giving effect to any such Revolving Facility Increase and any borrowings thereunder on the closing date for such Revolving Facility Increase on a Pro Forma Basis, the Borrower will be in compliance with the financial covenants set forth in Section 5.9 (1) based on the financial statements most recently delivered pursuant to Section 5.1(a) or 5.1(b) and (2) assuming all amounts thereunder are fully drawn **.**

(iii) Revolving Facility Increase . In connection with the closing of any Revolving Facility Increase, the outstanding Revolving Loans and Participation Interests shall be reallocated by causing such fundings and repayments among the Lenders of Revolving Loans as necessary such that, after giving effect to such Revolving Facility Increase, each Lender will hold Revolving Loans and Participation Interests based on its Revolving Commitment Percentage (after giving effect to such Revolving Facility Increase); provided that (i) such reallocations and repayments shall not be subject to any processing and/or recordation fees and (ii) the Borrower shall be responsible for any costs arising under Section 2.18 resulting from such reallocation and repayments.

(b) Incremental Term Facilities .

(i) General Terms . Subject to the terms and conditions set forth herein, the Borrower shall have the right, at any time and from time to time until the Maturity Date (but, when combined with the number of Revolving Facility Increases, no more than five (5) times during the term of this Agreement), to incur additional Indebtedness under this Credit Agreement pursuant to one or more tranches of term loans (each an " Incremental Term Facility ") in an aggregate amount not to exceed, when combined with the amount of any Revolving Facility Increases, the Incremental Facility Increase Amount.

(ii) Terms and Conditions . The following terms and conditions shall apply to any Incremental Term Facility: (A) no Default or Event of Default shall exist immediately prior to or after giving effect to such Incremental Term Facility, (B) any loans made pursuant to an Incremental Term Facility shall constitute Obligations and will be secured and guaranteed with the other Obligations on a pari passu basis, (C) the terms and documentation in respect of any Incremental Term Facility, to the extent not consistent with the Term Loan Facility, will be reasonably satisfactory to the Administrative Agent, (D) any Lenders providing such Incremental Term Facility shall be entitled to the same voting rights as the existing Lenders and shall be entitled to receive proceeds of prepayments on the same terms as the existing Term Loan Lenders, (E) any such Incremental Term Facility shall be in a minimum principal amount of $15,000,000 and integral multiples of $5,000,000 in excess thereof (or the remaining amount of the Incremental Facility Increase Amount, if less), (F) the proceeds of any such Incremental Term Facility will be used for the purposes set forth in Section 3.11, (G) the Borrower shall execute a promissory note in favor of any new Lender or any existing Lender, in each case, if requested by such Lender, (H) the conditions to Extensions of Credit in Section 4.2 shall have been satisfied, (I) the Incremental Term Facility shall have a maturity date no earlier than the Maturity Date, and shall have a weighted average life to maturity no shorter than the Term Loans referenced under Section 2.2, and mandatory prepayment provisions no more favorable to the new Lenders than the prepayment provisions applicable to the Term Loan Facility, (J) the Administrative Agent shall have received (1) upon request of the Administrative Agent, an opinion or opinions of counsel for the Credit Parties, addressed to the Administrative Agent and the Lenders, in form and substance reasonably acceptable to the Administrative Agent and substantially similar to the opinion delivered to the Administrative Agent on the Closing Date, (2) any authorizing corporate documents as the Administrative Agent may reasonably request and (3) if applicable, a duly executed Notice of Borrowing and (K) the Administrative Agent shall have received from the Borrower an updated Compliance Certificate, in form and substance reasonably satisfactory to the Administrative Agent, demonstrating that, both immediately prior to and after giving effect to any such Incremental Term Facilities on the closing date for such Incremental Term Facilities on a Pro Forma Basis, the Borrower will be in compliance with the financial covenants set forth in Section 5.9 based on the financial statements most recently delivered pursuant to Section 5.1(a) or 5.1(b).

(c) Applicable Margin and Yield . (i) The Applicable Margin and any other components of yield on any Incremental Term Facility shall be determined by the Borrower and the Lenders thereunder; provided that in the event that the all-in yield for any Incremental Term Facility is higher than the all-in yield for the Term Loan Facility or any existing Incremental Term Facility (the " Existing Facilities ") by more than 50 basis points, then the Applicable Margin for the applicable Existing Facility shall be increased to the extent necessary so that such all-in yield is equal to the all-in yield for such Incremental Term Facility minus 50 basis points; provided , further , that in determining the interest rate margins applicable to the Incremental Term Facility and the applicable Existing Facility, (x) original issue discount (" OID ") or upfront fees (which shall be deemed to constitute like amounts of OID, with OID being equated to interest based on assumed four-year life to maturity) payable by the Borrower to the Lenders under the applicable Existing Facility or any Incremental Term Facility in the initial primary syndication thereof shall be included and the effect of any and all interest rate floors shall be included and (y) customary arrangement or commitment fees payable to the Lead Arranger (or their affiliates) in connection with the applicable Existing Facility or to one or more arrangers (or their affiliates) of any Incremental Term Facility, shall be excluded and (ii) the Applicable Margin and Commitment Fees and any other components of yield on any Revolving Facility Increase payable to the Lenders making such Revolving Facility Increase shall be the same as the Revolving Facility on the Closing Date.

(d) Participation . Participation in any such Incremental Term Facility or Revolving Facility Increase may be offered to each of the existing Lenders, but no such Lender shall have any obligation to provide all or any portion of any such Incremental Term Facility or Revolving Facility Increase. The Borrower may invite other banks, financial institutions and investment funds reasonably acceptable to the Administrative Agent (such consent not to be unreasonably withheld or delayed) to join this Credit Agreement as Lenders hereunder for any portion of such Incremental Term Facility or Revolving Facility Increase; provided that such other banks, financial institutions and investment funds shall enter into such lender joinder agreements to give effect thereto as the Administrative Agent may reasonably request.

(e) Amendments . The Administrative Agent is authorized to enter into, on behalf of the Lenders, any amendment to this Credit Agreement or any other Credit Document as may be necessary to incorporate the terms of any such Incremental Term Facility or Revolving Facility Increase.

(f) Limitation on Amount . The aggregate principal amount of all Incremental Term Facilities and Revolving Facility Increases shall not exceed the greater of (i) $50,000,000 *plus* the amount of any voluntary prepayments of Term Loans permitted hereunder and (ii) an amount such that, after giving effect to any such Incremental Term Facilities or Revolving Facility Increases on a Pro Forma Basis (and, in the case of any Revolving Facility Increase, assuming all amounts thereunder are fully drawn), the Senior Secured Leverage Ratio shall not be greater than 0.50 to 1.0 less than the then applicable level set forth in Section 5.9 (the " Incremental Facility Increase Amount ").

Section 2.23 MIRE Events .

Each of the parties hereto acknowledges and agrees that, if there are any Mortgaged Properties, any increase, extension or renewal of any of the Commitments or Loans (including the provision of incremental credit facilities hereunder pursuant to Section 2.22 or otherwise, but excluding (i) any continuation or conversion of Loans under Section 2.9, (ii) the making of any Revolving Loans or Swingline Loans or (iii) the issuance, renewal or extension of Letters of Credit) shall be subject to (and conditioned upon) the prior delivery of all flood hazard determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to such Mortgaged Properties as required by laws relating to flood insurance and as otherwise reasonably required by the Administrative Agent or any Lender.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

To induce the Lenders to enter into this Agreement and to make the Extensions of Credit herein provided for, the Credit Parties hereby represent and warrant to the Administrative Agent and to each Lender that:

Section 3.1 Financial Condition .

(a) (i) The audited Consolidated financial statements of the Borrower and its Subsidiaries for the fiscal years ended December 31, 2014, December 31, 2015 and December 31, 2016 together with the related Consolidated statements of income or operations, equity and cash flows for the fiscal years ended on such dates, (ii) the unaudited Consolidated financial statements of the Borrower and its Subsidiaries for each fiscal quarter ending prior to the Closing Date, together with the related pro forma Consolidated statements of income or operations, equity and cash flows for the year-to-date period ending on such date and (iii) a pro forma balance sheet of the Borrower and its Subsidiaries for the four-fiscal quarter period as of the last day of the quarter that ended at least thirty (30) days prior to the Closing Date:

(A) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein;

(B) fairly present the financial position of the Borrower and its Subsidiaries, as applicable, as of the date thereof (subject, in the case of the unaudited financial statements, to normal year-end adjustments) and results of operations for the period covered thereby; and

(C) show all material Indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries, as applicable, as of the date thereof, including liabilities for taxes, material commitments and contingent obligations.

(b) The five-year projections of the Credit Parties and their Subsidiaries (prepared on an annual basis for the term of this Agreement) delivered to the Lenders on or prior to the Closing Date have been prepared in good faith based upon assumptions believed to be reasonable at the time in light of the conditions existing at the time such projections were created but are not a guaranty of future performance.

Section 3.2 No Material Adverse Effect; Internal Control Event .

Since December 31, 2016 (and, in addition, after delivery of annual audited financial statements in accordance with Section 5.1(a), from the date of the most recently delivered annual audited financial statements), (a) there has been no event or circumstance which has had or could reasonably be expected to have a Material Adverse Effect and (b) no Internal Control Event is occurring.

Section 3.3 Corporate Existence; Compliance with Law; Patriot Act Information .

Each of the Credit Parties (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, (b) has the requisite power and authority and the legal right to own and operate all its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged and has taken all actions necessary to maintain all rights, privileges, licenses and franchises necessary or required in the normal conduct of its business, (c) is duly qualified to conduct business and in good standing under the laws of (i) the jurisdiction of its organization or formation, (ii) the jurisdiction where its chief executive office is located and (iii) each other jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification except to the extent that the failure to so qualify or be in good standing in any such other jurisdiction could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (d) and its respective Registrations and Products is in compliance with all Requirements of Law, organizational documents, government permits and government licenses except to the extent such non-compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Set forth on Schedule 3.3 as of the Closing Date, or as of the last date such Schedule was required to be updated in accordance with Section 5.2, is the following information for each Credit Party: the exact legal name and any former legal names of such Credit Party in the four (4) months prior to the Closing Date, the state of incorporation or organization, the type of organization, the jurisdictions in which such Credit Party is qualified to do business, the chief executive office, the principal place of business, the business phone number, the organization identification number, the federal tax identification number and ownership information (e.g. publicly held, if private or partnership, the owners and partners of each of the Credit Parties).

Section 3.4 Corporate Power; Authorization; Enforceable Obligations .

Each of the Credit Parties has full power and authority to enter into, deliver and perform the Credit Documents to which it is party and has taken all necessary limited liability company, partnership or corporate action to authorize the execution, delivery and performance by it of the Credit Documents to which it is party. Each Credit Document to which it is a party has been duly executed and delivered on behalf of each Credit Party. Each Credit Document to which it is a party constitutes a legal, valid and binding obligation of each Credit Party, enforceable against such Credit Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

Section 3.5 No Legal Bar; No Default .

The execution, delivery and performance by each Credit Party of the Credit Documents to which such Credit Party is a party, the borrowings thereunder and the use of the proceeds of the Loans (a) will not violate any Requirement of Law of any Credit Party, except for any violation which could not be reasonably expected to result in a Material Adverse Effect, (b) will not conflict with, result in a breach of or constitute a default under the articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents of the Credit Parties or any material Contractual Obligation to which such Person is a party or by which any of its properties may be bound (except those as to which waivers or consents have been obtained) except for any violation which could not be reasonably expected to result in a Material Adverse Effect, and (c) will not result in, or require, the creation or imposition of any Lien on any Credit Party's properties or revenues pursuant to any Requirement of Law or Contractual Obligation other than the Liens arising under or contemplated in connection with the Credit Documents or Permitted Liens. No Credit Party is in default under or with respect to any of its Contractual Obligations in any material respect. No Default or Event of Default has occurred and is continuing.

Section 3.6 No Material Litigation .

No litigation, investigation, claim, criminal prosecution, civil investigative demand, imposition of criminal or civil fines and penalties, or any other proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Credit Parties, threatened by or against any Credit Party or any of its Subsidiaries or against any of its or their respective properties or revenues (a) with respect to the Credit Documents or any Extension of Credit or any of the Transactions, or (b) which could reasonably be expected to have a Material Adverse Effect. No permanent injunction, temporary restraining order or similar decree has been issued against any Credit Party or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect. Set forth on Schedule 3.6 hereto is a detailed description of all material litigation pending or threatened against any Credit Party or Subsidiary as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2.

Section 3.7 Investment Company Act; etc.

No Credit Party is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Credit Party is subject to regulation under the Federal Power Act, the Interstate Commerce Act, the Public Utility Holding Company Act of 2005 or any federal or state statute or regulation limiting its ability to incur the Credit Party Obligations.

Section 3.8 Margin Regulations .

No part of the proceeds of any Extension of Credit hereunder will be used directly or indirectly for any purpose that violates, or that would require any Lender to make any filings in accordance with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect. The Credit Parties and their Subsidiaries (a) are not engaged, principally or as one of their important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" "margin stock" within the respective meanings of each of such terms under Regulation U and (b) taken as a group do not own "margin stock" except as identified in the financial statements referred to in Section 3.1 or delivered pursuant to Section 5.1 and the aggregate value of all "margin stock" owned by the Credit Parties and their Subsidiaries taken as a group does not exceed 25% of the value of their assets.

Section 3.9 ERISA .

Neither a Reportable Event nor an "accumulated funding deficiency" (within the meaning of Section 412 of the Code or Section 302 of ERISA) has occurred during the five year period prior to the date on which this representation is made or deemed made with respect to any ERISA Plan, and each ERISA Plan has complied in all material respects with the applicable provisions of ERISA and the Code except for any failures which could not be reasonably expected to result in a Material Adverse Effect. No termination of a Single Employer Plan has occurred resulting in any material liability that has remained underfunded, and no Lien in favor of the PBGC or an ERISA Plan has arisen, during such five year period. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such ERISA Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such ERISA Plan allocable to such accrued benefits. Neither any Credit Party nor any Commonly Controlled Entity is currently subject to any liability for a complete or partial withdrawal from a Multiemployer Plan except for liabilities which could not be reasonably expected to result in a Material Adverse Effect.

Section 3.10 Environmental Matters .

(a) The facilities and properties owned, leased or operated by the Credit Parties or any of their Subsidiaries (the " Properties ") do not contain any Materials of Environmental Concern in amounts or concentrations which (i) constitute a violation of, or (ii) could give rise to liability on behalf of any Credit Party under, any Environmental Law except for such non-compliance which could not be reasonably expected to result in a Material Adverse Effect.

(b) The Properties and all operations of the Credit Parties and/or their Subsidiaries at the Properties are and have in the last five years been in compliance in all material respects, with all applicable Environmental Laws, except for any non-compliance which could not be reasonably expected to result in a Material Adverse Effect.

(c) Neither the Credit Parties nor their Subsidiaries have received any material written or actual notice of material violation, alleged material violation, material non-compliance, material liability or potential material liability on behalf of any Credit Party with respect to environmental matters or Environmental Laws regarding any of the Properties or the business operated by the Credit Parties or any of their Subsidiaries (the " Business "), nor do the Credit Parties or their Subsidiaries have knowledge that any such notice will be received or is being threatened.

(d) Materials of Environmental Concern have not been transported or disposed of from the Properties in violation of, or in a manner or to a location that could give rise to liability on behalf of any Credit Party under any Environmental Law, and no Materials of Environmental Concern have been generated, treated, stored or disposed of at, on or under any of the Properties in violation of, or in a manner that could give rise to liability on behalf of any Credit Party under, any applicable Environmental Law except for such liabilities which could not be reasonably expected to result in a Material Adverse Effect.

(e) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Credit Parties and their Subsidiaries, threatened, under any Environmental Law to which any Credit Party or any Subsidiary is or to the knowledge of the Credit Parties or any Subsidiary will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or the Business.

(f) There has been no release or threat of release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Credit Party or any Subsidiary in connection with the Properties or otherwise in connection with the Business, in material violation of or in amounts or in a manner that could give rise to material liability on behalf of any Credit Party under Environmental Laws.

Section 3.11 Use of Proceeds .

The proceeds of the Extensions of Credit (other than with respect to Incremental Term Facilities) shall be used by the Borrower solely (a) to finance the Acquisition, (b) to refinance certain existing Indebtedness of the Credit Parties and their Subsidiaries, (c) to pay any costs, fees and expenses associated with this Agreement and the Acquisition on the Closing Date, and (d) for working capital and other general corporate purposes of the Credit Parties and their Subsidiaries, including, without limitation, to the extent permitted herein, to repay the Existing Notes, fund Permitted Acquisitions and expenses associated therewith and fund Capital Expenditures, in each case, as permitted hereunder. The proceeds of any Incremental Term Facility will be used only for working capital and other general corporate purposes of the Credit Parties and their Subsidiaries.

Section 3.12 Subsidiaries; Joint Ventures; Partnerships .

Set forth on Schedule 3.12 is a complete and accurate list of all Subsidiaries, joint ventures and partnerships of the Credit Parties as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2. Information on the attached Schedule includes the following: (a) the number of shares of each class of Equity Interests of each Subsidiary outstanding and (b) the number and percentage of outstanding shares of each class of Equity Interests owned by the Credit Parties and their Subsidiaries. The outstanding Equity Interests of all such Subsidiaries are validly issued, fully paid and non-assessable and are owned free and clear of all Liens (other than those arising under or contemplated in connection with the Credit Documents and Permitted Liens). As of the Closing Date, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Equity Interests of any Credit Party or any Subsidiary thereof, except as contemplated in connection with the Credit Documents.

Section 3.13 Ownership .

Each of the Credit Parties and its Subsidiaries is the owner of, and has good and marketable title to or a valid leasehold interest in, all of its respective assets, which, together with assets leased or licensed by the Credit Parties and their Subsidiaries, represents all assets in the aggregate material to the conduct of the Business, and (after giving effect to the Transactions) none of such assets is subject to any Lien other than Permitted Liens. Each Credit Party and its Subsidiaries enjoys peaceful and undisturbed possession under all of its leases and all such leases are valid and subsisting and in full force and effect.

Section 3.14 Consent; Governmental Authorizations .

No approval, consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with acceptance of Extensions of Credit by the Borrower or the making of the Guaranty hereunder or with the execution, delivery or performance of any Credit Document by the Credit Parties (other than those which have been obtained) or with the validity or enforceability of any Credit Document against the Credit Parties (except such filings as are necessary in connection with the perfection of the Liens created by such Credit Documents).

Section 3.15 Taxes .

Each of the Credit Parties and its Subsidiaries has filed, or caused to be filed, all income tax returns and all other material tax returns (federal, state, local and foreign) required to be filed and paid or made provision for payment of (a) all federal, state, local and other material taxes levied or imposed on their income which are due and payable and (b) all other taxes, fees, assessments and other governmental charges (including mortgage recording taxes, documentary stamp taxes and intangibles taxes) owing by it, except for such taxes (i) that are not yet delinquent or (ii) that are being contested in good faith and by proper proceedings, and against which adequate reserves are being maintained in accordance with GAAP. None of the Credit Parties or their Subsidiaries has actual knowledge as of the Closing Date of any proposed tax assessments against it or any of its Subsidiaries.

Section 3.16 Collateral Representations .

(a) Intellectual Property . Set forth on Schedule 3.16(a) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a list of all registered Intellectual Property (including all applications for registration and issuance) owned by each of the Credit Parties or that each of the Credit Parties licenses (including the name/title, current owner, registration or application number, and registration or application date and such other information as reasonably requested by the Administrative Agent).

(b) Documents, Instrument, and Tangible Chattel Paper . Set forth on Schedule 3.16(b) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a description of all Documents (as defined in the UCC), Instruments (as defined in the UCC), and Tangible Chattel Paper (as defined in the UCC) of the Credit Parties (including the Credit Party owning such Document, Instrument and Tangible Chattel Paper and such other information as reasonably requested by the Administrative Agent).

(c) Deposit Accounts, Electronic Chattel Paper, Letter-of-Credit Rights, Securities Accounts and Uncertificated Investment Property . Set forth on Schedule 3.16(c) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a description of all Deposit Accounts (as defined in the UCC), Electronic Chattel Paper (as defined in the UCC), Letter-of-Credit Rights (as defined in the UCC), Securities Accounts (as defined in the UCC) and uncertificated Investment Property (as defined in the UCC) of the Credit Parties, including the name of (i) the applicable Credit Party, (ii) in the case of a Deposit Account, the depository institution and average amount held in such Deposit Account, (iii) in the case of Electronic Chattel Paper, the account debtor, (iv) in the case of Letter-of-Credit Rights, the issuer or nominated person, as applicable, and (v) in the case of a Securities Account or other uncertificated Investment Property, the Securities Intermediary or issuer and the average amount held in such Securities Account, as applicable.

(d) Commercial Tort Claims . Set forth on Schedule 3.16(d) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a description of all Commercial Tort Claims (as defined in the UCC) of the Credit Parties (detailing such Commercial Tort Claim in such detail as reasonably requested by the Administrative Agent).

(e) Pledged Equity Interests . Set forth on Schedule 3.16(e) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a list of (i) 100% (or, if less, the full amount owned by such Credit Party) of the issued and outstanding Equity Interests owned by such Credit Party of each Domestic Subsidiary (other than an Excluded Domestic Subsidiary), (ii) 65% (or, if less, the full amount owned by such Credit Party) of each class of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% (or, if less, the full amount owned by such Credit Party) of each class of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) owned by such Credit Party of each first-tier Foreign Subsidiary and (iii) all other Equity Interests required to be pledged to the Administrative Agent pursuant to the Security Documents.

(f) Properties . Set forth on Schedule 3.16(f)(i) , as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2, is a list of all Mortgaged Properties (including the Credit Party owning such Mortgaged Property). Set forth on Schedule 3.16(f)(ii) is a list of (i) each headquarter location of the Credit Parties (and an indication if such location is leased or owned), (ii) each other location where any significant administrative or governmental functions are performed (and an indication if such location is leased or owned), (iii) each other location where the Credit Parties maintain any books or records (electronic or otherwise) (and an indication if such location is leased or owned) and (iv) each location where any personal property Collateral is located at any premises owned or leased by a Credit Party with a Collateral value in excess of $1,000,000 (and an indication whether such location is leased or owned).

Section 3.17 Solvency .

Each of the Credit Parties is solvent and is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, and the fair saleable value of each Credit Party's assets, measured on a going concern basis, exceeds all probable liabilities as they become absolute and matured, including those to be incurred pursuant to this Agreement. None of the Credit Parties has unreasonably small capital in relation to the business in which it is or proposes to be engaged. None of the Credit Parties has incurred, or believes that it will incur debts beyond its ability to pay such debts as they become due in the ordinary course of business. In executing the Credit Documents and consummating the Transactions, none of the Credit Parties intends to hinder, delay or defraud either present or future creditors or other Persons to which one or more of the Credit Parties is or will become indebted. On the Closing Date, the foregoing representations and warranties shall be made both before and after giving effect to the Transactions.

Section 3.18 Compliance with FCPA .

Each of the Credit Parties and their Subsidiaries is in compliance with the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, *et seq.* , and any foreign counterpart thereto. None of the Credit Parties, their Subsidiaries nor, to the knowledge of the Credit Parties, any agent or other person acting on behalf of the Credit Parties has (a) directly or indirectly, used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (b) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (c) failed to disclose fully any contribution made by any Credit Party (or made by any person acting on its behalf of which such Credit Party is aware) which is in violation of law, or (d) violated in any material respect any provision of the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, *et seq.* , and any foreign counterpart thereto.

Section 3.19 No Burdensome Restrictions .

None of the Credit Parties or their Subsidiaries is a party to any agreement or instrument or subject to any other obligation or any charter or corporate restriction or any provision of any applicable law, rule or regulation which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 3.20 [Reserved] .

Section 3.21 Labor Matters .

There are no collective bargaining agreements or Multiemployer Plans covering the employees of the Credit Parties or any of their Subsidiaries as of the Closing Date and none of the Credit Parties or their Subsidiaries (a) has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years or (b) has knowledge of any potential or pending strike, walkout or work stoppage. No unfair labor practice complaint is pending against any Credit Party or any of its Subsidiaries. There are no strikes, walkouts, work stoppages or other material labor difficulty pending or to their knowledge, threatened against any Credit Party.

Section 3.22 Accuracy and Completeness of Information .

All factual information heretofore, contemporaneously or hereafter furnished by or on behalf of any Credit Party or any of its Subsidiaries to the Administrative Agent, the Arranger or any Lender for purposes of or in connection with this Agreement or any other Credit Document, or any Transaction, is, or when furnished, will be true and accurate in all material respects and not incomplete by omitting to state any material fact necessary to make such information not misleading. There is no fact now known to any Credit Party or any of its Subsidiaries which, individually or in the aggregate, has, or could reasonably be expected to have, a Material Adverse Effect, which fact has not been set forth herein, in the financial statements of the Credit Parties and their Subsidiaries furnished to the Administrative Agent and the Lenders, or in any certificate, opinion or other written statement made or furnished by any Credit Party to the Administrative Agent and the Lenders.

Section 3.23 Material Contracts .

Schedule 3.23 sets forth a complete and accurate list of all Material Contracts of the Credit Parties and their Subsidiaries in effect as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2. Each Material Contract is, and after giving effect to the Transactions will be, in full force and effect in accordance with the terms thereof. The Credit Parties have delivered to the Administrative Agent a true and complete copy of each Material Contract.

Section 3.24 Insurance .

The insurance coverage of the Credit Parties and their Subsidiaries is outlined as to carrier, policy number, expiration date, type and amount on Schedule 3.24 as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2 and such insurance coverage complies with the requirements set forth in Section 5.5(b).

Section 3.25 Security Documents .

The Security Documents create valid and enforceable security interests in, and Liens on, the Collateral purported to be covered thereby. Except as set forth in the Security Documents, such security interests and Liens are currently (or will be, upon (a) the filing of appropriate financing statements with the Secretary of State of the state of incorporation or organization for each Credit Party, the filing of appropriate assignments or notices with the United States Patent and Trademark Office and the United States Copyright Office, and the recordation of the Mortgage Instruments, in each case in favor of the Administrative Agent, on behalf of the Lenders, and (b) the Administrative Agent obtaining control or possession over those items of Collateral in which a security interest is perfected through control or possession) perfected security interests and Liens in favor of the Administrative Agent, for the benefit of the Secured Parties, prior to all other Liens other than Permitted Liens.

Section 3.26 Classification of Senior Indebtedness .

The Credit Party Obligations constitute “Senior Indebtedness”, “Designated Senior Indebtedness” or any similar designation under and as defined in any agreement governing any Subordinated Debt and the subordination provisions set forth in each such agreement are legally valid and enforceable against the parties thereto.

Section 3.27 Anti-Terrorism Laws; OFAC Rules and Regulations.

(a) No Credit Party, none of its Subsidiaries nor, to the knowledge of each Credit Party, the Affiliates or respective officers, directors, brokers or agents of such Credit Party, Subsidiary or Affiliate (i) has violated any Anti-Terrorism Laws or (ii) has engaged in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated by the Organization for Economic Co-operation and Development's Financial Action Task Force on Money Laundering.

(b) No Credit Party, none of its Subsidiaries nor, to the knowledge of each Credit Party, the Affiliates or respective officers, directors, employees, brokers or agents of such Credit Party, Subsidiary or Affiliate is a Person that is, or is owned or controlled by Persons that are: (i) the subject of any Sanctions, or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions (which on the Closing Date includes Cuba, Iran, North Korea, Sudan and Syria).

(c) No Credit Party, none of its Subsidiaries nor, to the knowledge of each Credit Party, the Affiliates or respective officers, directors, brokers or agents of such Credit Party, Subsidiary or Affiliate acting or benefiting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of goods, services or money to or for the benefit of any Person, or in any country or territory, that is the subject of any Sanctions, (ii) deals in, or otherwise engages in any transaction related to, any property or interests in property blocked pursuant to any Anti-Terrorism Law or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

Section 3.28 Authorized Officer .

Set forth on Schedule 3.28 are Responsible Officers that are permitted to sign Credit Documents on behalf of the Credit Parties, holding the offices indicated next to their respective names, as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2. Such Authorized Officers are the duly elected and qualified officers of such Credit Party and are duly authorized to execute and deliver, on behalf of the respective Credit Party, the Credit Agreement, the Notes and the other Credit Documents.

Section 3.29 Flood Hazard Property .

No Mortgaged Property is a Flood Hazard Property unless the Administrative Agent shall have received the following: (a) the applicable Credit Party's written acknowledgment of receipt of written notification from the Administrative Agent (i) as to the fact that such Mortgaged Property is a Flood Hazard Property and (ii) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (b) copies of insurance policies or certificates of insurance of the applicable Credit Party evidencing flood insurance reasonably satisfactory to the Administrative Agent and naming the Administrative Agent as loss payee on behalf of the Lenders.

Section 3.30 Consummation of Acquisition .

The Acquisition and related transactions have been consummated substantially in accordance with the terms of the Acquisition Documents as of the Closing Date. As of the Closing Date, each of the representations and warranties made in the Acquisition Documents by the Credit Parties and their Subsidiaries or, to the knowledge of the Credit Parties, made by any third party is true and correct in all material respects.

Section 3.31 EEA Financial Institution.

No Credit Party is an EEA Financial Institution.

Section 3.32 Trade Relations .

There exists no actual or, to the Credit Parties' knowledge, threatened termination, cancellation or limitation of, or any modification or change in, the business relationship between any Credit Party or any of its Subsidiaries and any customer or any group of customers whose purchases individually or in the aggregate are material to the business of the Credit Parties and their Subsidiaries, or with any material supplier, except in each case, where the same could not reasonably be expected to have a Material Adverse Effect, and there exists no present condition or state of facts or circumstances which would prevent any Credit Party or any of its Subsidiaries from conducting such business after the consummation of the transactions contemplated by this Agreement in substantially the same manner in which it has heretofore been conducted.

Section 3.33 Leases .

Schedule 3.33 hereto, as of the Closing Date, is a complete listing of all capitalized leases of the Credit Parties and their Subsidiaries and all material real property leases of the Credit Parties and their Subsidiaries as of the date hereof (which Schedule 3.33 shall be updated annually in connection with the delivery of the financial statements required by Section 5.1(a) to reflect and additional capitalized leases or material real property leases entered into). Each Credit Party and each of its Subsidiaries is in compliance with all of the terms of each of its respective capitalized and operating leases, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

Section 3.34 Health Care Laws and Permits .

(a) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each of the Borrower and its Subsidiaries are in compliance with all applicable Health Care Laws.

(b) Each of the Borrower and its Subsidiaries holds and is operating in material compliance with all Permits, except where the failure to hold or operate in material compliance with such Permits could not result in a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries has received any written notice of proceedings relating to, and to the knowledge of Borrower there are no facts or circumstances that would reasonably be expected to lead to, the revocation, suspension, termination or modification of any such certificate Permit, except where such revocation, suspension, termination or modification of any such Permit has not had, and could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) The Borrower and its Subsidiaries have not received any written notice or, to the knowledge of Borrower, other communication from any Governmental Authority, regarding any actual or alleged violation of, any applicable Health Care Law by Borrower or any of its Subsidiaries, except where such actual or alleged violation has not had, and could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(d) No Included Product is the subject of, or subject to (as applicable), any recall, market withdrawal or seizure, or any warning letter or other written communication from any Governmental Authority to the Borrower or any of its Subsidiaries requiring such action or asserting that an Included Product fails to comply with applicable law, except where such action, letter or communication has not had, and could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither Borrower nor any Subsidiary has received written notification from any Governmental Authority that an Included Product fails to comply with applicable Law, which failure would reasonably be expected to result in sanctions or adversely affect the Permits of the Borrower and its Subsidiaries' facilities, except where such sanctions or adverse effect on the Permits have not had, and could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.35 Regulatory Matters .

(a) To the knowledge of each Credit Party and its Subsidiaries, neither the FDA nor other Governmental Authority is considering limiting, suspending, or revoking any Registrations or changing the marketing classification or labeling or other significant parameter affecting the Products of the Credit Parties or any of their respective Subsidiaries in any manner that could be reasonably expected to result in a Material Adverse Effect. To the knowledge of each Credit Party and its Subsidiaries, no event has occurred or condition or state of facts exists which could constitute a breach or default, or could cause revocation or termination of any material Registrations. To the knowledge of each Credit Party and its Subsidiaries, any third party that is a manufacturer or contractor for the Credit Parties or any of their respective Subsidiaries is in compliance with all Registrations required by the FDA or comparable Governmental Authority and all Public Health Laws insofar as they reasonably pertain to the Products of the Credit Parties and their respective Subsidiaries, except for any failures that could be reasonably expected to result in a Material Adverse Effect.

(b) Since January 1, 2017, no Credit Party has received a written warning letter, notice of violation letter, consent decree, request for information or other material notice, response or commitment made to or with a Governmental Authority with respect to Regulatory Matters.

(c) As of the Closing Date, no Credit Party nor its Subsidiaries is undergoing any material inspection related to Regulatory Matters, or any other Governmental Authority investigation.

(d) During the period of three (3) calendar years immediately preceding the Closing Date, no Credit Party nor any Subsidiary of any Credit Party has knowledge that it has, nor has it received written notice that it has, introduced into commercial distribution any Products manufactured by or on behalf of any Credit Party or any Subsidiary of a Credit Party or distributed any products on behalf of another manufacturer that were upon their shipment by any Credit Party or any of its Subsidiaries adulterated or misbranded in violation of 21 U.S.C. § 331, and adverse determination with respect to which would result in a Material Adverse Effect. No Credit Party nor any Subsidiary of any Credit Party has received any material written notice from any Governmental Authority alleging material noncompliance with any Requirement of Law. No Product has been seized, withdrawn, recalled, detained, or subject to a suspension (other than in the ordinary course of business) of research, manufacturing, distribution, or commercialization activity, and, to the knowledge of the Credit Parties, there are no facts or circumstances reasonably likely to cause (i) the seizure, denial, withdrawal, recall, detention, public health notification, safety alert or suspension of manufacturing or other activity relating to any Product; (ii) a material change in the labeling of any Product suggesting a compliance issue; or (iii) a termination, seizure or material suspension of manufacturing, researching, distributing or marketing of any Product. No proceedings in the United States or any other jurisdiction seeking the withdrawal, recall, revocation, suspension, import detention, or seizure of any Product are pending or to the knowledge of the Credit Parties threatened against any Credit Party or any of its Subsidiaries.

(e) As of the date hereof, no Credit Party nor any Subsidiary of any Credit Party nor any of their respective officers, directors or employees, nor to the knowledge of the Credit Parties, any of their agents or contractors (i) have been excluded or debarred from any federal healthcare program (including without limitation Medicare or Medicaid) or any other federal program or (ii) have received written notice from the FDA or any other Governmental Authority with respect to debarment or disqualification of any Person that could reasonably be expected to have, in the aggregate, a Material Adverse Effect. As of the date hereof, no Credit Party nor any Subsidiary of any Credit Party nor any of their respective officers, directors or employees, nor to the knowledge of the Credit Parties, any of their agents or contractors have been convicted of any crime or engaged in any conduct for which (x) debarment is mandated or permitted by 21 U.S.C. § 335a or (y) such Person could be excluded from participating in the federal health care programs under Section 1128 of the Social Security Act or any similar law.

(f) Each Credit Party and its Subsidiaries is in material compliance with the written procedures, record-keeping and reporting requirements required by the FDA or any comparable Governmental Authority pertaining to the reporting of adverse events and recalls involving the Products.

ARTICLE IV

CONDITIONS PRECEDENT

Section 4.1 Conditions to Closing Date .

This Agreement shall become effective upon, and the obligation of each Lender to make the initial Extensions of Credit on the Closing Date is subject to, the satisfaction of the following conditions precedent:

(a) Execution of Credit Agreement and Credit Documents . The Administrative Agent shall have received (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Revolving Lender requesting a promissory note, a duly executed Revolving Loan Note, (iii) for the account of each Term Loan Lender requesting a promissory note, a duly executed Term Loan Note, (iv) for the account of the Swingline Lender requesting a promissory note, the Swingline Loan Note, (v) counterparts of the Security Agreement, the Pledge Agreement and each Mortgage Instrument, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable and (vi) counterparts of any other Credit Document, executed by the duly authorized officers of the parties thereto.

(b) Authority Documents. The Administrative Agent shall have received the following:

(i) Articles of Incorporation/Charter Documents. Original certified articles of incorporation or other charter documents, as applicable, of each Credit Party certified (A) by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date, and (B) to be true and complete as of a recent date by the appropriate Governmental Authority of the state of its incorporation or organization, as applicable.

(ii) Resolutions. Copies of resolutions of the board of directors or comparable managing body of each Credit Party approving and adopting the Credit Documents, the Transactions and authorizing execution and delivery thereof, certified by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date.

(iii) Bylaws/Operating Agreement. A copy of the bylaws or comparable operating agreement of each Credit Party certified by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date.

(iv) Good Standing. Original certificates of good standing, existence or its equivalent with respect to each Credit Party certified as of a recent date by the appropriate Governmental Authorities of the state of incorporation or organization and each other state in which the failure to so qualify and be in good standing could reasonably be expected to have a Material Adverse Effect.

(v) Incumbency. An incumbency certificate of each Authorized Officer of each Credit Party certified by an officer (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) to be true and correct as of the Closing Date.

(c) Legal Opinion of Counsel. The Administrative Agent shall have received an opinion or opinions (including, if requested by the Administrative Agent, local counsel opinions) of counsel for the Credit Parties, dated the Closing Date and addressed to the Administrative Agent and the Lenders, in form and substance acceptable to the Administrative Agent (which shall include, without limitation, opinions with respect to the due organization and valid existence of each Credit Party, opinions as to perfection of the Liens granted to the Administrative Agent pursuant to the Security Documents and opinions as to the non-contravention of the Credit Parties' organizational documents and Material Contracts).

(d) Personal Property Collateral. The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent:

(i) (A) searches of UCC filings in the jurisdiction of incorporation or formation, as applicable, of each Credit Party and each jurisdiction where any Collateral is located or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens and (C) tax lien and judgment searches;

(ii) searches of ownership of Intellectual Property in the appropriate governmental offices and such patent/trademark/copyright filings as requested by the Administrative Agent in order to perfect the Administrative Agent's security interest in the Intellectual Property;

(iii) completed UCC financing statements for each appropriate jurisdiction as is necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the Collateral;

(iv) stock or membership certificates, if any, evidencing the Equity Interests pledged to the Administrative Agent pursuant to the Pledge Agreement and undated stock or transfer powers duly executed in blank;

(v) duly executed consents as are necessary, in the Administrative Agent's sole discretion, to perfect the Lenders' security interest in the Collateral;

(vi) [Reserved]; and

(vii) the extent required to be delivered pursuant to the terms of the Security Documents, all instruments, documents and chattel paper in the possession of any of the Credit Parties, together with allonges or assignments as may be necessary or appropriate to perfect the Administrative Agent's and the Lenders' security interest in the Collateral.

(e) [Reserved].

(f) Liability, Casualty, Property and Business Interruption Insurance . The Administrative Agent shall have received copies of insurance policies or certificates and endorsements of insurance evidencing liability, casualty, property and business interruption insurance meeting the requirements set forth herein or in the Security Documents. The Administrative Agent shall be named (i) as lenders' loss payee, as its interest may appear, with respect to any such insurance providing coverage in respect of any Collateral and (ii) as additional insured, as its interest may appear, with respect to any such insurance providing liability coverage, and the Credit Parties will use their commercially reasonable efforts to have each provider of any such insurance agree, by endorsement upon the policy or policies issued by it or by independent instruments to be furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notice before any such policy or policies shall be altered or cancelled.

(g) Solvency Certificate . The Administrative Agent shall have received an officer's certificate prepared by the chief financial officer or other Authorized Officer approved by the Administrative Agent of the Borrower as to the financial condition, solvency and related matters of the Credit Parties and their Subsidiaries, after giving effect to the Transactions and the initial borrowings under the Credit Documents, in substantially the form of Exhibit 4.1(g) hereto.

(h) Account Designation Notice . The Administrative Agent shall have received the executed Account Designation Notice in the form of Exhibit 1.1(a) hereto.

(i) Notice of Borrowing . The Administrative Agent shall have received a Notice of Borrowing with respect to the Loans to be made on the Closing Date.

(j) Consents. The Administrative Agent shall have received evidence that all governmental, shareholder and material third party consents and approvals necessary in connection with the Transactions have been obtained and all applicable waiting periods have expired without any action being taken by any authority that could restrain, prevent or impose any material adverse conditions on such transactions or that could seek or threaten any of the foregoing.

(k) Compliance with Laws. The financings and other Transactions contemplated hereby shall be in compliance with all applicable laws and regulations (including all applicable securities and banking laws, rules and regulations).

(l) Bankruptcy. There shall be no bankruptcy or insolvency proceedings pending with respect to any Credit Party or any Subsidiary thereof.

(m) Existing Indebtedness of the Credit Parties. All of the existing Indebtedness for borrowed money of the Credit Parties and their Subsidiaries (other than Indebtedness permitted to exist pursuant to Section 6.1) shall be repaid in full and all security interests related thereto shall be terminated on or prior to the Closing Date.

(n) Financial Statements. The Administrative Agent and the Lenders shall have received copies of the financial statements referred to in Section 3.1, in each case, in form and substance satisfactory to each of them.

(o) No Material Adverse Effect. Since December 31, 2016, there shall have been no Material Adverse Effect.

(p) Financial Condition Certificate. The Administrative Agent shall have received a certificate or certificates executed by an Authorized Officer of the Borrower as of the Closing Date, substantially in the form of Exhibit 4.1(p) stating that (i) immediately after giving effect to this Agreement, the other Credit Documents, and all the Transactions contemplated to occur on such date, (A) no Default or Event of Default exists and (B) the representations and warranties made by the Credit Parties herein, in the other Credit Documents and which are contained in any certificate furnished at any time under or in connection herewith are with respect to representations and warranties that contain a materiality qualification, true and correct and with respect to representations and warranties that do not contain a materiality qualification, true and correct in all material respects, in each case on and as of the Closing Date and (ii) each of the other conditions precedent in Section 4.1 have been satisfied, except to the extent the satisfaction of any such condition is subject to the judgment or discretion of the Administrative Agent or any Lender.

(q) Material Contracts. The Administrative Agent shall have received true and complete copies, certified by an officer of the Borrower as true and complete, of all Material Contracts, together with all exhibits and schedules.

(r) The Acquisition. The Acquisition shall have been consummated in accordance with the terms of the Acquisition Agreement delivered to the Administrative Agent on the Closing Date, without any material amendment, consent or waiver (including any waiver of a condition precedent to the Borrower's or its applicable affiliate's obligation to close under the Acquisition Agreement or otherwise consummate the Acquisition) thereof except as approved by the Administrative Agent. No law or regulation will be applicable, or event will have occurred, nor will any litigation or investigation be pending or threatened, that would reasonably be expected to impose materially adverse conditions, or which could reasonably be expected to have a material adverse effect, upon the consummation of the Acquisition. The Lenders shall have received Phase 1 environmental reports in form and substance satisfactory to the Lenders.

(s) PATRIOT Act, etc . At least five (5) Business Days prior to the Closing Date, the Administrative Agent shall have received the documentation and other information requested by the Administrative Agent in order to comply with requirements of the PATRIOT Act, applicable "know your customer", anti-money laundering rules and regulations and Canadian Anti-Money Laundering & Anti-Terrorism Legislation.

(t) Fees and Expenses . The Administrative Agent and the Lenders shall have received all fees and expenses, if any, owing pursuant to the Fee Letter and Section 2.5.

(u) Additional Matters . All other documents and legal matters in connection with the Transactions shall be reasonably satisfactory in form and substance to the Administrative Agent and its counsel.

Without limiting the generality of the provisions of Section 8.4, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 4.2 Conditions to All Extensions of Credit .

The obligation of each Lender to make any Extension of Credit hereunder is subject to the satisfaction of the following conditions precedent on the date of making such Extension of Credit:

(a) Representations and Warranties . The representations and warranties made by the Credit Parties herein, in the other Credit Documents and which are contained in any certificate furnished at any time under or in connection herewith shall (i) with respect to representations and warranties that contain a materiality qualification, be true and correct and (ii) with respect to representations and warranties that do not contain a materiality qualification, be true and correct in all material respects, in each case on and as of the date of such Extension of Credit as if made on and as of such date except for any representation or warranty made as of an earlier date, which representation and warranty shall remain true and correct as of such earlier date.

(b) No Default or Event of Default . No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the Extension of Credit to be made on such date unless such Default or Event of Default shall have been waived in accordance with this Agreement.

(c) Compliance with Commitments . Immediately after giving effect to the making of any such Extension of Credit (and the application of the proceeds thereof), (i) the sum of the aggregate principal amount of outstanding Revolving Loans plus outstanding Swingline Loans plus outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect, (ii) the outstanding LOC Obligations shall not exceed the LOC Committed Amount, and (iii) the outstanding Swingline Loans shall not exceed the Swingline Committed Amount.

(d) Additional Conditions to Revolving Loans . If a Revolving Loan is requested, all conditions set forth in Section 2.1 shall have been satisfied.

(e) Additional Conditions to Letters of Credit . If the issuance of a Letter of Credit is requested, (i) all conditions set forth in Section 2.3 shall have been satisfied and (ii) there shall exist no Lender that is a Defaulting Lender unless the Issuing Lender has entered into satisfactory arrangements with the Borrower or such Defaulting Lender to eliminate the Issuing Lender's risk with respect to such Defaulting Lender's LOC Obligations.

(f) Additional Conditions to Swingline Loans . If a Swingline Loan is requested, (i) all conditions set forth in Section 2.4 shall have been satisfied and (ii) there shall exist no Lender that is a Defaulting Lender unless the Swingline Lender has entered into satisfactory arrangements with the Borrower or such Defaulting Lender to eliminate the Swingline Lender's risk with respect to such Defaulting Lender's in respect of its Swingline Commitment.

(g) Incremental Facilities . If a Revolving Facility Increase or an Incremental Term Facility is requested, all conditions set forth in Section 2.22 shall have been satisfied.

Each request for an Extension of Credit and each acceptance by the Borrower of any such Extension of Credit shall be deemed to constitute representations and warranties by the Credit Parties as of the date of such Extension of Credit that the conditions set forth above in paragraphs (a) through (g), as applicable, have been satisfied.

ARTICLE V

AFFIRMATIVE COVENANTS

Each of the Credit Parties hereby covenants and agrees that on the Closing Date, and thereafter (a) for so long as this Agreement is in effect, (b) until the Commitments have terminated, and (c) the Credit Party Obligations and all other amounts owing to the Administrative Agent or any Lender hereunder are paid in full in cash, such Credit Party shall, and shall cause each of their Subsidiaries, to:

Section 5.1 Financial Statements .

Furnish to the Administrative Agent and each of the Lenders:

(a) Annual Financial Statements . As soon as available and in any event no later than ninety (90) days after the end of each fiscal year of the Borrower, a copy of the Consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year and the related Consolidated statements of income and retained earnings and of cash flows of the Borrower and its Subsidiaries for such fiscal year, which shall be audited by EisnerAper LLP or another firm of independent certified public accountants of nationally recognized standing reasonably acceptable to the Administrative Agent, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification indicating that the scope of the audit was inadequate to permit such independent certified public accountants to certify such financial statements without such qualification;

(b) Quarterly Financial Statements . As soon as available and in any event no later than forty-five (45) days after the end of each fiscal quarter of the Borrower (excluding the last fiscal quarter of the Borrower's fiscal year), a copy of the Consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such period and related Consolidated statements of income and retained earnings and of cash flows for the Borrower and its Subsidiaries for such quarterly period and for the portion of the fiscal year ending with such period, in each case setting forth in comparative form Consolidated figures for the corresponding period or periods of the preceding fiscal year; and

(c) Annual Operating Budget and Cash Flow . As soon as available, but in any event within thirty (30) days after the end of each fiscal year, beginning with the fiscal year ending December 31, 2018, a copy of the detailed annual operating budget or plan including cash flow projections of the Borrower and its Subsidiaries for the next four fiscal quarter period prepared on a monthly basis, in form and detail reasonably acceptable to the Administrative Agent and the Lenders, together with a summary of the material assumptions made in the preparation of such annual budget or plan;

all such financial statements shall be complete and correct in all material respects (subject, in the case of interim statements, to normal recurring year-end audit adjustments) and to be prepared in reasonable detail and, in the case of the annual, quarterly financial statements provided in accordance with subsections (a) and (b) above, in accordance with GAAP applied consistently throughout the periods reflected therein and further accompanied by a description of, and an estimation of the effect on the financial statements on account of, a change, if any, in GAAP as provided in Section 1.3(b).

Notwithstanding the foregoing, financial statements and reports required to be delivered pursuant to the foregoing provisions of this Section may be delivered electronically and if so, shall be deemed to have been delivered on the date on which the Administrative Agent receives such reports from the Borrower through electronic mail; provided that, upon the Administrative Agent's request, the Borrower shall provide paper copies of any documents required hereby to the Administrative Agent.

Section 5.2 Certificates; Other Information .

Furnish to the Administrative Agent and each of the Lenders:

(a) [Reserved] .

(b) Officer's Certificate . Concurrently with the delivery of the financial statements referred to in Sections 5.1(a) and 5.1(b) above, a certificate of an Authorized Officer substantially in the form of Exhibit 5.2(b) stating that (i) such financial statements present fairly the financial position of the Credit Parties and their Subsidiaries for the periods indicated in conformity with GAAP applied on a consistent basis, (ii) to the knowledge of such Authorized Officer, each of the Credit Parties during such period observed or performed all of its covenants and other agreements, and satisfied every condition, contained in this Agreement to be observed, performed or satisfied by it, and (iii) such Authorized Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and such certificate shall include the calculations in reasonable detail required to indicate compliance with Section 5.9 as of the last day of such period.

(c) Updated Schedules . Concurrently with or prior to the delivery of the financial statements referred to in Sections 5.1(a) and 5.1(b) above, (i) an updated copy of Schedule 3.3 and Schedule 3.12 if the Credit Parties or any of their Subsidiaries has formed or acquired a new Subsidiary since the Closing Date or since such Schedule was last updated, as applicable, (ii) an updated copy of Schedule 3.6 to the extent any material litigation has been threatened, filed or otherwise become pending since the Closing Date or since such Schedule was last updated, as applicable, (iii) an updated copy of Schedule 3.16(a) if the Credit Parties have registered, applied for registration of, acquired or otherwise obtained ownership of any new registered Intellectual Property since the Closing Date or since such Schedule was last updated, as applicable, (iv) an updated copy of Schedule 3.16(b) if the Credit Parties have obtained any Documents (as defined in the UCC), Instruments (as defined in the UCC) or Tangible Chattel Paper (as defined in the UCC) since the Closing Date or since such Schedule was last updated, as applicable, (v) an updated copy of Schedule 3.16(c) if the Credit Parties maintain any Deposit Accounts (as defined in the UCC), Electronic Chattel Paper (as defined in the UCC), Letter-of-Credit Rights (as defined in the UCC), Securities Accounts (as defined in the UCC) or uncertificated Investment Property (as defined in the UCC) to the extent not otherwise set forth on such Schedule as of the Closing Date or since such Schedule was last updated, as applicable, (vi) an updated copy of Schedule 3.16(d) if the Credit Parties have any Commercial Tort Claims not otherwise set forth on such Schedule as of the Closing Date or since such Schedule was last updated, as applicable, (vii) an updated copy of Schedule 3.16(e) to the extent required to be updated to make the representation in Section 3.16(e) true and correct, (viii) an updated copy of Schedule 3.16(f)(i) to the extent any Credit Party is obligated to provide a mortgage or deed of trust on any Property in accordance with Section 5.12, (ix) an updated copy of Schedule 3.16(f)(ii) to the extent any Credit Party has a (1) headquarter location, (2) location where any significant administrative or governmental functions are performed, (3) location where any Credit Party maintains books or records and (4) location where any personal property Collateral is located at any premises owned or leased by a Credit Party with a Collateral value in excess of $1,000,000 (and an indication whether such location is leased or owned), to the extent not otherwise set forth on such Schedule as of the Closing Date or since such Schedule was last updated, as applicable, (x) an updated copy of Schedule 3.23 if any new Material Contract has been entered into since the Closing Date or since such Schedule was last updated, as applicable, together with a copy of each new Material Contract and (xi) an updated copy of Schedule 3.24 if the Credit Parties or any of their Subsidiaries has altered or acquired any insurance policies since the Closing Date or since such Schedule was last updated.

(d) Reports; SEC Filings; Regulatory Reports; Press Releases; Etc. Promptly upon their becoming available, (i) copies of all reports (other than those provided pursuant to Section 5.1 and those which are of a promotional nature) and other financial information which any Credit Party sends to its shareholders, (ii) copies of all reports and all registration statements and prospectuses, if any, which any Credit Party may make to, or file with, the SEC (or any successor or analogous Governmental Authority) or any securities exchange or other private regulatory authority, (iii) all material regulatory reports and (iv) all press releases and other statements made available by any of the Credit Parties to the public concerning material developments in the business of any of the Credit Parties.

(e) Calculations . Within ninety (90) days after the end of each fiscal year of the Borrower, a certificate containing information including the amount of all Restricted Payments, Investments (including Permitted Acquisitions), Asset Dispositions, Consolidated Capital Expenditures and Debt Issuances that were made during the prior fiscal year and amounts received in connection with any Extraordinary Receipt during the prior fiscal year.

(f) Management Letters; Etc. Promptly upon receipt thereof, a copy or summary of any other report, or "management letter" or similar report submitted by independent accountants to any Credit Party or any of their Subsidiaries in connection with any annual, interim or special audit of the books of such Person.

(g) Changes in Corporate Structure. Within ten days prior to any merger, consolidation, dissolution or other change in corporate structure of any Credit Party or any of its subsidiaries permitted pursuant to the terms hereof, provide notice of such change in corporate structure to the Administrative Agent.

(h) General Information . Promptly, such additional financial and other information as the Administrative Agent, on behalf of any Lender, may from time to time reasonably request.

Section 5.3 Payment of Taxes and Other Obligations .

Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, subject, where applicable, to specified grace periods, (a) all of its federal and other material taxes and (b) all of its other material obligations and material liabilities of whatever nature in accordance with industry practice and (c) any additional material costs that are imposed as a result of any failure to so pay, discharge or otherwise satisfy such taxes, obligations and liabilities, except when the amount or validity of any such taxes, obligations and liabilities is currently being contested in good faith by appropriate proceedings and reserves, if applicable, in conformity with GAAP with respect thereto have been provided on the books of the Credit Parties.

Section 5.4 Conduct of Business and Maintenance of Existence .

Except as expressly permitted under Section 6.4, continue to engage in business of the same general type as now conducted by it on the Closing Date and preserve, renew and keep in full force and effect its corporate or other formative existence and good standing, take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business and to maintain its goodwill and comply with all Contractual Obligations and Requirements of Law.

Section 5.5 Maintenance of Property; Insurance .

(a) Keep all material property useful and necessary in its business in good working order and condition (ordinary wear and tear and obsolescence and casualty resulting in a Recovery Event excepted).

(b) Maintain with financially sound and reputable insurance companies liability, casualty, property and business interruption insurance (including, without limitation, insurance with respect to its tangible Collateral) in at least such amounts and against at least such risks as are usually insured against in the same general area by companies engaged in the same or a similar business; and furnish to the Administrative Agent, upon the request of the Administrative Agent, full information as to the insurance carried. The Administrative Agent shall be named (i) as lenders' loss payee, as its interest may appear with respect to any property insurance, and (ii) as additional insured, as its interest may appear, with respect to any such liability insurance, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments to be furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notice before any such policy or policies shall be altered or canceled, and such policies shall provide that no act or default of the Credit Parties or any of their Subsidiaries or any other Person shall affect the rights of the Administrative Agent or the Lenders under such policy or policies.

(c) In case of any material loss, damage to or destruction of the Collateral of any Credit Party or any part thereof, such Credit Party shall promptly give written notice thereof to the Administrative Agent generally describing the nature and extent of such damage or destruction.

Section 5.6 Maintenance of Books and Records .

Keep proper books, records and accounts in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its businesses and activities.

Section 5.7 Notices .

Give notice in writing to the Administrative Agent (which shall promptly transmit such notice to each Lender):

(a) promptly, but in any event within three (3) Business Days after any Credit Party knows thereof, the occurrence of any Default or Event of Default;

(b) promptly, any default or event of default under any Contractual Obligation of any Credit Party or any of its Subsidiaries which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or involve a monetary claim in excess of $7,500,000;

(c) promptly, any litigation, or any investigation or proceeding known or threatened to any Credit Party (i) affecting any Credit Party or any of its Subsidiaries which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or involve a monetary claim in excess of $7,500,000 or involving injunctions or requesting injunctive relief by or against any Credit Party or any Subsidiary of any Credit Party, (ii) affecting or with respect to this Agreement, any other Credit Document or any security interest or Lien created thereunder, (iii) involving an environmental claim or potential liability under Environmental Laws which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iv) by any Governmental Authority relating to any Credit Party or any Subsidiary thereof and alleging fraud, deception or willful misconduct by such Person;

(d) of any labor controversy that has resulted in, or threatens to result in, a strike or other work action against any Credit Party which could reasonably be expected to have a Material Adverse Effect;

(e) of any attachment, judgment, lien, levy or order exceeding $7,500,000 that may be assessed against or threatened against any Credit Party other than Permitted Liens;

(f) as soon as possible and in any event within thirty (30) days after any Credit Party knows thereof: (i) the occurrence of any Reportable Event with respect to any ERISA Plan, a failure to make any required contribution to an ERISA Plan, the creation of any Lien in favor of the PBGC (other than a Permitted Lien) or an ERISA Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or any Credit Party, any Commonly Controlled Entity or any Multiemployer Plan, with respect to the withdrawal from, or the terminating, Reorganization or Insolvency of, any ERISA Plan;

(g) promptly, any written notice of any material violation received by any Credit Party from any Governmental Authority including, without limitation, any written notice of a material violation of Environmental Laws;

(h) promptly, any other development or event which could reasonably be expected to have a Material Adverse Effect; and

(i) (i) prompt written notice of any warning letter (or letter of similar effect or import) from the FDA received by any Person (to the knowledge of the Borrower in the case of a person that is not the Borrower or a Subsidiary) seeking the withdrawal, recall, suspension, import detention or seizure of any Product in excess of $7,500,000 or which could reasonably be expected to have, in the aggregate, a Material Adverse Effect.

Each notice pursuant to this Section shall be accompanied by a statement of an Authorized Officer setting forth details of the occurrence referred to therein and stating what action the Credit Parties propose to take with respect thereto. In the case of any notice of a Default or Event of Default, the Borrower shall specify that such notice is a Default or Event of Default notice on the face thereof.

Section 5.8 Environmental Laws .

(a) Comply in all material respects with all applicable Environmental Laws and obtain and comply in all material respects with and maintain any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws; and

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply with in all material respects all lawful orders and directives of all Governmental Authorities regarding Environmental Laws except to the extent that the same are being contested in good faith by appropriate proceedings.

Section 5.9 Financial Covenants .

Comply with the following financial covenants:

(a) Total Leverage Ratio . The Total Leverage Ratio, calculated as of the last day of each fiscal quarter occurring during the periods set forth below, shall be less than or equal to the following:

Period	Ratio
Closing Date through and including December 31, 2018	3.75 to 1.00
January 1, 2019 through and including December 31, 2019	3.50 to 1.00
January 1, 2020 through and including December 31, 2020	3.25 to 1.00
January 1, 2021 and thereafter	3.00 to 1.00

(b) Senior Secured Leverage Ratio . The Senior Secured Leverage Ratio, calculated as of the last day of each fiscal quarter occurring during the periods set forth below, shall be less than or equal to the following:

Period	Ratio
Closing Date through and including December 31, 2018	2.50 to 1.00
January 1, 2019 through and including December 31, 2019	2.25 to 1.00
January 1, 2020 and thereafter	2.00 to 1.00

(c) Fixed Charge Coverage Ratio . The Fixed Charge Coverage Ratio, calculated as of the last day of each fiscal quarter, shall be greater than or equal to 1.25 to 1.00.

(d) Specified Equity Contribution . Notwithstanding the above, the parties hereto acknowledge and agree that, solely for purposes of calculations made in determining compliance with this Section 5.9, any cash equity contribution (which equity shall be common equity or other equity having terms reasonably satisfactory to the Administrative Agent and the Required Lenders) made to the Borrower by the holders of its Equity Interests following the request therefor by the Borrower during the fiscal quarter or on or prior to the day that is ten (10) Business Days after the day on which financial statements are required to be delivered with respect to a fiscal year pursuant to Section 5.1(a) or a fiscal quarter pursuant to Section 5.1(b), as applicable, will be deemed to increase, dollar for dollar, Consolidated EBITDA for the purposes of determining compliance with the financial covenants contained herein at the end of such fiscal year or fiscal quarter and each applicable subsequent period (any such equity contribution, a " Specified Equity Contribution "); provided that (i) in any four (4) fiscal quarter period, there shall be at least two (2) fiscal quarters in respect of which no Specified Equity Contribution is made, (ii) there shall not be more than three (3) Specified Equity Contributions made during the term of this Agreement, (iii) the amount of any Specified Equity Contribution shall be no greater than the amount required to cause the Credit Parties to be in compliance with the financial covenants set forth above, (iv) the amount of any Indebtedness repaid with the proceeds of the Specified Equity Contribution shall be disregarded for purposes of calculating the financial covenants set forth above for each such period during which the Specified Equity Contribution is included in the calculation of Consolidated EBITDA and (v) a Specified Equity Contribution shall only be included in the computation of the financial covenants for purposes of determining compliance by the Credit Parties with this Section 5.9 and not for any other purpose under this Agreement (including, without limitation, any determination of the Applicable Margin, any compliance with this Section 5.9 set forth in the definition of Permitted Acquisition and in the determination of the availability of any baskets set forth in Article V or Article VI). Upon the making of a Specified Equity Contribution, the financial covenants in this Section 5.9 shall be recalculated giving effect to the increase in Consolidated EBITDA; provided that nothing in this subsection shall waive any Default or Event of Default that exists pursuant to clauses (a), (b) or (c) of this Section 5.9 until such recalculation. If, after giving effect to such recalculation, the Credit Parties are in compliance with the financial covenants, the Credit Parties shall be deemed to have satisfied the requirements of the financial covenants as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date and the applicable Default or Event of Default that had occurred shall be deemed waived and not to have occurred for all purposes of this Agreement and the other Credit Documents.

Section 5.10 Additional Guarantors .

The Credit Parties will cause each of their Subsidiaries (other than Excluded Foreign Subsidiaries), whether newly formed, after acquired or otherwise existing to promptly (and in any event within thirty (30) days after such Subsidiary is formed or acquired (or such longer period of time as agreed to by the Administrative Agent in its reasonable discretion)) become a Guarantor hereunder by way of execution of a Joinder Agreement. In connection therewith, the Credit Parties shall give notice to the Administrative Agent not less than ten (10) days prior to creating a Subsidiary (or such shorter period of time as agreed to by the Administrative Agent in its reasonable discretion), or acquiring the Equity Interests of any other Person. In connection with the foregoing, the Credit Parties shall comply with the requirements of Section 5.12 and shall deliver to the Administrative Agent, with respect to each new Guarantor to the extent applicable, substantially the same documentation required pursuant to Sections 4.1(b) – (f) and (j) and such other documents or agreements as the Administrative Agent may reasonably request.

Section 5.11 Compliance with Law .

Comply with all Requirements of Law and orders (including Environmental Laws, ERISA and the Patriot Act), and all applicable restrictions imposed by all Governmental Authorities, applicable to it and the Collateral if noncompliance with any such Requirements of Law, order or restriction could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.12 Pledged Assets .

(a) Equity Interests . Each Credit Party will cause 100% of the Equity Interests in each of its direct or indirect Domestic Subsidiaries (other than any Excluded Domestic Subsidiary) and 65% (to the extent the pledge of a greater percentage would be unlawful or would cause any materially adverse tax consequences to the Borrower or any Guarantor) of the voting Equity Interests and 100% of the non-voting Equity Interests of its first-tier Foreign Subsidiaries (and any Domestic Subsidiary owned by a Foreign Subsidiary and any CFC Holding Company), in each case to the extent owned by such Credit Party, to be subject at all times to a first priority, perfected Lien in favor of the Administrative Agent pursuant to the terms and conditions of the Security Documents or such other security documents as the Administrative Agent shall reasonably request.

(b) Personal Property . Subject to the terms of subsection (c) below, each Credit Party will cause all of its tangible and intangible personal property now owned or hereafter acquired by it (other than Excluded Assets (as defined in the Security Agreement)) to be subject at all times to a first priority, perfected Lien (subject in each case to Permitted Liens) in favor of the Administrative Agent for the benefit of the Secured Parties to secure the Credit Party Obligations pursuant to the terms and conditions of the Security Documents or such other security documents as the Administrative Agent shall reasonably request.

(c) Real Property . To the extent otherwise permitted hereunder, if any Credit Party intends to acquire a fee ownership interest in any real property (" Real Estate ") after the Closing Date and such Real Estate has a fair market value in excess of $5,000,000, it shall provide to the Administrative Agent within sixty (60) days of such acquisition (or such extended period of time as agreed to by the Administrative Agent) (i) such security documentation as the Administrative Agent may request to cause such fee ownership interest in Real Estate to be subject at all times to a first priority, perfected Lien (subject in each case to Permitted Liens) in favor of the Administrative Agent and (ii) such other documentation as the Administrative Agent may reasonably request in connection with the foregoing, including, without limitation, the same documentation required pursuant to Section 4.1(e), all in form and substance reasonably satisfactory to the Administrative Agent; provided , that no Credit Party shall pledge any Real Estate to the Administrative Agent unless and until each Lender has received at least forty-five (45) days prior written notice that such Real Estate shall become a Mortgaged Property.

Section 5.13 Hedging Agreements.

Within 90 days following the Closing Date, the Borrower shall cause at least 50% of the aggregate Term Loan then outstanding to be hedged pursuant to Hedging Agreements for a term of at least two (2) years with a counterparty and on terms acceptable to the Administrative Agent.

Section 5.14 Landlord Waivers .

In the case of (a) each headquarter location of the Credit Parties, each other location where any significant administrative or governmental functions are performed and each other location where the Credit Parties maintain any books or records (electronic or otherwise) and (b) any personal property Collateral located at any other premises leased by a Credit Party containing personal property Collateral with a value in excess of $1,000,000, the Credit Parties will provide the Administrative Agent with such estoppel letters, consents and waivers from the landlords on such real property to the extent (i) requested by the Administrative Agent and (ii) the Credit Parties are able to secure such letters, consents and waivers after using commercially reasonable efforts (such letters, consents and waivers shall be in form and substance satisfactory to the Administrative Agent).

Section 5.15 Further Assurances and Post-Closing Covenants .

(a) Public/Private Designation . The Credit Parties will cooperate with the Administrative Agent in connection with the publication of certain materials and/or information provided by or on behalf of the Credit Parties to the Administrative Agent and Lenders (collectively, " Information Materials ") and will designate Information Materials (i) that are either available to the public or not material with respect to the Credit Parties and their Subsidiaries or any of their respective securities for purposes of United States federal and state securities laws, as " Public Information " and (ii) that are not Public Information as " Private Information ".

(b) Additional Information . The Credit Parties shall provide such information regarding the operations, business affairs and financial condition of the Credit Parties and their Subsidiaries as the Administrative Agent or any Lender may reasonably request.

(c) Visits and Inspections . The Credit Parties shall permit representatives of the Administrative Agent or any Lender, from time to time upon prior reasonable notice and at such times during normal business hours, to visit and inspect its properties (including the Collateral); inspect, audit and make extracts from its books, records and files, including, but not limited to, management letters prepared by independent accountants; and discuss with its principal officers, and its independent accountants, its business, assets, liabilities, financial condition, results of operations and business prospects; provided , that so long as no Event of Default has occurred and is continuing, no more than one such inspection or visit shall occur per calendar year and the Borrower shall only be required to pay for the reasonable out-of-pocket expenses of one such inspection or visit during a calendar year. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent or any Lender may do any of the foregoing at any time without advance notice.

(d) Further Assurances . Upon the reasonable request of the Administrative Agent, promptly perform or cause to be performed any and all acts, provide or cause to be provided additional financial information or other information similar to what was provided pursuant to Section 4.1(s), in each case, with respect to the Credit Parties or any of their Subsidiaries and execute or cause to be executed any and all documents for filing under the provisions of the UCC or any other Requirement of Law which are necessary or advisable to maintain in favor of the Administrative Agent, for the benefit of the Secured Parties, Liens on the Collateral that are duly perfected in accordance with the requirements of, or the obligations of the Credit Parties under, the Credit Documents and all applicable Requirements of Law.

(e) Post-Closing Covenant . The Credit Parties shall execute and deliver the documents and complete the tasks set forth on Schedule 5.16 , in each case within the time limits specified on such schedule (or such later period of time as agreed to by the Administrative Agent in its sole discretion).

Section 5.16 Use of Proceeds.

The proceeds of the Extensions of Credit shall be used by the Borrower in accordance with Section 3.11.

ARTICLE VI

NEGATIVE COVENANTS

Each of the Credit Parties hereby covenants and agrees that on the Closing Date, and thereafter (a) for so long as this Agreement is in effect, (b) until the Commitments have terminated, and (c) the Credit Party Obligations and all other amounts owing to the Administrative Agent or any Lender hereunder are paid in full in cash, that:

Section 6.1 Indebtedness .

No Credit Party will, nor will it permit any Subsidiary to, contract, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness arising or existing under this Agreement and the other Credit Documents;

(b) Indebtedness of the Credit Parties and their Subsidiaries existing as of the Closing Date as referred to in the financial statements referenced in Section 3.1 (and set out more specifically in Schedule 6.1(b) hereto) and any renewals, refinancings or extensions thereof in a principal amount not in excess of that outstanding as of the date of such renewal, refinancing or extension and the terms of any such renewal, refinancing or extension are not less favorable to the obligor thereunder;

(c) Indebtedness of the Credit Parties and their Subsidiaries incurred after the Closing Date consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price or cost of construction of an asset; provided that (i) such Indebtedness when incurred shall not exceed the purchase price or cost of construction of such asset; (ii) no such Indebtedness shall be renewed, refinanced or extended for a principal amount in excess of the principal balance outstanding thereon at the time of such renewal, refinancing or extension; and (iii) the total amount of all such Indebtedness shall not exceed $5,000,000 at any time outstanding;

(d) Unsecured intercompany Indebtedness among the Credit Parties and, to the extent permitted pursuant to Section 6.5, their Subsidiaries; provided that any such Indebtedness shall be (i) fully subordinated to the Credit Party Obligations hereunder on terms reasonably satisfactory to the Administrative Agent and (ii) to the extent required by the Administrative Agent, evidenced by promissory notes which shall be pledged to the Administrative Agent as Collateral for the Credit Party Obligations;

(e) Indebtedness and obligations owing under (i) Bank Products and (ii) other Hedging Agreements entered into in order to manage existing or anticipated interest rate, exchange rate or commodity price risks and not for speculative purposes;

(f) Indebtedness of a Person existing at the time such Person becomes a Subsidiary of a Credit Party in a transaction permitted hereunder in an aggregate principal amount not to exceed $15,000,000 for all such Persons; provided that (A) the Credit Parties shall be in compliance on a Pro Forma Basis with the financial covenants set forth in Section 5.9 hereof, recalculated for the most recently ended fiscal quarter for which information is available and (B) any such Indebtedness was not created in anticipation of or in connection with the transaction or series of transactions pursuant to which such Person became a Subsidiary of a Credit Party;

(g) Indebtedness arising from agreements providing for indemnification and purchase price adjustment obligations or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of any Credit Party or its Subsidiaries pursuant to such agreements, in connection with Dispositions, other sales of assets or Permitted Acquisitions;

(h) Subordinated Debt or unsecured Indebtedness; provided that (i) if such Indebtedness is secured, it shall be subordinated to the Credit Party Obligations in a manner reasonably acceptable to the Administrative Agent and shall otherwise be issued on terms and conditions reasonably satisfactory to the Administrative Agent, (ii) the Total Leverage Ratio of the Credit Parties and their Subsidiaries is not greater than 0.25 to 1.0 less than the then applicable level set forth in Section 5.9, calculated on a Pro Forma Basis after giving effect to the incurrence of such Indebtedness, (iii) the Senior Secured Leverage Ratio of the Credit Parties and their Subsidiaries is not greater than 0.25 to 1.0 less than the then applicable level set forth in Section 5.9, calculated on a Pro Forma Basis after giving effect to the incurrence of such Indebtedness and (iv) at the time such Indebtedness is incurred, no Default or Event of Default shall exist or shall result therefrom;

(i) the Existing Notes or any Permitted Refinancing Indebtedness in respect thereof;

(j) Guaranty Obligations in respect of Indebtedness of a Credit Party to the extent such Indebtedness is permitted to exist or be incurred pursuant to this Section

(k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business and other Indebtedness in respect of obligations under any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, return items, purchasing card, travel and entertainment card, credit or debit card, electronic funds transfer, automated clearing house transfers of funds and other cash management arrangements in the ordinary course of business;

(l) trade payables, accruals and accounts payable in the ordinary course of business (in each case to the extent not overdue) not for Funded Debt;

(m) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such person in each case incurred in the ordinary course of business;

(n) Indebtedness in respect of performance bonds, bid bonds, surety and (other than surety bonds required in connection with any 401(d) plan(s) maintained by the Credit Parties) and similar obligations, not to exceed $1,000,000 in the aggregate at any time outstanding, in each case provided in the ordinary course of business;

(o) Indebtedness consisting of insurance premiums accrued but not yet due;

(p) [reserved];

(q) Indebtedness in respect of taxes, assessments or governmental charges which are permitted to be outstanding in accordance with the terms hereof;

(r) Indebtedness consisting of judgments not otherwise constituting an Event of Default;

(s) Indebtedness consisting of deferred purchase price or notes issued to officers, directors and employees to purchase or redeem Equity Interests of Borrower in an amount not to exceed $1,000,000 at any time outstanding;

(t) unsecured Indebtedness in the form of Contingent Payments; provided that (i) the Total Leverage Ratio of the Credit Parties and their Subsidiaries is not greater than 0.25 to 1.0 less than the then applicable level set forth in Section 5.9, calculated on a Pro Forma Basis after giving effect to the incurrence of such Indebtedness and (ii) at the time such Indebtedness is incurred, no Default or Event of Default shall exist or shall result therefrom; and

(u) Refinancings of Indebtedness permitted under this Section 6.1.

Section 6.2 Liens .

The Credit Parties will not, nor will they permit any Subsidiary to, contract, create, incur, assume or permit to exist any Lien with respect to any of their respective property or assets of any kind (whether real or personal, tangible or intangible), whether now owned or hereafter acquired, except for the following (the " Permitted Liens "):

(a) Liens created by or otherwise existing under or in connection with this Agreement or the other Credit Documents in favor of the Administrative Agent on behalf of the Secured Parties;

(b) Liens in favor of a Bank Product Provider in connection with a Bank Product; provided that such Liens shall secure the Credit Party Obligations on a pari passu basis;

(c) Liens securing purchase money Indebtedness and Capital Lease Obligations (and refinancings thereof) to the extent permitted under Section 6.1(c); provided , that (i) any such Lien attaches to such property concurrently with or within thirty (30) days after the acquisition thereof and (ii) such Lien attaches solely to the property so acquired in such transaction;

(d) Liens for taxes, assessments, charges or other governmental levies not yet due or as to which the period of grace, if any, related thereto has not expired or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of any Credit Party or its Subsidiaries, as the case may be, in conformity with GAAP;

(e) statutory Liens such as carriers', warehousemen's, mechanics', materialmen's, landlords', repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than sixty (60) days or which are being contested in good faith by appropriate proceedings; provided that a reserve or other appropriate provision shall have been made therefor and the aggregate amount of such Liens is less than $1,000,000;

(f) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation (other than any Lien imposed by ERISA) and deposits securing liability to insurance carriers under insurance or self-insurance arrangements;

(g) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) easements, rights of way, restrictions and other similar encumbrances affecting real property which do not in any case materially interfere with the ordinary conduct of the business of the applicable Person;

(i) Liens existing on the Closing Date and set forth on Schedule 1.1(b) ; provided that (i) no such Lien shall at any time be extended to cover property or assets other than the property or assets subject thereto on the Closing Date and improvements thereon and (ii) the principal amount of the Indebtedness secured by such Lien shall not be extended, renewed, refunded or refinanced;

(j) any extension, renewal or replacement (or successive extensions, renewals or replacements), in whole or in part, of any Lien referred to in this definition (other than Liens set forth on Schedule 1.1(b)); provided that such extension, renewal or replacement Lien shall be limited to all or a part of the property which secured the Lien so extended, renewed or replaced (plus improvements on such property);

(k) Liens arising in the ordinary course of business by virtue of any contractual, statutory or common law provision relating to banker's Liens, rights of set-off or similar rights and remedies covering deposit or securities accounts (including funds or other assets credited thereto) or other funds maintained with a depository institution or securities intermediary;

(l) any reservation, covenant, zoning, building or similar laws or rights reserved to or vested in any Governmental Authority;

(m) restrictions on transfers of securities imposed by applicable Securities Laws;

(n) Liens arising out of judgments or awards not resulting in an Event of Default; provided that the applicable Credit Party or Subsidiary shall in good faith be prosecuting an appeal or proceedings for review, to the extent available;

(o) any Lien securing Indebtedness permitted under Section 6.1(f) existing on any property or asset (other than Accounts and Inventory (each as defined in the Security Agreement)) prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset (other than Accounts and Inventory (each as defined in the Security Agreement)) of any Person that becomes a Credit Party after the date hereof prior to the time such Person becomes a Credit Party; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Credit Party, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Credit Party and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Credit Party, as the case may be;

(p) any interest or title of a lessor, licensor or sublessor under any lease, license or sublease entered into by any Credit Party or any Subsidiary thereof in the ordinary course of its business and covering only the assets so leased, licensed or subleased;

(q) Liens in favor of the Administrative Agent, Issuing Lender and/or Swingline Lender to Cash Collateralize or otherwise secure the obligations of a Defaulting Lender to fund risk participations hereunder;

(r) assignments of insurance or condemnation proceeds provided to landlords (or their mortgagees) pursuant to the terms of any lease and Liens or rights reserved in any lease for rent or for compliance with the terms of such lease;

(s) Liens securing Indebtedness permitted pursuant to Section 6.1(h);

(t) additional Liens so long as the principal amount of Indebtedness and other obligations secured thereby does not exceed $1,000,000 in the aggregate;

(u) non-exclusive licenses or sublicenses of intellectual property granted by any Credit Party in the ordinary course of business;

(v) Liens on insurance premiums permitted under Section 6.1;

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

(x) Liens in the nature of setoff, refund or chargeback in favor of counterparties to contractual arrangements with Credit Parties in the ordinary course of business.

Notwithstanding the foregoing, if a Credit Party shall grant a Lien on any of its assets in violation of this Section, then it shall be deemed to have simultaneously granted an equal and ratable Lien on any such assets in favor of the Administrative Agent for the ratable benefit of the Secured Parties, to the extent such Lien has not already been granted to the Administrative Agent.

Section 6.3 Nature of Business .

No Credit Party will, nor will it permit any Subsidiary to, alter the character of its business in any material respect from that conducted as of the Closing Date.

Section 6.4 Consolidation, Merger, Purchase and Sale of Assets, etc .

The Credit Parties will not, nor will they permit any Subsidiary to,

(a) dissolve, liquidate or wind up its affairs, or sell, transfer, lease or otherwise dispose of its property or assets (each a " Disposition ") or agree to do so at a future time, except the following, without duplication, shall be expressly permitted:

(i) (A) the sale, transfer, lease or other disposition of inventory and materials in the ordinary course of business and (B) the conversion of cash into Cash Equivalents and Cash Equivalents into cash, in each case so long as such Disposition is for fair market value;

(ii) the sale, transfer or other disposition of property or assets to an unrelated party not in the ordinary course of business where and to the extent that they are the result of a Recovery Event to the extent Net Cash Proceeds from such Recovery Event are reinvested or used to make mandatory prepayments pursuant to Section 2.7(b)(vi) or resulting from any condemnation or taking under power of eminent domain or similar proceeding;

(iii) the sale, lease, transfer or other disposition for fair market value of machinery, parts and equipment no longer used or useful in the conduct of the business of the Credit Parties or any of their Subsidiaries;

(iv) so long as no Default or Event of Default shall exist or shall result therefrom, the (A) sale, lease or transfer of property or assets (1) from a Credit Party or a Subsidiary of a Credit Party to a Credit Party or (2) among Subsidiaries that are not Credit Parties or the (B) dissolution of (1) any Credit Party (other than the Borrower) to the extent any and all assets of such Credit Party are distributed to another Credit Party or (2) any Subsidiary that is not a Credit Party to the extent any and all assets of such Subsidiary are distributed to a Credit Party or another Subsidiary that is not a Credit Party;

(v) the termination of any Hedging Agreement; provided , that no Event of Default shall exist or shall result therefrom;

(vi) the sale, lease or transfer of property (including real property) or assets not to exceed $5,000,000 in the aggregate in any fiscal year; provided , that (A) the Credit Parties shall be in compliance on a Pro Forma Basis with the financial covenants set forth in Section 5.9 hereof, recalculated for the most recently ended fiscal quarter for which information is available, (B) such Disposition shall be for fair market value and (C) no Default or Event of Default shall exist or shall result therefrom;

(vii) sales, transfers and dispositions of Accounts in connection with the compromise, settlement or collection thereof;

(viii) licenses of intellectual property granted in the ordinary course of business;

(ix) lapse or termination of immaterial intellectual property that is no longer useful to its business; and

(x) termination, surrender or sublease of a real estate lease in the ordinary course of business;

provided that with respect to clauses (i)(A), (ii), (iii) and (vi) above, at least 75% of the consideration received therefor by the Credit Parties or any such Subsidiary shall be in the form of cash or Cash Equivalents; provided , further , that with respect to sales of assets permitted hereunder only, the Administrative Agent shall be entitled, without the consent of any Lender, to release its Liens relating to the particular assets sold; or

(b) effect any merger or consolidation, except for (i) Investments or acquisitions permitted pursuant to Section 6.5 so long as the Credit Party subject to such merger or consolidation is the surviving entity, (ii) (y) the merger or consolidation of a Subsidiary that is not a Credit Party with and into a Credit Party; provided that such Credit Party will be the surviving entity and (z) the merger or consolidation of a Credit Party with and into another Credit Party; provided that if the Borrower is a party thereto, the Borrower will be the surviving corporation, and (iii) the merger or consolidation of a Subsidiary that is not a Credit Party with and into another Subsidiary that is not a Credit Party.

Section 6.5 Advances, Investments and Loans .

The Credit Parties will not, nor will they permit any Subsidiary to, make any Investment or contract to make any Investment except for the following (the " Permitted Investments "):

(a) cash and Cash Equivalents;

(b) Investments existing as of the Closing Date as set forth on Schedule 1.1(a) ;

(c) extensions of trade credit in the ordinary course of business, including receivables owing to the Credit Parties or any of their Subsidiaries or any receivables and advances to suppliers, in each case if created, acquired or made in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;

(d) Investments in and loans to any Credit Party;

(e) loans and advances to officers, directors and employees in an aggregate amount not to exceed $5,000,000 at any time outstanding; provided that such loans and advances shall comply with all applicable Requirements of Law (including Sarbanes-Oxley);

(f) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(g) (i) the Acquisition and (ii) other Permitted Acquisitions;

(h) Investments in (i) Subsidiaries that are not Credit Parties in an aggregate amount not to exceed $5,000,000 at any one time outstanding, (ii) joint ventures in an aggregate amount not to exceed $5,000,000 at any one time outstanding and (iii) Subsidiaries that are not Credit Parties by other Subsidiaries that are not Credit Parties;

(i) Investments consisting of Bank Products to the extent permitted hereunder;

(j) additional loan advances and/or Investments of a nature not contemplated by the foregoing clauses hereof; provided that (i) such loans, advances and/or Investments made after the Closing Date pursuant to this clause shall not exceed an aggregate amount of $5,000,000 at any one time outstanding, and (ii) no Default or Event of Default shall exist or shall result therefrom;

(k) notes payable or stock or other securities issued by Account Debtors pursuant to negotiated agreements with respect to settlement of such Account Debtor's Accounts in the ordinary course of business;

(l) salary advances, travel expense advances, advances against commissions and other similar advances to employees in the ordinary course of business; and

(m) deposits with landlords in the ordinary course of business to secure or support obligations of Credit Parties under the lease of real property.

Section 6.6 Transactions with Affiliates .

The Credit Parties will not, nor will they permit any Subsidiary to, enter into any transaction or series of transactions, whether or not in the ordinary course of business, with any officer, director, shareholder or Affiliate other than on terms and conditions substantially as favorable as would be obtainable in a comparable arm's-length transaction with a Person other than an officer, director, shareholder or Affiliate, other than (a) transactions solely between or among (i) Credit Parties or (ii) Subsidiaries that are not Credit Parties, (b) investments in Subsidiaries permitted by Section 6.5 and (c) any Restricted Payment permitted by Section 6.9.

Section 6.7 Corporate Changes; Material Contracts .

No Credit Party will, nor will it permit any of its Subsidiaries to, (a) change its fiscal year or (b) amend, modify or change its articles of incorporation, certificate of designation (or corporate charter or other similar organizational document) operating agreement or bylaws (or other similar document) in any respect materially adverse to the interests of the Lenders without the prior written consent of the Required Lenders. No Credit Party shall (a) (i) except as permitted under Section 6.4, alter its legal existence or, in one transaction or a series of transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets, (ii) change its state of incorporation or organization, without providing thirty (30) days prior written notice to the Administrative Agent and without filing (or confirming that the Administrative Agent has filed) such financing statements and amendments to any previously filed financing statements as the Administrative Agent may require, or (iii) change its registered legal name, without providing thirty (30) days prior written notice to the Administrative Agent and without filing (or confirming that the Administrative Agent has filed) such financing statements and amendments to any previously filed financing statements as the Administrative Agent may require, (b) [reserved], (c) have more than one state of incorporation, organization or formation or (d) change its accounting method (except in accordance with GAAP) in any manner adverse to the interests of the Lenders without the prior written consent of the Required Lenders.

Section 6.8 Limitation on Restricted Actions .

The Credit Parties will not, nor will they permit any Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Person to (a) pay dividends or make any other distributions to any Credit Party on its Equity Interests or with respect to any other interest or participation in, or measured by, its profits, (b) pay any Indebtedness or other obligation owed to any Credit Party, (c) make loans or advances to any Credit Party, (d) sell, lease or transfer any of its properties or assets to any Credit Party, or (e) act as a Guarantor and pledge its assets pursuant to the Credit Documents or any renewals, refinancings, exchanges, refundings or extension thereof or amend or otherwise modify the Credit Documents, except (in respect of any of the matters referred to in clauses (a)-(d) above) for such encumbrances or restrictions existing under or by reason of (i) this Agreement and the other Credit Documents, (ii) applicable law, (iii) any document or instrument governing Indebtedness incurred pursuant to Section 6.1(c); provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (iv) customary provisions in leases, licenses and contracts restricting assignments thereof, or (iv) any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien.

Section 6.9 Restricted Payments .

The Credit Parties will not, nor will they permit any Subsidiary to, directly or indirectly, declare, order, make or set apart any sum for or pay any Restricted Payment, except:

(a) to make dividends payable solely in the same class of Equity Interests of such Person;

(b) to make dividends or other distributions payable to the Credit Parties (directly or indirectly through its Subsidiaries);

(c) so long as no Default or Event of Default shall have occurred or would result therefrom and the Credit Parties are in compliance on a Pro Forma Basis with the financial covenants set forth in Section 5.9 after giving effect thereto, to pay dividends and/or redeem shares of common stock in an aggregate amount not to exceed $25,000,000 per fiscal year; and

(d) to make regularly scheduled payments of interest on the Existing Notes and similar payments in respect of Permitted Refinancing Indebtedness and, so long as no Default or Event of Default shall have occurred or would result therefrom and the Credit Parties are in compliance on a Pro Forma Basis with the financial covenants set forth in Section 5.9 after giving effect thereto, to redeem or repay principal Indebtedness under the Existing Notes or any Permitted Refinancing Indebtedness in replacement thereof.

Notwithstanding the foregoing, and for the avoidance of doubt, the conversion by holders of (including any cash payment upon conversion), or required payment of any principal or premium on, or required payment of any interest with respect to, any Existing Notes, in each case, in accordance with the terms of the Existing Notes Indenture shall not constitute a Restricted Payment.

Notwithstanding the foregoing, the Borrower may repurchase, exchange or induce the conversion of Existing Notes by delivery of shares of the Borrower's common stock and/or Permitted Refinancing Indebtedness.

Section 6.10 Sale Leasebacks .

The Credit Parties will not, nor will they permit any Subsidiary to, directly or indirectly, become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which any Credit Party or any Subsidiary has sold or transferred or is to sell or transfer to a Person which is not a Credit Party or a Subsidiary or (b) which any Credit Party or any Subsidiary intends to use for substantially the same purpose as any other property which has been sold or is to be sold or transferred by a Credit Party or a Subsidiary to another Person which is not a Credit Party or a Subsidiary in connection with such lease.

Section 6.11 No Further Negative Pledges .

The Credit Parties will not, nor will they permit any Subsidiary to, enter into, assume or become subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon any of their properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation, except (a) pursuant to this Agreement and the other Credit Documents, (b) pursuant to any document or instrument governing Indebtedness incurred pursuant to Section 6.1(c); provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (c) customary provisions in leases, licenses and contracts restricting assignments thereof and (d) in connection with any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien.

Section 6.12 Account Control Agreements; Additional Bank Accounts .

Set forth on Schedule 3.16(c) is a complete and accurate list of all checking, savings or other accounts (including securities accounts) of the Credit Parties at any bank or other financial institution, or any other account where money is or may be deposited or maintained with any Person as of the Closing Date. Each of the Credit Parties will not open, maintain or otherwise have any checking, savings or other accounts (including securities accounts) at any bank or other financial institution, or any other account where money is or may be deposited or maintained with any Person, other than (a) deposit accounts that are subject to a Deposit Account Control Agreement or are held with the Administrative Agent, (b) securities accounts that are subject to a Securities Account Control Agreement, (c) deposit accounts established solely as payroll and other zero balance accounts and (d) other deposit accounts, so long as of any time the balance in any such account does not exceed $100,000 and the aggregate balance in all such accounts does not exceed $250,000.

Section 6.13 [Reserved] .

Section 6.14 Amendments to Subordinated Debt Documents .

The Credit Parties will not, nor will they permit any Subsidiary to, without the prior written consent of the Required Lenders, amend, modify, waive or extend or permit the amendment, modification, waiver or extension of any term of any document governing or relating to any Subordinated Debt in a manner that is adverse to the interests of the Lenders.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.1 Events of Default .

An Event of Default shall exist upon the occurrence of any of the following specified events (each an " Event of Default "):

(a) Payment . (i) Any Credit Party shall fail to pay any principal on any Loan or Note when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof or thereof; or (ii) any Credit Party shall fail to reimburse the Issuing Lender for any LOC Obligations when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof; or (iii) any Credit Party shall fail to pay any interest on any Loan or any fee or other amount payable hereunder when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof and such failure shall continue unremedied for three (3) days; or (iv) any Guarantor shall fail to pay on the Guaranty in respect of any of the foregoing or in respect of any other Guaranty Obligations hereunder (after giving effect to the grace period in clause (iii)); or

(b) Misrepresentation . Any representation or warranty made or deemed made herein, in the Security Documents or in any of the other Credit Documents or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement shall prove to have been (i) with respect to representations and warranties that contain a materiality qualification, incorrect or false on or as of the date made or deemed made and (ii) with respect to representations and warranties that do not contain a materiality qualification, incorrect or false in any material respect on or as of the date made or deemed made; or

(c) Covenant Default .

(i) Any Credit Party shall fail to perform, comply with or observe any term, covenant or agreement applicable to it contained in (A) Sections 5.4, 5.7, 5.9, 5.11, 5.13, 5.15 or Article VI hereof (other than Section 6.12) or (B) Sections 5.1 or 5.2 and, with respect to this clause (B) only, such breach or failure to comply is not cured within five (5) Business Days of its occurrence; or

(ii) Any Credit Party shall fail to comply with any other covenant contained in this Agreement or the other Credit Documents or any other agreement, document or instrument among any Credit Party, the Administrative Agent and the Lenders or executed by any Credit Party in favor of the Administrative Agent or the Lenders (other than as described in Sections 7.1(a) or 7.1(c)(i) above) and, with respect to this clause (ii) only, such breach or failure to comply is not cured within thirty (30) days of its occurrence; or

(d) Indebtedness Cross-Default . (i) Any Credit Party or any of its Subsidiaries shall default in any payment of principal of or interest on any Indebtedness (other than the Loans, Reimbursement Obligations and the Guaranty) in a principal amount outstanding of at least $10,000,000 for the Credit Parties and any of their Subsidiaries in the aggregate beyond any applicable grace period (not to exceed forty-five (45) days), if any, provided in the instrument or agreement under which such Indebtedness was created; or (ii) any Credit Party or any of its Subsidiaries shall default in the observance or performance of any other agreement or condition relating to any Indebtedness (other than the Loans, Reimbursement Obligations and the Guaranty) in a principal amount outstanding of at least $10,000,000 in the aggregate for the Credit Parties and their Subsidiaries or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or to be repurchased, prepaid, deferred or redeemed (automatically or otherwise); or (iii) any Credit Party or any of its Subsidiaries shall breach or default any payment obligation under any Hedging Agreement that is a Bank Product; or

(e) Criminal Forfeiture . Any Credit Party shall be criminally indicted or convicted under any law that could lead to a forfeiture of any property of any Credit Party; or

(f) Bankruptcy Default . (i) A Credit Party or any of its Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or a Credit Party or any of its Subsidiaries shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against a Credit Party or any of its Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) a Credit Party or any of its Subsidiaries shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i) or (ii) above; or (iiv) a Credit Party or any of its Subsidiaries shall generally not, or shall be unable to, or shall admit in writing their inability to, pay its debts as they become due; or

(g) Judgment Default . (i) One or more monetary judgments or decrees shall be entered against a Credit Party or any of its Subsidiaries involving in the aggregate a liability (to the extent not covered by insurance) of $10,000,000 or more and all such judgments or decrees shall not have been paid and satisfied, vacated, discharged, stayed or bonded pending appeal within forty-five (45) days from the entry thereof or (ii) any injunction, temporary restraining order or similar decree shall be issued against a Credit Party or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; or

(h) ERISA Default . The occurrence of any of the following: (i) Any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any ERISA Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any ERISA Plan or any Lien in favor of the PBGC or an ERISA Plan (other than a Permitted Lien) shall arise on the assets of the Credit Parties or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Lenders, likely to result in the termination of such ERISA Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) a Credit Party, any of its Subsidiaries or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Lenders is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, any Multiemployer Plan or (vi) any other similar event or condition shall occur or exist with respect to an ERISA Plan that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; or

(i) Change of Control . There shall occur a Change of Control; or

(j) Invalidity of Guaranty . At any time after the execution and delivery thereof, the Guaranty, for any reason other than the satisfaction in full of all Credit Party Obligations, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void, or any Credit Party shall contest the validity, enforceability, perfection or priority of the Guaranty, any Credit Document, or any Lien granted thereunder in writing or deny in writing that it has any further liability, including with respect to future advances by the Lenders, under any Credit Document to which it is a party; or

(k) Invalidity of Credit Documents . Any Credit Document shall fail to be in full force and effect or to give the Administrative Agent and/or the Lenders the security interests, liens, rights, powers, priority and privileges purported to be created thereby (except as such documents may be terminated or no longer in force and effect in accordance with the terms thereof, other than those indemnities and provisions which by their terms shall survive) or any Lien shall fail to be a first priority, perfected Lien (subject to Permitted Liens) on a material portion of the Collateral; or

(l) Subordinated Debt . Any default (which is not waived or cured within the applicable period of grace) or event of default shall occur under any Subordinated Debt or the subordination provisions contained therein shall cease to be in full force and effect or shall cease to give the Lenders the rights, powers and privileges purported to be created thereby; or

(m) Classification as Senior Debt . The Credit Party Obligations shall cease to be classified as "Senior Indebtedness," "Designated Senior Indebtedness" or any similar designation under any Subordinated Debt instrument; or

(n) Business Disruption . There shall occur a cessation of a substantial part of the business of any Credit Party which could reasonably be expected to have a Material Adverse Effect; or any Credit Party shall suffer the loss or revocation of any material license or permit now held or hereafter acquired by any Credit Party which loss could reasonably be expected to have a Material Adverse Effect; or any Credit Party shall be enjoined, restrained or in any way prevented by court, governmental or administrative order from conducting all or any material part of its business affairs which injunction, restraint or other prevention could reasonably be expected to have a Material Adverse Effect; or

(o) Uninsured Loss . Any uninsured damage to or loss, theft or destruction of any assets of the Credit Parties or any of their Subsidiaries shall occur that is in excess of $10,000,000 (excluding customary deductible thresholds established in accordance with historical past practices); or

(p) FDA. (i) The FDA or any other Governmental Authority initiates enforcement action against any Credit Party or any of its Subsidiaries, or any suppliers that causes such Credit Party or Subsidiary to recall, withdraw, remove or discontinue marketing any of its Products which could reasonably be expected, in the aggregate, to have a Material Adverse Effect or (ii) the FDA or any other Governmental Authority issues a warning letter to any Credit Party or any of its Subsidiaries with respect to any Regulatory Matter which could reasonably be expected, in the aggregate, to have a Material Adverse Effect.

If a Default shall have occurred under the Credit Documents, then such Default will continue to exist until it either is cured (to the extent specifically permitted) in accordance with the Credit Documents or is otherwise expressly waived by Administrative Agent (with the approval of requisite Lenders (in their sole and absolute discretion) as determined in accordance with Section 9.1); and once an Event of Default occurs under the Credit Documents, then such Event of Default will continue to exist until it is expressly waived by the requisite Lenders or by the Administrative Agent with the approval of the requisite Lenders, as required hereunder in Section 9.1.

Section 7.2 Acceleration; Remedies.

Upon the occurrence and during the continuance of an Event of Default, then, and in any such event, (a) if such event is a Bankruptcy Event, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon), and all other amounts under the Credit Documents (including, without limitation, the maximum amount of all contingent liabilities under Letters of Credit) shall immediately become due and payable, and (b) if such event is any other Event of Default, any or all of the following actions may be taken: (i) with the written consent of the Required Lenders, the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; (ii) the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the Notes to be due and payable forthwith and direct the Borrower to pay to the Administrative Agent cash collateral as security for the LOC Obligations for subsequent drawings under then outstanding Letters of Credit an amount equal to the maximum amount of which may be drawn under Letters of Credit then outstanding, whereupon the same shall immediately become due and payable; and/or (iii) with the written consent of the Required Lenders, the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, exercise such other rights and remedies as provided under the Credit Documents and under applicable law.

ARTICLE VIII

THE ADMINISTRATIVE AGENT

Section 8.1 Appointment and Authority .

Each of the Lenders and the Issuing Lender hereby irrevocably appoints Citizens to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lender, and neither the Borrower nor any other Credit Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 8.2 Rights as a Lender .

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 8.3 Exculpatory Provisions .

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and its obligations hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Credit Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.1 and 7.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower, a Lender or an Issuing Lender.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent .

Section 8.4 Reliance by Administrative Agent .

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or the Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.5 Delegation of Duties .

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub agents appointed by the Administrative Agent. The Administrative Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub agent and to the Related Parties of the Administrative Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

Section 8.6 Resignation of Administrative Agent .

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lender and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the written consent of Borrower (such consent not to be unreasonably withheld and which consent shall not be required during any period in which a Default or Event of Default exists), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the " Resignation Effective Date "), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lender, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the " Removal Effective Date "), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any Collateral held by the Administrative Agent on behalf of the Lenders or the Issuing Lender under any of the Credit Documents, the retiring Administrative Agent shall continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Credit Documents, the provisions of this Article and Section 9.5 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

Section 8.7 Non-Reliance on Administrative Agent and Other Lenders .

Each Lender and the Issuing Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

Section 8.8 No Other Duties, Etc .

Anything herein to the contrary notwithstanding, none of the bookrunners or arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder.

Section 8.9 Administrative Agent May File Proof of Claim .

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan or LOC Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LOC Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lender and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lender and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lender and the Administrative Agent under Sections 2.5 and 9.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lender, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.5 and 9.5.

Section 8.10 Collateral and Guaranty Matters .

(a) The Lenders and the Bank Product Provider irrevocably authorize and direct the Administrative Agent:

(i) to release any Lien on any Collateral granted to or held by the Administrative Agent under any Credit Document (A) upon termination of the Commitments and payment in full of all Credit Party Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit, (B) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under the Credit Documents, or (C) subject to Section 9.1, if approved, authorized or ratified in writing by the Required Lenders;

(ii) to subordinate any Lien on any Collateral granted to or held by the Administrative Agent under any Credit Document to the holder of any Lien on such Collateral that is permitted by Section 6.2(c); and

(iii) to release any Guarantor from its obligations under the applicable Guaranty if such Person ceases to be a Guarantor as a result of a transaction permitted hereunder.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Collateral, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section.

(b) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 8.11 Notice of Default .

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided , however , that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement expressly requires that such action be taken, or not taken, only with the consent or upon the authorization of the Required Lenders, or all of the Lenders, as the case may be.

Section 8.12 Indemnification .

The Lenders agree to indemnify the Administrative Agent, the Issuing Lender, and the Swingline Lender in its capacity hereunder and their Affiliates and their respective officers, directors, agents and employees (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective Commitment Percentages in effect on the date on which indemnification is sought under this Section, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including, without limitation, at any time following the payment of the Credit Party Obligations) be imposed on, incurred by or asserted against any such indemnitee in any way relating to or arising out of any Credit Document or any documents contemplated by or referred to herein or therein or the Transactions or any action taken or omitted by any such indemnitee under or in connection with any of the foregoing; provided , however , that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements to the extent resulting from such indemnitee's gross negligence or willful misconduct, as determined by a court of competent jurisdiction. The agreements in this Section shall survive the termination of this Agreement and payment of the Notes, any Reimbursement Obligation and all other amounts payable hereunder.

Section 8.13 Credit Bidding .

(a) The Administrative Agent, on behalf of itself and the Secured Parties, shall have the right to credit bid and purchase for the benefit of the Administrative Agent and the Secured Parties all or any portion of Collateral at any sale thereof conducted by the Administrative Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, at any sale thereof conducted under the provisions of the United States Bankruptcy Code, including Section 363 thereof, or a sale under a plan of reorganization, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with Applicable Law.

(b) Each Lender hereby agrees that, except as otherwise provided in any Credit Documents or with the written consent of the Administrative Agent and the Required Lenders, it will not take any enforcement action, accelerate obligations under any Credit Documents, or exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, UCC sales or other similar dispositions of Collateral.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Amendments, Waivers, Consents and Release of Collateral .

Neither this Agreement nor any of the other Credit Documents, nor any terms hereof or thereof may be amended, modified, extended, restated, replaced, or supplemented (by amendment, waiver, consent or otherwise) except in accordance with the provisions of this Section, nor may Collateral be released except as specifically provided for herein or in the Security Documents. The Required Lenders may or, with the written consent of the Required Lenders, the Administrative Agent may, from time to time, (a) enter into with the Borrower written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Borrower hereunder or thereunder or (b) waive or consent to the departure from, on such terms and conditions as the Required Lenders may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided , however , that no such amendment, supplement, modification, release, waiver or consent shall:

(i) (A) reduce the amount or extend the scheduled date of maturity of any Loan or Note or any installment thereon, or (B) reduce the stated rate of any interest or fee payable hereunder (except in connection with a waiver of the Default Rate, which shall be determined by a vote of the Required Lenders) or (C) extend the scheduled date of any payment of any Loan or Note or any installment thereon or (D) increase the amount or extend the expiration date of any Lender's Commitment (or reinstate any Commitment terminated pursuant to Section 2.6), in each case without the written consent of each Lender directly affected thereby; provided that, it is understood and agreed that (1) no waiver, reduction or deferral of a mandatory prepayment required pursuant to Section 2.7(b), nor any amendment of Section 2.7(b) or the definitions of Asset Disposition, Debt Issuance, Equity Issuance or Extraordinary Receipt, shall constitute a reduction of the amount of, or an extension of the scheduled date of, the scheduled date of maturity of, or any installment of, any Loan or Note, (2) any reduction in the stated rate of interest on Revolving Loans shall only require the written consent of each Lender holding a Revolving Commitment, (3) any reduction in the stated rate of interest on the Term Loan shall only require the written consent of each Lender holding a portion of the outstanding Term Loan and (4) in the event LIBOR is discontinued, any amendment to the calculation of LIBOR in accordance with such definition shall only require the consent of the Required Lenders; or

(ii) amend, modify or waive any provision of this Section or reduce the percentage specified in the definition of Required Lenders, without the written consent of all the Lenders; or

(iii) release the Borrower or all or substantially all of the value of the Guaranty, without the written consent of all of the Lenders; provided that the Administrative Agent may release any Guarantor permitted to be released pursuant to the terms of this Agreement; or

(iv) release all or substantially all of the value of the Collateral without the written consent of all of the Lenders; provided that the Administrative Agent may release any Collateral permitted to be released pursuant to the terms of this Agreement or the Security Documents; or

(v) except as permitted by Section 8.10, subordinate the Loans to any other Indebtedness without the written consent of all of the Lenders; or

(vi) permit a Letter of Credit to have an original expiry date more than twelve (12) months from the date of issuance without the consent of each of the Revolving Lenders; provided , that the expiry date of any Letter of Credit may be extended in accordance with the terms of Section 2.3(a); or

(vii) permit the Borrower to assign or transfer any of its rights or obligations under this Agreement or other Credit Documents without the written consent of all of the Lenders; or

(viii) amend, modify or waive any provision of the Credit Documents requiring consent, approval or request of all Lenders without the written consent of all the Lenders; or

(ix) amend, modify or waive (A) the order in which Credit Party Obligations are paid or (B) the pro rata sharing of payments by and among the Lenders, in each case in accordance with Section 2.11(b) or 9.7(b) without the written consent of each Lender directly affected thereby; or

(x) amend, modify or waive any provision of Article VIII without the written consent of the then Administrative Agent; or

(xi) amend or modify the definition of Credit Party Obligations to delete or exclude any obligation or liability described therein without the written consent of each Lender directly affected thereby; or

(xii) amend the definitions of "Hedging Agreement," "Bank Product," or "Bank Product Provider" without the consent of any Bank Product Provider that would be adversely affected thereby;

provided , further , that no amendment, waiver or consent affecting the rights or duties of the Administrative Agent, the Issuing Lender or the Swingline Lender under any Credit Document shall in any event be effective, unless in writing and signed by the Administrative Agent, the Issuing Lender and/or the Swingline Lender, as applicable, in addition to the Lenders required hereinabove to take such action.

Any such waiver, any such amendment, supplement or modification and any such release shall apply equally to each of the Lenders and shall be binding upon the Borrower, the other Credit Parties, the Lenders, the Administrative Agent and all future holders of the Notes. In the case of any waiver, the Borrower, the other Credit Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the outstanding Loans and Notes and other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

Notwithstanding any of the foregoing to the contrary, the consent of the Borrower and the other Credit Parties shall not be required for any amendment, modification or waiver of the provisions of Article VIII (other than the provisions of Section 8.6).

Notwithstanding any of the foregoing to the contrary, the Credit Parties and the Administrative Agent, without the consent of any Lender, may enter into any amendment, modification or waiver of any Credit Document, or enter into any new agreement or instrument, to (i) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law or (ii) correct any obvious error or omission of a technical nature, in each case that is immaterial (as determined by the Administrative Agent), in any provision of any Credit Document, if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof. Furthermore, to the extent necessary to effect any modification in accordance with the terms of the Fee Letter, the Credit Parties agree to enter into any amendment, modification or waiver of any Credit Document to the extent reasonably required by the Administrative Agent.

Notwithstanding the fact that the consent of all the Lenders is required in certain circumstances as set forth above, (a) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein, (b) the Required Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and (c) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (i) that the Commitment of such Lender may not be increased or extended without the consent of such Lender and (ii) to the extent such amendment, waiver or consent impacts such Defaulting Lender more than the other Lenders.

For the avoidance of doubt and notwithstanding any provision to the contrary contained in this Section 9.1, this Agreement may be amended (or amended and restated) with the written consent of the Credit Parties and the Administrative Agent in accordance with Section 2.22.

Section 9.2 Notices .

(a) Notices Generally . Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(i) If to the Borrower or any other Credit Party:

ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
Attention: Stephen Carey
Telephone:
Fax:
Email: Stephen.carey@anipharmaceuticals.com

(ii) If to the Administrative Agent:

Citizens Bank, N.A., as Administrative Agent
28 State Street
Boston, Massachusetts 02109
Attention: Harriette M. Batson
Telephone: (617) 944-7062
Email: Harriette.M.Batson@citizensbank.com

(iii) If to the Issuing Lender:

Citizens Bank, N.A., as Administrative Agent
600 Washington Blvd, CS 117E
Stamford, CT 06901
Attention: Prasanna Manyem
Telephone: (203) 900-6832
Email: prasanna.manyem@citizensbank.com

(iv) if to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Lenders, the Swingline Lender and the Issuing Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender, the Swingline Lender or the Issuing Lender pursuant to Article II if such Lender, the Swingline Lender or the Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

(i) Each Credit Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Lender and the other Lenders by posting the Communications on the Platform.

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the " Agent Parties ") have any liability to the Borrower or the other Credit Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's, any Credit Party's or the Administrative Agent's transmission of communications through the Platform. " Communications " means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Credit Party pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or any Issuing Lender by means of electronic communications pursuant to this Section, including through the Platform.

Section 9.3 No Waiver; Cumulative Remedies .

No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Section 9.4 Survival of Representations and Warranties .

All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the Notes and the making of the Loans; provided that all such representations and warranties shall terminate on the date upon which the Commitments have been terminated and all Credit Party Obligations have been paid in full.

Section 9.5 Payment of Expenses and Taxes; Indemnity .

(a) Costs and Expenses . The Credit Parties shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the fees, charges and disbursements of any counsel for the Administrative Agent or its Affiliates), and shall pay all fees and time charges and disbursements for attorneys who may be employees of the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Credit Documents or any amendments, modifications or waivers of the provisions hereof or thereof, (ii) all reasonable out-of-pocket expenses incurred by the Issuing Lender and the Swingline Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or Swingline Loan or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender, the Issuing Lender or the Swingline Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender, the Swingline Lender or the Issuing Lender), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender, the Issuing Lender or the Swingline Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Credit Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Credit Parties . The Credit Parties shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender, the Issuing Lender and the Swingline Lender, and each Related Party of any of the foregoing Persons (each such Person being called an " Indemnitee ") against, and hold each Indemnitee harmless from, any and all losses, claims, penalties, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Credit Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the Transactions, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Materials of Environmental Concern on or from any property owned or operated by any Credit Party or any of its Subsidiaries, or any liability under Environmental Law related in any way to any Credit Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Credit Party, and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (A) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of an Indemnitee, (B) disputes solely between or among Indemnitees that does not result from any act or omission by any Credit Party; provided that, if such a dispute involves a claim or proceeding brought against Citizens in its capacity as Administrative Agent or Arranger by other Indemnitees, Citizens shall be entitled, subject to the other limitations and exceptions set forth in this Section 9.5(b), to the benefits of the indemnifications provided for in this Section 9.5(b) or (C) result from a claim brought by the Borrower or any other Credit Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document, if the Borrower or such Credit Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This section (b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. Notwithstanding the foregoing, the Credit Parties shall only be responsible to indemnify the Indemnitees for one external counsel and one external local counsel in each applicable jurisdiction if required and as selected by the Administrative Agent (and to the extent an Indemnitee determines, after consultation with legal counsel, that an actual or potential conflict may exist, separate legal counsel for such Indemnitee).

(c) Reimbursement by Lenders . To the extent that the Credit Parties for any reason fail to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender, Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Issuing Lender, Swingline Lender or such Related Party, as the case may be, such Lender's Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the Issuing Lender or Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), Issuing Lender or Swingline Lender in connection with such capacity.

(d) Waiver of Consequential Damages, Etc . To the fullest extent permitted by applicable law, none of the Credit Parties shall assert, and each of the Credit Parties hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the Transactions.

(e) Payments . All amounts due under this Section shall be payable promptly/not later than five (5) days after demand therefor.

(f) Survival . Each party's obligations under this Section shall survive the termination of the Credit Documents and payment of the obligations hereunder.

Section 9.6 Successors and Assigns; Participations .

(a) Successors and Assigns Generally . The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that (in each case with respect to any Tranche) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it (in each case with respect to any Tranche) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignment) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Facility, or $1,000,000, in the case of any assignment in respect of the Term Loan Facility, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Tranches on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment, (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund or (z) such assignment occurs within 60 days of the Closing Date; provided that (other than in the case of (x), (y) or (z) above) the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof and provided, further, that the Borrower's consent shall not be required during the primary syndication of the Loans;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (x) the Revolving Facility or any unfunded Commitments with respect to the Term Loan Facility if such assignment is to a Person that is not a Lender with a Commitment in respect of such facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (y) any Term Loans to a Person who is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of the Issuing Lender and Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of a Revolving Commitment.

(iv) Assignment and Assumption . The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons . No such assignment shall be made to (A) any Credit Party or any Credit Party's Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary thereof or (C) any Person to whom Subordinated Debt is owed or any of such Person's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons . No such assignment shall be made to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person).

(vii) Certain Additional Payments . In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Lender, each Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.14 and 9.5 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided , that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) Register . The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in Boston, Massachusetts a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the " Register "). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations . Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person, or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a " Participant ") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent, the Issuing Lenders and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 9.5(c) with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 9.1 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 (subject to the requirements and limitations therein, including the requirements under Section 2.16(g) (it being understood that the documentation required under Section 2.16(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.14 or Section 2.16, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.19 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.7 as though it were a Lender; provided that such Participant agrees to be subject to Section 9.7 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Credit Documents (the " Participant Register "); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges . Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.7 Right of Set-off; Sharing of Payments .

(a) If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Lender, the Swingline Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing, by such Lender, such Issuing Lender, such Swingline Lender or any such Affiliate, to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of the Borrower or such Credit Party now or hereafter existing under this Agreement or any other Credit Document to such Lender, the Swingline Lender or the Issuing Lender, irrespective of whether or not such Lender, the Swingline Lender or the Issuing Lender shall have made any demand under this Agreement or any other Credit Document and although such obligations of the Borrower or such Credit Party may be contingent or unmatured or are owed to a branch, office or affiliate of such Lender, the Swingline Lender or the Issuing Lender different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.21 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lender, the Swingline Lender and the other Lenders, and (ii) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Credit Party Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the Swingline Lender, the Issuing Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the Swingline Lender, the Issuing Lender or their respective Affiliates may have. Each Lender, the Swingline Lender and the Issuing Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (i) notify the Administrative Agent of such fact, and (ii) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(A) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(B) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Letters of Credit to any assignee or participant, other than to any Credit Party or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

(c) Each Credit Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Credit Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Credit Party in the amount of such participation.

Section 9.8 Table of Contents and Section Headings .

The table of contents and the Section and subsection headings herein are intended for convenience only and shall be ignored in construing this Agreement.

Section 9.9 Counterparts; Integration; Effectiveness; Electronic Execution .

(a) Counterparts; Integration; Effectiveness . This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Credit Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.1, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Electronic Execution of Assignments . The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.10 Severability .

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.11 Integration .

This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent, the Borrower, the other Credit Parties, or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or therein.

Section 9.12 Cashless Settlement .

Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Lender.

Section 9.13 Governing Law; Consent to Jurisdiction; Service of Process and Venue .

(a) Governing Law . This Agreement and the other Credit Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Credit Document (except, as to any other Credit Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York.

(b) Consent to Jurisdiction . The Borrower and each other Credit Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, any Issuing Lender, or any Related Party of the foregoing in any way relating to this Agreement or any other Credit Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Credit Document shall affect any right that the Administrative Agent, any Lender or any Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Document against the Borrower or any other Credit Party or its properties in the courts of any jurisdiction.

(c) Service of Process . Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 9.2. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

(d) Waiver of Venue . The Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Credit Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 9.14 Treatment of Certain Information; Confidentiality .

Each of the Administrative Agent, the Lenders and the Issuing Lenders agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any action or proceeding relating to this Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement , or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Loans or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans; (h) with the written consent of the Borrower; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Administrative Agent, any Lender, any Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Credit Documents, and the Commitments.

For purposes of this Section, " Information " shall mean all information received from any Credit Party or any of its Subsidiaries relating to any Credit Party or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender, the Swingline Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by any Credit Party or any of its Subsidiaries; provided that, in the case of Information received from any Credit Party or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 9.15 Acknowledgments .

The Borrower and the other Credit Parties each hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of each Credit Document;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to the Borrower or any other Credit Party arising out of or in connection with this Agreement and the relationship between the Administrative Agent and the Lenders, on one hand, and the Borrower and the other Credit Parties, on the other hand, in connection herewith is solely that of creditor and debtor; and

(c) no joint venture exists among the Lenders and the Administrative Agent or among the Borrower, the Administrative Agent or the other Credit Parties and the Lenders.

Section 9.16 Waivers of Jury Trial .

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.17 Patriot Act Notice .

Each Lender and the Administrative Agent (for itself and not on behalf of any other party) hereby notifies the Borrower that, pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower and the other Credit Parties, which information includes the name and address of the Borrower and the other Credit Parties and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and the other Credit Parties in accordance with the Patriot Act.

Section 9.18 Resolution of Drafting Ambiguities .

Each Credit Party acknowledges and agrees that it was represented by counsel in connection with the execution and delivery of this Agreement and the other Credit Documents to which it is a party, that it and its counsel reviewed and participated in the preparation and negotiation hereof and thereof and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation hereof or thereof.

Section 9.19 Subordination of Intercompany Debt .

Each Credit Party agrees that all intercompany Indebtedness among Credit Parties (the " Intercompany Debt ") is subordinated in right of payment, to the prior payment in full of all Credit Party Obligations. Notwithstanding any provision of this Credit Agreement to the contrary, provided that no Event of Default has occurred and is continuing, Credit Parties may make and receive payments with respect to the Intercompany Debt to the extent otherwise permitted by this Credit Agreement; provided that in the event of and during the continuation of any Event of Default, no payment shall be made by or on behalf of any Credit Party on account of any Intercompany Debt. In the event that any Credit Party receives any payment of any Intercompany Debt at a time when such payment is prohibited by this Section, such payment shall be held by such Credit Party, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to, the Administrative Agent.

Section 9.20 Continuing Agreement .

This Credit Agreement shall be a continuing agreement and shall remain in full force and effect until all Credit Party Obligations (other than those obligations that expressly survive the termination of this Credit Agreement) have been paid in full and all Commitments and Letters of Credit have been terminated. Upon termination, the Credit Parties shall have no further obligations (other than those obligations that expressly survive the termination of this Credit Agreement) under the Credit Documents and the Administrative Agent shall, at the request and expense of the Borrower, deliver all the Collateral in its possession to the Borrower and release all Liens on the Collateral; provided that should any payment, in whole or in part, of the Credit Party Obligations be rescinded or otherwise required to be restored or returned by the Administrative Agent or any Lender, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, then the Credit Documents shall automatically be reinstated and all Liens of the Administrative Agent shall reattach to the Collateral and all amounts required to be restored or returned and all costs and expenses incurred by the Administrative Agent or any Lender in connection therewith shall be deemed included as part of the Credit Party Obligations.

Section 9.21 Press Releases and Related Matters .

The Credit Parties and their Affiliates agree that they will not in the future issue any press releases or other public disclosure using the name of Administrative Agent or any Lender or their respective Affiliates or referring to this Agreement or any of the Credit Documents without the prior written consent of such Person, unless (and only to the extent that) the Credit Parties or such Affiliate is required to do so under law and then, in any event, the Credit Parties or such Affiliate will consult with such Person before issuing such press release or other public disclosure. The Credit Parties consent to the publication by Administrative Agent or any Lender of customary advertising material relating to the Transactions using the name, product photographs, logo or trademark of the Credit Parties.

Section 9.22 Appointment of Borrower .

Each of the Guarantors hereby appoints the Borrower to act as its agent for all purposes under this Agreement and agrees that (a) the Borrower may execute such documents on behalf of such Guarantor as the Borrower deems appropriate in its sole discretion and each Guarantor shall be obligated by all of the terms of any such document executed on its behalf, (b) any notice or communication delivered by the Administrative Agent or the Lender to the Borrower shall be deemed delivered to each Guarantor and (c) the Administrative Agent or the Lenders may accept, and be permitted to rely on, any document, instrument or agreement executed by the Borrower on behalf of each Guarantor.

Section 9.23 No Advisory or Fiduciary Responsibility .

In connection with all aspects of each Transaction, each of the Credit Parties acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Credit Parties and their Affiliates, on the one hand, and Citizens (in its capacity as the Administrative Agent and the Arranger), on the other hand, and the Credit Parties are capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the Transactions and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (b) in connection with the process leading to such transaction, Citizens (in its capacity as the Administrative Agent and the Arranger) is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for any Credit Party or any of their Affiliates, stockholders, creditors or employees or any other Person; (c) Citizens, as either the Administrative Agent or the Arranger, has not assumed or will assume an advisory, agency or fiduciary responsibility in favor of any Credit Party with respect to any of the Transactions or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether Citizens (in its capacity as the Administrative Agent and the Arranger) has advised or is currently advising any Credit Party or any of its Affiliates on other matters) and Citizens, as either the Administrative Agent or the Arranger, does not have any obligation to any Credit Party or any of their Affiliates with respect to the Transactions except those obligations expressly set forth herein and in the other Credit Documents; (d) Citizens and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Credit Parties and their Affiliates, and Citizens has no obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (e) Citizens has not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the Transactions (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Credit Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against Citizens with respect to any breach or alleged breach of agency or fiduciary duty.

Section 9.24 Responsible Officers and Authorized Officers .

The Administrative Agent and each of the Lenders are authorized to rely upon the continuing authority of the Responsible Officers and the Authorized Officers with respect to all matters pertaining to the Credit Documents including, but not limited to, the selection of interest rates, the submission of requests for Extensions of Credit and certificates with regard thereto. Such authorization may be changed only upon written notice to Administrative Agent accompanied by (a) an updated Schedule 3.28 and (b) evidence, reasonably satisfactory to Administrative Agent, of the authority of the Person giving such notice and such notice shall be effective not sooner than five (5) Business Days following receipt thereof by Administrative Agent (or such earlier time as agreed to by the Administrative Agent).

Section 9.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions .

Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

ARTICLE X

GUARANTY

Section 10.1 The Guaranty .

In order to induce the Lenders to enter into this Agreement and any Bank Product Provider to enter into any Bank Product and to extend credit hereunder and thereunder and in recognition of the direct benefits to be received by the Guarantors from the Extensions of Credit hereunder and any Bank Product, each of the Guarantors hereby agrees with the Administrative Agent, the Lenders and the Bank Product Provider as follows: each Guarantor hereby unconditionally and irrevocably jointly and severally guarantees as primary obligor and not merely as surety the full and prompt payment when due, whether upon maturity, by acceleration or otherwise, of any and all Credit Party Obligations. If any or all of the indebtedness becomes due and payable hereunder or under any Bank Product, each Guarantor unconditionally promises to pay such indebtedness to the Administrative Agent, the Lenders, the Bank Product Providers, or their respective order, on demand, together with any and all reasonable expenses which may be incurred by the Administrative Agent or the Lenders in collecting any of the Credit Party Obligations. The Guaranty set forth in this Article X is a guaranty of timely payment and not of collection. The word "indebtedness" is used in this Article X in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of the Borrower, including specifically all Credit Party Obligations, arising in connection with this Agreement, the other Credit Documents or any Bank Product, in each case, heretofore, now, or hereafter made, incurred or created, whether voluntarily or involuntarily, absolute or contingent, liquidated or unliquidated, determined or undetermined, whether or not such indebtedness is from time to time reduced, or extinguished and thereafter increased or incurred, whether the Borrower may be liable individually or jointly with others, whether or not recovery upon such indebtedness may be or hereafter become barred by any statute of limitations, and whether or not such indebtedness may be or hereafter become otherwise unenforceable.

Notwithstanding any provision to the contrary contained herein or in any other of the Credit Documents, to the extent the obligations of a Guarantor shall be adjudicated to be invalid or unenforceable for any reason (including, without limitation, because of any applicable state or federal law relating to fraudulent conveyances or transfers) then the obligations of each such Guarantor hereunder shall be limited to the maximum amount that is permissible under applicable law (whether federal or state and including, without limitation, the Bankruptcy Code).

Section 10.2 Bankruptcy .

Additionally, each of the Guarantors unconditionally and irrevocably guarantees jointly and severally the payment of any and all Credit Party Obligations of the Borrower to the Lenders and any Bank Product Provider whether or not due or payable by the Borrower upon the occurrence of any Bankruptcy Event and unconditionally promises to pay such Credit Party Obligations to the Administrative Agent for the account of the Lenders and to any such Bank Product Provider, or order, on demand, in lawful money of the United States. Each of the Guarantors further agrees that to the extent that the Borrower or a Guarantor shall make a payment or a transfer of an interest in any property to the Administrative Agent, any Lender or any Bank Product Provider, which payment or transfer or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, or otherwise is avoided, and/or required to be repaid to the Borrower or a Guarantor, the estate of the Borrower or a Guarantor, a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such avoidance or repayment, the obligation or part thereof intended to be satisfied shall be revived and continued in full force and effect as if said payment had not been made.

Section 10.3 Nature of Liability .

The liability of each Guarantor hereunder is exclusive and independent of any security for or other guaranty of the Credit Party Obligations of the Borrower whether executed by any such Guarantor, any other guarantor or by any other party, and no Guarantor's liability hereunder shall be affected or impaired by (a) any direction as to application of payment by the Borrower or by any other party, or (b) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Credit Party Obligations of the Borrower, or (c) any payment on or in reduction of any such other guaranty or undertaking, or (d) any dissolution, termination or increase, decrease or change in personnel by the Borrower, or (e) any payment made to the Administrative Agent, the Lenders or any Bank Product Provider on the Credit Party Obligations which the Administrative Agent, such Lenders or such Bank Product Provider the Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each of the Guarantors waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding.

Section 10.4 Independent Obligation .

The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor or the Borrower and whether or not any other Guarantor or the Borrower is joined in any such action or actions.

Section 10.5 Authorization .

Each of the Guarantors authorizes the Administrative Agent, each Lender and each Bank Product Provider without notice or demand (except as shall be required by applicable statute and cannot be waived), and without affecting or impairing its liability hereunder, from time to time to (a) renew, compromise, extend, increase, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Credit Party Obligations or any part thereof in accordance with this Agreement and any Bank Product, as applicable, including any increase or decrease of the rate of interest thereon, (b) take and hold security from any Guarantor or any other party for the payment of this Guaranty or the Credit Party Obligations and exchange, enforce waive and release any such security, (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent and the Lenders in their discretion may determine, (d) release or substitute any one or more endorsers, Guarantors, the Borrower or other obligors and (e) to the extent otherwise permitted herein, release or substitute any Collateral.

Section 10.6 Reliance .

It is not necessary for the Administrative Agent, the Lenders or any Bank Product Provider to inquire into the capacity or powers of the Borrower or the officers, directors, members, partners or agents acting or purporting to act on its behalf, and any Credit Party Obligations made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

Section 10.7 Waiver .

(a) Each of the Guarantors waives any right (except as shall be required by applicable statute and cannot be waived) to require the Administrative Agent, any Lender or any Bank Product Provider to (i) proceed against the Borrower, any other guarantor or any other party, (ii) proceed against or exhaust any security held from the Borrower, any other guarantor or any other party, or (iii) pursue any other remedy in the Administrative Agent's, any Lender's or any Bank Product Provider's whatsoever. Each of the Guarantors waives any defense based on or arising out of any defense of the Borrower, any other guarantor or any other party other than payment in full of the Credit Party Obligations (other than contingent indemnification obligations for which no claim has been made or cannot be reasonably identified by an Indemnitee based on the then-known facts and circumstances), including, without limitation, any defense based on or arising out of the disability of the Borrower, any other guarantor or any other party, or the unenforceability of the Credit Party Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower other than payment in full of the Credit Party Obligations. The Administrative Agent may, at its election, foreclose on any security held by the Administrative Agent or a Lender by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent such sale is permitted by applicable law), or exercise any other right or remedy the Administrative Agent or any Lender may have against the Borrower or any other party, or any security, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Credit Party Obligations have been paid in full and the Commitments have been terminated. Each of the Guarantors waives any defense arising out of any such election by the Administrative Agent or any of the Lenders, even though such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of the Guarantors against the Borrower or any other party or any security.

(b) Each of the Guarantors waives all presentments, demands for performance, protests and notices, including, without limitation, notices of nonperformance, notice of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation or incurring of new or additional Credit Party Obligations. Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Credit Party Obligations and the nature, scope and extent of the risks which such Guarantor assumes and incurs hereunder, and agrees that neither the Administrative Agent nor any Lender shall have any duty to advise such Guarantor of information known to it regarding such circumstances or risks.

(c) Each of the Guarantors hereby agrees it will not exercise any rights of subrogation which it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the U.S. Bankruptcy Code, or otherwise) to the claims of the Lenders or any Bank Product Provider against the Borrower or any other guarantor of the Credit Party Obligations of the Borrower owing to the Lenders or such Bank Product Provider (collectively, the " Other Parties ") and all contractual, statutory or common law rights of reimbursement, contribution or indemnity from any Other Party which it may at any time otherwise have as a result of this Guaranty until such time as the Credit Party Obligations shall have been paid in full and the Commitments have been terminated. Each of the Guarantors hereby further agrees not to exercise any right to enforce any other remedy which the Administrative Agent, the Lenders or any Bank Product Provider now have or may hereafter have against any Other Party, any endorser or any other guarantor of all or any part of the Credit Party Obligations of the Borrower and any benefit of, and any right to participate in, any security or collateral given to or for the benefit of the Lenders and/or the Bank Product Providers to secure payment of the Credit Party Obligations of the Borrower until such time as the Credit Party Obligations (other than contingent indemnification obligations for which no claim has been made or cannot be reasonably identified by an Indemnitee based on the then-known facts and circumstances) shall have been paid in full and the Commitments have been terminated.

Section 10.8 Limitation on Enforcement .

The Lenders and the Bank Product Providers agree that this Guaranty may be enforced only by the action of the Administrative Agent acting upon the instructions of the Required Lenders or such Bank Product Provider (only with respect to obligations under the applicable Bank Product) and that no Lender or Bank Product Provider shall have any right individually to seek to enforce or to enforce this Guaranty, it being understood and agreed that such rights and remedies may be exercised by the Administrative Agent for the benefit of the Lenders under the terms of this Agreement and for the benefit of any Bank Product Provider under any Bank Product.

Section 10.9 Confirmation of Payment .

The Administrative Agent and the Lenders will, upon request after payment of the Credit Party Obligations which are the subject of this Guaranty and termination of the Commitments relating thereto, confirm to the Borrower, the Guarantors or any other Person that such indebtedness and obligations have been paid and the Commitments relating thereto terminated, subject to the provisions of Section 10.2.

Section 10.10 Eligible Contract Participant .

Notwithstanding anything to the contrary in any Credit Document, no Guarantor shall be deemed under this Article 10 to be a guarantor of any Swap Obligations if such Guarantor was not an "eligible contract participant" as defined in § 1a(18) of the Commodity Exchange Act, at the time the guarantee under this Article 10 becomes effective with respect to such Swap Obligation and to the extent that the providing of such guarantee by such Guarantor would violate the Commodity Exchange Act; provided however that in determining whether any Guarantor is an "eligible contract participant" under the Commodity Exchange Act, the guarantee of the Credit Party Obligations of such Guarantor under this Article 10 by a Guarantor that is also a Qualified ECP Guarantor shall be taken into account.

Section 10.11 Keepwell .

Without limiting anything in this Article 10, each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time to each Guarantor that is not an "eligible contract participant" under the Commodity Exchange Act at the time the guarantee under this Article 10 becomes effective with respect to any Swap Obligation, to honor all of the Obligations of such Guarantor under this Article 10 in respect of such Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 10.11 for the maximum amount of such liability that can be hereby incurred without rendering its undertaking under this Section 10.11, or otherwise under this Article 10, voidable under applicable Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The undertaking of each Qualified ECP Guarantor under this Section 10.11shall remain in full force and effect until termination of the Commitments and payment in full of all Loans and other Credit Party Obligations. Each Qualified ECP Guarantor intends that this Section 10.11 constitute, and this Section 10.11 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each Guarantor that would otherwise not constitute an "eligible contract participant" under the Commodity Exchange Act.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by its proper and duly authorized officers as of the day and year first above written.

BORROWER :

ANI PHARMACEUTICALS, INC. ,
a Delaware corporation

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

GUARANTORS :

ANIP ACQUISITION COMPANY ,
a Delaware corporation

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

ADMINISTRATIVE AGENT :

CITIZENS BANK, N.A. , as a Lender and as Administrative Agent on behalf of the Lenders

By: /s/ Prasanna Manyem
Name: Prasanna Manyem
Title: Vice President

Exhibit 10.27

FIRST AMENDMENT TO CREDIT AGREEMENT

THIS FIRST AMENDMENT TO CREDIT AGREEMENT (this " Amendment "), dated as of February 5, 2018, is by and among **ANI PHARMACEUTICALS, INC.** , a Delaware corporation (the " Borrower "), the Guarantors party hereto, the Lenders (as hereinafter defined) party hereto, and **CITIZENS BANK, N.A.** , a national banking association, as administrative agent for the Lenders under the Credit Agreement (as hereinafter defined) (in such capacity, the " Administrative Agent "). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement.

WITNESSETH

WHEREAS , the Borrower, the Guarantors, certain banks and financial institutions from time to time party thereto (the " Lenders ") and the Administrative Agent are parties to that certain Credit Agreement, dated as of December 31, 2017 (as further amended, modified, extended, restated, replaced or supplemented from time to time, the " Credit Agreement ");

WHEREAS , the Credit Parties have requested that the Administrative Agent and the Required Lenders amend certain provisions of the Credit Agreement; and

WHEREAS , the Administrative Agent and the Required Lenders are willing to make such amendments to the Credit Agreement, in each case in accordance with and subject to the terms and conditions set forth herein.

NOW, THEREFORE , in consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
AMENDMENT TO CREDIT AGREEMENT

1.1 Amendments to Definitions .

(a) Removed Definition . The definition of Bank Product Amount set forth in Section 1.1 of the Credit Agreement is hereby removed.

(b) Amendment to Definition of Alternate Base Rate . The definition of Alternate Base Rate set forth in Section 1.1 of the Credit Agreement is hereby amended by amending and restating the fifth sentence to read as follows:

If for any reason the Administrative Agent shall have determined (which determination shall be conclusive in the absence of manifest error) (A) that it is unable to ascertain the Federal Funds Effective Rate, for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms above or (B) that the Prime Rate or LIBOR no longer accurately reflects an accurate determination of the prevailing Prime Rate or LIBOR, the Administrative Agent may select, after giving due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the U.S. market at such time by similarly situated administrative agents, a reasonably comparable index or source to use as the basis for the Alternate Base Rate, until the circumstances giving rise to such inability no longer exist.

(c) Amendment to Definition of Bank Product . The definition of Bank Product set forth in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

" Bank Product " shall mean any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) Cash Management Services; (b) products under any Hedging Agreement; and (c) commercial credit card, purchase card and merchant card services; provided , however , that for any of the foregoing to be included as "Credit Party Obligations" for purposes of a distribution under Section 2.11(b), the applicable Bank Product Provider must have previously provided a Bank Product Provider Notice to the Administrative Agent which shall indicate the existence of such Bank Product. Any Bank Product established from and after the time that the Lenders have received written notice from the Company or the Administrative Agent that an Event of Default exists, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Credit Party Obligations" for purposes of a distribution under Section 2.11(b).

(d) Amendment to Definition of LIBOR . The definition of LIBOR set forth in Section 1.1 of the Credit Agreement is hereby amended by amending and restating the third sentence as follows:

If the LIBOR rate (or the publishing thereof) is discontinued at any time, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend this definition to provide for a reference rate to replace LIBOR (subject to the approval of the Required Lenders); provided that until such alternative reference rate is agreed, the Administrative Agent may, in its reasonable discretion and after giving due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the U.S. market at such time by similarly situated administrative agents, use an alternative method to select a rate calculated by the Administrative Agent to adequately and fairly reflect the cost to the Lenders of funding Loans hereunder.

1.2 Amendment to Section 3.11 . Section 3.11 of the Credit Agreement is hereby amended by adding the following:

The Borrower will not, directly or indirectly, use the proceeds of the Loans or use the Letters of Credit, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, et seq. (and any foreign counterpart thereto) or any other applicable anti-corruption law, or (ii) (A) except as expressly permitted by applicable Requirements of Law, to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions, or (B) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Loans or Letters of Credit, whether as Administrative Agent, Arranger, Issuing Lender, Lender, underwriter, advisor, investor, or otherwise).

1.3 Amendment to Section 5.12(c) . Section 5.12(c) of the Credit Agreement is hereby amended by removing the phrase " *including, without limitation, the same documentation required pursuant to Section 4.1(e),* ".

1.4 **Amendment to Schedule 2.1(a)** . Schedule 2.1(a) to the Credit Agreement is hereby amended and restated as set forth on Exhibit A attached to this Amendment. All other Schedules and Exhibits to the Credit Agreement shall not be modified or otherwise affected.

ARTICLE II
CONDITIONS TO EFFECTIVENESS

2.1 **Closing Conditions .** This Amendment shall become effective as of the day and year set forth above (the " First Amendment Effective Date ") upon satisfaction of the following conditions (in each case, in form and substance reasonably acceptable to the Administrative Agent):

(a) Executed Amendment . The Administrative Agent shall have received a copy of this Amendment duly executed by each of the Credit Parties, the Required Lenders and the Administrative Agent.

(b) Authority Documents . The Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, an officer's certificate (i) with respect to each Credit Party, (A) certifying that the articles of incorporation or other organizational documents, as applicable, of each of the Borrower and any Guarantor that were delivered on the Closing Date or the date on which any Guarantor was joined as a Guarantor pursuant to a Joinder Agreement (the " Joinder Date ") remain true and complete as of the First Amendment Effective Date (or certified updates as applicable), (B) certifying that the bylaws, operating agreements or partnership agreements of each such Credit Party that were delivered on the Closing Date or the Joinder Date, as applicable, remain true and correct and in force and effect as of the First Amendment Effective Date (or certified updates as applicable) and (C) certifying that each officer listed in the incumbency certification contained in such Credit Party's Secretary's Certificate, delivered on the Closing Date or the Joinder Date, as applicable, remains a duly elected and qualified officer of such Credit Party and such officer remains duly authorized to execute and deliver on behalf of such Credit Party the Amendment or attaching a new incumbency certificate for each officer signing this Amendment, (ii) attaching copies of the resolutions of the board of directors of each Credit Party approving and adopting this Amendment, the transactions contemplated herein and authorizing execution and delivery hereof, and certifying such resolutions to be true and correct and in force and effect as of the First Amendment Effective Date and (iii) attaching certificates of good standing, existence or its equivalent with respect to each Credit Party certified as of a recent date by the appropriate Governmental Authorities of the state of incorporation or organization.

(c) Fees and Expenses . (i) The Administrative Agent shall have received from the Borrower such fees and expenses that are payable in connection with the consummation of the transactions contemplated hereby and (ii) King & Spalding LLP shall have received from the Borrower payment of all outstanding fees and expenses previously incurred and all fees and expenses incurred in connection with this Amendment.

ARTICLE III
MISCELLANEOUS

3.1 **Amended Terms .** On and after the First Amendment Effective Date, all references to the Credit Agreement in each of the Credit Documents shall hereafter mean the Credit Agreement as amended by this Amendment. Except as specifically amended hereby or otherwise agreed, the Credit Agreement is hereby ratified and confirmed and shall remain in full force and effect according to its terms.

3.2 **Representations and Warranties of Credit Parties .** Each of the Credit Parties represents and warrants as follows:

(a) It has taken all necessary action to authorize the execution, delivery and performance of this Amendment.

(b) This Amendment has been duly executed and delivered by such Person and constitutes such Person's legal, valid and binding obligation, enforceable in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by such Person of this Amendment.

(d) The representations and warranties made by the Credit Parties in the Credit Documents (i) with respect to representations and warranties that contain a materiality qualification, are true and correct and (ii) with respect to representations and warranties that do not contain a materiality qualification, are true and correct in all material respects, in each case on and as of the date hereof as if made on and as of such date except for any representation or warranty made as of an earlier date, which representation and warranty shall remain true and correct as of such earlier date.

(e) After giving effect to this Amendment, no event has occurred and is continuing which constitutes a Default or an Event of Default.

(f) The Security Documents continue to create a valid security interest in, and Lien upon, the Collateral, in favor of the Administrative Agent, for the benefit of the Lenders, which security interests and Liens are perfected in accordance with the terms of the Security Documents and prior to all Liens other than Permitted Liens.

(g) Other than as set forth herein, the Credit Party Obligations are not reduced or modified by this Amendment and are not subject to any offsets, defenses or counterclaims.

3.3 **Reaffirmation of Credit Party Obligations .** Each Credit Party hereby ratifies the Credit Agreement and acknowledges and reaffirms (a) that it is bound by all terms of the Credit Agreement applicable to it and (b) that it is responsible for the observance and full performance of its respective Credit Party Obligations.

3.4 **Credit Document .** This Amendment shall constitute a Credit Document under the terms of the Credit Agreement.

3.5 **Expenses .** The Borrower agrees to pay all reasonable costs and fees and expenses of the Administrative Agent in connection with the preparation, execution and delivery of this Amendment, including without limitation the reasonable fees and expenses of the Administrative Agent's legal counsel.

3.6 **Further Assurances .** The Credit Parties agree to promptly take such action, upon the request of the Administrative Agent, as is necessary to carry out the intent of this Amendment.

3.7 **Entirety .** This Amendment and the other Credit Documents embody the entire agreement among the parties hereto and supersede all prior agreements and understandings, oral or written, if any, relating to the subject matter hereof.

3.8 **Counterparts; Telecopy .** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart to this Amendment by telecopy or other electronic means shall be effective as an original and shall constitute a representation that an original will be delivered.

3.9 **No Actions, Claims, Etc .** As of the date hereof, each of the Credit Parties hereby acknowledges and confirms that it has no knowledge of any actions, causes of action, claims, demands, damages and liabilities of whatever kind or nature, in law or in equity, against the Administrative Agent, the Lenders, or the Administrative Agent's or the Lenders' respective officers, employees, representatives, agents, counsel or directors arising from any action by such Persons, or failure of such Persons to act under the Credit Agreement on or prior to the date hereof.

3.10 **GOVERNING LAW . THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).**

3.11 **Successors and Assigns .** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.12 **Consent to Jurisdiction; Service of Process and Venue; Waiver of Jury Trial .** The jurisdiction, service of process, venue and waiver of jury trial provisions set forth in Sections 9.13 and 9.16 of the Credit Agreement are hereby incorporated by reference, *mutatis mutandis* .

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties hereto have caused this Amendment to be duly executed on the date first above written.

BORROWER :

ANI PHARMACEUTICALS, INC. ,
a Delaware corporation

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

GUARANTOR :

ANIP ACQUISITION COMPANY
a Delaware corporation

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

ADMINISTRATIVE AGENT :

CITIZENS BANK, N.A. , as a Lender and as Administrative Agent

By: /s/Prasanna Manyem
Name: Prasanna Manyem
Title: Vice President

LENDERS :

THE HUNTINGTON NATIONAL BANK , as a Lender

By: /s/ David Tholt
Name: David Tholt
Title: Senior Vice President

LENDERS :

REGIONS BANK , as a Lender

By: /s/ Ned Spitzer
Name: Ned Spitzer
Title: Managing Director

LENDERS :

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD , as a Lender

By: /s/ Scott O'Connell
Name: Scott O'Connell
Title: Director

LENDERS :

U.S. BANK, N.A. , as Lender

By: /s/ Michael D. Hauswirth
Name: Michael D. Hauswirth
Title: Senior Vice President

LENDERS :

JPMORGAN CHASE BANK, N.A. , as Lender

By: /s/ Andrew McEvoy
Name: Andrew McEvoy
Title: Vice President

Exhibit 21

ANI PHARMACUTICALS, INC.

The following is a list of subsidiaries of ANI Pharmaceuticals, Inc., omitting subsidiaries which, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary, as of December 31, 2017:

Name	**State of Incorporation**
ANIP Acquisition Company	Delaware

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statements of ANI Pharmaceuticals, Inc. on Form S-8 (Nos. 333-53384, 333-100238, 333-109474, 333-151663, 333-168842, 333-174596, 333-182011, 333-151660, 333-196518, 333-214416, and 333-218120) and on Form S-3 (Nos. 333-195949 and 333-218671) of our reports dated February 27, 2018, on our audits of the consolidated financial statements as of December 31, 2017 and 2016 and for each of the years in the three-year period ended December 31, 2017, and the effectiveness of ANI Pharmaceuticals, Inc. and Subsidiaries' internal control over financial reporting as of December 31, 2017, which reports are included in this Annual Report on Form 10-K to be filed on or about February 27, 2018.

/s/ EisnerAmper LLP

EISNERAMPER LLP
New York, New York
February 27, 2018

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Arthur S. Przybyl, certify that:

1. I have reviewed this Annual Report on Form 10-K of ANI Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–15(e) and 15d–15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2018

/s/ Arthur S. Przybyl
Arthur S. Przybyl
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Stephen P. Carey, certify that:

1. I have reviewed this Annual Report on Form 10-K of ANI Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–15(e) and 15d–15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2018

/s/ Stephen P. Carey
Stephen P. Carey
Vice President, Finance and Chief Financial Officer

Exhibit 32.1

CERTIFICATION
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of ANI Pharmaceuticals, Inc. (the "Company") for the year ended December 31, 2017 (the "Report") as filed with the Securities and Exchange Commission on the date hereof, the undersigned Chief Executive Officer and Chief Financial Officer of the Company hereby certify that, to such officer's knowledge:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification is provided solely pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

Dated: February 27, 2018

/s/ Arthur S. Przybyl
Arthur S. Przybyl
President and
Chief Executive Officer
(principal executive officer)

Dated: February 27, 2018

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

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.