UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

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

For the quarterly period ended September 30, 2025

Or

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

For the transition period from _____ to _____.

Commission file number: 000-50865

MannKind Corporation

(Exact name of registrant as specified in its charter)

Delaware **(State or other jurisdiction of incorporation or organization)**	**13-3607736** **(I.R.S. Employer Identification No.)**
1 Casper Street **Danbury, Connecticut** **(Address of principal executive offices)**	**06810** **(Zip Code)**

(818) 661-5000
(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	MNKD	The Nasdaq Stock Market LLC

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

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

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

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

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

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

As of October 24, 2025, there were 307,070,281 shares of the registrant's common stock, $0.01 par value per share, outstanding.

MANNKIND CORPORATION

Form 10-Q

For the Quarterly Period Ended September 30, 2025

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MANNKIND CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
	(In thousands except per share data)			
Revenues:				
Commercial product sales	$ 22,305	$ 19,728	$ 63,732	$ 59,272
Collaborations and services	26,506	23,268	78,727	74,130
Royalties	33,319	27,083	94,552	75,326
Total revenues	82,130	70,079	237,011	208,728
Expenses:				
Cost of goods sold – commercial	4,498	3,197	12,873	12,621
Cost of revenue – collaborations and services	15,705	14,826	45,414	44,377
Research and development	14,063	12,926	38,760	34,755
Selling, general and administrative	29,088	23,916	85,724	70,357
(Gain) loss on foreign currency transaction	(120)	2,454	7,752	526
Total expenses	63,234	57,319	190,523	162,636
Income from operations	18,896	12,760	46,488	46,092
Other income (expense):				
Interest income, net	2,628	3,179	6,416	9,790
Interest expense	(1,364)	(1,801)	(6,294)	(10,419)
Interest expense on liability for sale of future royalties	(3,514)	(4,089)	(10,564)	(12,720)
Interest expense on financing liability	(2,456)	(2,470)	(7,299)	(7,361)
Impairment of available-for-sale investment	(6,409)	—	(6,409)	(1,550)
Other income	—	32	—	32
Gain on bargain purchase	—	5,259	—	5,259
Loss on settlement of debt	—	—	—	(7,050)
Total other (expense) income	(11,115)	110	(24,150)	(24,019)
Income before income tax (benefit) expense	7,781	12,870	22,338	22,073
Income tax (benefit) expense	(204)	1,320	527	1,907
Net income	$ 7,985	$ 11,550	$ 21,811	$ 20,166
Net income per share – basic	$ 0.03	$ 0.04	$ 0.07	$ 0.07
Weighted average shares used to compute net income per share – basic	306,806	274,998	305,093	272,811
Net income per share – diluted	$ 0.03	$ 0.04	$ 0.07	$ 0.07
Weighted average shares used to compute net income per share – diluted	311,638	284,693	313,339	281,407

See notes to condensed consolidated financial statements.

MANNKIND CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
	(In thousands)			
Net income	$ 7,985	$ 11,550	$ 21,811	$ 20,166
Other comprehensive income:				
Unrealized gain on available-for-sale securities	149	588	297	588
Adjustment for impairment of available-for-sale investment included in net income	(1,269)	—	(1,269)	—
Comprehensive income	$ 6,865	$ 12,138	$ 20,839	$ 20,754

See notes to condensed consolidated financial statements.

MANNKIND CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)

	September 30, 2025	December 31, 2024
	(In thousands except share and per share data)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 127,392	$ 46,339
Short-term investments	132,643	150,917
Accounts receivable, net	17,383	11,804
Inventory	26,972	27,886
Prepaid expenses and other current assets	54,447	31,360
Total current assets	358,837	268,306
Restricted cash	743	737
Long-term investments	26,226	5,482
Property and equipment, net	82,652	85,365
Goodwill	1,931	1,931
Other intangible assets	5,120	5,265
Other assets	19,131	26,757
Total assets	$ 494,640	$ 393,843
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 7,269	$ 6,792
Accrued expenses and other current liabilities	31,419	40,293
Senior convertible notes – current	36,224	—
Liability for sale of future royalties – current	13,841	12,283
Financing liability – current	10,254	10,062
Deferred revenue – current	10,123	12,407
Total current liabilities	109,130	81,837
Liability for sale of future royalties – long term	136,913	137,362
Financing liability – long term	93,310	93,877
Deferred revenue – long term	48,194	51,160
Recognized loss on purchase commitments – long term	65,956	58,204
Operating lease liability	10,258	11,645
Milestone liabilities	2,003	2,523
Term loan	73,428	—
Senior convertible notes	—	36,051
Total liabilities	539,192	472,659
Commitments and contingencies (Note 14)		
Stockholders' deficit:		
Undesignated preferred stock, $0.01 par value – 10,000,000 shares authorized; no shares issued or outstanding as of September 30, 2025 or December 31, 2024	—	—
Common stock, $0.01 par value – 800,000,000 shares authorized; 307,027,189 and 302,959,782 shares issued and outstanding as of September 30, 2025 and December 31, 2024, respectively	3,070	3,029
Additional paid-in capital	3,132,249	3,118,865
Accumulated other comprehensive income	137	1,109
Accumulated deficit	(3,180,008)	(3,201,819)
Total stockholders' deficit	(44,552)	(78,816)
Total liabilities and stockholders' deficit	$ 494,640	$ 393,843

See notes to condensed consolidated financial statements.

MANNKIND CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT
(Unaudited)

	Common Stock					
	Shares	Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total
			(In thousands)			
BALANCE, JANUARY 1, 2024	270,034	$ 2,700	$ 2,980,539	$ —	$ (3,229,407)	$ (246,168)
Issuance of common stock from market price stock purchase plan	416	—	1,361	—	—	1,361
Net issuance of common stock associated with stock options and restricted stock units	337	3	263	—	—	266
Issuance of common stock pursuant to conversion of the Mann Group convertible note interest	15	—	56	—	—	56
Stock-based compensation expense	—	—	3,885	—	—	3,885
Net income	—	—	—	—	10,630	10,630
BALANCE, MARCH 31, 2024	270,802	$ 2,703	$ 2,986,104	$ —	$ (3,218,777)	$ (229,970)
Net issuance of common stock associated with stock options and restricted stock units	1,855	19	(4,952)	—	—	(4,933)
Issuance of common stock pursuant to conversion of the Mann Group convertible note principal and interest	1,500	15	3,735	—	—	3,750
Issuance of common stock under employee stock purchase plan	310	3	956	—	—	959
Stock-based compensation expense	—	—	6,428	—	—	6,428
Net loss	—	—	—	—	(2,014)	(2,014)
BALANCE, JUNE 30, 2024	274,467	$ 2,740	$ 2,992,271	$ —	$ (3,220,791)	$ (225,780)
Net issuance of common stock associated with stock options and restricted stock units	1,308	13	(1,524)	—	—	(1,511)
Stock-based compensation expense	—	—	5,227	—	—	5,227
Unrealized gain on available-for-sale securities	—	—	—	588	—	588
Net income	—	—	—	—	11,550	11,550
BALANCE, SEPTEMBER 30, 2024	275,775	$ 2,753	$ 2,995,974	$ 588	$ (3,209,241)	$ (209,926)

	Common Stock					
	Shares	Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total
			(In thousands)			
BALANCE, JANUARY 1, 2025	302,960	$ 3,029	$ 3,118,865	$ 1,109	$ (3,201,819)	$ (78,816)
Net issuance of common stock associated with stock options and restricted stock units	959	10	1,580	—	—	1,590
Stock-based compensation expense	—	—	5,385	—	—	5,385
Unrealized gain on available-for-sale securities	—	—	—	65	—	65
Net income	—	—	—	—	13,158	13,158
BALANCE, MARCH 31, 2025	303,919	$ 3,039	$ 3,125,830	$ 1,174	$ (3,188,661)	$ (58,618)
Net issuance of common stock associated with stock options and restricted stock units	2,040	20	(6,003)	—	—	(5,983)
Issuance of common stock under employee stock purchase plan	299	3	948	—	—	951
Issuance of common stock from market price stock purchase plan	74	1	336	—	—	337
Stock-based compensation expense	—	—	7,520	—	—	7,520
Unrealized gain on available-for-sale securities	—	—	—	83	—	83
Net income	—	—	—	—	668	668
BALANCE, JUNE 30, 2025	306,332	$ 3,063	$ 3,128,631	$ 1,257	$ (3,187,993)	$ (55,042)
Net issuance of common stock associated with stock options and restricted stock units	682	7	(750)	—	—	(743)
Issuance of common stock from market price stock purchase plan	13	—	50	—	—	50
Stock-based compensation expense	—	—	4,318	—	—	4,318
Adjustment for impairment loss of available-for-sale investment included in net income	—	—	—	(1,269)	—	(1,269)
Unrealized gain on available-for-sale securities	—	—	—	149	—	149
Net income	—	—	—	—	7,985	7,985
BALANCE, SEPTEMBER 30, 2025	307,027	$ 3,070	$ 3,132,249	$ 137	$ (3,180,008)	$ (44,552)

See notes to condensed consolidated financial statements.

MANNKIND CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	Nine Months Ended September 30,	
	2025	2024
	(In thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	$ 21,811	$ 20,166
Adjustments to reconcile net income to net cash provided by operating activities:		
Stock-based compensation	17,223	15,540
Interest on liability for sale of future royalties	10,564	12,720
Sold portion of royalty revenue	(9,455)	(7,533)
Write-off of inventory	8,335	1,909
Depreciation and amortization	6,254	5,211
Loss on foreign currency transaction	7,752	526
Impairment loss on available-for-sale investment	6,409	1,550
Net accretion of investments	(2,245)	(3,765)
Amortization of right-of-use assets	1,815	1,140
Amortization of debt discount and issuance costs	376	1,333
Loss on settlement of debt	—	7,050
Gain on bargain purchase	—	(5,259)
Loss on estimated returns of acquired product	—	1,444
Interest on Mann Group convertible note	—	56
Other, net	—	49
Changes in operating assets and liabilities:		
Accounts receivable, net	(5,579)	(3,728)
Inventory	(7,421)	(27)
Prepaid expenses and other current assets	(12,360)	(6,442)
Other assets	(1,526)	(2,821)
Accounts payable	477	(3,136)
Accrued expenses and other current liabilities	(10,094)	(4,809)
Deferred revenue	(5,250)	(7,211)
Recognized loss on purchase commitments	—	(2,689)
Operating lease liabilities	(873)	(1,407)
Net cash provided by operating activities	26,213	19,867
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of available-for-sale securities	(144,080)	—
Proceeds from maturities of available-for-sale securities	143,812	—
Issuance of note receivable	(10,000)	—
Purchase of property and equipment	(2,572)	(6,797)
Purchase of held-to-maturity securities	—	(273,789)
Proceeds from maturities of held-to-maturity securities	—	135,317
Proceeds from insurance claim	—	396
Net cash used in investing activities	(12,840)	(144,873)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from term loan	75,000	—
Payment of loan issuance costs	(2,347)	—
Payments for taxes related to net issuance of common stock associated with restricted stock units and stock options	(5,136)	(6,178)
Principal payments on financing liability	(530)	(282)
Proceeds from market price stock purchase plan and employee stock purchase plan	1,338	2,320
Milestone Right Agreement payment	(639)	(752)
Principal payments on financing lease liability	—	(3)
Principal and early extinguishment payments on MidCap credit facility	—	(36,617)
Principal and early extinguishment payments on Mann Group convertible note	—	(8,854)
Net cash provided by (used in) financing activities	67,686	(50,366)
NET INCREASE (DECREASE) IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH	81,059	(175,372)
CASH, CASH EQUIVALENTS AND RESTRICTED CASH, BEGINNING OF PERIOD	47,076	238,480
CASH, CASH EQUIVALENTS AND RESTRICTED CASH, END OF PERIOD	$ 128,135	$ 63,108

	Nine Months Ended September 30,	
	2025	2024
	(In thousands)	
SUPPLEMENTAL CASH FLOWS DISCLOSURES:		
Interest paid in cash	$ 5,569	$ 13,616
Income taxes paid in cash	1,156	1,961
NON-CASH INVESTING AND FINANCING ACTIVITIES:		
Amortization of liability for sale of future royalties	937	2,912
Non-cash construction-in-progress, property and equipment	825	1,486
Assumption of right-of-use-asset and operating lease liability	—	10,057
Non-cash acquisition of intangible asset	—	4,300
Payments of Mann Group principal and interest through common stock issuances	—	3,806
Non-cash acquisition of property and equipment	—	959
Addition of right-of-use-asset and lease liability	—	226

See notes to condensed consolidated financial statements.

MANNKIND CORPORATION AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Description of Business and Significant Accounting Policies

The unaudited condensed consolidated financial statements of MannKind Corporation and its subsidiaries ("MannKind," the "Company," "we" or "us"), have been prepared in accordance with generally accepted accounting principles in the United States of America ("GAAP") for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X of the Securities and Exchange Commission (the "SEC"). Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. The information included in this quarterly report on Form 10-Q should be read in conjunction with the audited consolidated financial statements and notes thereto included in the Company's annual report on Form 10-K for the fiscal year ended December 31, 2024, filed with the SEC on February 26, 2025 (the "Annual Report").

In the opinion of management, all adjustments, consisting only of normal, recurring adjustments, considered necessary for a fair presentation of the results of these interim periods have been included. The results of operations for the three and nine months ended September 30, 2025 may not be indicative of the results that may be expected for the full year.

Financial Statement Estimates — The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and notes. Actual results could differ from those estimates or assumptions. Management considers many factors in selecting appropriate financial accounting policies and in developing the estimates and assumptions that are used in the preparation of the financial statements. Management must apply significant judgment in this process. These effects could have a material impact on the estimates and assumptions used in the preparation of the condensed consolidated financial statements. The more significant estimates include revenue recognition, including gross-to-net adjustments, stand-alone selling price considerations for recognition of collaboration revenue, clinical trial expenses, inventory costing, stock-based compensation, the determination of the provision for income taxes and corresponding deferred tax assets and liabilities, the valuation allowance recorded against net deferred tax assets, and expected cash flows from royalties received in connection with United Therapeutics' ("UT's") net revenue for the sale of Tyvaso DPI.

Business — MannKind is a biopharmaceutical company focused on the development and commercialization of patient-centric therapies that address serious unmet medical needs for those living with cardiometabolic and orphan lung diseases. The Company is currently commercializing Afrezza (insulin human) Inhalation Powder, an ultra rapid-acting inhaled insulin indicated to improve glycemic control in adults with diabetes, and the V-Go wearable insulin delivery device, which provides continuous subcutaneous infusion of insulin in adults that require insulin. The first product to come out of the orphan lung disease pipeline, Tyvaso DPI (treprostinil) inhalation powder, received approval from the U.S. Food and Drug Administration ("FDA") in May 2022 for the treatment of pulmonary arterial hypertension ("PAH") and for the treatment of pulmonary hypertension associated with interstitial lung disease ("PH-ILD"). The Company's development and marketing partner, UT, began commercializing Tyvaso DPI in June 2022 and is obligated to pay a 10% royalty on net sales of the product, of which 9% is allocated to the Company and 1% to another party as detailed in Note 14 – *Commitments and Contingencies*. The Company also receives a margin on supplies of Tyvaso DPI that it manufactures for UT. On August 24, 2025, the Company entered into a merger agreement (the "Merger Agreement") with scPharmaceuticals Inc. ("scPharma"), whose product FUROSCIX (furosemide injection) is used to treat fluid buildup in patients with chronic heart failure or chronic kidney disease. In connection with the transaction, the Company provided scPharma with a $10.0 million unsecured promissory note, which is included within prepaid expenses and other current assets on the Company's condensed consolidated balance sheets as of September 30, 2025. Following the completion of the merger on October 7, 2025, scPharma became a wholly owned subsidiary of the Company. See Note 16 – *Subsequent Events*.

Basis of Presentation — The condensed consolidated financial statements have been prepared in accordance with GAAP.

Principles of Consolidation — The condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. Intercompany balances and transactions have been eliminated.

Reclassifications — Certain amounts reported in prior years have been reclassified to conform with the current year presentation. The Company has combined selling expenses with general and administrative expenses as selling, general and administrative expenses in the condensed consolidated statements of operations.

Segment Information — Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker (the "CODM") in making decisions regarding resource allocation and assessing performance. To date, the Company has viewed its operations and manages its business as one segment operating in the United States of America ("U.S.").

The Company manufactures products using the Technosphere technology for commercial distribution and continues to pursue other product candidates through collaboration and internal research and development of its pipeline. The business and accounting policies of the Company's single reportable segment are further explained below. The measure of segment assets is reported as total assets in the condensed consolidated balance sheets. No intra-entity sales or transfers are transacted within the Company.

The key metric utilized by the CODM to assess resource allocation and performance is the Company's segment net income, which is the same as the consolidated net income reported in the condensed consolidated statements of operations. The CODM also analyzes the Company's consolidated net income to evaluate its return on segment assets and to establish budgets and forecasts. The table below shows the details of the Company's segment revenues and significant expense categories regularly provided to and reviewed by the CODM as well as other significant segment items included in consolidated net income in the condensed consolidated statements of operations:

	Three Months Ended September 30,		Nine Months Ended September 30,	
Revenues	2025	2024	2025	2024
Afrezza	$ 18,493	$ 15,035	$ 51,709	$ 45,762
V-Go	3,812	4,693	12,023	13,510
Collaborations and services	26,506	23,268	78,727	74,130
Royalties	33,319	27,083	94,552	75,326
Total revenues	82,130	70,079	237,011	208,728
Less significant segment expenses (income):				
Cost of goods sold – commercial	4,498	3,197	12,873	12,621
Cost of revenue – collaborations and services	15,705	14,826	45,414	44,377
Research and development	14,063	12,926	38,760	34,755
Selling	14,694	13,093	43,335	36,189
General and administrative	14,394	10,823	42,389	34,168
Interest income, net	(2,628)	(3,179)	(6,416)	(9,790)
Interest expense, net	7,334	8,360	24,157	30,500
Impairment of available-for-sale investment	6,409	—	6,409	1,550
Loss on settlement of debt	—	—	—	7,050
Other segment items[(1)]	(324)	(1,517)	8,279	(2,858)
Consolidated net income	$ 7,985	$ 11,550	$ 21,811	$ 20,166

(1) Includes (gain) loss on foreign currency transaction, loss on settlement of debt, loss on available-for-sale securities and income tax (benefit) expense.

Revenue Recognition — The Company recognizes revenue when its customers obtain control of promised goods or services, in an amount that reflects the consideration which the Company expects to be entitled in exchange for those goods or services.

To determine revenue recognition for arrangements that are within the scope of Accounting Standards Codification ("ASC") Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), the Company performs the following five steps: (i) identify the contract(s) with a customer, (ii) identify the performance obligations in the contract, (iii) determine the transaction price, (iv) allocate the transaction price to the performance obligations in the contract, and (v) recognize revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to arrangements that meet the definition of a contract under ASC 606, including when it is probable that the entity will collect the consideration to which it is entitled in exchange for the goods or services it transfers to the customer.

At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within each contract, determines those that are performance obligations, and assesses whether each promised good or service is distinct. The Company has two types of contracts with customers: (i) contracts for commercial product sales with wholesale distributors, specialty and retail pharmacies, and durable medical equipment suppliers ("DMEs") and (ii) collaboration arrangements.

Revenue Recognition — Net Revenue — Commercial Product Sales — The Company sells its products to a limited number of wholesale distributors, specialty and retail pharmacies, and DMEs in the U.S. (collectively, its "Customers"). Wholesale distributors subsequently resell the Company's products to retail pharmacies and certain medical centers or hospitals. Specialty and retail pharmacies sell directly to patients. In addition to distribution agreements with Customers, the Company enters into arrangements with payers that provide for government mandated and/or privately negotiated rebates, chargebacks, and discounts with respect to the purchase of the Company's products.

The Company transfers control and recognizes revenue upon delivery of product to wholesale distributors and specialty pharmacies. The Company transfers control and recognizes revenue on product sales to a retail pharmacy as the product is dispensed to patients. Product revenues are recorded net of applicable reserves, including discounts, allowances, rebates, returns and other incentives. See *Reserves for Variable Consideration* below.

Reserves for Variable Consideration — Revenues from product sales are recorded at the net sales price (transaction price), which includes estimates of variable consideration for which reserves are established. Components of variable consideration include trade discounts and allowances, product returns, provider chargebacks and discounts, government rebates, payer rebates, and other incentives, such as voluntary patient assistance, and other allowances that are offered within contracts between the Company and its Customers, payers, and other indirect customers relating to the Company's sale of its products. These reserves, as further detailed below, are based on the amounts earned, or to be claimed on the related sales, and result in a reduction of accounts receivable or establishment of a current liability. Significant judgment is required in estimating gross-to-net adjustments, including historical experience, payer channel mix, current contract prices under applicable programs, unbilled claims, claim submission time lags and inventory levels in the distribution channel.

Where appropriate, these estimates take into consideration a range of possible outcomes, which are probability-weighted in accordance with the expected value method in ASC 606 for relevant factors such as current contractual and statutory requirements, specific known market events and trends, industry data, and forecasted customer buying and payment patterns. Overall, these reserves reduce recognized revenue to the Company's best estimates of the amount of consideration to which it is entitled based on the terms of the respective underlying contracts.

The amount of variable consideration that is included in the transaction price may be constrained and is included in the net sales price only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue recognized under the contract will not occur in a future period. The Company's analysis also contemplates application of the constraint in accordance with the guidance, under which it determined a material reversal of revenue would not occur in a future period for the current period estimates of gross-to-net adjustments and, therefore, the transaction price was not reduced further during the current period. Actual amounts of consideration ultimately received may differ from the Company's estimates. If actual results in the future vary from the Company's estimates, the Company will adjust these estimates, which would affect net revenue from commercial product sales and earnings in the period such variances become known.

Trade Discounts and Allowances — The Company generally provides Customers with discounts which include incentives, such as prompt pay discounts, that are explicitly stated in the Company's contracts and are recorded as a reduction of revenue in the period the related product revenue is recognized. In addition, the Company compensates (through trade discounts and allowances) its Customers for sales order management, data, and distribution services. However, the Company has determined such services received to date are not distinct from the Company's sale of products to the Customer and, therefore, these payments have been recorded as a reduction of revenue and as a reduction to accounts receivable, net.

Product Returns — Consistent with industry practice, the Company generally offers Customers a right of return for unopened product that has been purchased from the Company for a period beginning six months prior to and ending 12 months after its expiration date, which lapses upon shipment to a patient. The Company estimates the amount of its product sales that may be returned by its Customers and records this estimate as a reduction of revenue in the period the related product revenue is recognized, as well as reductions to accounts receivable, net. The Company currently estimates product returns using available industry data and its own sales and historical return information, including its visibility into the inventory remaining in the distribution channel. Adjustments to the returns reserve are made when changes in the Company's assumptions result in revised estimates to the Company's assumptions.

Provider Chargebacks and Discounts — Chargebacks for fees and discounts to providers represent the estimated obligations resulting from contractual commitments to sell products to qualified healthcare providers at prices lower than the list prices charged to Customers who directly purchase products from the Company. Customers charge the Company for the difference between what they pay for products and the ultimate selling price to the qualified healthcare providers. These reserves are established in the same period that the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability that is recorded in accrued expenses and other current liabilities. Chargeback amounts are generally determined at the time of resale to the qualified healthcare provider by Customers, and the Company generally issues credits for such amounts within a few weeks of the Customer's notification to the Company of the resale. Reserves for chargebacks consist of credits that the Company expects to issue

for units that remain in the distribution channel inventories at each reporting period-end that the Company expects will be sold to qualified healthcare providers, and chargebacks that Customers have claimed, but for which the Company has not yet issued a credit.

Government Rebates — The Company is subject to discount obligations under Medicare and state Medicaid programs. These reserves are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability that is included in accrued expenses and other current liabilities. Estimates around Medicaid have historically required significant judgment due to timing lags in receiving invoices for claims from states. For Afrezza, the Company also estimates the number of patients in manufacturers' discount program for whom the Company will owe an additional liability under the Medicare Part D program. The Company's liability for these rebates consists of invoices received for claims from prior quarters that have not been paid or for which an invoice has not yet been received, estimates of claims for the current quarter, and estimated future claims that will be made for products that have been recognized as revenue, but which remains in the distribution channel inventories at the end of each reporting period. The Company's estimates include consideration of historical claims experience, payer channel mix, current contract prices, unbilled claims, claim submission time lags and inventory in the distribution channel.

Payer Rebates — The Company contracts with certain private payer organizations, primarily insurance companies and pharmacy benefit managers, for the payment of rebates with respect to utilization of its products. The Company estimates these rebates, including estimates for product that has been recognized as revenue, but which remains in the distribution channel, and records such estimates in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability which is included in accrued expenses and other current liabilities. The Company's estimates include consideration of historical claims experience, payer channel mix, current contract prices, unbilled claims, claim submission time lags and inventory in the distribution channel.

Other Incentives — Other incentives which the Company offers include voluntary patient support programs, such as the Company's co-pay assistance program, which are intended to provide financial assistance to qualified commercially-insured patients with co-payments required by payers. The calculation of the accrual for co-pay assistance is based on an estimate of claims and the cost per claim that the Company expects to receive associated with the products that have been recognized as revenue but remains in the distribution channel inventories at the end of each reporting period. The adjustments are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability that is included in accrued expenses and other current liabilities.

Revenue Recognition — Collaborations and Services — The Company enters into licensing, research or other agreements under which the Company licenses certain rights to its product candidates to third parties, conducts research or provides other services to third parties. The terms of these arrangements may include but are not limited to payment to the Company of one or more of the following: up-front license fees; development, regulatory, and commercial milestone payments; payments for commercial manufacturing and clinical supply services the Company provides; and royalties on net sales of licensed products and sublicenses of the rights. As part of the accounting for these arrangements, the Company must develop assumptions that require judgment such as determining the performance obligation in the contract and determining the stand-alone selling price for each performance obligation identified in the contract. With respect to the Company's significant collaboration and service agreement with UT that includes a long-term commercial supply agreement (as amended, the "CSA"), the Company identified three distinct performance obligations: (1) the license, supply of product to be used in clinical development, and continued development and approval support for Tyvaso DPI ("R&D Services and License"); (2) development activities for the next generation of the product ("Next-Gen R&D Services"); and (3) a material right associated with current and future manufacturing and supply of product ("Manufacturing Services"). Pre-production activities under the CSA, such as facility expansion services and other administrative services, were considered bundled services under the Manufacturing Services performance obligation as required by ASC 606, which were recorded as deferred revenue. Following the FDA's approval of Tyvaso DPI, UT began issuing purchase orders for the supply of product, which represents distinct contracts and performance obligations under ASC 606. Revenue is recognized for the supply of product at a point in time, once control is transferred to UT, and deferred revenue is recognized as product is delivered over the CSA term based on the estimate of measurement in progress. See Note 9 – *Collaborations, Licensing and Other Arrangements.*

If an arrangement has multiple performance obligations, the allocation of the transaction price is determined from observable market inputs, and the Company uses key assumptions to determine the stand-alone selling price, which may include development timelines, reimbursement rates for personnel costs, discount rates, and probabilities of technical and regulatory success. Revenue is recognized based on the measurement of progress as the performance obligation is satisfied and consideration received that does not meet the requirements to satisfy the revenue recognition criteria is recorded as deferred revenue. Current deferred revenue consists of amounts that are expected to be recognized as revenue in the next 12 months. Amounts that the Company expects will not be recognized within the next 12 months are classified as long-term deferred revenue. However, this estimate is based on the Company's current project development plan and, if the development plan should change in the future, the Company may recognize a different amount of deferred revenue over the next 12-month period. For further information, see Note 9 – *Collaborations, Licensing and Other Arrangements*.

The Company recognizes upfront license payments as revenue upon delivery of the license only if the license is determined to be a separate unit of accounting from the other undelivered performance obligations. The undelivered performance obligations typically include manufacturing or development services or research and/or steering committee services. If the license is not considered as a distinct performance obligation, then the license and other undelivered performance obligations would be evaluated to determine if such should be accounted for as a single unit of accounting. If concluded to be a single performance obligation, the transaction price for the single performance obligation is recognized as revenue over the estimated period of when the performance obligation is satisfied. If the license is considered to be a distinct performance obligation, then the estimated revenue is included in the transaction price for the contract, which is then allocated to each performance obligation based on the respective standalone selling prices.

Whenever the Company determines that an arrangement should be accounted for over time, the Company determines the period over which the performance obligations will be performed, and revenue will be recognized over the period the Company is expected to complete its performance obligations. Significant management judgment is required in determining the level of effort required under an arrangement and the period over which the Company is expected to complete its performance obligations under an arrangement, including estimating future revenue to be earned over the CSA contract term to determine the amount of deferred revenue to be recognized in the period.

The Company's collaboration agreements typically entitle the Company to additional payments upon the achievement of development, regulatory and sales milestones. If the achievement of a milestone is considered probable at the inception of the collaboration, the related milestone payment is included with other collaboration consideration, such as upfront fees and research funding, in the Company's revenue calculation. If these milestones are not considered probable at the inception of the collaboration, the milestones will typically be recognized in one of two ways depending on the timing of when the milestone is achieved. If the milestone is improbable at inception and subsequently deemed probable of achievement, such will be added to the transaction price, resulting in a cumulative adjustment to revenue. If the milestone is achieved after the performance period has been completed and all performance obligations have been delivered, the Company will recognize the milestone payment as revenue in its entirety in the period the milestone was achieved.

The Company's collaboration agreements, for accounting purposes, represent contracts with customers and therefore are not subject to accounting literature on collaboration agreements. The Company grants licenses to its intellectual property, supplies raw materials, semi-finished goods or finished goods, provides research and development services and offers sales support for the co-promotion of products, all of which are outputs of the Company's ongoing activities, in exchange for consideration. Accordingly, the Company concluded that its collaboration agreements must generally be accounted for pursuant to ASC 606.

For collaboration agreements that allow collaboration partners to select additional optioned products or services, the Company evaluates whether such options contain material rights (i.e., have exercise prices that are discounted compared to what the Company would charge for a similar product or service to a new collaboration partner). The exercise price of these options includes a combination of licensing fees, event-based milestone payments and royalties. When these amounts in aggregate are not offered at a discount that exceeds discounts available to other customers, the Company concludes the option does not contain a material right, and therefore is not included in the transaction price at contract inception. The Company assessed the CSA and determined that a material right existed for the manufacturing services performance obligation. The transaction price is allocated to the material right as well as the remaining performance obligations in accordance with ASC 606. The Company also evaluates grants of additional licensing rights upon option exercises to determine whether such should be accounted for as separate contracts. Any changes in transaction price is assessed by management as follows:

- To the extent the change in estimated variable consideration relates to performance obligations that have been partially or fully satisfied, the effect of the change is recognized as an adjustment to revenue in the period of the change. This adjustment is recorded on a cumulative catch-up basis, reflecting the amount of revenue that would have been recognized if the revised estimate had been used since contract inception.
- To the extent the change in estimated variable consideration relates to performance obligations that have not yet been satisfied, the effect of the change is recognized prospectively over the remaining performance period.

Revenue Recognition — Royalties — The Company recognizes royalty revenue for a sales-based or usage-based royalty if it is promised in exchange for an intellectual property license. The royalty revenue is recognized as of the later of the subsequent sale of the product occurs or if the performance obligation to which the royalty has been allocated has been satisfied or partially satisfied. The UT License Agreement (as defined in Note 9 – *Collaborations, Licensing and Other Arrangements*) entitles it to receive a 10% royalty on net sales of Tyvaso DPI for the license of the Company's IP that was considered to be interdependent with the development activities that supported the approval of Tyvaso DPI. Although the Company recognizes a 10% royalty on net revenue from the sale of Tyvaso DPI as revenue, it only collects 9% of future royalties due to its sale in December 2023 of 1% of future royalties as detailed in Note 14 – *Commitments and Contingencies*. The First Amendment (as defined in Note 9 – *Collaborations, Licensing and Other*

Arrangements) to the UT License Agreement also entitles the Company to receive a 10% royalty on net sales of the new development product, if it is approved.

The Company's net revenue as shown on the condensed consolidated statement of operations is comprised of revenue generated from product sales, services and royalties as shown below (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Net revenue:				
Product revenue [1]	$ 48,274	$ 42,959	$ 140,743	$ 132,945
Services [2]	537	37	1,716	457
Royalties [3]	33,319	27,083	94,552	75,326
Total net revenue	$ 82,130	$ 70,079	$ 237,011	$ 208,728

(1) Amounts represent the revenue from Afrezza and V-Go sales to wholesalers and specialty pharmacies and Tyvaso DPI to UT.

(2) Amounts represent revenue generated from the Company's collaboration arrangements. See Note 9 – *Collaborations, Licensing and Other Arrangements*.

(3) Amounts represent royalties on UT's net revenue from Tyvaso DPI sales.

Milestone Payments — At the inception of each arrangement that includes development milestone payments, the Company evaluates whether the milestones are considered probable of being reached and estimates the amount to be included in the transaction price using the most likely amount method. If it is probable that a significant revenue reversal would not occur, the associated milestone value is included in the transaction price. Milestone payments that are not within the control of the Company or the customer, such as regulatory approvals, are not considered probable of being achieved until those approvals are received. The transaction price is then allocated to each performance obligation on a relative stand-alone selling price basis, for which the Company recognizes revenue as, or when, the performance obligations under the contract are satisfied. At the end of each subsequent reporting period, the Company will re-evaluate the probability of achievement of such development milestones and any related constraint, and if necessary, adjusts its estimate of the overall transaction price. Any such adjustments are recorded on a cumulative catch-up basis, which would affect license, collaboration, other revenue, and earnings in the period of adjustment.

Cost of Goods Sold — Commercial - Cost of goods sold- commercial is associated with the product revenue for Afrezza and V-Go and includes material, labor costs and manufacturing overhead. Write-offs of inventory and certain other period costs are recorded as expenses in the period in which they are incurred, rather than as a portion of inventory costs. Cost of goods sold excludes the cost of insulin purchased under the Company's Insulin Supply Agreement (the "Insulin Supply Agreement") with Amphastar Pharmaceuticals, Inc. ("Amphastar"). The Company incurs a quarterly capacity fee through its agreement with Amphastar which is included in cost of goods sold. See Note 14 - *Commitments and Contingencies* for additional information on this agreement. All insulin inventory on hand was written off and the full purchase commitment contract to purchase future insulin was accrued as a recognized loss on purchase commitments in prior years.

Cost of Revenues — Collaborations and Services — Cost of revenues for collaborations and services is primarily associated with product revenue for Tyvaso DPI and includes material, labor cost and manufacturing overhead. Write-offs of inventory and certain other period costs are recorded as expenses in the period in which they are incurred, rather than as a portion of inventory costs. Cost of revenues for collaborations and services also includes the cost of product development.

Research and Development ("R&D") — Clinical trial expenses result from obligations under contracts with vendors, consultants and clinical site agreements in addition to internal costs associated with conducting clinical trials. R&D costs are expensed as incurred. Clinical study and certain research costs are recognized over the service periods specified in the contracts and adjusted as necessary based upon an ongoing review of the level of effort and costs actually incurred. Nonrefundable advance payments for services to be received in the future for use in R&D activities are recorded as prepaid assets and expensed in the period when the services are performed.

Cash, Cash Equivalents and Restricted Cash — The Company considers all highly liquid investments with original maturities of 90 days or less at the time of purchase, that are readily convertible into cash to be cash equivalents. As of September 30, 2025 and December 31, 2024, cash equivalents were comprised of interest-bearing money market funds, U.S. Treasury securities, corporate bonds and commercial paper with original maturities of 90 days or less from the date of purchase.

The Company records restricted cash when cash and cash equivalents are restricted as to withdrawal or usage. Restricted cash under a letter of credit issued in connection with a facility lease assumed by the Company that will not be available for use in the Company's operations within 12 months of the reporting date is presented in non-current assets.

Available-for-Sale Investments — The Company's available-for-sale investments consist primarily of highly liquid money market funds, commercial bonds and paper, and U.S. Treasury securities that are intended to facilitate liquidity and capital preservation. Additionally, the Company had two convertible promissory notes issued by Thirona Bio, Inc. ("Thirona") which were classified as an available-for-sale investment for the year ended December 31, 2024. In September 2025, the Company determined the Thirona investment to be fully impaired and recognized a $6.4 million impairment loss. See Note 2 – *Investments*. Available-for-sale investments are measured at fair value with realized gains and losses and unrealized losses related to credit risk reported in other income (expense) in the condensed consolidated statements of operations. Unrealized holding gains and losses are excluded from earnings and reported in other comprehensive income until realized. These investments with maturities less than 12 months are included in short-term investments and investments with maturities in excess of 12 months are included in long-term investments in the condensed consolidated balance sheets. The accretion of these investments, net of amortization, is recognized as interest income in the condensed consolidated statements of operations. See Note 2 – *Investments*.

Concentration of Credit Risk — Financial instruments that potentially subject the Company to concentration of credit risk consisted of cash and cash equivalents and investments. Investments generally consisted of commercial paper, corporate notes or bonds and U.S. Treasury securities. Cash equivalents and investments are regularly monitored by management.

Accounts Receivable and Allowance for Credit Losses — Accounts receivable are recorded at the invoiced amount and are not interest bearing. Accounts receivable are presented net of an allowance for credit losses if there are estimated losses resulting from the inability of its customers to make required payments. The Company makes ongoing assumptions relating to the collectability of its accounts receivable in its calculation of the allowance for credit losses. The allowance for expected credit losses is based primarily on past collections experience relative to the length of time receivables are past due. However, when available evidence reasonably supports an assumption that future economic conditions will differ from current and historical payment collections, an adjustment is reflected in the allowance for expected credit losses. Accounts receivable are also presented net of an allowance for product returns and trade discounts and allowances because the Company’s customers have the right of setoff for these amounts against the related accounts receivable.

Pre-Launch Inventory — An improvement to the manufacturing process for the Company’s primary excipient, fumaryl diketopiperazine (“FDKP”) was demonstrated to be viable and management expects to realize an economic benefit in the future as a result of such process improvement. Accordingly, the Company is required to assess whether to capitalize inventory costs related to such excipient prior to validation of the improved manufacturing process and adoption of the new supplier. In doing so, management must consider a number of factors in order to determine the amount of inventory to be capitalized, including the historical experience of modifying the Company’s manufacturing processes, feedback from technical experts and regulatory agencies on the changes being effected and the amount of inventory that is likely to be used in commercial production. The shelf life of the excipient will be determined as part of the validation process; in the interim, the Company must assess the available stability data to determine whether there is likely to be adequate shelf life to support anticipated future sales occurring beyond the expected adoption date of the new raw material. If management is aware of any specific material risks or contingencies other than the normal regulatory reporting process, or if the criteria for capitalizing inventory produced prior to regulatory approval are otherwise not met, the Company would not capitalize such inventory costs, and would instead recognize such costs as R&D expense in the period incurred. See Note 4 – *Inventories.*

Inventories — Inventories are stated at the lower of cost or net realizable value. The Company determines the cost of inventory using the first-in, first-out, or FIFO, method. The Company capitalizes inventory costs associated with the Company’s products based on management’s judgment that future economic benefits are expected to be realized; otherwise, such costs are expensed as incurred as cost of goods sold. The Company uses a contract manufacturing organization outside of the U.S. for certain stages of V-Go inventory.

The Company periodically analyzes its inventory levels to identify inventory that may expire or has a cost basis in excess of its estimated realizable value and writes down such inventories, as appropriate. In addition, the Company’s products are subject to strict quality control and monitoring which the Company performs throughout the manufacturing process. If certain batches or units of product no longer meet quality specifications or may become obsolete or are forecasted to become obsolete due to expiration, the Company will record a charge to write down such unmarketable inventory to its estimated net realizable value. The Company performs an assessment of projected sales and evaluates the lower of cost or net realizable value and the potential excess inventory on hand at the end of each reporting period.

Property and Equipment — Property and equipment is recorded at historical cost, net of accumulated depreciation. Depreciation expense is recorded over the assets’ useful lives on a straight-line basis and included in cost of goods sold, research and development, and selling, general and administrative expense in the condensed consolidated statements of operations. See Note 5 – *Property and Equipment*.

Impairment of Long-Lived Assets — Long-lived assets include property and equipment, operating lease right-of-use assets and other intangible assets. The Company evaluates long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. Assets are considered to be impaired if the carrying value is considered to be unrecoverable.

If the Company believes an asset to be impaired, the impairment recognized is the amount by which the carrying value of the asset exceeds the fair value of the asset. Fair value is determined using market, income or cost approaches as appropriate for the asset. Any write-downs are treated as permanent reductions in the carrying amount of the asset and recognized as an operating loss.

Acquisitions — The Company first determines whether a set of assets acquired constitute a business and should be accounted for as a business combination. If the assets acquired do not constitute a business, the Company accounts for the transaction as an asset acquisition. Business combinations are accounted for by means of the acquisition method of accounting. Under the acquisition method, assets acquired, including in-process R&D ("IPR&D"), and liabilities assumed are recorded at their respective fair values as of the acquisition date in the Company's condensed consolidated financial statements. Leases are recorded at the net present value of the remaining lease payments. The excess of the fair value of consideration transferred over the fair value of the net assets acquired is recorded as goodwill. A gain on bargain purchase is recorded if the fair value of the net assets acquired exceeds the fair value of the consideration transferred. Contingent consideration obligations incurred in connection with a business combination (including the assumption of an acquiree's liability arising from an acquisition it consummated prior to the Company's acquisition) are recorded at their fair values on the acquisition date and remeasured at their fair values each subsequent reporting period until the related contingencies have been resolved. The resulting changes in fair values are recorded in earnings.

In contrast, asset acquisitions are accounted for by using a cost accumulation and allocation model. Under this model, the cost of the acquisition is allocated to the assets acquired and liabilities assumed. IPR&D projects with no alternative future use are recorded in R&D expense upon acquisition, and contingent consideration obligations incurred in connection with an asset acquisition are recorded when it is probable that they will occur and they can be reasonably estimated.

Goodwill and Other Intangible Assets — The fair value of acquired intangible assets is determined using either a cost approach or an income approach. The cost approach establishes fair value based on the cost of reproducing or replacing the asset, less depreciation for functional or economic obsolescence. The income approach, referred to as the excess earnings method, utilizes Level 3 fair value inputs to determine the present value of future economic benefits to be derived from ownership of the intangible asset. Market participant valuations assume a global view considering all potential jurisdictions and indications based on discounted after-tax cash flow projections, risk adjusted for estimated probability of technical and regulatory success.

The Company tests for impairment annually on a reporting unit basis, at the beginning of the Company's fourth fiscal quarter and between annual tests if events and circumstances indicate it is more likely than not that the fair value of a reporting unit is less than its carrying amount. To the extent the carrying amount of a reporting unit is less than its estimated fair value, an impairment charge will be recorded.

Finite-lived intangible assets are amortized on a straight-line basis over the estimated useful life. Estimated useful lives are determined considering the period assets are expected to contribute to future cash flows. Finite-lived intangible assets are tested for impairment when facts or circumstances suggest that the carrying value of the asset may not be recoverable. If the carrying value exceeds the projected undiscounted pretax cash flows of the intangible asset, an impairment loss equal to the excess of the carrying value over the estimated fair value (discounted after-tax cash flows) is recognized.

IPR&D acquired in a business combination is considered an indefinite-lived intangible asset until the completion or abandonment of the associated R&D efforts. During the R&D period, the asset is not amortized but rather is tested for impairment when facts or circumstances suggest that the carrying value of the asset may not be recoverable. Once the R&D efforts are completed, the Company accounts for the resulting asset as a finite-lived intangible asset. If the R&D efforts are abandoned, the asset balance is written off to R&D expense.

Recognized Loss on Purchase Commitments — The Company reviews the terms of the long-term supply agreements and assesses the need for any accrual for estimated losses, such as lower of cost or net realizable value, that will not be recovered by future product sales. The recognized loss on purchase commitments is reduced as inventory items are received or as the liability is extinguished. See Note 14 – *Commitments and Contingencies*.

Milestone Rights Liability — In July 2013, in conjunction with the execution of a now repaid loan agreement with Deerfield Private Design Fund II, L.P. and Deerfield Private Design International II, L.P. (collectively, "Deerfield"), the Company entered into a Milestone Rights Purchase Agreement (the "Milestone Rights Agreement") pursuant to which the Company issued certain milestone rights to Deerfield Private Design Fund II, L.P. and Horizon Santé FLML SÀRL (the "Original Milestone Purchasers"). The foregoing milestone rights provided the Original Milestone Purchasers certain rights to receive payments of up to $90.0 million upon the occurrence of specified strategic and Afrezza sales milestones, $45.0 million of which remains payable as of September 30, 2025 upon achievement of such milestones (collectively, the "Milestone Rights"). In December 2021, the Milestone Rights were purchased by Barings Global Special Situations Credit Fund 4 (Delaware), L.P. and Barings Global Special Situations Credit 4 (LUX) S.ar.l. (together, the "Milestone Purchasers"). As a result, the Milestone Purchasers have assumed the rights and obligations of the Original Milestone Purchasers and are now entitled to all rights under the Milestone Rights Agreement. The Milestone Rights liability is

reported at fair value at the date of the agreement which is periodically offset against payments. See Note 10 – *Fair Value of Financial Instruments*.

The initial fair value estimate of the Milestone Rights was calculated using the income approach in which the cash flows associated with the specified contractual payments were adjusted for both the expected timing and the probability of achieving the milestones and discounted to present value using a selected market discount rate. The expected timing and probability of achieving the milestones was developed with consideration given to both internal data, such as progress made to date and assessment of criteria required for achievement, and external data, such as market research studies. The discount rate was selected based on an estimation of required rate of returns for similar investment opportunities using available market data. The Milestone Rights liability is remeasured as the specified milestone events are achieved. Specifically, as each milestone event is achieved, the portion of the initially recorded Milestone Rights liability that pertains to the milestone event being achieved, is remeasured to the amount of the specified related milestone payment. The resulting change in the balance of the Milestone Rights liability due to remeasurement is recorded in the Company's condensed consolidated statements of operations as interest expense. Furthermore, the Milestone Rights liability is reduced upon the settlement of each milestone payment. As a result, each milestone payment would be effectively allocated between a reduction of the recorded Milestone Rights liability and an expense representing a return on a portion of the Milestone Rights liability paid to the investor for the achievement of the related milestone event. See Note 7 – *Accrued Expenses and Other Current Liabilities* and Note 14 – *Commitments and Contingencies*.

Fair Value of Financial Instruments — The Company applies various valuation approaches in determining the fair value of its financial assets and liabilities within a hierarchy that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the inputs that market participants would use in pricing the asset or liability and are developed based on the best information available in the circumstances. The fair value hierarchy is broken down into three levels based on the source of inputs as follows:

Level 1 — Quoted prices for identical instruments in active markets.

Level 2 — Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value drivers are observable.

Level 3 — Significant inputs to the valuation model are unobservable.

Income Taxes — The provisions for federal, foreign, state and local income taxes are calculated on pre-tax income based on current tax law and include the cumulative effect of any changes in tax rates from those used previously in determining deferred tax assets and liabilities. Deferred income tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the year in which the temporary differences are expected to be recovered or settled. A valuation allowance is recorded to reduce net deferred income tax assets to amounts that are more likely than not to be realized.

For uncertain tax positions, the Company determines whether it is "more likely than not" that a tax position will be sustained upon examination by the appropriate taxing authorities before any part of the benefit can be recorded in the financial statements. For those tax positions where it is "not more likely than not" that a tax benefit will be sustained, no tax benefit is recognized. Penalties, if probable and reasonably estimable, are recognized as a component of income tax expense. The Company has reduced its deferred tax assets for uncertain tax positions but has not recorded liabilities for income tax expense, penalties, or interest.

Contingencies — The Company records a loss contingency for a liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. These accruals represent management's best estimate of probable loss. Disclosure also is provided when it is reasonably possible that a loss will be incurred or when it is reasonably possible that the amount of a loss will exceed the recorded provision. On a quarterly basis, the Company reviews the status of each significant matter and assesses its potential financial exposure. Significant judgment is required in both the determination of probability and the determination as to whether an exposure is reasonably estimable. Because of uncertainties related to these matters, accruals are based only on the best information available at the time. As additional information becomes available, the Company reassesses the potential liability related to pending claims and litigation and may revise its estimates.

Stock-Based Compensation — Share-based payments to employees, including grants of restricted stock units ("RSUs"), performance-based non-qualified stock options awards ("PNQs"), performance-based restricted stock units ("Performance RSUs"), restricted stock units with market conditions ("Market RSUs"), options and the compensatory elements of employee stock purchase plans, are recognized in the condensed consolidated statements of operations based upon the fair value of the awards at the grant date. RSUs are valued based on the market price on the grant date. Market RSUs are valued using a Monte Carlo valuation model and RSUs with performance conditions are evaluated for the probability that the performance conditions will be met and estimates the date at which

the performance conditions will be met in order to properly recognize stock-based compensation expense over the requisite service period. The Company uses the Black-Scholes option valuation model to estimate the grant date fair value of employee stock options and the compensatory elements of employee stock purchase plans. See Note 13 – *Stock-Based Compensation Expense*.

Net Income Per Share of Common Stock — Basic net income or loss per share ("EPS") is computed by dividing net income or loss by the weighted average number of common shares outstanding for the period. Diluted EPS reflects the effect of potential common stock issuances resulting from assumed stock option exercises and vesting of restricted stock units, unless the effect is anti-dilutive, when applying the treasury stock method, as well as potential dilution under the if-converted method for convertible debt securities. For periods where the Company has presented a net loss, potentially dilutive securities are excluded from the computation of diluted EPS as they would be anti-dilutive.

Recently Issued Accounting Standards — In December 2023, the FASB issued ASU No. 2023-09, *Improvements to Income Tax Disclosures (Topic 740)*. This ASU requires disaggregated information about a public entity's effective tax rate reconciliation as well as additional information on income taxes paid. This ASU is effective on a prospective basis for annual periods beginning after December 15, 2024. Early adoption is permitted for annual financial statements that have not yet been issued or made available for issuance. The Company does not anticipate that adoption of this ASU will have a material impact on the Company's financial position or results of operations.

In November 2024, the FASB issued ASU No. 2024-03, *Disaggregation of Income Statement Expenses*, which amends ASC 220-40, *Income Statement – Reporting Comprehensive Income – Expense Disaggregation Disclosures (Subtopic 220-40)*, to require disaggregated disclosure of income statement expenses for public entities. This ASU does not change the expense captions an entity presents on the face of the income statement; rather, it requires disaggregation of certain expense captions into specified categories in disclosures within the footnotes to the financial statements. The objective of this ASU is to address requests from investors for more detailed information about the types of expenses included in commonly presented expense captions. This ASU is effective for all public entities for fiscal years beginning after December 15, 2026, and interim periods within fiscal years beginning after December 15, 2027. Early adoption is permitted. The Company does not anticipate that adoption of this ASU will have a material impact on its financial position, results of operations or cash flows.

In September 2025, the FASB issued ASU No. 2025-05, *Measurement of Credit Losses for Accounts Receivable and Contract Assets.* This update provides all entities with a practical expedient and allows entities, other than public business entities, an accounting policy election when estimating expected credit losses for current accounts receivable and current contract assets arising from transactions accounted for under Topic 606. This ASU is to be applied prospectively and becomes effective for annual reporting periods beginning after December 15, 2025, and interim reporting periods within those annual reporting periods. Early adoption is permitted in both interim and annual reporting periods, provided that financial statements have not yet been issued or made available for issuance. The Company is currently evaluating the potential impact of this ASU on its financial position, results of operations or cash flows.

In September 2025, the FASB issued ASU No. 2025-06, *Targeted Improvements to the Accounting for Internal-Use Software*, which modifies the accounting for software costs under Subtopic 350-40, *Intangibles - Goodwill and Other - Internal-Use Software*. The objective of this ASU is to better align the accounting with how software is being developed by removing all references to prescriptive and sequential software development. Instead, an entity is required to start capitalizing software costs when both management has authorized and committed to funding the software project and it is probable that the project will be completed and the software will be used for its intended purpose. This ASU is effective for all entities subject to the internal-use software guidance in Subtopic 350-40 for annual reporting periods beginning after December 15, 2027. Early adoption is permitted at the start of an annual period. The Company is currently evaluating the potential impact of this ASU on its financial position, results of operations or cash flows.

From time to time, new accounting pronouncements are issued by the FASB or other standard setting bodies that are adopted by the Company as of the specified effective date. Unless otherwise discussed, the Company believes that the impact of recently issued standards that are not yet effective will not have a material impact on the Company's condensed consolidated financial position or results of operations upon adoption.

2. Investments

Cash Equivalents — Cash equivalents consist of highly liquid investments with original maturities of 90 days or less at the time of purchase that are readily convertible into cash.

Available-for-Sale Investments Portfolio —The Company's investments portfolio consists of highly liquid money market funds, commercial bonds and paper, and U.S. Treasury securities (collectively, the "Investments") for which the Company has accounted for as available-for-sale effective October 1, 2024.

The contractual maturities of the Investments are summarized below (in thousands):

	September 30, 2025		December 31, 2024	
	Available-for-Sale Investments		Available-for-Sale Investments	
	Amortized Cost Basis	Aggregate Fair Value	Amortized Cost Basis	Aggregate Fair Value
Due in one year or less[(1)]	$ 249,469	$ 249,572	$ 165,466	$ 165,662
Due after one year through five years	26,192	26,226	5,498	5,482
Total	$ 275,661	$ 275,798	$ 170,964	$ 171,144

(1) The investments due in one year or less include cash equivalents of $116.9 million as of September 30, 2025 and $14.7 million as of December 31, 2024.

The fair value of the Investments are disclosed below (dollars in thousands):

		September 30, 2025			
Available-for-Sale Investments	Investment Level	Amortized Cost (Carrying Value)	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Estimated Fair Value
Money market funds and other	Level 1	$ 114,932	$ —	$ —	$ 114,932
Commercial bonds and paper	Level 2	47,763	56	(1)	47,818
U.S. Treasury securities	Level 2	112,966	90	(8)	113,048
Total cash equivalents and investments		275,661	146	(9)	275,798
Less: cash equivalents		(116,929)	—	—	(116,929)
Total Investments		$ 158,732	$ 146	$ (9)	$ 158,869

		December 31, 2024			
Available-for-Sale Investments	Investment Level	Amortized Cost (Carrying Value)	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Estimated Fair Value
Money market funds	Level 1	$ 14,745	$ —	$ —	$ 14,745
Commercial bonds and paper	Level 2	44,145	49	(24)	44,170
U.S. Treasury securities	Level 2	112,074	184	(29)	112,229
Total cash equivalents and investments		170,964	233	(53)	171,144
Less: cash equivalents		(14,745)	—	—	(14,745)
Total Investments		$ 156,219	$ 233	$ (53)	$ 156,399

As of September 30, 2025 and December 31, 2024, there was $1.5 million and $1.0 million, respectively, of accrued interest receivable on investments which is included in prepaid expense and other current assets in our condensed consolidated balance sheets.

Available-for-Sale Investment — Thirona — In June 2021, the Company purchased a $3.0 million convertible promissory note issued by Thirona. In January 2022, the Company purchased an additional $5.0 million convertible promissory note issued by Thirona (the "Thirona convertible notes"). The Thirona convertible notes are general unsecured obligations of Thirona and initially accrued interest at a rate of 6% per annum. Unless earlier converted into conversion shares pursuant to the note purchase agreement, the aggregate principal of $8.0 million and accrued interest shall be due and payable by Thirona on demand by the Company at any time after the maturity date. The Thirona convertible notes were amended in February 2023 to extend the maturity date from December 31, 2022 to June 30, 2024, and again on June 27, 2024 to extend the maturity date to June 30, 2026 and increase the interest rate to 10% per annum.

The Thirona convertible notes were included in prepaid expense and other current assets as of December 31, 2024 in the condensed consolidated balance sheets. In September 2024, the Company recognized a loss of $1.6 million on its investment in Thirona as a result of modification of the Thirona convertible notes. As of December 31, 2024, the fair value of the Company's investment in Thirona was $6.3 million. In September 2025, Thirona initiated a cessation of operations following recent clinical trial results. The Company deemed this to be other-than-temporary and determined its available-for-sale investment in Thirona to be fully impaired and recognized a $6.6 million impairment loss, inclusive of the write off of previously recorded unrealized gains of $1.3 million, representing the fair value at the time. The Company also wrote off approximately $1.1 million of interest receivable on the Thirona convertible notes. The impairment was recorded in other income (expense) in the Company's condensed consolidated statements of operations.

3. Accounts Receivable

Accounts receivable, net consists of the following (in thousands):

	September 30, 2025	December 31, 2024
Accounts receivable – commercial		
Accounts receivable, gross	$ 17,285	$ 22,879
Wholesaler distribution fees and prompt pay discounts	(2,203)	(4,186)
Reserve for returns	(10,488)	(8,858)
Total accounts receivable – commercial, net	4,594	9,835
Accounts receivable – collaborations and services[(1)]	12,789	1,969
Total accounts receivable, net	$ 17,383	$ 11,804

(1) The balance as of December 31, 2024 includes the $1.1 million regulatory milestone payment receivable from Cipla. See Note 9 – *Collaborations, Licensing and Other Arrangements – Cipla License and Distribution Agreement.*

As of September 30, 2025, the Company had three wholesale distributors representing approximately 88% of commercial accounts receivable and approximately 77% and 75% of gross sales during the three and nine months ended September 30, 2025, respectively.

As of September 30, 2025, there was no allowance for credit losses for collaborations and services accounts receivable. The Company had one collaboration partner, UT, that comprised 96% of the collaboration and services net accounts receivable as of September 30, 2025 and approximately 98% of gross revenue from collaborations and services for both the three and nine months ended September 30, 2025.

4. Inventories

Inventories consist of the following (in thousands):

	September 30, 2025	December 31, 2024
Raw materials	$ 7,217	$ 6,184
Work-in-process	10,091	10,661
Finished goods	9,664	11,041
Total inventory	$ 26,972	$ 27,886

Work-in-process and finished goods as of September 30, 2025 and December 31, 2024 include conversion costs and exclude the cost of insulin. All insulin inventory on hand was written off in prior years and the projected loss on the purchase commitment contract to purchase future insulin was accrued. See Note 14 – *Commitments and Contingencies.* Raw materials inventory included $0.8 million of pre-launch inventory as of September 30, 2025 and December 31, 2024, which consisted of FDKP received in November 2019.

The Company analyzed its inventory levels to identify inventory that may expire or has a cost basis in excess of its estimated realizable value. The Company also performed an assessment of projected sales and evaluated the lower of cost or net realizable value and the potential excess inventory on hand as of September 30, 2025 and December 31, 2024. Inventory that did not meet acceptable standards or was forecasted to become obsolete due to expiration is reserved for inventory obsolescence in the condensed consolidated balance sheets and recognized as costs of goods sold in the condensed consolidated statements of operations. As a result of these assessments, there were inventory write-offs of $3.3 million and $8.3 million for the three and nine months ended September 30, 2025, respectively, and $0.3 million and $1.9 million for the three and nine months ended September 30, 2024, respectively.

5. Property and Equipment

Property and equipment consisted of the following (dollars in thousands):

	Estimated Useful Life (Years)	September 30, 2025	December 31, 2024
Land	—	$ 875	$ 875
Buildings	39-40	17,389	17,389
Building improvements	5-40	90,813	90,813
Machinery and equipment	3-15	68,075	64,879
Furniture, fixtures and office equipment	5-10	3,122	3,122
Computer equipment and software	3	8,814	8,814
Construction in progress	—	6,292	6,149
		195,380	192,041
Less accumulated depreciation		(112,728)	(106,676)
Total property and equipment, net		$ 82,652	$ 85,365

Depreciation expense related to property and equipment was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Depreciation expense	$ 2,012	$ 2,099	$ 6,108	$ 5,151

During the nine months ended September 30, 2025, the Company retired $0.1 million of manufacturing equipment, as it was no longer in service. During the three and nine months ended September 30, 2024, the Company retired $0.1 million of manufacturing equipment as it was no longer in service. The net book value for the disposed assets was *de minimis*. There were no asset retirements during the three months ended September 30, 2025.

6. Goodwill and Other Intangible Assets

Goodwill — Goodwill represents the excess of the purchase price over the identifiable tangible and intangible assets acquired plus liabilities assumed arising from business combinations. The balance of goodwill was $1.9 million as of September 30, 2025 and December 31, 2024 as a result of the Company's acquisition of V-Go in May 2022. Goodwill is tested at least annually for impairment by assessing qualitative factors in determining whether it is more likely than not that the fair value of net assets is below their carrying amounts. See Note 1 – *Description of Business and Significant Accounting Policies*.

Other Intangible Assets — Other intangible assets consisted of the following (dollars in thousands):

	Estimated Useful Life (Years)	September 30, 2025			December 31, 2024		
		Cost	Accumulated Amortization	Net Book Value	Cost	Accumulated Amortization	Net Book Value
Developed technology	7.5	$ 1,200	$ (380)	$ 820	$ 1,200	$ (235)	$ 965
iSPERSE License – IPR&D	—	4,300	—	4,300	4,300	—	4,300
Total		$ 5,500	$ (380)	$ 5,120	$ 5,500	$ (235)	$ 5,265

Amortization expense related to the developed technology was *de minimis* for the three and nine months ended September 30, 2025 and 2024. The estimated annual amortization expense for the developed technology held as of September 30, 2025 will be approximately $0.2 million per year for the years ended December 31, 2025 through 2029.

The iSPERSE License — IPR&D is an indefinite-lived intangible asset which is tested for impairment when facts or circumstances indicate the carrying value of the asset may not be recoverable. Upon completion of the underlying R&D efforts, the intangible asset will be accounted for as a finite-lived intangible asset. If the R&D efforts are abandoned, the IPR&D asset balance will be written off to R&D expense. The iSPERSE License – IPR&D was acquired from Pulmatrix, Inc. ("Pulmatrix") in July 2024.

The Company evaluates its other intangible assets for potential impairment when events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. See Note 1 – *Description of Business and Significant Accounting Policies*.

7. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities were comprised of the following (in thousands):

	September 30, 2025	December 31, 2024
Salary and related expenses	$ 14,647	$ 20,570
Discounts and allowances for commercial product sales	7,139	9,393
Accrued interest	1,107	303
Deferred lease liability	1,957	2,423
Current portion of milestone rights liability[(1)]	520	639
Professional fees	1,695	1,311
Returns reserve for acquired product[(2)]	295	804
Other	4,059	4,850
Accrued expenses and other current liabilities	$ 31,419	$ 40,293

(1) See Note 14 – *Commitments and Contingencies* under *Contingencies — Milestone Rights.*

(2) See Note 14 – *Commitments and Contingencies* under *Loss Contingencies — Returns Reserve for Acquired Product.*

8. Borrowings

Blackstone Credit Facility

On August 6, 2025 (the "Closing Date"), the Company entered into a senior secured term loan agreement (the "Credit Agreement") with Blackstone Alternative Credit Advisors LP, as Blackstone Representative and Lead Arranger (in such capacity, "Blackstone"), the lenders party thereto from time to time, the subsidiary guarantors party thereto from time to time, and Wilmington Trust, National Association, as administrative agent and collateral agent for the lenders (in such capacity, the "Agent"). The Credit Agreement originally provided for up to $500 million in term loans, consisting of (i) a $75 million initial term loan, which was funded on the Closing Date, (ii) $125 million in delayed draw term loan commitments, which the Company may draw at its option during the 24 months immediately following the Closing Date, subject to customary conditions set forth in the Credit Agreement, and (iii) up to $300 million in the form of uncommitted delayed draw term loans, which the Company may borrow in the future subject to mutual agreement with Blackstone and the lenders under the Credit Agreement.

In connection with the execution of the Merger Agreement, on August 24, 2025, the Company entered into an amendment to the Credit Agreement (the "Credit Agreement Amendment") with Blackstone, the lenders party thereto, the subsidiary guarantors party thereto, and the Agent, which amended the Credit Agreement (the Credit Agreement as amended by the Credit Agreement Amendment, the "Amended Credit Agreement"; and the credit facility provided for thereunder, the "Blackstone Credit Facility"). Pursuant to the Credit Agreement Amendment, among other things, the lenders party thereto agreed to provide an additional $175.0 million delayed draw term loan solely to finance a portion of the fees, premiums, expenses and other transaction costs incurred in connection with the transactions contemplated by the Merger Agreement (the "Transaction Funding"), subject to certain customary draw down conditions as set forth in the Credit Agreement Amendment. In addition, pursuant to the Credit Agreement Amendment, the lenders under the Amended Credit Agreement agreed to limit the conditions precedent to the Company's borrowing of up to $75.0 million of delayed draw term loans (out of the aggregate $125.0 million in delayed draw term loan commitments available under the Credit Agreement) to certain customary draw down conditions as set forth in the Credit Agreement Amendment to the extent such loans are used solely for the Transaction Funding. In connection with the completion of the merger with scPharma, on October 7, 2025, the Company borrowed $250.0 million of delayed draw term loans. After giving effect to the transactions on October 7, 2025, the aggregate principal amount of outstanding term loans under the Amended Credit Agreement was $325.0 million. See Note 16 – *Subsequent Events*.

The Blackstone Credit Facility will mature on August 6, 2030 (the "Maturity Date"). The term loans thereunder bear interest at a rate per annum equal to, (i) in the case of a Base Rate Loan, the greatest of (a) the prime rate in effect on such day, (b) the federal funds rate in effect on such day plus 0.5%, (c) Adjusted Term SOFR (defined below) for a one-month's tenor in effect on such day plus 1%, and (d) 3.0% plus a margin of 3.75%, or (ii) in the case of a SOFR Loan, the one, three or six month term SOFR (at the Company's election), subject to a 2.00% floor (the "Adjusted Term SOFR"), plus a margin of 4.75%. In addition, upon the occurrence and continuation of an event of default under the Amended Credit Agreement, interest on the term loans accrues at the applicable rate plus 2.00% per annum. As of September 30, 2025, the effective interest rate is 9.62% per annum. Interest is paid quarterly or, if the Company elects 1-month SOFR, monthly. The interest rate margin increases to 4.00% in the case of a Base Rate Loan and 5.00% in the case of a SOFR Loan at any time the Company's ratio of indebtedness to adjusted EBITDA (measured on a trailing four quarter basis) is greater than or equal to 5.00:1.00 as of the most recent fiscal quarter for which the Company has delivered financial statements. Term loans under the Amended Credit Agreement are funded net of an upfront fee payable by the Company. The Company shall pay the delayed draw term loan lenders a ticking fee at a rate per annum equal to 1.00% of the daily unused portion of

the delayed draw term loan commitments beginning on the one year anniversary of the agreement through the end of the delayed draw commitment period, payable quarterly in arrears.

All term loans under the Blackstone Credit Facility, as well as any accrued and unpaid interest and fees, are repayable on the Maturity Date. The Company has the option to prepay the loans under the Blackstone Credit Facility in whole or in part, subject to early prepayment fees in an amount equal to (a) the greater of (i) the present value of the sum of (x) 3.00% of the principal amount to be prepaid as if that amount would otherwise be prepaid on the first anniversary of the Closing Date, and (y) the amount of all interest which would otherwise have accrued under the Amended Credit Agreement for the period from the date of such prepayment to the first anniversary of the Closing Date, assuming an interest rate for such period equal to the sum of the applicable margin for SOFR Loans plus Adjusted Term SOFR as of the date of determination, computed using a discount rate equal to the treasury rate as of such date plus 50 basis points (the "Make Whole Premium") and (ii) 3.00% of the principal amount to be prepaid if prepayment occurs on or prior to the first anniversary of the Closing Date, (b) 3.00% of principal prepaid if prepayment occurs after the first anniversary of the Closing Date but on or prior to the second anniversary of the Closing Date, (c) 1.00% of principal prepaid if prepayment occurs after the second anniversary of the Closing Date and prior to or on the third anniversary of the Closing Date and (d) 0.00% after the date that is the third anniversary of the Closing Date. In addition, subject to the terms and conditions of the Amended Credit Agreement, the Company is required to make a mandatory prepayment of the term loans upon occurrence of certain events such as upon certain assets sales, events of loss, incurrence of debt not permitted to be incurred under the Amended Credit Agreement, or a change of control of our company.

The Company's obligations under the Blackstone Credit Facility are guaranteed by each of the Company's subsidiaries and any future subsidiaries, subject to limited exceptions set forth in the Amended Credit Agreement, and are secured by a security interest on substantially all of the assets of the Company and the subsidiary guarantors, including intellectual property.

The Amended Credit Agreement includes representations and warranties, affirmative covenants (including reporting obligations), negative covenants and events of default that are usual and customary for facilities of this type, in each case, subject to certain permitted exceptions as set forth therein. The Amended Credit Agreement also contains a financial covenant for the benefit of the lenders, which requires the Company to have liquidity of at least $40.0 million as of the last business day of each fiscal quarter ending after the Closing Date, with liquidity defined as our unrestricted cash and cash equivalents.

As of September 30, 2025, the Company's net proceeds from the Blackstone Credit Facility were approximately $73.4 million, after deducting the initial transaction costs payable by the Company. As of September 30, 2025, the unamortized debt issuance cost were $1.6 million. As of September 30, 2025, there were no events of default and the Company was in compliance with all covenants under the Amended Credit Agreement.

Senior convertible notes

In March 2021, the Company issued $230.0 million aggregate principal amount of senior convertible notes (the "senior convertible notes") in a private offering. The senior convertible notes were issued pursuant to an indenture, dated March 4, 2021 (the "Indenture"), between the Company and U.S. Bank National Association, as trustee. The senior convertible notes are general unsecured obligations of the Company and will mature on March 1, 2026, unless earlier converted, redeemed or repurchased by the Company. The senior convertible notes bear cash interest from March 4, 2021 at an annual rate of 2.50% payable semi-annually in arrears on March 1 and September 1 of each year, beginning on September 1, 2021.

On December 17, 2024, the Company entered into separate, privately negotiated exchange agreements (the "Exchange Agreements") with certain holders (the "Holders") of the senior convertible notes. Under the terms of the Exchange Agreements, the Holders agreed to exchange an aggregate principal amount of approximately $193.7 million of the senior convertible notes in exchange for an aggregate of 26,749,559 shares of the Company's common stock. In addition, pursuant to the exchange agreements, the Company made an aggregate cash payment of approximately $89.2 million to the Holders for additional exchange consideration. Immediately following the exchange, approximately $36.3 million in aggregate principal amount of the senior convertible notes remained outstanding.

The senior convertible notes are convertible at the option of the holders at any time prior to the close of business on the business day immediately preceding December 1, 2025, only under the following circumstances: (1) during any calendar quarter commencing after the calendar quarter ending on June 30, 2021 (and only during such calendar quarter), if the last reported sale price of the Company's common stock, par value $0.01 per share, for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price for the senior convertible notes on each applicable trading day; (2) during the five business day period after any ten consecutive trading day period in which the trading price (as defined in the Indenture) per $1,000 principal amount of the senior convertible notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the common stock and the conversion rate on each such trading day; (3) if the Company calls such senior convertible notes for

redemption, at any time prior to the close of business on the scheduled trading day immediately preceding the redemption date, but only with respect to the senior convertible notes called (or deemed called) for redemption; or (4) upon the occurrence of specified corporate events as set forth in the Indenture. On or after December 1, 2025 until the close of business on the business day immediately preceding the maturity date, holders may convert all or any portion of their senior convertible notes at any time, regardless of the foregoing circumstances. Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of common stock or a combination of cash and shares of common stock, at the Company's election, in the manner and subject to the terms and conditions provided in the Indenture.

The initial conversion rate is 191.8281 shares of common stock per $1,000 principal amount of senior convertible notes (equivalent to an initial conversion price of approximately $5.21 per share of common stock). The initial conversion price of the senior convertible notes represents a premium of approximately 30% to the last reported sale price of the common stock on the Nasdaq Global Market on March 1, 2021. The conversion rate for the senior convertible notes is subject to adjustment under certain circumstances in accordance with the terms of the Indenture, but will not be adjusted for any accrued and unpaid interest. In addition, following certain corporate events that occur prior to the maturity date of the senior convertible notes or if the Company delivers a notice of redemption in respect of the senior convertible notes, the Company will, in certain circumstances, increase the conversion rate of the senior convertible notes for a holder who elects to convert its senior convertible notes in connection with such a corporate event or convert its senior convertible notes called for redemption during the related redemption period (as defined in the Indenture), as the case may be.

The Company may redeem for cash all or any portion of the senior convertible notes, at its option, on or after March 6, 2024 and prior to the 36th scheduled trading day immediately preceding the maturity date, if the last reported sale price of common stock has been at least 130% of the conversion price for the senior convertible notes then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the senior convertible notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company elects to redeem less than all of the outstanding senior convertible notes, at least $75.0 million aggregate principal amount of senior convertible notes must be outstanding and not subject to redemption as of the relevant redemption notice date. No sinking fund is provided for the senior convertible notes.

If the Company undergoes a fundamental change (as defined in the Indenture), then, subject to certain conditions and except as described in the Indenture, holders may require the Company to repurchase for cash all or any portion of their senior convertible notes at a fundamental change repurchase price equal to 100% of the principal amount of the senior convertible notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

The Indenture includes customary covenants and sets forth certain events of default after which the senior convertible notes may be declared immediately due and payable.

If certain bankruptcy and insolvency-related events of default involving the Company (and not just any of its significant subsidiaries) occur, 100% of the principal of and accrued and unpaid interest on the senior convertible notes will automatically become due and payable. If an event of default with respect to the senior convertible notes, other than certain bankruptcy and insolvency-related events of default involving the Company (and not just any of its significant subsidiaries), occurs and is continuing, the trustee, by notice to the Company, or the holders of at least 25% in principal amount of the outstanding senior convertible notes by notice to the Company and the trustee, may, and the trustee at the request of such holders shall, declare 100% of the principal of and accrued and unpaid interest, if any, on all the senior convertible notes to be due and payable. Notwithstanding the foregoing, the Indenture provides that, to the extent the Company so elects, the sole remedy for an event of default relating to certain failures by the Company to comply with certain reporting covenants in the Indenture will, for the first 365 days after the occurrence of such an event of default consist exclusively of the right to receive additional interest on the senior convertible notes as set forth in the Indenture.

The Indenture provides that the Company shall not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of the consolidated properties and assets of the Company and its subsidiaries, taken as a whole, to, another person (other than any such sale, conveyance, transfer or lease to one or more of the Company's direct or indirect wholly owned subsidiaries), unless: (i) the resulting, surviving or transferee person (if not the Company) is a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and such corporation (if not the Company) expressly assumes by supplemental indenture all of the Company's obligations under the senior convertible notes and the Indenture; and (ii) immediately after giving effect to such transaction, no default or event of default has occurred and is continuing under the Indenture.

The Company's net proceeds from the March 2021 offering were approximately $222.7 million, after deducting the initial purchasers' discounts and commissions and the estimated offering expenses payable by the Company. As of September 30, 2025 and December 31, 2024, the unamortized debt issuance cost was $0.1 million and $0.3 million, respectively.

The maturities of the Company's borrowings under the Blackstone Credit Facility and senior convertible notes as of September 30, 2025 are as follows (in thousands):

	Amounts
2025	$ —
2026	36,319
2030	75,000
Total principal payments	111,319
Debt issuance costs	(1,667)
Total debt	$ 109,652

Amortization of debt issuance costs and debt discounts related to borrowings were as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Amortization of debt issuance cost	$ 106	$ 363	$ 221	$ 1,175
Amortization of debt discount [1]	—	—	—	85

(1) Amounts represent the amortization of a debt discount related to the MidCap credit facility as further explained below.

MidCap credit facility — In August 2019, the Company entered into the MidCap credit facility and borrowed the first advance of $40.0 million ("Tranche 1") in August 2019 and the second advance of $10.0 million ("Tranche 2") in December 2020. In April 2021, $10.0 million was prepaid. During the three months ended March 31, 2024, the Company made $5.0 million in principal payments on the MidCap credit facility. On April 1, 2024, the Company exercised its option to prepay in full all outstanding indebtedness.

Tranche 1 and Tranche 2 accrued interest at an annual rate equal to the lesser of (i) 8.25% and (ii) the one-month Secured Overnight Financing Rate ("SOFR") (subject to a one-month floor of 1.00%) plus 6.25%. Interest on each term loan advance was due and payable monthly in arrears. Principal on each term loan advance under Tranche 1 and Tranche 2 was payable in 24 equal monthly installments that began September 1, 2023.

In April 2024, the Company prepaid in full the remaining $28.3 million in principal and $0.2 million in accrued interest, and terminated all commitments and obligations under the MidCap credit facility that would have matured on August 1, 2025 in exchange for a payment of $31.6 million, including an exit fee of $2.8 million which is 7.00% of the initial Tranche 1 balance of $40.0 million, and a prepayment fee of $0.3 million which is 1.00% of principal prepaid. Additionally, unamortized debt discount and capitalized prepayment fees totaling $0.2 million were written off, resulting in a loss on early extinguishment of debt of $3.3 million included in loss on settlement of debt in the condensed consolidated statements of operations. In connection with the repayment of outstanding indebtedness by the Company, all liens, mortgages and security interests in any assets or property securing the obligations under the MidCap credit facility were automatically terminated and released and the Company was automatically released from all guarantees.

Mann Group convertible note — In August 2019, the Company issued a $35.0 million note that was convertible into shares of the Company's common stock at $2.50 per share (the "Mann Group convertible note") as part of a restructuring of its then existing indebtedness to Mann Group. On April 2, 2024, the Company and Mann Group agreed to discharge and terminate the Mann Group convertible note.

The Mann Group convertible note accrued interest at the rate of 2.5% per year on the principal amount, payable quarterly in arrears on the first day of each calendar quarter, with a maturity date of December 31, 2025.

As of April 2, 2024, the outstanding principal balance of the Mann Group convertible note plus accrued interest was $8.9 million and was convertible at Mann Group's option into 3,554,198 shares of common stock of the Company. The Company and Mann Group agreed to terminate all outstanding indebtedness, rights and obligations under the Mann Group convertible note in exchange for (i) the Company's issuance to Mann Group of 1,500,000 shares of the Company's common stock converted at the contractual rate of $2.50 per share and (ii) the Company's payment to Mann Group of $8.9 million, which represented the market value of 2,054,198 shares of common stock of the Company on April 2, 2024 to settle the remaining principal and interest of $5.1 million, after the conversion noted in (i) above. Termination of the Mann Group convertible note resulted in a loss on early extinguishment of debt of $3.7 million included in loss on settlement of debt in the condensed consolidated statements of operations.

9. Collaborations, Licensing and Other Arrangements

Revenue from collaborations and services were as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
UT CSA[(1)]	$ 25,969	$ 23,231	$ 77,011	$ 73,673
Amphastar co-promotion agreement	500	—	1,500	—
Cipla License and Distribution Agreement	37	37	110	110
Other	—	—	106	—
UT License Agreement	—	—	—	347
Total revenue from collaborations and services	$ 26,506	$ 23,268	$ 78,727	$ 74,130

(1) Amounts consist of revenue recognized for Manufacturing Services to UT for the periods presented.

United Therapeutics License Agreement — In September 2018, the Company and UT entered into an exclusive global license and collaboration agreement (the "UT License Agreement"), pursuant to which UT is responsible for global development, regulatory and commercial activities with respect to Tyvaso DPI.

Total revenue from UT was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Revenue from UT				
Royalties[(1)]	$ 33,319	$ 27,083	$ 94,552	$ 75,326
UT CSA	25,969	23,231	77,011	73,673
UT License Agreement	—	—	—	347
Total revenue from UT	$ 59,288	$ 50,314	$ 171,563	$ 149,346

(1) Amounts consist of royalties associated with the UT License Agreement. The contract assets related to the royalties are included in prepaid expense and other current assets in the condensed consolidated balance sheets.

Pursuant to the UT License Agreement, the Company receives a 10% royalty on net sales of Tyvaso DPI. In December 2023, the Company sold a 1% royalty on future net sales of Tyvaso DPI to a royalty purchaser, with the Company retaining a 9% royalty. In August 2021, the Company and UT entered into the CSA, pursuant to which the Company is responsible for manufacturing and supplying to UT, and UT is responsible for purchasing from the Company on a cost-plus basis. In addition, UT is responsible for supplying treprostinil at its expense in quantities necessary to enable the Company to manufacture Tyvaso DPI as required by the CSA.

The activities and deliverables under the CSA and UT License Agreement resulted in distinct performance obligations which include the: (1) R&D Services and License, (2) Next-Gen R&D Services, and (3) Manufacturing Services. The revenue recognized under the CSA for manufacturing services is comprised of the sale of product to UT, recognition of previously deferred revenue, as well as reimbursements from other agreements for individual performance obligations. The portion of revenue related to each deliverable included in UT CSA revenue (in thousands) is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
UT CSA Revenue				
Sale of product[(1)]	$ 22,897	19,456	66,715	62,400
Recognition of previously deferred revenue	3,072	3,477	9,138	9,565
Other agreements	—	298	1,158	1,708
Total UT CSA revenue	$ 25,969	$ 23,231	$ 77,011	$ 73,673

(1) Sale of product included revenue related to fully reimbursable costs associated with product sales and other miscellaneous charges of $1.5 million and $5.8 million for the three and nine months ended September 30, 2024, and none in 2025.

There have been various amendments to the CSA since inception. As amended, the term of the CSA continues until December 31, 2031 (unless earlier terminated) and is thereafter renewed automatically for additional, successive two-year terms unless (i) UT

provides notice to the Company at least 24 months in advance of such renewal that UT does not wish to renew the CSA or (ii) the Company provides notice to UT at least 48 months in advance of such renewal that the Company does not wish to renew the CSA. The Company and UT each have normal and customary termination rights, including termination for material breach that is not cured within a specific timeframe or in the event of liquidation, bankruptcy or insolvency of the other party.

During 2024, the Company also entered into additional agreements for individual performance obligations which are accounted for separately as they are distinct from Manufacturing Services and offered at a standalone selling price, for which we received revenue of $1.2 million for the nine months ended September 30, 2025 and $0.3 million and $1.7 million for the three and nine months ended September 30, 2024, respectively. No revenue was received for the three months ended September 30, 2025. Revenue is recognized at a point in time as services are rendered.

Also during 2024, the Company fully recognized the Next-Gen R&D Services performance obligation. The pre-production activities under the CSA, such as facility expansion services that were bundled services under the Manufacturing Services performance obligation were completed in 2024 and are being amortized over the CSA contractual term.

Under the terms of the UT License Agreement, UT has an option to develop additional dry powder inhalation therapies. In August 2025, UT exercised its right, which was memorialized in an amendment to the UT License Agreement (the "First Amendment"). Under the First Amendment, the Company will formulate an investigational molecule using its proprietary Technosphere® platform, and United Therapeutics will conduct preclinical and clinical development. Per the First Amendment, the Company received an upfront payment of $5.0 million in 2025 and is eligible to receive up to $35.0 million in development milestones, of which approximately $10.0 million is probable of being earned based on the current stage of development and achievement criteria. The remaining $30.0 million in development milestones is considered constrained due to the inherent uncertainty in the timing and likelihood of achieving the associated milestones. The Company is also eligible to receive 10% royalties on net sales of any resulting product. As of September 30, 2025, the initial upfront payment is included within deferred revenue - long term on the Company's condensed consolidated balance sheets and no revenue has been recognized.

As of September 30, 2025, deferred revenue from UT consisted of $57.2 million, of which $10.0 million was classified as current and $47.2 million was classified as long-term on the condensed consolidated balance sheet. As of December 31, 2024, deferred revenue consisted of $62.4 million, of which $12.3 million was classified as current and $50.1 million was classified as long-term on the condensed consolidated balance sheet. The deferred revenue balance included $52.2 million and $61.3 million of UT funded pre-production activities under the CSA, such as facility expansion services and other administrative services as of September 30, 2025 and December 31, 2024, respectively. The Company determined that the deferred revenue should be combined with the Manufacturing Services performance obligation and relates solely to a single partially satisfied performance obligation pursuant to the CSA which will be recognized as product is delivered over the CSA term based on the measurement of progress.

Thirona Collaboration Agreement — In June 2021, the Company and Thirona entered into a collaboration agreement to evaluate the therapeutic potential of Thirona's compound for the treatment of fibrotic pulmonary diseases. If initial studies had proven promising, the Company would have had the rights to seek a full license to the compound for clinical development and commercialization. The parties performed their respective obligations and provided reasonable support for research, clinical development and regulatory strategy. The collaboration agreement was accounted for under ASC 808, *Collaborative Agreements*; however, no consideration was exchanged between the parties. The costs incurred by the Company were expensed as R&D in the condensed consolidated statements of operations. In September 2025, Thirona initiated a cessation of operations following recent clinical trial results. The Company does not anticipate additional work to be performed or expenses to be incurred related to this agreement.

Biomm Supply and Distribution Agreement — In May 2017, the Company and Biomm S.A. ("Biomm") entered into a supply and distribution agreement for the commercialization of Afrezza in Brazil. Under this agreement, Biomm was responsible for pursuing regulatory approvals of Afrezza in Brazil, including from the Agência Nacional de Vigilância Sanitária ("ANVISA") and, with respect to pricing matters, from the Camara de Regulação de Mercado de Medicamentos ("CMED"), both of which were received. Biomm commenced product sales in January 2020. No additional shipments of product were made to Biomm since 2020.

Cipla License and Distribution Agreement — In May 2018, the Company and Cipla Ltd. ("Cipla") entered into an exclusive agreement for the marketing and distribution of Afrezza in India and the Company received a $2.2 million nonrefundable license fee. Under the terms of the agreement, Cipla is responsible for obtaining regulatory approvals to distribute Afrezza in India and for all marketing and sales activities of Afrezza in India. The Company is responsible for supplying Afrezza to Cipla. The Company is entitled to an additional regulatory milestone payment, minimum purchase commitment revenue and royalties on Afrezza sales in India once cumulative gross sales have reached a specified threshold. In December 2024, the Central Drugs Standard Control Organisation ("CDSCO") in India approved Afrezza for adults and, accordingly, the Company was entitled to the regulatory milestone payment from Cipla totaling $1.1 million, which was recognized as revenue from collaborations and services in the year ended December 31, 2024. The Company expects to ship product in the fourth quarter of 2025.

The initial $2.2 million nonrefundable licensing fee was recorded in deferred revenue and is being recognized in net revenue – collaborations over 15 years, representing the estimated period to satisfy the performance obligation.

As of September 30, 2025, the deferred revenue balance for Cipla was $1.1 million, of which $0.1 million was classified as current and $1.0 million was classified as long term in the condensed consolidated balance sheets. As of December 31, 2024, the deferred revenue balance was $1.2 million, of which $0.1 million was classified as current and $1.1 million was classified as long term in the condensed consolidated balance sheets.

Amphastar — During the quarter ended December 31, 2024, the Company entered into a co-promotion agreement which provides the terms and conditions upon which the Company's sales force shall promote Baqsimi (glucagon) nasal powder to designated health care professionals where the Company currently promotes Afrezza. Amphastar is obligated to pay fixed quarterly payments to the Company through December 2025. Either party may terminate the agreement or suspend performance upon written notice to the other party at any time during the contract term. The co-promotion agreement may be renewed or extended only upon the mutual written agreement of both parties.

The Company identified a single performance obligation that the Company will satisfy over time. The total transaction price of $2.5 million is considered fixed consideration of which $0.5 million and $1.5 million was recognized as revenue from collaborations and services in our condensed consolidated statement of operations in the three and nine months ended September 30, 2025, respectively. The remaining $0.5 million will be recognized based on the measurement of progress as the performance obligation is satisfied through December 2025.

10. Fair Value of Financial Instruments

The availability of observable inputs can vary among the various types of financial assets and liabilities. To the extent that the valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for financial statement disclosure purposes, the level in the fair value hierarchy within which the fair value measurement is categorized is based on the lowest level input that is significant to the overall fair value measurement. The Company uses the exit price method for estimating the fair value of loans for disclosure purposes. Inputs used in the valuation techniques to derive fair values are classified based on a three-level hierarchy, as follows:

Level 1 — Quoted prices for identical instruments in active markets.

Level 2 — Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value drivers are observable.

Level 3 — Significant inputs to the valuation model are unobservable.

The carrying amounts reported in the condensed consolidated financial statements for cash, accounts receivable, accounts payable, and accrued expenses and other current liabilities (excluding the Milestone Rights liability) approximate their fair value due to their relatively short maturities. As the term loan is subject to variable interest rates that are based on market rates which regularly reset, the Company believes that the carrying value of the term loan approximates its fair value. The fair value of the senior convertible notes, Milestone Rights liability, Financing liability and Liability for sale of future royalties are disclosed below.

Financial Liabilities — The following tables set forth the fair value of the Company's financial instruments (Level 3 in the fair value hierarchy) (in millions):

	September 30, 2025	
	Carrying Value	Fair Value Significant Unobservable Inputs (Level 3)
Financial liabilities:		
Senior convertible notes[(1)]	$ 36.2	$ 41.0
Milestone rights[(2)]	2.5	17.6
Financing liability[(3)]	103.6	116.5
Liability for sale of future royalties[(4)]	150.8	160.3

(1) Fair value was determined by applying a discounted cash flow analysis to the straight note with a hypothetical yield of 7.0%, volatility of 59.4% and a Monte Carlo simulation for the value of the conversion feature. A change in yield of + or – 2% would result in a fair value of $40.7 million and $41.3 million, respectively.

(2) Fair value was determined by applying a Monte Carlo simulation method for the calculation of the potential payment and the Geometric Brownian Motion forecasting model to estimate the underlying revenue. Market based inputs and other Level 3 inputs were used to forecast future revenue. The key inputs used included a risk-free rate of 3.9%, dividend yield of 0%, volatility of 45.0%, period of 6.25 years and credit risk of 11.0%.

(3) Fair value was determined by applying a discounted cash flow analysis with a hypothetical yield of 8.0%. A change in yield of + or – 2% would result in a fair value of $102.7 million and $133.3 million, respectively.

(4) Fair value was determined by applying a discounted cash flow analysis with a hypothetical yield of 9.0%. A change in yield of + or – 2% would result in a fair value of $142.4 million and $182.2 million, respectively.

	December 31, 2024	
	Carrying Value	Fair Value Significant Unobservable Inputs (Level 3)
Financial liabilities:		
Senior convertible notes[(1)]	$ 36.1	$ 46.9
Milestone rights[(2)]	3.2	19.2
Financing liability[(3)]	103.9	117.4
Liability for sale of future royalties[(4)]	149.6	156.7

(1) Fair value was determined by applying a discounted cash flow analysis to the straight note with a hypothetical yield of 7.5%, volatility of 49.5% and a Monte Carlo simulation for the value of the conversion feature. A change in yield of + or – 2% would result in a fair value of $46.2 million and $47.6 million, respectively.

(2) Fair value was determined by applying a Monte Carlo simulation method for the calculation of the potential payment and the Geometric Brownian Motion forecasting model to estimate the underlying revenue. Market based inputs and other Level 3 inputs were used to forecast future revenue. The key inputs used included a risk-free rate of 4.5%, dividend yield of 0%, volatility of 45.0%, period of 7 years and credit risk of 11.0%.

(3) Fair value was determined by applying a discounted cash flow analysis with a hypothetical yield of 8.0%. A change in yield of + or – 2% would result in a fair value of $103.1 million and $135.2 million, respectively.

(4) Fair value was determined by applying a discounted cash flow analysis with a hypothetical yield of 9.0%. A change in yield of + or – 2% would result in a fair value of $137.9 million and $180.0 million, respectively.

Milestone Rights Liability — The fair value measurement of the Milestone Rights liability is sensitive to the discount rate and the timing of achievement of milestones. The Company utilized a Monte-Carlo Simulation Method to simulate the Afrezza net sales under a neutral framework to estimate the potential payments and the Geometric Brownian Motion forecasting model to estimate the underlying revenue. The Company then discounted the future expected payments at cost of debt with a term equal to the simulated time to payout based on cumulative sales. See Note 14 – *Commitments and Contingencies*.

Financing Liability — The Sale-Leaseback Transaction in November 2021 resulted in a financing liability. See Note 14 – *Commitments and Contingencies*.

Liability for Sale of Future Royalties — The sale of a portion of our royalty rights in December 2023 resulted in a liability for sale of future royalties. See Note 14 – *Commitments and Contingencies*.

11. Common and Preferred Stock

The Company is authorized to issue 800,000,000 shares of common stock, par value $0.01 per share, and 10,000,000 shares of undesignated preferred stock, par value $0.01 per share, issuable in one or more series as designated by the Company's board of directors. No other class of capital stock is authorized. As of September 30, 2025 and December 31, 2024, 307,027,189 and 302,959,782 shares of common stock, respectively, were issued and outstanding and no shares of preferred stock were outstanding.

In February 2018, the Company entered into a controlled equity offering sales agreement (as amended and restated in February 2025, the "CF Sales Agreement") with Cantor Fitzgerald & Co. ("Cantor Fitzgerald"), as sales agent, pursuant to which the Company may offer and sell, from time to time, through Cantor Fitzgerald, shares of the Company's common stock having an aggregate offering price of up to $50.0 million or such other amount as may be permitted by the Sales Agreement. In February 2025, the Company filed a sales agreement prospectus under a registration statement on Form S-3 (File No. 333-285286) covering the sale of up to $200.0 million of common stock through Cantor Fitzgerald under the CF Sales Agreement. Under the CF Sales Agreement, Cantor Fitzgerald may sell shares by any method deemed to be an "at-the-market offering" as defined in Rule 415 under the Securities Act of 1933, as amended. There have been no sales under the CF Sales Agreement since 2023.

During the nine months ended September 30, 2025, the Company received $0.4 million from the market price stock purchase plan ("MPSPP") for 86,684 shares of common stock. During the nine months ended September 30, 2024, the Company received $1.4 million from the MPSPP for 416,099 shares of common stock.

For shares of common stock issued pursuant to the Company's 2004 employee stock purchase plan ("ESPP"), see Note 13 – *Stock-Based Compensation Expense.*

12. Earnings per Common Share

The following tables summarize the components of the basic and diluted EPS computations (in thousands, except per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
EPS – basic:				
Net income (numerator)	$ 7,985	$ 11,550	$ 21,811	$ 20,166
Weighted average common shares (denominator)	306,806	274,998	305,093	272,811
Net income per share	$ 0.03	$ 0.04	$ 0.07	$ 0.07
EPS – diluted:				
Net income (numerator)	$ 7,985	$ 11,550	$ 21,811	$ 20,166
Weighted average common shares	306,806	274,998	305,093	272,811
Effect of dilutive securities – common shares issuable	4,832	9,695	8,246	8,596
Adjusted weighted average common shares (denominator)	311,638	284,693	313,339	281,407
Net income per share	$ 0.03	$ 0.04	$ 0.07	$ 0.07

For the three months ended September 30, 2025, diluted net income per share excluded the weighted average effect of 13.7 million shares of common stock underlying RSUs and Market and Performance RSUs, 0.8 million shares of common stock underlying options and PNQs and 7.0 million common shares issuable upon conversion of our senior convertible notes as they were antidilutive.

For the nine months ended September 30, 2025, diluted net income per share excluded the weighted average effect of 6.2 million shares of common stock underlying RSUs and Market and Performance RSUs, 0.3 million shares of common stock underlying options and PNQs and 7.0 million common shares issuable upon conversion of our senior convertible notes as they were antidilutive.

For the three months ended September 30, 2024, diluted net income per share excluded the weighted average effect of 10.4 million shares of common stock underlying RSUs and Market and Performance RSUs, 0.4 million shares of common stock underlying options and PNQs and 44.1 million common shares issuable upon conversion of our senior convertible notes as they were antidilutive.

For the nine months ended September 30, 2024, diluted net income per share excluded the weighted average effect of 9.1 million shares of common stock underlying RSUs and Market RSUs, 0.7 million shares of common stock underlying options and PNQs and 44.1 million common shares issuable upon conversion of our senior convertible notes as they were antidilutive.

13. Stock-Based Compensation Expense

The Company granted the following awards (in shares):

	Three Months Ended March 31, 2025	Three Months Ended June 30, 2025	Three Months Ended September 30, 2025
Employee awards:			
RSUs	767,353 (1)	1,695,403 (2)	116,840 (6)
Market RSUs	—	1,715,000 (3)	—
Performance RSUs	—	1,000,000 (4)	508,500 (7)
Non-employee director RSUs	—	443,974 (5)	—
Total awards issued	767,353	4,854,377	625,340

(1) RSUs had a weighted average grant date fair value of $5.26 per share, of which 263,160 RSUs had a vesting period of 33.3% annually over the second, third, and fourth anniversary of the vesting determination date and 504,193 RSUs had a vesting period of 25% annually over four years.

(2) RSUs had a weighted average grant date fair value of $4.72 per share, of which 1,405,713 RSUs had a vesting period of 25% annually over four years, 204,690 RSUs had a vesting period of 33.3% annually over the second, third, and fourth anniversary of the vesting determination date, 50,000 RSUs vest 100% on July 15, 2027, 30,000 RSUs vest 100% on the second anniversary of the vesting determination date, and 5,000 RSUs will vest 100% on July 15, 2026.

(3) 1,715,000 market RSUs had a grant date fair value of $10.84 per share and will vest on July 15, 2028. The number of shares delivered on the vesting date is determined by the percentile ranking of MannKind total shareholder return (TSR) over the period from July 1, 2025 until June 30, 2028 relative to the TSR of the Russell 3000 Pharmaceutical & Biotechnology Index over the same three-year period, as follows: less than 25th percentile=0% of target, 25th percentile=50% of target, 50th percentile=100% of target, 75th percentile=200% of target, 90th percentile or higher=300% maximum. Payout values will be interpolated between the percentile rankings above.

(4) 1,000,000 performance RSUs had a grant date fair value of $3.80 per share and will vest on March 15, 2028. The number of shares delivered on the vesting date, as a percentage of the specified target, shall be determined by the net sales achieved by the Endocrine Business Unit, as reported by the Company for the period from October 1, 2027 to December 31, 2027 as follows: less than $37.5 million=0% target, $37.5 million=25% target, $50.0 million=50% target, $75.0 million=100% target, and $100.0 million or higher=200% target.

(5) RSUs had a weighted average grant date fair value of $4.57 per share and vested immediately upon the grant date; however, the underlying shares of common stock will not be delivered until there is a separation of service such as resignation, retirement or death.

(6) RSUs had a weighted average grant date fair value of $3.99 per share, of which 93,840 had a vesting period of 33.3% annually over the second, third, and fourth anniversary of the vesting determination date, and 23,000 RSUs had a vesting period of 25% annually over four years.

(7) 508,500 performance RSUs had a grant date fair value of $3.99 per share and will vest on March 15, 2027. The number of shares delivered on the vesting date, as a percentage of the specified target, shall be determined by the net sales achieved by the Endocrine Business Unit, as reported by the Company for the period from October 1, 2026 to December 31, 2026 as follows: less than $21.0 million=0% target, $21.0 million=25% target, $25.0 million=100% target, and $50.0 million or higher=200% target.

As of September 30, 2025, there was $25.1 million, $28.3 million, and $3.1 million of unrecognized stock-based compensation expense related to RSUs, Market RSUs and Performance RSUs, respectively, which is expected to be recognized over a weighted average period of approximately 2.70, 1.92, and 2.14 years, respectively.

Total stock-based compensation expense recognized in the condensed consolidated statements of operations was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
RSUs and options	$ 4,165	$ 5,047	$ 16,735	$ 14,994
Employee stock purchase plan	153	180	488	546
Total	$ 4,318	$ 5,227	$ 17,223	$ 15,540

Employee Stock Purchase Plan

The Company provides all employees, including executive officers, the ability to purchase common stock at a discount under the ESPP. The ESPP is designed to comply with Section 423 of the Internal Revenue Code and provides all employees with the opportunity to purchase up to $25,000 worth of common stock (based on the undiscounted fair market value at the commencement of the offering period) each year at a purchase price that is the lower of 85% of the fair market value of the common stock on either the

date of purchase or the commencement of the offering period. An employee may not purchase more than 5,000 shares of common stock on any purchase date. The executives' rights under the ESPP are the same as those of all other employees.

There were approximately 2.1 million shares of common stock available for issuance under the ESPP as of September 30, 2025.

14. Commitments and Contingencies

Guarantees and Indemnifications — In the ordinary course of its business, the Company makes certain indemnities, commitments and guarantees under which it may be required to make payments in relation to certain transactions. The Company, as permitted under Delaware law and in accordance with its Bylaws, indemnifies its officers and directors for certain events or occurrences, subject to certain limits, while the officer or director is or was serving at the Company's request in such capacity. The term of the indemnification period is for the officer's or director's lifetime. The maximum amount of potential future indemnification is unlimited; however, the Company has a director and officer insurance policy that may enable it to recover a portion of any future amounts paid. The Company believes the fair value of these indemnification agreements is minimal and therefore has not recorded any liability for these indemnities in the condensed consolidated balance sheets. The Company accrues for losses for any known contingent liability, including those that may arise from indemnification provisions, when future payment is probable and the amount can be reasonably estimated. No such losses have been recorded to date.

Litigation — The Company is subject to legal proceedings and claims which arise in the ordinary course of its business. The Company does not anticipate the final disposition of any matters will have a material adverse effect on the results of operations, financial position, or cash flows of the Company. The Company maintains liability insurance coverage to protect the Company's assets from losses arising out of or involving activities associated with ongoing and normal business operations. The Company records a provision for a liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. The Company's policy is to accrue for legal expenses in connection with legal proceedings and claims as they are incurred.

Contingencies — Milestone Rights — In July 2013, the Company entered into the Milestone Rights Agreement with the Original Milestone Purchasers, pursuant to which the Company granted the Milestone Rights to receive payments up to $90.0 million upon the occurrence of specified strategic and sales milestones, of which $45.0 million remains payable to the Milestone Purchasers as of September 30, 2025.

The Milestone Rights Agreement includes customary representations and warranties and covenants by the Company, including restrictions on transfers of intellectual property related to Afrezza. The Milestone Rights are subject to acceleration in the event the Company transfers its intellectual property related to Afrezza in violation of the terms of such agreement.

During the nine months ended September 30, 2025, the Company achieved an Afrezza net sales milestone, as specified by the Milestone Rights, and recognized approximately $0.6 million of the $5.0 million payment as a reduction to the Milestone Rights liability on our condensed consolidated balance sheets, which represents the fair value as determined in 2013 (the most recent measurement date).

As of September 30, 2025, the remaining Milestone Rights liability balance was $2.5 million and consisted of $0.5 million of current liability, which was presented as accrued expenses and other current liabilities, and $2.0 million of long-term liability, which was presented as milestone liabilities in the condensed consolidated balance sheets. As of December 31, 2024, the remaining Milestone Rights liability balance was $3.2 million and consisted of $0.7 million of current liability, which was presented as accrued expenses and other current liabilities, and $2.5 million of long-term liability, which was presented as milestone liabilities in the condensed consolidated balance sheets. The value of the Milestone Rights liability was based on initial fair value estimates calculated using the income approach and is reduced by milestone achievement payments made.

Loss Contingencies — Returns Reserve for Acquired Product — During the nine months ended September 30, 2024, the Company reassessed its previously-determined estimate for product returns associated with sales of V-Go that pre-date the Company's acquisition of the product and recorded an additional $1.4 million, which was recorded in accrued expenses and other current liabilities in the condensed consolidated balance sheet as of September 30, 2024. The return accrual is being reduced as product returns are received. Related losses on estimated returns of acquired product were recorded in selling, general and administrative expenses in the condensed consolidated statements of operations.

Liability for Sale of Future Royalties — In December 2023, the Company executed a Purchase and Sale Agreement (the "PSA") with Sagard Healthcare Partners Funding Borrower SPE 2, LP ("Sagard"). Pursuant to the PSA, Sagard paid the Company $150.0 million (the "Upfront Proceeds"), net of $0.4 million in reimbursements of Sagard's fees and expenses (the "Reimbursements"), for the purchase of a 1% royalty on future net sales of Tyvaso DPI by UT under the terms of the UT License Agreement (the "Sagard Royalty"). Sagard will also pay the Company a milestone of $50.0 million if net sales of Tyvaso DPI meet or exceed $1.9 billion for any 12 consecutive months on or prior to December 31, 2026 ("Net Sales Threshold A"), or a milestone of $45.0 million if net Sales Threshold A is not met and net sales of Tyvaso DPI meet or exceed $2.3 billion for any 12 consecutive months on or prior to September 30, 2027 ("Net Sales Threshold B"), resulting in a purchase price not to exceed $200.0 million (the "Purchase Price"). If Net Sales Thresholds A and B are not met and net sales of Tyvaso DPI meet or exceed $3.5 billion for any calendar year after September 30, 2027, no royalties will be payable to Sagard for the remainder of that year. The PSA applies to net sales of Tyvaso DPI generated during October 1, 2023 through December 31, 2042 (the "Termination Date") and will automatically terminate upon payment of the final royalty owed to Sagard thereafter. Upon the Termination Date, ownership of the Sagard Royalty will revert to the Company.

Given the Company's continuing involvement with the generation of Tyvaso DPI revenue under the UT License Agreement and CSA, which includes the Company's supply and manufacture of Tyvaso DPI, and the Company's retention and associated defense and maintenance obligations of the intellectual property required in the manufacture of Tyvaso DPI, the Upfront Proceeds were recorded as a liability for sale of future royalties (the "Royalty Liability") on the condensed consolidated balance sheets, and any proceeds from future milestones will be added to the Royalty Liability balance upon receipt. Although the Company is not obligated to repay any portion of the Purchase Price to Sagard, the Royalty Liability under the PSA is secured by a security interest granted to Sagard in the underlying 1% royalty rights and any proceeds therefrom. As a result of the PSA, transaction costs totaling $4.4 million (including the Reimbursements) are reported net of the Royalty Liability balance and amortized to interest expense in the condensed consolidated statements of operations over the life of the PSA using the effective interest method. Unamortized transaction costs were approximately $4.0 million and $4.1 million as of September 30, 2025 and December 31, 2024.

The Company will continue to recognize the full 10% of future royalty revenues in its condensed consolidated statements of operations, with the Sagard Royalty being non-cash revenue for the Company. As royalty payments are earned by and remitted to Sagard, the balance of the Royalty Liability will be effectively repaid as it is amortized over the life of the PSA. To amortize the Royalty Liability, the Company estimated the total amount of future royalty payments to be made to Sagard over the life of the PSA. The excess of those future estimated royalty payments over the Purchase Price proceeds received is recognized in the condensed consolidated statements of operations as non-cash interest expense over the life of the PSA utilizing an imputed effective interest rate. The effective interest rate is calculated based on the rate that would enable the debt to be repaid in full over the anticipated life of the arrangement. The interest rate may vary during the term of the agreement depending on a number of factors, including the amount and timing of forecasted royalty payments which affects the timing and ultimate amount of reductions to the liability. The Company will evaluate the effective interest rate periodically based on its forecasted royalty payments utilizing the prospective method.

The Company periodically assesses the forecasted royalty payments using a combination of historical results, internal projections and forecasts from external sources. To the extent such payments, or the timing of such payments, are materially different than original estimates, the Company will prospectively adjust the effective interest rate and amortization of the Royalty Liability.

The following table shows the activity within the Royalty Liability account as well as the effective interest rate (dollars in thousands):

	Amount
Balance, December 31, 2024	$ 149,645
Amortization of deferred transaction costs	172
Non-cash interest expense on liability for sale of future royalties	10,392
Royalty revenue earned by or payable to Sagard	(9,455)
Balance, September 30, 2025	$ 150,754
Effective interest rate	8.8% – 9.7%

Sale-Leaseback Transaction— In November 2021, the Company sold certain land, building and improvements located in Danbury, CT (the "Property") to an affiliate of Creative Manufacturing Properties (the "Purchaser") for a sales price of $102.3 million, subject to terms and the conditions contained in a purchase and sale agreement.

Effective with the closing of the Sale-Leaseback Transaction, the Company and the Purchaser entered into a lease agreement (the "Lease"), pursuant to which the Company leased the Property from the Purchaser for an initial term of 20 years, with four renewal options of five years each. The total annual rent under the Lease starts at approximately $9.5 million per year, subject to a 50% rent abatement during the first year of the Lease, and will increase annually by (i) 2.5% in the second through fifth year of the Lease and

(ii) 3% in the sixth and each subsequent year of the Lease, including any renewal term, utilizing a weighted average discount rate of 9.0%. The Company is responsible for payment of operating expenses, property taxes and insurance for the Property. The Purchaser will hold a security deposit of $2.0 million during the Lease term. Pursuant to the terms of the Lease, the Company has four options to repurchase the Property, in 2026, 2031, 2036 and 2041, for the greater of (i) $102.3 million or (ii) the fair market value of the Property.

Effective with the closing of the Sale-Leaseback Transaction, the Company and the Purchaser also entered into a right of first refusal agreement (the "ROFR"), pursuant to which the Company has a right to re-purchase the Property from the Purchaser in accordance with terms and conditions set forth in the ROFR. Specifically, if the Purchaser receives, and is willing to accept, a bona fide purchase offer for the Property from a third-party purchaser, the Company has certain rights of first refusal to purchase the Property on the same material terms as proposed in such bona fide purchase offer.

As of September 30, 2025, the related financing liability was $103.6 million, which was recognized in the condensed consolidated balance sheet and of which $93.3 million was long-term and $10.3 million was current. As of December 31, 2024, the related financing liability was $103.9 million, of which $93.9 million was long-term and $10.1 million was current.

Financing liability information was as follows (dollars in thousands):

	September 30, 2025	December 31, 2024
Weighted average remaining lease term (in years)	16.1	16.8
Weighted average discount rate	9.0%	9.0%

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Interest expense	$ 2,403	$ 2,417	$ 7,144	$ 7,205
Amortization of debt issuance costs	53	53	155	156
Interest expense on financing liability	$ 2,456	$ 2,470	$ 7,299	$ 7,361

The Company's remaining financing liability payments were as follows (in thousands):

	September 30, 2025
2025 (Remaining)	$ 2,595
2026	10,533
2027	10,849
2028	11,174
2029	11,510
Thereafter	165,769
Total	212,430
Interest payments	(106,555)
Debt issuance costs	(2,311)
Total financing liability	$ 103,564

Commitments — In July 2014, the Company entered into the Insulin Supply Agreement pursuant to which Amphastar manufactures for and supplies to the Company certain quantities of recombinant human insulin for use in Afrezza. Under the terms of the Insulin Supply Agreement, Amphastar is responsible for manufacturing the insulin in accordance with the Company's specifications and agreed-upon quality standards.

In December 2023, the Company and Amphastar amended the Insulin Supply Agreement to extend the term, restructure the annual purchase commitments and include a capacity fee for certain future periods. The Company's remaining purchase commitments and estimated capacity fee liability as of September 30, 2025 were as follows (€ in millions):

	September 30, 2025	
	Remaining Purchase Commitments	Estimated Capacity Fees
2025 (Remaining)[1]	—	0.4
2026	4.1	2.0
2027	6.0	1.0
2028	5.9	1.0
2029	5.8	1.0
2030	5.8	1.0
2031	7.8	0.5
2032	7.8	0.5
2033	7.7	0.5
2034	4.3	0.5
Total	55.2	8.4

(1) During the three and nine months ended September 30, 2025, the Company incurred a capacity fee of €375,000, or $0.4 million and €1.1 million or $1.3 million, respectively, which was recognized as cost of goods sold for commercial sales in our condensed consolidated statement of operations. For each quarter that the Company decides to delay purchases beyond the first quarter of 2026, the Company is subject to an additional capacity fee of €750,000 per quarter.

Pursuant to the amendment, the term of the Insulin Supply Agreement expires on the later of December 31, 2034 or until the completion of the total remaining purchase commitment quantities, unless terminated earlier, and can be renewed for additional, successive two-year terms upon 12 months' written notice given prior to the end of the initial term or any additional two-year term. The Company and Amphastar each have normal and customary termination rights, including termination for a material breach that is not cured within a specific time frame or in the event of liquidation, bankruptcy or insolvency of the other party. In addition, the Company may terminate the Insulin Supply Agreement upon two years' prior written notice to Amphastar without cause or upon 30 days' prior written notice to Amphastar if a controlling regulatory authority withdraws approval for Afrezza, provided, however, in the event of a termination pursuant to either of the latter two scenarios, the provisions of the Insulin Supply Agreement require the Company to pay the full amount of all unpaid purchase commitments due over the initial term within 60 calendar days of the effective date of such termination.

The Company periodically reviews the terms of the long-term Insulin Supply Agreement and assesses the need for any accrual for estimated losses, such as lower-of-cost or net-realizable-value that will not be recovered by future product sales. The recognized loss on purchase commitments of $66.0 million and $58.2 million is included in our condensed consolidated balance sheets as of September 30, 2025 and December 31, 2024, respectively, and is reduced as inventory items are received or such liability is extinguished.

As a result of the increase in future cash flows for the excess capacity fees and extended term included in the amendment of the Insulin Supply Agreement, the Company analyzed the need for additional estimated losses and concluded that an increase in the recognized loss on purchase commitments was not required as the net realizable value of inventory resulting from the purchase commitment was in excess of the carrying value. Increases in costs associated with the amendment will be recognized through inventory as incurred.

Vehicle Leases — During the second quarter of 2018, the Company entered into a master lease agreement with Enterprise Fleet Management Inc. The monthly payment inclusive of maintenance fees, insurance and taxes is approximately $0.1 million. The lease expense is included in selling, general and administrative expenses in the condensed consolidated statements of operations.

Office Leases — In May 2017, the Company executed an office lease with Russell Ranch Road II LLC for the Company's corporate offices in Westlake Village, California, which was renewed in April 2022. Pursuant to the renewal, the monthly lease payments of $79,543 began in February 2023 and are subject to 3% annual increases, plus the estimated cost of maintaining the property and common areas by the landlord, and are further subject to a six-month base rent concession beginning February 2023. The Company was also entitled to a one-time allowance up to $0.9 million as reimbursement for tenant improvements or the purchase of furniture, fixtures or equipment. Of the $0.9 million allowance, an amount up to $0.7 million may be applied as an additional base rent concession. The Company has no further right to extend the lease term beyond July 31, 2028.

In May 2022, the Company assumed certain leased real property (the “Marlborough Lease”) in connection with the V-Go acquisition. The Marlborough Lease pertains to certain premises in a building located in Marlborough, Massachusetts. The monthly payments of $28,895 began in June 2022, subject to approximately 3% annual increases through February 28, 2026.

The Company also acquired rights to a manufacturing service agreement where V-Go is manufactured using Company-owned equipment located at the manufacturing facility. The Company determined that this arrangement results in an embedded lease which granted the Company exclusive use of space within the manufacturing facility. The Company assessed the embedded lease cost to be $14,370 per month through February 28, 2026.

In May 2024, the Company entered into several transactions with Pulmatrix to acquire certain lab assets, enter into multiple agreements, and assume certain liabilities (the “Pulmatrix Transaction”). In July 2024, the Company assumed certain leased real property (the "Bedford Lease") in connection with the Pulmatrix Transaction. The Bedford Lease pertains to certain premises in a building located in Bedford, Massachusetts. The monthly base rent payments of $101,282 are subject to 3% annual increases, plus the estimated cost of maintaining the property and common areas by the landlord. The Company also assumed from Pulmatrix a $0.7 million obligation to repay landlord-funded tenant improvements at a rate of $6,000 per month through the end of the lease term in November 2033. The Company has the right to extend the lease term for an additional five-year term.

Lease information was as follows (dollars in thousands):

	September 30, 2025	December 31, 2024
Operating lease right-of-use assets[(1)]	$ 11,294	$ 13,109
Operating lease liability-current[(2)]	$ 1,957	$ 2,423
Operating lease liability-long-term	10,258	11,645
Total	$ 12,215	$ 14,068
Weighted average remaining lease term (in years)	6.8	7.1
Weighted average discount rate	7.3%	7.3%

(1) Operating right-of-use assets related to vehicles, offices and the manufacturing facility for V-Go are included in other assets in the condensed consolidated balance sheets.

(2) Operating lease liability – current is included in accrued expenses and other current liabilities in the condensed consolidated balance sheets.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2025	2024	2025	2024
Operating lease costs	$ 674	$ 719	$ 2,132	$ 1,417
Variable lease costs	199	104	631	122
Cash paid	873	860	2,764	1,407

The Company's future minimum office and vehicle lease payments were as follows (in thousands):

	September 30, 2025
2025 (Remaining)	$ 733
2026	2,502
2027	2,476
2028	2,087
2029	1,485
Thereafter	6,236
Total	15,519
Interest expense	(3,304)
Total operating lease liability	$ 12,215

15. Income Taxes

During the three and nine months ended September 30, 2025, the Company recorded an income tax benefit of $0.2 million and income tax provision of $0.5 million, respectively, related to state taxes, which was calculated using the discrete year-to-date method. The income tax provision for the three and nine months ended September 30, 2024 was $1.3 million and $1.9 million, respectively. The

effective tax rate differs from the statutory tax rate of 21% primarily due to the existence of valuation allowances against net deferred tax assets and current liabilities resulting from the estimated state income tax liabilities.

Management of the Company has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets and concluded, in accordance with the applicable accounting standards, that net deferred tax assets should be fully reserved.

The Company has assessed its position with regards to uncertainty in tax positions and has not recognized a liability for unrecognized tax benefits. The Company does not expect its unrecognized tax benefits to change significantly over the next 12 months. The Company recognizes interest and penalties accrued related to unrecognized tax benefits in income tax (benefit) expense. During the nine months ended September 30, 2025, the Company recognized a *de minimis* amount of interest and penalties. The Company's tax years since 2020 remain subject to examination by tax authorities.

In June 2024, California enacted Senate Bills 167 and 175 ("SB 167" and "SB 175"). SB 167 suspends the use of net operating losses ("NOLs") and limits the use of business credits to $5.0 million for the 2024-2026 tax years. Under SB 175, the NOL suspension and credit limitations will not apply for the 2025 and 2026 tax years if certain budget goals are met. Although the Company does not expect this legislation to have a material effect on its results of operations or cash flows, management continues to evaluate any potential impact.

On July 4, 2025, the reconciliation bill, commonly referred to as the One Big Beautiful Bill Act ("OBBBA") was signed into law, which includes a broad range of tax reform provisions that may affect the Company's financial results. The OBBBA reinstates immediate deduction for domestic Research and Development ("R&D") expenses, reinstates elective 100% first-year bonus depreciation for qualified property, and changes the calculation of and the tax rate applicable on Foreign-derived Deduction Eligible Income and income from non-U.S. subsidiaries (Net CFC Tested Income), among other provisions. The legislation has multiple effective dates, with certain provisions effective in 2025 and others implemented through 2027. The Company is currently evaluating the full extent of the impact of the OBBBA on its consolidated results of operations and financial position, however, does not expect the legislation to have a material impact on its income tax expense.

16. Subsequent Events

Acquisition of scPharmaceuticals, Inc.

On October 7, 2025, the Company completed its acquisition of scPharma, a publicly held pharmaceutical company focused on cardiovascular and renal care, at a price of $5.35 per share in cash plus one non-tradable contingent value right ("CVR") per share, which represents the right to receive up to an aggregate amount of $1.00 per CVR in cash upon the achievement of certain regulatory and net sales milestones on or prior to the applicable milestone outside dates, for total consideration of up to $6.35 per share in cash, representing a total equity value of approximately $303.8 million and representing a total deal value of up to approximately $363.5 million if the CVR milestones are achieved at the maximum payment amount. Upon the closing of the transaction, MannKind repaid and extinguished all outstanding indebtedness of scPharma under its credit facility with Perceptive Credit Holdings IV, LP (“Perceptive”) and bought out Perceptive’s rights to receive revenue payments pursuant to its revenue purchase and sale agreement, which equaled an aggregate repayment and buyout amount of $82.6 million ("scPharma Debt Extinguishment").

Due to the proximity of the transaction closing date to the Company’s filing date of this Quarterly Report, the initial accounting for the Transaction is incomplete, and therefore the Company is unable to disclose certain information required by ASC 805, Business Combinations, including the provisional amounts recognized as of the acquisition date for each major class of assets acquired, liabilities assumed, and goodwill, and the supplemental pro forma revenue and earnings for the combined entity, and as such, required disclosures will be presented in future periods. The accounting impact of this acquisition and the results of operations for scPharma will be included in our consolidated financial statements beginning on October 7, 2025.

Blackstone Credit Facility

On October 7, 2025, the Company borrowed $250.0 million in delayed draw term loans to fund the acquisition of scPharma and the scPharma Debt Extinguishment. The Blackstone Credit Facility will mature on Maturity Date. The term loans thereunder bear interest at a rate per annum equal to, (i) in the case of a Base Rate Loan, the greatest of (a) the prime rate in effect on such day, (b) the federal funds rate in effect on such day plus 0.5%, (c) Adjusted Term SOFR for a one-month’s tenor in effect on such day plus 1%, and (d) 3.0% plus a margin of 3.75%, or, (ii) in the case of a SOFR Loan, the one, three or six month term Adjusted Term SOFR (at the Company’s election), plus a margin of 4.75%. The interest rate margin increases to 4.00% in the case of a Base Rate Loan and 5.00% in the case of a SOFR Loan at any time the Company’s ratio of indebtedness to adjusted EBITDA (measured on a trailing four quarter basis) is greater than or equal to 5.00:1.00 as of the most recent fiscal quarter for which the Company has delivered financial statements. Following the draw of the delayed term loans on October 7, 2025, the SOFR Loans borrowed under the Blackstone Credit Facility will be subject to the Adjusted Term SOFR plus margin of 5.00% after the delivery of year-end financial statements. See Note 8 – *Borrowings* for additional discussion of the terms and conditions of the Blackstone Credit Facility.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Statements in this report that are not strictly historical in nature are "forward-looking statements" within the meaning of the federal securities laws made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. In some cases, you can identify forward-looking statements by terms such as "anticipate," "believe," "could," "estimate," "expect," "goal," "intend," "may," "plan," "potential," "predict," "project," "should," "will," "would," and similar expressions intended to identify forward-looking statements, though not all forward-looking statements contain these identifying words. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth below in Part II, Item 1A Risk Factors and elsewhere in this Quarterly Report on Form 10-Q. The preceding interim condensed consolidated financial statements and this Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the financial statements and related notes for the year ended December 31, 2024 and Management's Discussion and Analysis of Financial Condition and Results of Operations contained in the Annual Report. Readers are cautioned not to place undue reliance on forward-looking statements. The forward-looking statements speak only as of the date on which they are made, and we undertake no obligation to update such statements to reflect events that occur or circumstances that exist after the date on which they are made.

OVERVIEW

We are a biopharmaceutical company focused on the development and commercialization of patient-centric therapies that address serious unmet medical needs for those living with cardiometabolic and orphan lung diseases. We currently commercialize two products: Afrezza (insulin human) Inhalation Powder, an ultra rapid-acting inhaled insulin indicated to improve glycemic control in adults with diabetes, and the V-Go wearable insulin delivery device, which provides continuous subcutaneous infusion of insulin in adults that require insulin. Afrezza was developed by us and received approval from the FDA in June 2014. Afrezza consists of a dry powder formulation of human insulin delivered from a small portable inhaler. V-Go received 510(k) clearance by the FDA in 2010 and has been available commercially since 2012. In May 2022, we acquired V-Go from Zealand Pharma A/S and Zealand Pharma US, Inc. V-Go is a mechanical basal-bolus insulin delivery system that is worn like a patch and can eliminate the need for taking multiple daily injections. The first product to come out of our orphan lung disease pipeline, Tyvaso DPI (treprostinil) inhalation powder, received FDA approval in May 2022 for the treatment of PAH and PH-ILD. Our development and marketing partner, United Therapeutics, began commercializing Tyvaso DPI in June 2022 and is obligated to pay us a royalty on net sales of the product. We also receive a margin on supplies of Tyvaso DPI that we manufacture for UT.

Our pipeline of potential treatments for orphan lung diseases includes inhaled clofazimine (MNKD-101) for the treatment of severe chronic and recurrent pulmonary infections, including nontuberculous mycobacterial ("NTM") lung disease. The FDA has designated inhaled clofazimine as both an orphan drug and as a qualified infectious disease product for the treatment of pulmonary NTM infections. It has also granted Fast Track designation to our development program. In 2024, we initiated a global Phase 3 registrational study of inhaled clofazimine with sites in the United States, Japan, South Korea, Taiwan, and Australia. We expect enrollment of subjects into this study to continue into 2026. The other major program in our pipeline is a dry-powder formulation of nintedanib (MNKD-201) for the treatment of idiopathic pulmonary fibrosis ("IPF"). In 2024, we conducted a Phase 1 clinical study of MNKD-201, which met its primary objective of demonstrating positive safety results and good tolerability in healthy volunteers. We are currently initiating a global Phase 2 trial that is expected to begin enrolling patients in early 2026.

In October 2025, we acquired scPharmaceuticals Inc. ("scPharma") whose approved product, Furoscix, consists of a novel formulation of furosemide delivered via scPharma's device supplier-developed on-body infusor, which delivers an 80 mg/10 mL dose over five hours. Furoscix was approved by the FDA for the treatment of congestion due to fluid overload in adults with New York Heart Association ("NYHA") Class II/III and IV chronic heart failure. The commercial launch of Furoscix for congestion in patients with chronic heart failure commenced in the first quarter of 2023. In March 2025, Furoscix was also approved by the FDA for the treatment of edema due to fluid overload in adult patients with chronic kidney disease ("CKD") and launched in April 2025.

Our business is subject to significant risks, including but not limited to our ability to manufacture sufficient quantities of our products and Tyvaso DPI. Other significant risks also include the risk that our products may only achieve a limited degree of commercial success and the risks inherent in drug development, clinical trials and the regulatory approval process for our product candidates, which in some cases depends upon the efforts of our partners. Ongoing changes in tariff policy by the U.S. government may potentially raise the future cost to source the raw materials and components needed to manufacture our products. We are actively monitoring this situation and exploring strategies to mitigate the risks.

As of September 30, 2025, we had cash, cash equivalents and investments of $286.3 million, an accumulated deficit of $3.2 billion and a total stockholders' deficit of $44.6 million. We had net income of $8.0 million and $21.8 million for the three and nine months ended September 30, 2025, respectively. To date, we have funded our operations primarily through the sale of our equity and convertible debt securities, from the receipt of upfront and milestone payments from collaborations, from borrowings, from sales of

Afrezza and V-Go, from royalties and manufacturing revenue from UT, from proceeds of the sale-leaseback of our manufacturing facility in Danbury, CT and from the sale of a portion of future royalties that we receive from UT.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Our critical accounting policies and estimates can be found in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report. See Note 1 – *Description of Business and Significant Accounting Policies* in the condensed consolidated financial statements included in Part I – Financial Statements (Unaudited) for descriptions of the new accounting policies and impact of adoption.

RESULTS OF OPERATIONS

Trends and Uncertainties

Our collaboration agreement with UT entitles us to receive a 10% royalty on net sales of Tyvaso DPI, subject to our sale of a 1% royalty on future net sales to a royalty purchaser (leaving us with a 9% royalty) in December 2023. Our royalty revenue reflects the trend in net sales of Tyvaso DPI in the marketplace. See Note 14 – *Commitments and Contingencies* in the condensed consolidated financial statements.

Our future success is dependent on our, and our current and future collaboration partners', ability to effectively commercialize approved products. Our future success is also dependent on our pipeline of new products. There is a high rate of failure inherent in the R&D process for new drugs. As a result, there is a high risk that the funds we invest in research programs will not generate sufficient financial returns. Products may appear promising in development but fail to reach market within the expected or optimal timeframe, or at all.

Three and nine months ended September 30, 2025 and 2024

Revenues

The following table provides a comparison of the revenue categories for the three and nine months ended September 30, 2025 and 2024 (dollars in thousands):

	Three Months Ended September 30,			
	2025	2024	$ Change	% Change
Revenues				
Commercial product sales:				
Gross revenue from product sales	$ 32,420	$ 32,232	$ 188	1%
Less: Wholesaler distribution fees, rebates and chargebacks, product returns and other discounts	10,115	12,504	$ (2,389)	(19%)
Net revenue from commercial product sales	$ 22,305	$ 19,728	$ 2,577	13%
Gross-to-net revenue adjustment percentage	31%	39%		
Collaborations and services	26,506	23,268	$ 3,238	14%
Royalties	33,319	27,083	$ 6,236	23%
Total revenues	$ 82,130	$ 70,079	$ 12,051	17%

	Nine Months Ended September 30,			
	2025	2024	$ Change	% Change
Revenues				
Commercial product sales:				
Gross revenue from commercial product sales	$ 95,894	$ 97,953	$ (2,059)	(2%)
Less: Wholesaler distribution fees, rebates and chargebacks, product returns and other discounts	32,162	38,681	$ (6,519)	(17%)
Commercial product sales	$ 63,732	$ 59,272	$ 4,460	8%
Gross-to-net revenue adjustment percentage	34%	39%		
Collaborations and services	78,727	74,130	$ 4,597	6%
Royalties	94,552	75,326	$ 19,226	26%
Total revenues	$ 237,011	$ 208,728	$ 28,283	14%

Afrezza — Gross revenue from sales of Afrezza increased by $3.0 million, or 13%, for the three months ended September 30, 2025 compared to the same period in the prior year, primarily driven by increased price and higher demand. The gross-to-net adjustment was 30% of gross revenue, or $7.8 million, for the three months ended September 30, 2025 compared to 36% of gross revenue, or $8.3 million, for the same period in the prior year. The decreased gross-to-net percentage was primarily attributable to a decrease in rebates. As a result, net revenue from sales of Afrezza increased by $3.5 million, or 23%, for the three months ended September 30, 2025 compared to the same period in the prior year.

Gross revenue from sales of Afrezza increased by $6.4 million, or 9%, for the nine months ended September 30, 2025 compared to the same period in the prior year, primarily driven by increased price and higher demand. The gross-to-net adjustment was 32% of gross revenue, or $24.8 million, for the nine months ended September 30, 2025 compared to 35% of gross revenue, or $24.4 million, for the same period in the prior year. The decreased gross-to-net percentage was primarily attributable to a decrease in rebates. As a result, net revenue from sales of Afrezza increased by $5.9 million, or 13%, for the nine months ended September 30, 2025 compared to the same period in the prior year.

V-Go — Gross revenue from sales of V-Go decreased by $2.8 million, or 31%, for the three months ended September 30, 2025 compared to the same period in the prior year as a result of lower demand partially offset by increased price. The gross-to-net adjustment was 38% of gross revenue, or $2.3 million, for the three months ended September 30, 2025 compared to 47% of gross revenue, or $4.2 million, for the same period in the prior year. The improved gross-to-net percentage was primarily attributable to a decrease in rebates related to implementation of a strategy to reduce active contracts. As a result, net revenue from sales of V-Go decreased by $0.9 million, or 19%, for the three months ended September 30, 2025 compared to the same period in the prior year.

Gross revenue from sales of V-Go decreased by $8.5 million, or 30%, for the nine months ended September 30, 2025 compared to the same period in the prior year and was primarily a result of lower demand partially offset by increased price. The gross-to-net adjustment was 38% of gross revenue, or $7.3 million, for the nine months ended September 30, 2025 compared to 51% of gross revenue, or $14.3 million, for the same period in the prior year. The improved gross-to-net percentage was primarily attributable to a decrease in rebates related to a reduction in active contracts. As a result, net revenue from sales of V-Go decreased by $1.5 million, or 11%, for the nine months ended September 30, 2025 compared to the same period in the prior year.

Collaborations and Services — Net revenue from collaborations and services increased by $3.2 million, or 14%, for the three months ended September 30, 2025 compared to the same period in the prior year due to increases in revenue from our agreements with UT and Amphastar. The $2.7 million increase in revenue from UT was primarily attributable to an increase in revenue from product sold to UT of $3.4 million partially offset by decreases of $0.3 million in revenue from other agreements and $0.4 million related to the recognition of deferred revenue. The Amphastar co-promote agreement provided additional revenue of $0.5 million.

Net revenue from collaborations and services increased by $4.6 million, or 6%, for the nine months ended September 30, 2025 compared to the same period in the prior year due to increases in revenue from our agreements with UT and Amphastar. The $3.3 million increase in revenue from UT was primarily attributable to an increase in revenue from product sold to UT of $4.3 million partially offset by decreases of $0.6 million in revenue from other agreements and $0.4 million related to the recognition of deferred revenue. The Amphastar co-promote agreement provided additional revenue of $1.5 million.

Royalty revenue from UT increased by $6.2 million, or 23%, for the three months ended September 30, 2025 and $19.2 million, or 26%, for the nine months ended September 30, 2025 due to UT's increase in net revenue from sales of Tyvaso DPI.

Commercial product gross profit

The following table provides a comparison of the commercial product gross profit categories for the three and nine months ended September 30, 2025 and 2024 (dollars in thousands):

	Three Months Ended September 30,			
	2025	2024	$ Change	% Change
Commercial product gross profit:				
Commercial product sales	$ 22,305	$ 19,728	$ 2,577	13%
Less: Cost of goods sold	4,498	3,197	$ 1,301	41%
Commercial product gross profit:	$ 17,807	$ 16,531	$ 1,276	8%
Gross margin	80%	84%		

	Nine Months Ended September 30,			
	2025	2024	$ Change	% Change
Commercial product gross profit:				
Commercial product sales	$ 63,732	$ 59,272	$ 4,460	8%
Less: Cost of goods sold	12,873	12,621	$ 252	2%
Commercial product gross profit:	$ 50,859	$ 46,651	$ 4,208	9%
Gross margin	80%	79%		

Commercial product gross profit increased by $1.3 million, or 8%, for the three months ended September 30, 2025 compared to the same period in the prior year primarily due to an increase in revenue for Afrezza partially offset by an increase in cost of goods sold. Afrezza cost of goods sold increased primarily due to the quarterly capacity fee of $0.4 million associated with our Amphastar agreement which began in the first quarter of 2025. This increase was partially offset by increased efficiencies in manufacturing activities in our Danbury, CT facility.

Commercial product gross profit increased by $4.2 million, or 9%, for the nine months ended September 30, 2025 compared to the same period in the prior year primarily due to an increase in revenue for Afrezza partially offset by a decrease in revenue for V-Go.

Expenses

The following table provides a comparison of the expense categories for the three and nine months ended September 30, 2025 and 2024 (dollars in thousands):

	Three Months Ended September 30,			
	2025	2024	$ Change	% Change
Expenses:				
Cost of goods sold – commercial	$ 4,498	$ 3,197	$ 1,301	41%
Cost of revenue – collaborations and services	15,705	14,826	$ 879	6%
Research and development	14,063	12,926	$ 1,137	9%
Selling, general and administrative	29,088	23,916	$ 5,172	22%
(Gain) loss on foreign currency transaction	(120)	2,454	$ (2,574)	*
Total expenses	$ 63,234	$ 57,319	$ 5,915	10%

* Not meaningful

	Nine Months Ended September 30,			
	2025	2024	$ Change	% Change
Expenses:				
Cost of goods sold - commercial	$ 12,873	$ 12,621	$ 252	2%
Cost of revenue – collaborations and services	45,414	44,377	$ 1,037	2%
Research and development	38,760	34,755	$ 4,005	12%
Selling, general and administrative	85,724	70,357	$ 15,367	22%
Loss on foreign currency transaction	7,752	526	$ 7,226	1,374%
Total expenses	$ 190,523	$ 162,636	$ 27,887	17%

Cost of revenue – collaborations and services increased by $0.9 million, or 6%, for the three months ended September 30, 2025 and $1.0 million, or 2%, for the nine months ended September 30, 2025 compared to the same periods in the prior year. The increases were primarily attributable to an increase in production related inventory write-offs for the period in addition to increase in costs of sales associated with an increase in the number of blisters sold, which was partially offset by decreases in cost per blister due to increased efficiencies in manufacturing activities in our Danbury, CT facility.

Research and development expenses increased by $1.1 million, or 9%, for the three months ended September 30, 2025 compared to the same period in the prior year. The increase was primarily attributable to continued patient enrollment in our ICoN-1 clinical study for MNKD-101 and clinical production scale-up for MNKD-201. These increases were partially offset by the completion of our Afrezza clinical study (INHALE-3) and Phase 1 MNKD-201 studies in 2024, as well as lower costs for our Afrezza pediatric clinical study (INHALE-1) as the study was closed out in the second quarter of 2025.

Research and development expenses increased by $4.0 million, or 12%, for the nine months ended September 30, 2025 compared to the same period in the prior year. The increase was primarily attributable to continued patient enrollment in our ICoN-1 clinical study

for MNKD-101, clinical production scale-up for MNKD-201, and personnel costs primarily due to additional headcount as a result of the Pulmatrix transaction in the third quarter of 2024, which bolstered our research capabilities and capacity. These increases were partially offset by the completion of INHALE-3, the Phase 1 clinical study for MNKD-201, and toxicology studies in 2024, as well as lower costs for INHALE-1 as the study was closed out in the second quarter of 2025.

Selling, general and administrative expenses increased by $5.2 million, or 22%, for the three months ended September 30, 2025 compared to the same period in the prior year. The increase was primarily driven by higher headcount and personnel-related costs including deploying a medical science liaison team and higher Afrezza promotional costs. Additionally, general and administrative expenses included $3.7 million of incremental costs associated with the acquisition of scPharma which was completed in October 2025. See Note 16 – *Subsequent Events*.

Selling, general and administrative expenses increased by $15.4 million, or 22%, for the nine months ended September 30, 2025 compared to the same period in the prior year. The increase was largely attributable to higher headcount and personnel-related expense as well as deploying a medical science liaison team and Afrezza promotional costs. Additionally, general and administrative expenses included $3.7 million of incremental costs associated with the acquisition of scPharma, which was completed in October 2025. These increases were partially offset by a $1.4 million charge recorded in the prior year period for estimated returns associated with sales of V-Go that pre-dated our acquisition of the product.

Gain on foreign currency transaction was $0.1 million for the three months ended September 30, 2025 compared to a loss of $2.5 million for the same period in the prior year, and a loss of $7.8 million for the nine months ended September 30, 2025 compared to a loss of $0.5 million for the same period in the prior year. These non-cash changes were due to fluctuations in U.S. dollar to Euro exchange rates. Under the Insulin Supply Agreement with Amphastar, payment obligations for future purchases are denominated in Euros. We are required to record the foreign currency transaction impact of the U.S. dollar to Euro exchange rate associated with the recognized gain or loss on purchase commitments.

Other Income (Expense)

The following table provides a comparison of the other income (expense) categories for the three and nine months ended September 30, 2025 and 2024 (dollars in thousands):

	Three Months Ended September 30,			
	2025	2024	$ Change	% Change
Interest income, net	$ 2,628	$ 3,179	$ (551)	(17%)
Interest expense	(1,364)	(1,801)	$ (437)	(24%)
Interest expense on liability for sale of future royalties	(3,514)	(4,089)	$ (575)	(14%)
Interest expense on financing liability	(2,456)	(2,470)	$ (14)	(1%)
Impairment of available-for-sale investment	(6,409)	—	$ 6,409	100%
Other income	—	32	$ 32	(100%)
Gain on bargain purchase	—	5,259	$ (5,259)	(100%)
Total other (expense) income	$ (11,115)	$ 110	$ 11,225	*

* Not meaningful

	Nine Months Ended September 30,			
	2025	2024	$ Change	% Change
Interest income, net	$ 6,416	$ 9,790	$ (3,374)	(34%)
Interest expense	(6,294)	(10,419)	$ (4,125)	(40%)
Interest expense on liability for sale of future royalties	(10,564)	(12,720)	$ (2,156)	(17%)
Interest expense on financing liability	(7,299)	(7,361)	$ (62)	(1%)
Impairment of available-for-sale investment	(6,409)	(1,550)	$ (4,859)	313%
Other income	—	32	$ (32)	(100%)
Gain on bargain purchase	—	5,259	$ (5,259)	(100%)
Loss on settlement of debt	—	(7,050)	$ 7,050	100%
Total other expense	$ (24,150)	$ (24,019)	$ 131	1%

Interest income, net, consisting of interest and accretion on investments net of amortization, decreased by $0.6 million for the three months ended September 30, 2025 compared to the same period in the prior year, and by $3.4 million for the nine months ended

September 30, 2025 compared to the same period in the prior year. These decreases were primarily due to a lower average balance on our securities portfolio and lower yields.

Interest expense decreased by $0.4 million for the three months ended September 30, 2025 compared to the same period in the prior year due to a principal debt reduction from the exchange of an aggregate principal amount of approximately $193.7 million of our senior convertible notes due March 2026 in December 2024.

Interest expense decreased by $4.1 million for the nine months ended September 30, 2025 compared to the same period in the prior year as a result of the following principal debt reductions that occurred in 2024: (i) $28.3 million full repayment to MidCap under the MidCap credit facility in April 2024, (ii) the discharge and termination of $8.8 million of the outstanding principal balance under the Mann Group convertible note in April 2024 and (iii) the exchange of an aggregate principal amount of approximately $193.7 million of our senior convertible notes due March 2026 in December 2024.

Interest expense on liability for sale of future royalties decreased by $0.6 million and $2.2 million for the three and nine months ended September 30, 2025, respectively, compared to the same periods in the prior year. Interest consists of imputed interest and the amortization of debt issuance costs on the liability recorded in connection with the sale of 1% of our Tyvaso DPI royalties in December 2023. See Note 14 – *Commitments and Contingencies.*

Interest expense on financing liability was $2.5 million for each of the three months ended September 30, 2025 and 2024, and $7.3 million and $7.4 million for the nine months ended September 30, 2025 and 2024, respectively. Interest expense on financing liability represented interest incurred on the sale lease-back transaction for our manufacturing facility in Danbury, Connecticut.

Impairment of available-for-sale investment of $6.4 million for the three and nine months ended September 30, 2025 was a result of the write-off of the Thirona investment. Impairment of available-for-sale investment for the nine months ended September 30, 2024 was $1.6 million as a result of modification of the Thirona investment.

Gain on bargain purchase of $5.3 million for the three and nine months ended September 30, 2024 was the result of the excess of net assets acquired over consideration paid in the Pulmatrix Transaction.

Loss on settlement of debt of $7.1 million for the nine months ended September 30, 2024 was incurred in connection with the repayment of the MidCap credit facility and Mann Group convertible note in April 2024. See Note 8 – *Borrowings.*

N**on-GAAP Measures**

To supplement our condensed consolidated financial statements presented under GAAP, we are presenting non-GAAP financial measures for net income and net income per share – basic. We are providing these non-GAAP financial measures, which are among the indicators management uses as a basis for evaluating our financial performance, to disclose additional information to facilitate the comparison of past and present operations. We believe that these non-GAAP financial measures, when considered together with our GAAP financial results, provide management and investors with an additional understanding of our business operating results, including underlying trends.

These non-GAAP financial measures are not meant to be considered in isolation or as a substitute for comparable GAAP measures; should be read in conjunction with our condensed consolidated financial statements prepared in accordance with GAAP; have no standardized meaning prescribed by GAAP; and are not prepared under any comprehensive set of accounting rules or principles. In addition, from time to time in the future, there may be other items that we may exclude for purposes of our non-GAAP financial measures; and we may cease to exclude items that we have historically excluded for purposes of our non-GAAP financial measures. Likewise, we may determine to modify the nature of its adjustments to arrive at our non-GAAP financial measures. Because of the non-standardized definitions of non-GAAP financial measures, the non-GAAP financial measures as used by us in this Quarterly Report on Form 10-Q have limits in their usefulness to investors and may be calculated differently from, and therefore may not be directly comparable to, similarly titled measures used by other companies.

The following table reconciles our financial measures for net income and net income per share ("EPS") for basic weighted average shares as reported in our condensed consolidated statements of operations to a non-GAAP presentation as adjusted by certain non-cash items identified below.

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2025		2024		2025		2024	
	Net Income	Basic EPS	Net Income	Basic EPS	Net Income	Basic EPS	Net Income	Basic EPS
	(In thousands except per share data)							
GAAP reported net income	$ 7,985	$ 0.03	$ 11,550	$ 0.04	$ 21,811	$ 0.07	$ 20,166	$ 0.07
Non-GAAP adjustments:								
Sold portion of royalty revenue [1]	(3,332)	(0.01)	(2,708)	(0.01)	(9,455)	(0.03)	(7,533)	(0.03)
Interest expense on liability for sale of future royalties	3,514	0.01	4,089	0.02	10,564	0.03	12,720	0.04
Acquisition related expenses [2]	3,673	0.01	—	—	3,673	0.01	—	—
Impairment loss on available-for-sale investment	6,409	0.02	—	—	6,409	0.02	1,550	0.01
Stock compensation	4,318	0.01	5,227	0.02	17,223	0.06	15,540	0.06
(Gain) loss on foreign currency transaction	(120)	—	2,454	0.01	7,752	0.03	526	—
Gain on bargain purchase	—	—	(5,259)	(0.02)	—	—	(5,259)	(0.02)
Loss on settlement of debt	—	—	—	—	—	—	7,050	0.03
Non-GAAP adjusted net income	$ 22,447	$ 0.07	$ 15,353	$ 0.06	$ 57,977	$ 0.19	$ 44,760	$ 0.16
Weighted average shares used to compute net income per share – basic	306,806		274,998		305,093		272,811	

(1) Represents the non-cash portion of the 1% royalty on net sales of Tyvaso DPI earned during the three and nine months ended September 30, 2025 and 2024, which is remitted to the royalty purchaser and recognized as royalties from collaborations in our condensed consolidated statements of operations. Our royalties from collaborations during the three and nine months ended September 30, 2025 totaled $33.3 million and $94.6 million, respectively, of which $3.3 million and $9.5 million, respectively were remitted to the royalty purchaser.

(2) Represents transaction fees incurred during the three and nine months ended September 30, 2025 associated with the acquisition of scPharma.

LIQUIDITY AND CAPITAL RESOURCES

Our principal sources of liquidity are our cash, cash equivalents, and investments. Our primary uses of cash include development of our product pipeline, manufacturing and marketing of Afrezza and V-Go, manufacturing Tyvaso DPI, selling, general and administrative expenses, and principal and interest payments on our financing liability and debt.

Historically, we have funded our operations primarily through the sale of equity and convertible debt securities, from the receipt of upfront and milestone payments from collaborations, from borrowings, from the sale of certain assets and from the sale of a portion of our future royalties that we receive from UT. More recently, sales of Afrezza and V-Go, and royalties and manufacturing revenue from UT, have become a more significant source of funding for our operations. In combination with our cash, cash equivalents and

investments on hand, we believe that these sources of revenue, as well as the potential financing sources currently available to us, will allow us to meet our liquidity needs over the next 12 months and in the longer term.

As of September 30, 2025, we had $66.0 million in insulin purchase commitments and $111.3 million principal amount of outstanding debt, consisting of:

- $75.0 million aggregate principal amount under the Blackstone Credit Facility. The Blackstone Credit Facility will mature on August 6, 2030. As of September 30, 2025, the term loans thereunder bore interest at a rate per annum equal to 9.00%. The interest rate is subject to fluctuation. We have the option to prepay the loans under the Blackstone Credit Facility in whole or in part, subject to early prepayment fees on or prior to the third anniversary of the Closing Date. See Note 8 – *Borrowings* for further information related to the Blackstone Credit Facility.
- $36.3 million principal amount of outstanding senior convertible notes bearing interest at 2.50% and maturing on March 1, 2026, unless earlier converted, redeemed or repurchased by us. The senior convertible notes are convertible at an initial conversion price of approximately $5.21 per share of common stock. The conversion rate is subject to adjustment under certain circumstances in accordance with the terms of the Indenture. We may from time to time seek to retire or purchase our outstanding senior convertible notes, through cash purchases and/or exchanges for equity securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual restrictions, and other factors. The amounts involved in any such transactions, individually or in the aggregate, may be material.

In addition, in October 2025, we borrowed an additional $250.0 million in delayed draw term loans under the Blackstone Credit Facility to fund the acquisition of scPharma and the scPharma Debt Extinguishment (see Note 16 – *Subsequent Events*). Following this delayed draw, the SOFR Loans borrowed under the Blackstone Credit Facility will be subject to the Adjusted Term SOFR plus margin of 5.00% after the delivery of year-end financial statements.

To date, we have been able to timely make our required interest payments, but we cannot guarantee that we will be able to do so in the future. If we fail to repay, repurchase or redeem, as applicable, our outstanding indebtedness and/or notes when required, we will be in default under the applicable instrument for such indebtedness and may also suffer an event of default under the terms of other borrowing arrangements that we may enter into from time to time. Any of these events could have a material adverse effect on our business, results of operations and financial condition, up to and including the noteholders initiating bankruptcy proceedings or causing us to cease operations altogether.

In July 2013, we issued the Milestone Rights pursuant to the Milestone Rights Agreement to the Original Milestone Purchasers. The Milestone Rights were subsequently assigned the Milestone Purchasers. The Milestone Rights provide the Milestone Purchasers certain rights to receive payments of up to $90.0 million upon the occurrence of specified strategic and sales milestones, $45.0 million of which remain payable as of September 30, 2025. See Note 14 – *Commitments and Contingencies* for further information related to the Milestone Rights.

In October 2025, we entered into the CVR Agreement with the rights agent party thereto, which governs the terms of the CVRs issued to the former stockholders of scPharma in the acquisition transaction. The maximum aggregate amount payable with respect to the CVRs issued at the closing of the acquisition is $59.7 million, subject to the achievement of certain regulatory and net sales milestones on or prior to the applicable milestone outside dates in accordance with the CVR Agreement.

In addition to the above, we also expect to have material cash requirements relating to paying our employees and consultants, professional services fees, marketing expenses, manufacturing expenditures, and clinical trial expenses. In addition, we make substantial and often long-term investments in our supply chain in order to ensure we have enough inventory and drug product to meet current and future revenue forecasts, as well as clinical trial needs.

In February 2018, we entered into the CF Sales Agreement with Cantor Fitzgerald, as sales agent, which was amended and restated in February 2025. Under the CF Sales Agreement, Cantor Fitzgerald may sell shares of our common stock by any method deemed to be an “at-the-market offering” as defined in Rule 415 under the Securities Act of 1933, as amended. In February 2025, we filed a sales agreement prospectus under a registration statement on Form S-3 covering the sale of up to $200.0 million of our common stock through Cantor Fitzgerald under the CF Sales Agreement, of which $200.0 million remained available as of September 30, 2025.

During the nine months ended September 30, 2025, we generated $26.2 million of cash from our operating activities. Cash used in operating activities consisted of net income of $21.8 million offset by non-cash adjustments of $47.0 million and a net decrease in cash flows from operating assets and liabilities of $42.6 million. Non-cash items primarily included stock-based compensation of $17.2 million, loss on foreign currency transactions of $7.8 million and interest on liability for sale of future royalties of $10.6 million. These charges were partially offset by the sold portion of royalty revenue of $9.5 million. The net decrease in cash flows from

operating assets and liabilities was primarily due to a decrease of $12.4 million in prepaid expenses and other current assets and a decrease of $10.1 million in accrued expenses and other current liabilities.

During the nine months ended September 30, 2024, we generated $19.9 million of cash from our operating activities. Cash used in operating activities consisted of net income of $20.2 million offset by non-cash adjustments of $32.0 million and a net decrease in cash flows from operating assets and liabilities of $32.3 million. Non-cash items primarily included stock-based compensation of $15.5 million, loss on foreign currency transactions of $0.5 million and interest on liability for sale of future royalties of $12.7 million. These charges were partially offset by the sold portion of royalty revenue of $7.5 million and a gain on bargain purchase of $5.3 million. The decrease in cash flows from operating assets and liabilities was primarily due to a decrease of $7.2 million in deferred revenue, decrease of $6.4 million in prepaid expenses and other current assets and a decrease of $4.8 million in accrued expenses and other current liabilities.

Cash used in investing activities of $12.8 million for the nine months ended September 30, 2025 was primarily due to the $10.0 million issuance of a note receivable and the purchase of $144.1 million of debt securities, partially offset by the maturity of $143.8 million of debt securities.

Cash used in investing activities of $144.9 million for the nine months ended September 30, 2024 was primarily due to the purchase of $273.8 million of debt securities and $6.8 million of property and equipment, partially offset by the maturity of $135.3 million of debt securities.

Cash provided by financing activities of $67.7 million for the nine months ended September 30, 2025 was primarily due to proceeds from a term loan of $75.0 million under the Blackstone Credit Facility, partially offset by $5.1 million of payments to taxing authorities from equity withheld upon vesting of RSUs and stock options and loan issuance costs of $2.3 million.

Cash used in financing activities of $50.4 million for the nine months ended September 30, 2024 was primarily due to principal and early extinguishment payments on the MidCap credit facility of $36.6 million and Mann Group convertible note of $8.9 million, and $6.2 million of payments to taxing authorities from equity withheld upon vesting of RSUs and stock options, partially offset by $2.3 million in proceeds from the MPSPP and ESPP.

Future Liquidity Needs

We believe we will be able to meet our near-term liquidity needs based on our cash, cash equivalents and investments on hand, sales of Afrezza, V-Go and Furoscix, royalties and manufacturing revenue from the production and sale of Tyvaso DPI and borrowings under the Blackstone Credit Facility, as well as through debt or equity financing, if necessary, for our long-term liquidity needs. We expect to continue to incur expenditures for the foreseeable future in support of our manufacturing operations, sales and marketing costs for our products and development costs for other product candidates in our pipeline. As of September 30, 2025, we had capital resources comprised of cash, cash equivalents, short-term investments and long-term investments totaling $286.3 million, and total principal amount of outstanding borrowings of $111.3 million, which amounts do not take into account our completion of the scPharma acquisition in October 2025 and the scPharma Debt Extinguishment, and our additional $250.0 million term loan borrowing in October 2025 under the Blackstone Credit Facility in connection with such acquisition. See Note 16 – *Subsequent Events*.

We believe our resources will be sufficient to fund our operations for at least the next 12 months from the date of issuance of our condensed consolidated financial statements included in Part I – Financial Statements (Unaudited).

Contractual Obligations

See Note 8 – *Borrowings* and Note 14 – *Commitments and Contingencies* for a discussion of material changes outside of the ordinary course of business in our contractual obligations from those disclosed within “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as contained in the Annual Report.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Risk

The senior convertible notes have a fixed interest rate of 2.50%, and therefore the interest expense associated with such debt is not exposed to changes in market interest rates. Interest on borrowings under the Blackstone Credit Facility accrue interest at a rate per annum equal to (i) in the case of a Base Rate Loan, the greatest of (a) the prime rate in effect on such day, (b) the federal funds rate in effect on such day plus 0.5%, (c) Adjusted Term SOFR for a one-month's tenor in effect on such day plus 1%, and (d) 3.0% plus a margin of 3.75%, or (ii) in the case of a SOFR Loan, one, three or six month Adjusted Term SOFR (at our election), subject to a 2% floor, plus a margin of 4.75%. The interest rate margin increases to 4.00% in the case of a Base Rate Loan and 5.00% in the case of a SOFR Loan at any time the Company's ratio of indebtedness to adjusted EBITDA (measured on a trailing four quarter basis) is greater than or equal to 5.00:1.00 as of the most recent fiscal quarter for which the Company has delivered financial statements. Accordingly, our interest expense under the Blackstone Credit Facility is subject to changes in the various market interest rates. If a hypothetical 10% change in the SOFR interest rates on September 30, 2025 were to have occurred, this change would not have had a material effect on our annual interest payment obligation on the borrowings under the Blackstone Credit Facility, which as of September 30, 2025, are SOFR Loans. See Note 8 – *Borrowings* for information about the principal amount of outstanding debt.

Foreign Currency Exchange Risk

We incur and will continue to incur significant expenditures for insulin supply obligations under our Insulin Supply Agreement. Such obligations are denominated in Euros. At the end of each reporting period, the recognized gain or loss on purchase commitment is converted to U.S. dollars at the then-applicable foreign exchange rate. As a result, our business is affected by fluctuations in exchange rates between the U.S. dollar and the Euro. For the nine months ended September 30, 2025, we realized a $7.8 million currency loss, which was reflected as loss on foreign currency transaction in the accompanying condensed consolidated statements of operations.

Exchange rate fluctuations may adversely affect our expenses, results of operations, financial position and cash flows. If a change in the U.S. dollar to Euro exchange rate equal to 10% of the U.S. dollar to Euro exchange rate on September 30, 2025 were to have occurred, this change would have resulted in a foreign currency impact to our pre-tax income of approximately $6.6 million.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of September 30, 2025. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate, to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on the evaluation of our disclosure controls and procedures as of September 30, 2025, our Chief Executive Officer and our Chief Financial Officer have concluded, as of such date, that our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Rule 13a-15(f) of the Exchange Act. An evaluation was also performed under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of any change in our internal control over financial reporting that occurred during our last fiscal quarter and that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. That evaluation did not identify any change in our internal control over financial reporting that occurred during our latest fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are subject to legal proceedings and claims that arise in the ordinary course of our business. As of the date hereof, we believe that the final disposition of such matters will not have a material adverse effect on our financial position, results of operations or cash flows. We maintain liability insurance coverage to protect our assets from losses arising out of or involving activities associated with ongoing and normal business operations. See Note 14 – *Commitments and Contingencies* in the condensed consolidated financial statements.

Item 1A. *Risk Factors*

Below is a summary of the principal factors that make an investment in our common stock speculative or risky. This summary does not address all of the risks that we face. Additional discussion of the risks summarized in this risk factor summary, and other risks that we face, can be found immediately following the below summary, and should be carefully considered, together with other information in this Quarterly Report on Form 10-Q and our other filings with the SEC before making investment decisions regarding our common stock.

Summary Risk Factors

RISKS RELATED TO OUR BUSINESS

- The products that we or our collaboration partner are commercializing may only achieve a limited degree of commercial success.
- Manufacturing risks may adversely affect our ability to manufacture our products and Tyvaso DPI, which could reduce our gross margin and profitability.
- If our suppliers fail to deliver materials and services needed for commercial manufacturing in a timely and sufficient manner or fail to comply with applicable regulations, and if we fail to timely identify and qualify alternative suppliers, our business, financial condition and results of operations would be harmed and the market price of our common stock and other securities could decline.
- International trade policies, including tariffs, sanctions and trade barriers may adversely affect our business, financial condition, results of operations and prospects.
- If third-party payers do not cover our approved products, such products might not be prescribed, used or purchased, which would adversely affect our revenues.
- We may need to raise additional capital to fund our operations.
- If our data or our information technology systems, or those of third parties with whom we work, are or were compromised, we could experience adverse consequences resulting from such compromise, including but not limited to regulatory investigations or actions; litigation; fines and penalties; disruptions of our business operations; reputational harm; loss of revenue or profits; loss of customers or sales; and other adverse consequences.
- We expect that our results of operations will fluctuate for the foreseeable future, which may make it difficult to predict our future performance from period to period.
- We may incur losses and may not generate positive or sufficient cash flow from operations in the future which may have an adverse impact on our working capital, total assets and stockholders' equity and our ability to service all of our indebtedness and commitments.
- Continued testing of our products and product candidates may not yield successful results, and even if it does, we may still be unable to successfully commercialize our current or future products.
- If we do not achieve our projected development goals in the timeframes we expect, our business, financial condition and results of operations will be harmed and the market price of our common stock and other securities could decline.
- The long-term safety and efficacy of approved products may differ from clinical studies, which could negatively impact sales and could lead to reputational harm or other negative effects.
- Our products and product candidates may be rendered obsolete by rapid technological change.
- We may undertake internal restructuring activities in the future that could result in disruptions to our business or otherwise materially harm our results of operations or financial condition.

- Changes in funding or staffing for the FDA, the SEC and other government agencies could hinder their ability to hire and retain key leadership and other personnel, prevent new products and services from being developed or commercialized in a timely manner or otherwise prevent those agencies from performing normal functions on which the operation of our business may rely, which could negatively impact our business.
- The Blackstone Credit Facility contains restrictive covenants that may materially limit our operating flexibility. A default under the instruments governing our indebtedness, including the Blackstone Credit Facility, could materially and adversely affect our financial position.

RISKS RELATED TO GOVERNMENT REGULATION

- Our product candidates must undergo costly and time-consuming rigorous nonclinical and clinical testing and we must obtain regulatory approval prior to the sale and marketing of any product in each jurisdiction. The results of this testing or issues that develop in the review and approval by a regulatory agency may subject us to unanticipated delays or prevent us from marketing any products.
- If we do not comply with regulatory requirements at any stage, whether before or after marketing approval is obtained, we may be fined or forced to remove a product from the market, subject to criminal prosecution, or experience other adverse consequences, including restrictions or delays in obtaining regulatory marketing approval.
- We are subject to stringent, ongoing government regulation.
- If we or any partner fails to comply with federal and state healthcare laws, including fraud and abuse and health information laws, we could face substantial penalties and our business, results of operations, financial condition and prospects could be adversely affected.
- We and the third parties with whom we work are subject to stringent and evolving U.S. and foreign laws, regulations and rules, contractual obligations, industry standards, policies and other obligations related to data privacy and security. Our actual or perceived failure, or that of the third parties with whom we work, to comply with such obligations could lead to regulatory investigations or actions; litigation (including class claims) and mass arbitration demands; fines and penalties; disruptions of our business operations; reputational harm; loss of revenue or profits; loss of customers or sales; and other adverse business consequences.

RISKS RELATED TO OUR COMMON STOCK

- Our stock price is volatile.
- Future sales of shares of our common stock in the public market, or the perception that such sales may occur, may depress our stock price and adversely impact the market price of our common stock and other securities.

GENERAL RISK FACTORS

- Unstable market, economic and geopolitical conditions may have serious adverse consequences on our business, financial condition and stock price.

You should consider carefully the following information about the risks described below, together with the other information contained in this Quarterly Report on Form 10-Q before you decide to buy or maintain an investment in our common stock. We believe the risks described below are the risks that are material to us as of the date of this Quarterly Report. Additional risks and uncertainties that we are unaware of may also become important factors that affect us. The risk factors set forth below marked with an asterisk (*) did not appear as separate risk factors in, or contains changes to the similarly titled risk factors included in, Item 1A of the Annual Report. If any of the following risks actually occur, our business, financial condition, results of operations and future growth prospects would likely be materially and adversely affected. In these circumstances, the market price of our common stock could decline, and you may lose all or part of the money you paid to buy our common stock.

RISKS RELATED TO OUR BUSINESS

The products that we or our collaboration partner are commercializing may only achieve a limited degree of commercial success.*

Successful commercialization of therapeutic products is subject to many risks, including some that are outside our control. There are numerous examples of failures to fully exploit the market potential of therapeutic products, including by biopharmaceutical and device companies with more experience and resources than us. Products that we commercialize ourselves (including FUROSCIX and any products that we may develop or acquire in the future) and the product that is commercialized by our current collaboration partner (including future products that may be commercialized by a collaboration partner) may not gain market acceptance among physicians, patients, third-party payers and the healthcare community. The degree of market acceptance of our or a collaboration partner's products depends on many factors, including the following:

- approved labeling claims;
- effectiveness of efforts by us and/or any current or future collaboration or marketing partner to support and educate patients and physicians about the benefits and proper administration of our products, and the perceived advantages of our products and the disadvantages of competitive products;
- willingness of the healthcare community and patients to adopt new technologies or therapies;
- ability to manufacture the product in sufficient quantities with acceptable quality and cost;
- perception of patients and the healthcare community, including third-party payers, regarding the safety, efficacy and benefits compared to competing products or therapies;
- convenience and ease of administration relative to existing treatment methods;
- coverage and reimbursement, as well as pricing relative to other treatment therapeutics and methods; and
- marketing and distribution support.

Because of these and other factors, the products described above may not gain market acceptance or otherwise be commercially successful. Failure to achieve market acceptance would limit our ability to generate revenue and would adversely affect our results of operations. We and our current or any future collaboration partner may need to enhance our/their commercialization capabilities in order to successfully commercialize such products in the United States or any other jurisdiction in which such product is approved for commercial sale, and we or the collaboration partner may not have sufficient resources to do so.

In order to increase adoption and sales of our products, we need to continue to develop our commercial organization, including maintaining and growing a highly experienced and skilled workforce with qualified sales representatives.*

With the closing of our acquisition of scPharma, we now have two sales forces that promote our products to different target groups of physicians. In order to successfully commercialize our approved products, we must continue to build our sales, marketing, distribution, managerial and other commercial capabilities. The market for skilled commercial personnel is highly competitive, and we may not be able to hire all of the personnel we need on a timely basis or retain them for a sufficient period. Factors that may hinder our ability to successfully market and commercially distribute our products include:

- inability to recruit, retain and effectively manage adequate numbers of effective sales personnel;
- lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies that have more extensive product lines; and
- unforeseen delays, costs and expenses associated with maintaining our sales organization.

If we are unable to maintain effective sales forces for our products, including potential future products, we may not be able to generate sufficient product revenue in the United States. We are required to expend significant time and resources to train our sales forces to educate physicians about our products. In addition, we must continually train our sales forces and equip them with effective marketing materials to ensure that a consistent and appropriate message about our products is being delivered to our potential customers. We currently have limited resources compared to some of our competitors, and the continued development of our own commercial organization to market our products and any additional products we may develop or acquire will be expensive and time-consuming. We also cannot be certain that we will be able to continue to successfully develop this capability.

Similarly, if UT does not effectively engage or maintain its sales force for Tyvaso DPI, our ability to recognize royalties and manufacturing revenue from this collaboration will be adversely affected.

Manufacturing risks may adversely affect our ability to manufacture our products and Tyvaso DPI, which could reduce our gross margin and profitability.*

Afrezza and Tyvaso DPI are manufactured by us in our Danbury, Connecticut facility, where we assemble the inhalers from their individual molded parts, formulate the inhalation powders, fill plastic cartridges with the powders, package the cartridges into secondary packaging and assemble the final kits. If and when needed, we also utilize a contract packager to assemble final kits for commercial sale.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Manufacturers of pharmaceutical products often encounter difficulties in production, especially in scaling up production to commercial batch sizes. These problems include difficulties with production costs, capacity utilization and yields. We may also experience shortages of qualified personnel, which could impact our ability to meet manufacturing requirements. In addition, there is a need to comply with strictly enforced federal, state and foreign regulations, including inspections. Our facility is inspected on a regular basis by the FDA. If the FDA makes any major observations during future inspections, the corrective actions required could be onerous and time-consuming.

Any of these factors could cause us to delay or suspend production, could entail higher costs and may result in our being unable to obtain sufficient quantities for the commercialization of drug products at the costs that we currently anticipate. If we fail to deliver the required commercial quantities of the product on a timely basis, at commercially reasonable prices and at acceptable quality, and we were unable to promptly find on a timely basis one or more replacement manufacturers capable of production at a substantially equivalent cost, in substantially equivalent volume and quality, we would likely be unable to meet demand for such drug products and we would lose potential revenues.

As demand for our products increases, we may have to invest additional resources to purchase components, hire and train employees, and enhance our manufacturing processes. If we fail to increase our production capacity efficiently, our sales may not increase in line with our forecasts and our operating margins could fluctuate or decline. In addition, we may be unable to support commercialization of Tyvaso DPI.

Unlike Afrezza and Tyvaso DPI, which are assembled and formulated domestically, V-Go is wholly manufactured on our behalf by contract manufacturers located in China. Our contract manufacturer uses MannKind-owned, custom-designed, semi-automated manufacturing equipment and production lines to meet our quality requirements. Separate contract manufacturers in China perform release testing, sterilization, inspection and packaging functions. As a result, our V-Go business is subject to risks associated with doing business in China, including:

- adverse political and economic conditions, particularly those potentially negatively affecting the trade relationship between the United States and China;
- trade protection measures and import and export licensing and control requirements, although in July 2025, we received a ruling from U.S. Customs and Border Protection that V-Go qualifies for duty-free treatment under subheading 9817.00.96 of the Harmonized Tariff Schedule of the United States (“HTSUS”);
- potentially negative consequences from changes in tax laws;
- difficulties associated with the Chinese legal system, including increased costs and uncertainties associated with enforcing contractual obligations in China;
- historically lower protection of intellectual property rights;
- unexpected or unfavorable changes in regulatory requirements;
- changes and volatility in currency exchange rates;
- possible patient or physician preferences for more established pharmaceutical products and medical devices manufactured in the United States; and
- difficulties in managing foreign relationships and operations generally.

These risks may be exacerbated by our limited experience with V-Go and its manufacturing processes. If V-Go does not continue to qualify for duty-free treatment, any tariffs that apply to imported goods from China could materially and adversely affect our margins on V-Go sales.

Similarly, the drug formulation and device components of FUROSCIX are manufactured for us by third parties. In addition to the risks identified above, any future curtailment in the availability of materials could result in production or other delays with consequent

adverse effects on us. In addition, because regulatory authorities must generally approve raw material sources for pharmaceutical products, changes in raw material suppliers may result in production delays or higher raw material costs.

If our suppliers fail to deliver materials and services needed for commercial manufacturing in a timely and sufficient manner or fail to comply with applicable regulations, and if we fail to timely identify and qualify alternative suppliers, our business, financial condition and results of operations would be harmed and the market price of our common stock and other securities could decline.*

For the commercial manufacture of inhaled drug products, we need access to sufficient, reliable and affordable supplies of raw materials for formulating powders, such as FDKP, as well as other components, such as the inhaler and the related cartridges. For Afrezza, we also require a supply of insulin. Currently, the only source of insulin that we have qualified for Afrezza is manufactured by Amphastar. We must rely on all of our suppliers to comply with relevant regulatory and other legal requirements, including the production of insulin and FDKP in accordance with cGMP for drug products, and the molding of the inhaler and cartridges components in accordance with QSRs.

For certain other components, such as packaging materials, we obtain materials from a limited number of suppliers, including some parts and components that are purchased from single-source vendors. For outsourced products such as FUROSCIX and V-Go, this is also true for some of the components required by our contract manufacturers. Depending on a limited number of suppliers exposes us to risks, including limited control over pricing, availability, quality and delivery schedules. In addition, we do not have long-term supply agreements for such components and, in many cases, purchases are made on a purchase order basis. As a result, our suppliers have no obligation to manufacture for us or sell to us any given quantity of components. Because we do not have long-standing relationships with all of the suppliers in our supply chain, we may not be able to convince them to continue to make components available to us unless there is demand for such components from their other customers. If any one or more of our suppliers cease to provide us with sufficient quantities of components in a timely manner or on pricing and quality terms acceptable to us, we would have to seek alternative sources of supply. Because of factors such as the proprietary nature of our products, our quality control standards and regulatory requirements, we cannot quickly engage additional or replacement suppliers for some of our critical components.

In addition, materials sourced from suppliers located outside the United States have or may become subject to tariffs under U.S. trade policies. Although our current inventories of such materials are sufficient to meet our projected production levels for at least the next six months, our manufacturing costs may be impacted by any prevailing tariffs on imports at the time such materials enter the United States. Components made domestically from imported materials that are currently subject to tariffs are also expected to become more expensive in the future. These and any future tariffs will increase our cost of goods and decrease our operating margins.

We may also have difficulty obtaining similar components from other suppliers that meet the requirements of the FDA or other regulatory agencies. Although we conduct our own inspections and review and/or approve investigations of each supplier, there can be no assurance that the FDA, upon inspection, would find that the supplier substantially complies with the QSR or cGMP requirements, where applicable. If a supplier fails to comply with these requirements or the comparable requirements in foreign countries, regulatory authorities may subject us to regulatory action, including criminal prosecutions, fines and suspension of the manufacture of our products. If we are required to find a new or additional supplier, we will need to evaluate that supplier's ability to provide material that meets regulatory requirements, including cGMP or QSR requirements, as well as our specifications and quality requirements, which would require significant time and expense and could delay production.

As a result, our ability to purchase adequate quantities of the components for our products may be limited. Additionally, our suppliers may encounter problems that limit their ability to manufacture components for us, including financial difficulties or damage to their manufacturing equipment or facilities. In general, if any of our suppliers is unwilling or unable to meet its supply obligations or if we encounter delays or difficulties in our relationships with manufacturers or suppliers, and we are unable to secure an alternative supply source in a timely manner and on favorable terms, our business, financial condition, and results of operations may be harmed and the market price of our common stock and other securities may decline.

International trade policies, including tariffs, sanctions and trade barriers may adversely affect our business, financial condition, results of operations and prospects.*

We operate in a global economy, and our business depends on a global supply chain for the development, manufacturing, and distribution of our products, and for the advancement of our preclinical and clinical development programs. There is inherent risk, based on the complex relationships among the U.S. and the countries in which we conduct our business, that political, diplomatic, and national security factors can lead to global trade restrictions and changes in trade policies and export regulations that may adversely affect our business and operations. The current international trade and regulatory environment is subject to significant ongoing uncertainty.

Recent and potential future changes in international trade policies, particularly regarding U.S.-China trade relations and pharmaceutical-specific tariffs, present material risks to our operations and financial performance. While we manufacture Afrezza and Tyvaso DPI in our Danbury, Connecticut facility and our FUROSCIX contract manufacturers have domestic operations, we and our suppliers must obtain raw materials, chemicals, device components, and specialized equipment from international sources. In addition, V-Go is manufactured for us by contract manufacturers in China, although this product is currently eligible for duty-free treatment under a specific exemption in the HTSUS.

Unlike many industries, our ability to pass increased costs to customers is limited by the structure of pharmaceutical and medical device pricing and reimbursement systems. Pricing for our products is established through annual or multi-year contracts with commercial, third-party payors and pharmacy benefit managers, customers, and group purchasing organizations, and reimbursement methodologies established by government programs, such as Medicare. These arrangements typically include fixed pricing terms that were negotiated prior to the implementation of the recently announced tariffs. As a result, and depending on the timing and scope of the implementation of these tariffs, cost increases due to tariffs may be difficult or impossible to pass through to customers until the next negotiation cycle, which could be up to 36 months away.

Current or future tariffs will also result in increased manufacturing expense, as well as research and development expenses, including with respect to increased costs associated with APIs, raw materials, laboratory equipment and research materials and components. Trade restrictions affecting the import of materials necessary for clinical trials could result in delays to our development timelines. Increased development costs and extended development timelines could place us at a competitive disadvantage compared to companies operating in regions with more favorable trade relationships and could reduce investor confidence and negatively impact our business, results of operations, financial condition and growth prospects.

Trade disputes, tariffs, restrictions and other political tensions between the United States and other countries may also exacerbate unfavorable macroeconomic conditions including inflationary pressures, foreign exchange volatility, financial market instability, and economic recessions or downturns. The ultimate impact of current or future tariffs and trade restrictions remains uncertain and could materially and adversely affect our business, financial condition, and prospects. While we actively monitor these risks, any prolonged economic downturn, escalation in trade tensions, or deterioration in international perception of U.S.-based companies could materially and adversely affect our business, ability to access the capital markets or other financing sources, results of operations, financial condition and prospects.

Our royalty revenue and results of operations may also be adversely impacted if our marketing and collaboration partner, United Therapeutics, is adversely impacted by any of the factors described above.

In addition, tariffs and other trade developments have and may continue to heighten the risks related to the other risk factors described elsewhere in this report.

If third-party payers do not cover our approved products, such products might not be prescribed, used or purchased, which would adversely affect our revenues.*

In the United States and elsewhere, sales of prescription pharmaceuticals depend in large part on the availability of coverage and adequate reimbursement to the consumer from third-party payers, such as government health administration authorities and private insurance plans. In general, patients are less likely to use our products unless coverage is provided and reimbursement is adequate to cover a significant portion of the cost of our products. Third-party payers are increasingly challenging the prices charged for medical products and services. The market for our approved products depends significantly on access to third-party payers' formularies, which are the lists of medications and devices for which third-party payers provide coverage and reimbursement. The industry competition to be included in such formularies often leads to downward pricing pressures on pharmaceutical and device companies. Also, third-party payers may refuse to include a particular branded product in their formularies or otherwise restrict patient access to a branded product when a less costly generic equivalent or other alternative is available. Because each third-party payer individually approves coverage and reimbursement levels, obtaining coverage and adequate reimbursement is a time-consuming and costly process. We may be required to provide scientific and clinical support for the use of any product to each third-party payer separately with no assurance that approval would be obtained. Even if favorable coverage and reimbursement status is attained from some payers for our products, less favorable coverage policies and reimbursement rates may be implemented in the future. Such less favorable coverage could impact the market acceptance of any product and could have a negative effect on our revenues and operating results. Even if we succeed in bringing more products to market, we cannot be certain that any such products would be considered cost-effective or that coverage and adequate reimbursement to the consumer would be available.

Our future revenues and ability to generate positive cash flow from operations may be affected by the continuing efforts of government and other third-party payers to contain or reduce the costs of healthcare through various means. In the United States, there have been several congressional inquiries and proposed and enacted federal and state legislation designed to, among other things,

bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products. For example, the Inflation Reduction Act of 2022 ("IRA") limited insulin copays to $35 per month for Medicare Part D beneficiaries starting in 2023. In certain foreign markets, the pricing of prescription pharmaceuticals is subject to direct governmental control. The European Union provides options for its member states to restrict the range of medicinal products for which their national health insurance systems provide reimbursement and to control the prices of medicinal products for human use. A member state may approve a specific price for the medicinal product or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the medicinal product on the market.

If we or any collaboration partner is unable to obtain and maintain coverage of, and adequate third-party reimbursement for, our approved products, physicians may limit how much or under what circumstances they will prescribe or administer them and patients may decline to purchase them. This in turn could affect our or any collaboration partner's ability to successfully commercialize such products and would impact our profitability, results of operations, financial condition, and prospects.

We may not realize the anticipated benefits of the scPharma acquisition or any future acquisition or strategic transaction; we may be unable to successfully integrate new products, technologies or businesses we acquire.*

In October 2025, we acquired scPharma as part of a strategy of assessing potential strategic acquisitions, dispositions, partnerships and other strategic transactions. We expect to continue this strategy by periodically evaluating and pursuing acquisition of companies, therapeutic products, product candidates and technologies. The integration of any acquired business, product, technology or other assets into our company may be complex and time-consuming and, if such businesses, products, technologies or assets are not successfully integrated, we may not achieve the anticipated benefits, cost-savings or growth opportunities. Potential difficulties that may be encountered in the integration process include the following:

- unanticipated liabilities related to acquired assets, companies or joint ventures;
- integrating personnel, operations and systems, while maintaining focus on producing and delivering consistent, high quality products;
- coordinating geographically dispersed organizations;
- diversion of management time and focus from operating our business to management of strategic alliances or joint ventures or acquisition integration challenges;
- retention of key employees;
- increases in our expenses and reductions in our cash available for operations and other uses;
- retaining existing customers and attracting new customers;
- managing inefficiencies associated with integrating the operations of our company; and
- possible write-offs or impairment charges relating to acquired assets, businesses or joint ventures.

Furthermore, these acquisitions and other arrangements, even if successfully integrated, may fail to further our business strategy as anticipated, expose us to increased competition or challenges with respect to our products or geographic markets, and expose us to additional liabilities or restructuring costs associated with an acquired business, product, technology or other asset or arrangement. In particular, the scPharma acquisition may have a potentially adverse effect on our net debt and liquidity position as a result of all or a portion of an acquisition purchase price being paid in cash and may significantly increase our interest expense, leverage and debt service requirements because we incurred debt to pay for the acquisition. Any one of these challenges or risks could impair our ability to realize any benefit from our acquisitions or arrangements after we have expended resources on them. Future acquisitions or dispositions could also result in potentially dilutive issuances of our equity securities, the incurrence of debt, contingent liabilities or amortization expenses or write-offs of goodwill, any of which could harm our financial condition.

We may need to raise additional capital to fund our operations.*

We may need to raise additional capital, whether through the sale of equity or debt securities, additional strategic business collaborations, the establishment of other funding facilities, licensing arrangements, asset sales or other means, in order to support our ongoing activities, including the commercialization of our products and the development of our product candidates. It may be difficult for us to raise additional funds on favorable terms, or at all. The extent of our additional funding requirements will depend on a number of factors, including:

- the degree to which we are able to generate revenue from products that we or a collaboration partner commercialize;
- the costs of developing and commercializing our products;

- the demand by any or all of the holders of our senior convertible notes to require us to repay or repurchase such debt securities if and when required;
- our ability to repay or refinance existing indebtedness, and the extent to which our senior convertible notes or any other convertible debt securities we may issue are converted into or exchanged for shares of our common stock;
- the rate of progress and costs of our clinical studies and R&D activities;
- the costs of procuring raw materials and operating our manufacturing facility;
- our success in establishing additional strategic business collaborations or other sales or licensing of assets, and the timing and amount of any payments we might receive from any such transactions;
- actions taken by the FDA and other regulatory authorities affecting Afrezza, V-Go, Tyvaso DPI, FUROSCIX, our product candidates or competitive products;
- the emergence of competing technologies and products and other market developments;
- the costs of preparing, filing, prosecuting, maintaining and enforcing patent claims and other intellectual property rights or defending against claims of infringement by others;
- the level of our legal and litigation expenses; and
- the costs of discontinuing projects and technologies, and/or decommissioning existing facilities, if we undertake any such activities.

We have raised capital in the past through borrowings and the sale of equity and debt securities and the sale of certain assets. In the future, we may pursue the sale of additional equity, debt securities and/or assets, or the establishment of other funding facilities including asset-based borrowings. There can be no assurances, however, that we will be able to raise additional capital in the future on acceptable terms, or at all. Volatility and disruptions of the global supply chain and financial markets, if sustained or recurrent, could prevent us or make it more difficult for us to access capital.

Issuances of additional debt or equity securities or the issuance of common stock upon conversion of outstanding convertible debt securities for shares of our common stock could impact the rights of the holders of our common stock and will dilute their ownership percentage. Moreover, the establishment of other funding facilities may impose restrictions on our operations. These restrictions could 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 may also raise additional capital by pursuing opportunities for the licensing or sale of certain intellectual property and other assets. We cannot offer assurances, however, that any strategic collaboration, sales of securities or sales or licenses of assets will be available to us on a timely basis or on acceptable terms, if at all. We may be required to enter into relationships with third parties to develop or commercialize products or technologies that we otherwise would have sought to develop independently, and any such relationships may not be on terms as commercially favorable to us as might otherwise be the case.

In the event that sufficient additional funds are not obtained through strategic collaboration opportunities, sales of securities, funding facilities, licensing arrangements, borrowing arrangements and/or asset sales on a timely basis, we may be required to reduce expenses through the delay, reduction or curtailment of our projects, or further reduction of costs for facilities and administration.

We cannot provide assurances that changed or unexpected circumstances will not result in the depletion of our capital resources more rapidly than we currently anticipate. There can be no assurances that we will be able to raise additional capital in sufficient amounts or on favorable terms, or at all. If we are unable to raise adequate additional capital when required or in sufficient amounts or on terms acceptable to us, we may have to delay, scale back or discontinue one or more product development programs, curtail our commercialization activities, significantly reduce expenses, sell assets (potentially at a loss), enter into relationships with third parties to develop or commercialize products or technologies that we otherwise would have sought to develop or commercialize independently, cease operations altogether, pursue an acquisition of our company at a price that may result in up to a total loss on investment for our stockholders, file for bankruptcy or seek other protection from creditors, or liquidate all of our assets.

If our data or information technology systems, or those of third parties with whom we work, are or were compromised, we could experience adverse consequences resulting from such compromise, including but not limited to regulatory investigations or actions; litigation; fines and penalties; disruptions of our business operations; reputational harm; loss of revenue or profits; loss of customers or sales; and other adverse consequences.

We, and third parties with whom we work, employ and are increasingly dependent upon information technology systems, infrastructure, applications, websites and other resources. Our business, and that of the third parties with whom we work, requires collecting, receiving, manipulating, analyzing, storing, processing, generating, using, disclosing, protecting, securing, transmitting,

sharing, disposing of, and making accessible (collectively "processing") large amounts of data, including proprietary, confidential and sensitive data (such as personal or health-related data), intellectual property, and trade secrets (collectively, "sensitive information"). As a result, we and the third parties with whom we work face a variety of evolving threats that could cause security incidents.

Cyber-attacks, malicious internet-based activity, online and offline fraud and other similar activities threaten the confidentiality, integrity, and availability of our sensitive information and information technology systems, and those of the third parties with whom we work. Such threats are prevalent and continue to increase, are increasingly difficult to detect, and come from a variety of sources, including traditional computer "hackers," threat actors "hacktivists," organized criminal threat actors, personnel (such as through theft or misuse), sophisticated nation-states, and nation-state-supported actors. Some actors now engage and are expected to continue to engage in cyber-attacks, including without limitation nation-state actors, for geopolitical reasons and in conjunction with military conflicts and defense activities. During times of war and other major conflicts, we and the third parties with whom we work may be vulnerable to a heightened risk of these attacks, including retaliatory cyber-attacks, that could materially disrupt our systems and operations, supply chain, and ability to produce, sell and distribute our goods and services. We and the third parties with whom we work may be subject to physical threats, such as telecommunications failures, earthquakes, fires or floods, as well as a variety of evolving threats, including but not limited to social-engineering attacks (including through deep fakes, which may be increasingly more difficult to identify as fake, and phishing attacks), malicious code (such as viruses and worms), malware (including as a result of advanced persistent threat intrusions), denial-of-service attacks (such as credential stuffing), credentials harvesting, personnel misconduct or error, ransomware attacks, supply-chain attacks, software bugs, server malfunctions, software or hardware failures, loss of data or other information technology assets, adware, attacks enhanced or facilitated by artificial intelligence, and other similar threats. Ransomware attacks, including by organized criminal threat actors, nation-states, and nation-state-supported actors, are becoming increasingly prevalent and severe and can lead to significant interruptions in our operations, loss of data and income, reputational harm, and diversion of funds. Extortion payments may alleviate the negative impact of a ransomware attack, but we may be unwilling or unable to make such payments due to, for example, applicable laws or regulations prohibiting such payments. Some of our workforce works remotely, which also poses increased risks to our information technology systems and data, as employees working from home, in transit or in public locations, utilize network connections, computers and devices outside our premises or network. Future or past business transactions (such as acquisitions or integrations) could expose us to additional cybersecurity risks and vulnerabilities, as our systems could be negatively affected by vulnerabilities present in acquired or integrated entities' systems and technologies. Furthermore, we may discover security issues that were not found during due diligence of such acquired or integrated entities, and it may be difficult to integrate companies into our information technology environment and security program.

We rely on third parties and technologies to operate critical business systems to process sensitive information in a variety of contexts, including, without limitation, cloud-based infrastructure, data center facilities, encryption and authentication technology, employee email and productivity software, and other functions. We also rely on third-party service providers to provide other products or services, or otherwise to operate our business. Our business, including our ability to manufacture drug products and conduct clinical trials, therefore depends on the continuous, effective, reliable and secure operation of our information technology resources and those of third parties with whom we work, including computer hardware, software, networks, Internet servers and related infrastructure. Our ability to monitor these third parties' information security practices is limited, and these third parties may not have adequate information security measures in place. If our third-party service providers experience a security incident or other interruption, we could experience adverse consequences. In particular, supply-chain attacks have increased in frequency and severity, and we cannot guarantee that third parties and infrastructure in our supply chain or our third-party partners' supply chains have not been compromised or that they do not contain exploitable defects or bugs that could result in a breach of or disruption to our information technology systems (including our products) or the third-party information technology systems that support us and our services. While we may be entitled to damages if our third-party service providers fail to satisfy their privacy or security-related obligations to us, any award may be insufficient to cover our damages, or we may be unable to recover such award.

While we have implemented security measures designed to protect against security incidents, there can be no assurance that these measures will be effective. We take steps designed to detect, mitigate and remediate vulnerabilities in our information technology systems (such as our hardware and/or software, including that of third parties with whom we work), but we may not be able to detect, mitigate, and remediate all such vulnerabilities on a timely basis. It may also be difficult and/or costly to detect, investigate, mitigate, contain, and remediate a security incident. Further, we may experience delays in developing and deploying remedial measures and patches designed to address identified vulnerabilities, which could be exploited and result in a security incident. Actions taken by us or the third parties with whom we work to detect, investigate, mitigate, contain, and remediate a security incident could result in outages, data losses, and disruptions of our business. Threat actors may also gain access to other networks and systems after a compromise of our networks and systems. A security incident or other interruption could disrupt our ability (and that of third parties with whom we work) to provide our products. We may expend significant resources or modify our business activities (including our clinical trial activities) to try to protect against security incidents. Certain data privacy and security obligations have required us to implement and maintain specific security measures, industry-standards or reasonable security measures to protect our information technology systems and sensitive information.

Any of the previously identified or similar threats could cause a security incident or other interruption that could result in unauthorized, unlawful, or accidental acquisition, modification, destruction, loss, alteration, encryption, disclosure of, or access to our

sensitive information or our information technology systems, or those of the third parties with whom we work. For example, although we have not directly experienced a cyberattack, third parties with whom we work have experienced security incidents, such as the SolarWinds attack in December 2020, the ransomware attack on Kronos Private Cloud in December 2021 and the Change Healthcare data breach in February 2024. In all of these cases, we were able to apply software patches or move operations to a new provider in order to avoid any negative impact on our operations or the sensitive information we may process. Nonetheless, these incidents illustrate that despite our efforts to identify and remediate vulnerabilities, if any, in our information technology systems and those of third parties with whom we work, our efforts may not be successful.

Applicable data privacy and security obligations may require us, or we may voluntarily choose, to notify relevant stakeholders, including affected individuals, customers, regulators, and investors, of security incidents, or to take other actions, such as providing credit monitoring and identify theft protection services. Such disclosures and related actions can be costly, and the disclosures or the failure to comply with such applicable requirements could lead to adverse consequences. If we (or a third party with whom we work) experience a security incident or are perceived to have experienced a security incident, we may experience material adverse consequences. These consequences may include: government enforcement actions (for example, investigations, fines, penalties, audits, and inspections); additional reporting requirements and/or oversight; restrictions on processing sensitive information (including personal data); litigation (including class claims); indemnification obligations; negative publicity; reputational harm; monetary fund diversions; diversion of management attention; interruptions in our operations (including availability of data); financial loss; and other similar harms. Security incidents and material attendant consequences may cause customers to stop using our products, deter new customers from using our products, and negatively impact our ability to grow and operate our business. Additionally, our contracts may not contain limitations of liability, and even where they do, there can be no assurance that limitations of liability in our contracts are sufficient to protect us from liabilities, damages, or claims related to our data privacy and security obligations. We cannot be sure that our cybersecurity insurance coverage will be adequate or sufficient to protect us from or to mitigate liabilities arising out of our privacy and security practices, that such coverage will continue to be available on commercially reasonable terms or at all, or that such coverage will pay future claims.

In addition to experiencing a security incident, third parties may gather, collect, or infer sensitive information about us from public sources, data brokers, or other means that reveals competitively sensitive details about our organization and could be used to undermine our competitive advantage or market position. Sensitive information of the Company or our customers could also be leaked, disclosed, or revealed as a result of or in connection with the use of generative artificial intelligence ("AI") technologies by our employees, personnel or vendors.

We expect that our results of operations will fluctuate for the foreseeable future, which may make it difficult to predict our future performance from period to period.

Our operating results have fluctuated in the past and are likely to do so in future periods. Some of the factors that could cause our operating results to fluctuate from period to period include the factors that will affect our funding requirements described above under "Risk Factors – We may need to raise additional capital to fund our operations." In addition, the current inflationary environment related to increased aggregate demand and supply chain constraints has the potential to adversely affect our operating expenses.

We believe that comparisons from period to period of our financial results are not necessarily meaningful and should not be relied upon as indications of our future performance.

The Blackstone Credit Facility contains restrictive covenants that may materially limit our operating flexibility. A default under the instruments governing our indebtedness, including the Blackstone Credit Facility, could materially and adversely affect our financial position.*

The Blackstone Credit Facility requires us, and any debt arrangements we may enter into in the future may require us, to comply with various covenants that limit our ability to, among other things:

- dispose of assets;
- complete mergers or acquisitions;
- incur indebtedness or modify existing debt agreements;
- sell royalties or revenue interests;
- amend or modify certain material agreements;
- engage in additional lines of business;
- encumber assets;

- pay dividends or make other distributions to holders of our capital stock;
- make specified investments;
- change certain organizational documents; and
- engage in transactions with our affiliates.

In addition, the Blackstone Credit Facility requires us to maintain at least $40.0 million of liquidity, tested quarterly, with liquidity defined as our unrestricted cash and cash equivalents held in collateral accounts of the lenders. The covenants in the Blackstone Credit Facility could prevent us from pursuing business opportunities that we or our stockholders may consider beneficial.

Our obligations under the Blackstone Credit Facility are guaranteed by each of our subsidiaries and any future subsidiaries, subject to limited exceptions, and are secured by a security interest in substantially all of our and the subsidiary guarantors' assets, including intellectual property. A breach of any of these covenants could result in an event of default under the Blackstone Credit Facility. If we default under our obligations under the Blackstone Credit Facility, the lenders could proceed against the collateral granted to them to secure our indebtedness or declare all obligations under the Blackstone Credit Facility to be due and payable. In certain circumstances, procedures by the lenders could result in a loss by us of all of our equipment and inventory, which are included in the collateral granted to the lenders. In addition, upon any distribution of assets pursuant to any liquidation, insolvency, dissolution, reorganization or similar proceeding, the holders of secured indebtedness will be entitled to receive payment in full from the proceeds of the collateral securing our secured indebtedness before the holders of other indebtedness or our common stock will be entitled to receive any distribution with respect thereto.

There can be no assurance that we will have sufficient resources to make any required repayments of principal and interest under the terms of our indebtedness when required. If we fail to pay interest on the Blackstone Credit Facility when required or principal at maturity, we will be in default and may also suffer an event of default under the terms of other borrowing arrangements that we may enter into from time to time. In addition, a default under our senior convertible notes would constitute an event of default under the Blackstone Credit Facility. Any of these events could have a material adverse effect on our business, results of operations and financial condition, up to and including lenders initiating bankruptcy proceedings or causing us to cease operations altogether.

We may incur losses and may not generate positive or sufficient cash flow from operations in the future which may have an adverse impact on our working capital, total assets and stockholders' equity and our ability to service all of our indebtedness and commitments.*

Our ability to achieve and sustain positive cash flow from operations and profitability depends heavily upon successfully commercializing our products, and although we had positive cash flows from operations and net income in the year ended December 31, 2024, we may not continue to generate positive cash flow from operations or be profitable in the future. In addition, we cannot assure you that we will maintain a level of cash flows from operating activities sufficient to permit us to make scheduled payments on our insulin purchase commitments and debt obligations. If our cash flows and capital resources are insufficient to fund our obligations, we may be forced to reduce or delay capital expenditures, sell assets or operations, seek additional capital or restructure or refinance our obligations. In the past, we have had losses that have had, and we may in the future have losses that have, an adverse impact on our working capital, total assets and stockholders' equity.

As of September 30, 2025, we had an accumulated deficit of $3.2 billion. The accumulated deficit has resulted principally from costs incurred in our R&D programs, the write-off of assets (including goodwill, inventory and property, plant and equipment) and general operating expenses. We expect to make substantial expenditures and may incur operating losses in the future in order to continue commercializing our products and to advance development of product candidates in our pipeline.

In addition, we may from time to time seek to retire or purchase our outstanding debt through cash purchases and/or exchanges for equity securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual restrictions, and other factors. For example, in December 2024, we exchanged an aggregate principal amount of approximately $193.7 million of our senior convertible notes for 26,749,559 shares of our common stock and a cash payment of approximately $89.2 million. We may seek to retire or purchase the remaining senior convertible notes. The amounts involved in any such transactions, individually or in the aggregate, may be material. Further, any such purchases or exchanges may result in us acquiring and retiring a substantial amount of such indebtedness, which could impact the trading liquidity of such indebtedness.

Our business, product sales, results of operations and ability to access capital could be adversely affected by the effects of health pandemics or epidemics, in regions where we or third parties distribute our products or where we or third parties on which we rely have significant manufacturing facilities, concentrations of clinical trial sites or other business operations.

Our business could be adversely affected by the effects of health pandemics or epidemics in regions where we have business operations, and we could experience significant disruptions in the operations of third-party manufacturers and distributors upon whom we rely. For example, sales and demand for Afrezza were adversely affected by the global COVID-19 pandemic, and future pandemics or epidemics could adversely affect the demand for and sales of our products in the future. Quarantines, shelter-in-place and similar government orders, or the perception that such orders, shutdowns or other restrictions on the conduct of business operations could occur, related to infectious diseases, could impact personnel at third-party manufacturing facilities in the United States and other countries, or the availability or cost of materials, which would disrupt our supply chain. In addition, our contract manufacturers in China could be impacted by that country's policy of strict lockdowns in order to reduce the spread of disease. Disruptions in sales and demand for our products would be expected to occur:

- if patients are physically quarantined or are unable or unwilling to visit healthcare providers,
- if physicians restrict access to their facilities for a material period of time,
- if healthcare providers prioritize treatment of acute or communicable illnesses over chronic disease management,
- if pharmacies are closed or suffering supply chain disruptions,
- if patients lose access to employer-sponsored health insurance due to periods of high unemployment, or
- as a result of general disruptions in the operations of payers, distributors, logistics providers and other third parties that are necessary for our products to be prescribed and reimbursed.

Clinical trials of our products were delayed as a result of the COVID-19 pandemic and may be affected by a future health pandemic or epidemic. Clinical site initiation and patient enrollment may be delayed due to prioritization of hospital resources toward the health pandemic or epidemic. Some patients may not be able or willing to comply with clinical trial protocols if quarantines impede patient movement or interrupt healthcare services. Similarly, our ability to recruit and retain patients and principal investigators and site staff would adversely impact our clinical trial operations.

A pandemic or epidemic also has the potential for disruption of global financial markets. This disruption, if sustained or recurrent, could make it more difficult for us to access capital, which could negatively affect our liquidity. In addition, a recession or market correction as a result of a health pandemic or epidemic could materially affect our business and the value of our common stock.

If we do not obtain regulatory approval of our products in foreign jurisdictions, we will not be able to market in such jurisdictions, which could limit our commercial revenues. We may not be able to establish additional regional partnerships or other arrangements with third parties for the commercialization of our products outside of the United States.*

Afrezza has been approved in the United States, Brazil and India, but we have not yet obtained approval in any other jurisdiction. V-Go has received 510(k) clearance from the FDA, but has not received a comparable approval in any other country. Similarly, FUROSCIX is approved only in the United States. In order to market our products in a foreign jurisdiction, we must obtain regulatory approval in each such foreign jurisdiction, and we may never be able to obtain such approvals. The research, testing, manufacturing, labeling, sale, import, export, marketing, and distribution of therapeutic products outside the United States are subject to extensive regulation by foreign regulatory authorities, whose regulations differ from country to country. We will be required to comply with the different regulations and policies of the jurisdictions where we seek approval for our products, and we have not yet identified all of the requirements that we will need to satisfy to submit our products for approval for other jurisdictions. This will require additional time, expertise and expense, including the potential need to conduct additional studies or development work for other jurisdictions beyond the work that we have conducted to support the approval of our products in the United States.

Our current strategy for the future commercialization of our products outside of the United States, subject to receipt of the necessary regulatory approvals, is to seek, establish and maintain regional partnerships in foreign jurisdictions where there are commercial opportunities. It may be difficult to find or maintain collaboration partners that are able and willing to devote the time and resources necessary to successfully commercialize our products. Collaborations with third parties may require us to relinquish material rights, including revenue from commercialization, agree to unfavorable terms or assume material ongoing development obligations that we would have to fund. These collaboration arrangements are complex and time-consuming to negotiate, and if we are unable to reach agreements with third-party collaborators, we may fail to meet our business objectives and our financial condition may be adversely affected. We may also face significant competition in seeking collaboration partners, and may not be able to find a suitable collaboration partner in a timely manner on acceptable terms, or at all. Any of these factors could cause delay or prevent the successful commercialization of our products in foreign jurisdictions and could have a material and adverse impact on our business, financial condition and results of operations and the market price of our common stock and other securities could decline.

Continued testing of our products and product candidates may not yield successful results, and even if it does, we may still be unable to successfully commercialize our current or future products.

We have generally sought to develop product candidates through our internal research programs. All product candidates require preclinical, clinical and other testing prior to seeking regulatory approval to market them. Accordingly, the development timelines for product candidates can stretch over many years. Further research and development on these programs requires significant financial resources. Given our limited financial resources, we may not be able to complete the full clinical development of our product candidates unless we are able to obtain specific funding for these programs or enter into collaborations with third parties.

Our research and development programs are designed to test the safety and efficacy of our product candidates through extensive nonclinical and clinical testing. We may experience numerous unforeseen events during, or as a result of, the testing process that could delay or impact commercialization of any of our product candidates, including the following:

- safety and efficacy results obtained in our nonclinical and early clinical testing may be inconclusive or may not be predictive of results that we may obtain in our future clinical studies or following long-term use, and we may as a result be forced to stop developing a product candidate or alter the marketing of an approved product;
- the analysis of data collected from clinical studies of our products and product candidates may not reach the statistical significance necessary, or otherwise be sufficient to support FDA or other regulatory approval for the claimed indications;
- after reviewing clinical data, we or any collaborators may abandon projects that we previously believed were promising;
- our product candidates may not produce the desired effects or may result in adverse health effects or other characteristics that preclude regulatory approval or limit their commercial use once approved; and
- disruptions caused by geopolitical conflicts, man-made or natural disasters or public health pandemics or epidemics or other business interruptions.

As a result of any of these events, we, any collaborator, the FDA, or any other regulatory authorities may suspend or terminate clinical studies or marketing of any of our products or product candidates at any time. Any suspension or termination of our clinical studies or marketing activities may harm our business, financial condition and results of operations and the market price of our common stock and other securities may decline.

If we do not achieve our projected development goals in the timeframes we expect, our business, financial condition and results of operations will be harmed and the market price of our common stock and other securities could decline.

For planning purposes, we estimate the timing of the accomplishment of various scientific, clinical, regulatory and other product development goals, which we sometimes refer to as milestones. These milestones may include the commencement or completion of scientific studies and clinical studies and the submission of regulatory filings. From time to time, we publicly announce the expected timing of some of these milestones. All of these milestones are based on a variety of assumptions. The actual timing of the achievement of these milestones can vary dramatically from our estimates, in many cases for reasons beyond our control, depending on numerous factors, including:

- the rate of progress, costs and results of our clinical studies and preclinical research and development activities;
- our ability to identify and enroll patients who meet clinical study eligibility criteria;
- our ability to access sufficient, reliable and affordable supplies of components used in the manufacture of our product candidates or to source clinical supplies from contract manufacturers;
- the costs of expanding and maintaining manufacturing operations, as necessary;
- the extent to which our clinical studies compete for clinical sites and eligible subjects with clinical studies sponsored by other companies;
- actions by regulators; and
- disruptions caused by geopolitical conflicts, man-made or natural disasters or public health pandemics or epidemics or other business interruptions.

If we fail to commence or complete, or experience delays in or are forced to curtail, our proposed development programs or otherwise fail to adhere to our projected development goals in the timeframes we expect (or within the timeframes expected by analysts or investors), our business, financial condition and results of operations may be harmed and the market price of our common stock and other securities may decline. In addition, we may be delayed or prevented from generating revenues from milestone or other payments that depend on our ability to achieve any milestone obligations specified in an out-licensing arrangement.

The long-term safety and efficacy of approved products may differ from clinical studies, which could negatively impact sales and could lead to reputational harm or other negative effects.

The effects of approved therapeutic products over terms longer than the clinical studies or in much larger populations may not be consistent with earlier clinical results. If long-term use of an approved therapeutic product results in adverse health effects or reduced efficacy or both, the FDA or other regulatory agencies may terminate our or any collaboration partner's ability to market and sell the product, may narrow the approved indications for use or otherwise require restrictive product labeling or marketing, or may require further clinical studies, which may be time-consuming and expensive and may not produce favorable results.

V-Go received pre-market clearance in 2010 under Section 510(k) of the U.S. Federal Food, Drug, and Cosmetic Act ("FDCA"). This process typically requires the submission of less supporting documentation than other FDA approval processes and does not always require long-term clinical studies. As a result, we currently lack significant published long-term clinical data supporting the safety and efficacy of V-Go and the benefits it offers that might have been generated in connection with other approval processes. For these reasons, adults who require insulin and their healthcare providers may be slower to adopt or recommend V-Go, we may not have comparative data that our competitors have or are generating, and third-party payers may not be willing to provide coverage or reimbursement for V-Go. Further, future studies or clinical experience may indicate that treatment with V-Go is not superior to treatment with competitive products. Such results could slow the adoption of V-Go and significantly reduce our sales, which could prevent us from achieving our forecasted sales targets or achieving or sustaining profitability. Moreover, if future results and experience indicate that V-Go causes unexpected or serious complications or other unforeseen negative effects, we could be subject to mandatory product recalls, suspension or withdrawal of FDA clearance or approval, significant legal liability or harm to our business reputation.

Our products and product candidates may be rendered obsolete by rapid technological change.

The rapid rate of scientific discoveries and technological changes could result in our approved products or one or more of our product candidates becoming obsolete or noncompetitive. Our competitors may develop or introduce new products that render our technology or products less competitive, uneconomical or obsolete. Our future success may depend not only on our ability to develop our product candidates, but also our ability to improve them in order to keep pace with emerging industry developments. We cannot assure you that we will be able to do so.

We also expect to face competition from universities and other non-profit research organizations. These institutions carry out a significant amount of research and development in various areas of unmet medical need. These institutions are becoming increasingly aware of the commercial value of their findings and are more active in seeking patent and other proprietary rights as well as licensing revenues.

Reports of side effects or safety concerns in related technology fields or in other companies' clinical studies could delay or prevent us from obtaining regulatory approval for our product candidates or negatively impact public perception of our approved products.

There are a number of clinical studies being conducted by other pharmaceutical companies involving compounds similar to, or potentially competitive with, our product candidates. Adverse results reported by these other companies in their clinical studies or by companies that use our proprietary formulation and inhaler technologies could delay or prevent us from obtaining regulatory approval, may subject our products to class warnings in their labels or negatively impact public perception of our product candidates, which could harm our business, financial condition and results of operations and cause the market price of our common stock and other securities to decline.

If product liability claims are brought against us, we may incur significant liabilities and suffer damage to our reputation.*

The testing, manufacturing, marketing and sales of our products and any clinical testing of our product candidates expose us to potential product liability claims. A product liability claim may result in substantial judgments as well as consume significant financial and management resources and result in adverse publicity, decreased demand for a product, injury to our reputation, withdrawal of clinical studies volunteers and loss of revenues. We currently carry worldwide product liability insurance in the amount of $10.0 million as well as other liability policies. Our insurance coverage may not be adequate to satisfy any liability that may arise, and because insurance coverage in our industry can be very expensive and difficult to obtain, we cannot assure you that we will seek to obtain, or be able to obtain if desired, sufficient additional coverage. If losses from such claims exceed our liability insurance coverage, we may incur substantial liabilities that we may not have the resources to pay. If we are required to pay a product liability claim our business, financial condition and results of operations would be harmed and the market price of our common stock and other securities may decline.

If we lose any key employees, our operations and our ability to execute our business strategy could be materially harmed.

We face intense competition for qualified employees among companies in the biotechnology and biopharmaceutical industries. Our success depends upon our ability to attract, retain and motivate highly skilled employees. We may be unable to attract and retain these individuals on acceptable terms, if at all. In addition, we may be required to expand our workforce. These activities will require the addition of new personnel, including management, and the development of additional expertise by existing personnel, and we cannot assure you that we will be able to attract or retain any such new personnel on acceptable terms, if at all.

The loss of the services of any principal member of our management, commercial and scientific staff could significantly delay or prevent the achievement of our scientific and business objectives. All of our employees are "at will" and we currently do not have employment agreements with any of the principal members of our management, commercial or scientific staff, and we do not have key person life insurance to cover the loss of any of these individuals. Replacing key employees may be difficult and time-consuming because of the limited number of individuals in our industry with the skills and experience required to develop, gain regulatory approval of and commercialize products successfully.

If our internal controls over financial reporting are not considered effective, our business, financial condition and market price of our common stock and other securities could be adversely affected.

Section 404 of the Sarbanes-Oxley Act of 2002 requires us to evaluate the effectiveness of our internal controls over financial reporting as of the end of each fiscal year, and to include a management report assessing the effectiveness of our internal controls over financial reporting in our annual report on Form 10-K for that fiscal year.

Our management, including our Chief Executive Officer and our Chief Financial Officer, does not expect that our internal controls over financial reporting will prevent all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud involving a company have been, or will be, detected. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and we cannot assure you that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected. A material weakness in our internal controls has been identified in the past, and we cannot assure you that we or our independent registered public accounting firm will not identify a material weakness in our internal controls in the future. A material weakness in our internal controls over financial reporting would require management and our independent registered public accounting firm to evaluate our internal controls as ineffective. If our internal controls over financial reporting are not considered effective, we may experience a loss of public confidence, which could have an adverse effect on our business, financial condition and the market price of our common stock and other securities.

Changes or modifications in financial accounting standards may harm our results of operations.

From time to time, the Financial Accounting Standards Board ("FASB"), either alone or jointly with other organizations, promulgates new accounting principles that could have an adverse impact on our financial position, results of operations and presentation or classification of cash flows. New pronouncements and varying interpretations of pronouncements have occurred with frequency in the past and are expected to occur again in the future and as a result we may be required to make changes in our accounting policies. Any difficulties in adopting or implementing new accounting standards, and updating or modifying our internal controls as needed on a timely basis, could result in our failure to meet our financial reporting obligations, which could result in regulatory discipline and harm investors' confidence in us. Finally, if we were to change our critical accounting estimates, including those related to the recognition of collaboration revenue and other revenue sources, our operating results could be significantly affected.

Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations.*

New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. The OBBBA, the IRA, the Coronavirus Aid, Relief, and Economic Security Act and legislation informally titled the Tax Cuts and Jobs Act enacted made significant changes to the U.S. tax laws. For example, the Tax Cuts and Jobs Act of 2017 (the "Tax Act") required taxpayers to capitalize and amortize U.S.-based and non-U.S.-based research and experimental, or R&E, expenditures over five and fifteen years, respectively. The OBBBA restored the deductibility of domestic R&E expenditures in the year incurred for tax years beginning after December 31, 2024, but retained the capitalization and amortization requirement for foreign R&E expenditures. Further guidance from the Internal Revenue Service and other tax authorities with respect to such legislation may affect us, and certain aspects of any legislation could be repealed, modified

or sunset in future years. In addition, it is uncertain if and to what extent various states will conform to federal tax laws. Future tax reform legislation could have a material impact on the value of our deferred tax assets and could increase our future U.S. tax expense.

Our ability to use net operating loss carryforwards to offset future taxable income may be subject to limitations.

As of December 31, 2024, the Company had federal and state net operating loss carryforwards of approximately $1.9 billion and $1.3 billion available, respectively, to reduce future taxable income. $492.9 million of the federal net operating loss carryforwards do not expire and the remaining federal net operating loss carryforwards will begin expiring in 2026 through various future dates.

Pursuant to Internal Revenue Code Sections 382 and 383, annual use of the Company's federal and California net operating loss and research and development credit carryforwards may be limited in the event a cumulative change in ownership of more than 50% occurs within a three-year period. As a result of the Company's initial public offering, an ownership change within the meaning of Section 382 occurred in August 2004. As a result, federal net operating loss and credit carryforwards of approximately $105.8 million are subject to an annual use limitation of approximately $13.0 million. The annual limitation is cumulative and therefore, if not fully utilized in a year can be utilized in future years in addition to the Section 382 limitation for those years. We have completed a Section 382 analysis beginning from the date of our initial public offering through December 31, 2024, to determine whether additional limitations apply to the net operating loss carryforwards and other tax attributes, and no additional changes in ownership that met the Section 382 study ownership change threshold have been identified through December 31, 2024. There is a risk that changes in ownership may occur in tax years after December 31, 2024. If a change in ownership were to occur, our net operating loss carryforwards and other tax attributes could be further limited or restricted. If limited, the related asset would be removed from the deferred tax asset schedule with a corresponding reduction in the valuation allowance. Due to the existence of the valuation allowance, limitations created by future ownership changes, if any, related to the Company's operations in the U.S. will not impact the Company's effective tax rate.

In addition, at the state level, there may be periods during which the use of net operating loss carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed. For example, California imposed limits on the usability of California state net operating losses to offset taxable income in tax years 2024 through 2026. As a result, if we earn net taxable income, we may be unable to use all or a material portion of our net operating loss carryforwards and other tax attributes, which could potentially result in increased future tax liability to us and adversely affect our future cash flows.

Tax authorities may disagree with our positions and conclusions regarding certain tax positions, resulting in unanticipated costs, taxes or non-realization of expected benefits.

A tax authority may disagree with tax positions that we have taken, which could result in increased tax liabilities. For example, the U.S. Internal Revenue Service or another tax authority could challenge our allocation of income by tax jurisdiction and the amounts paid between our affiliated companies pursuant to our intercompany arrangements and transfer pricing policies, including amounts paid with respect to our intellectual property development. Similarly, a tax authority could assert that we are subject to tax in a jurisdiction where we believe we have not established a taxable nexus, often referred to as a "permanent establishment" under international tax treaties, and such an assertion, if successful, could increase our expected tax liability in one or more jurisdictions. A tax authority may take the position that material income tax liabilities, interest and penalties are payable by us, in which case, we expect that we might contest such assessment. Contesting such an assessment may be lengthy and costly and if we were unsuccessful in disputing the assessment, the implications could increase our anticipated effective tax rate, where applicable.

We may undertake internal restructuring activities in the future that could result in disruptions to our business or otherwise materially harm our results of operations or financial condition.

From time to time, we may undertake internal restructuring activities as we continue to evaluate and attempt to optimize our cost and operating structure in light of developments in our business strategy and long-term operating plans. These activities may result in write-offs or other restructuring charges. There can be no assurance that any restructuring activities that we undertake will achieve the cost savings, operating efficiencies or other benefits that we may initially expect. Restructuring activities may also result in a loss of continuity, accumulated knowledge and inefficiency during transitional periods and thereafter. In addition, internal restructurings can require a significant amount of time and focus from management and other employees, which may divert attention from commercial operations. If we undertake any internal restructuring activities and fail to achieve some or all of the expected benefits therefrom, our business, results of operations and financial condition could be materially and adversely affected.

We deal with hazardous materials and must comply with environmental laws and regulations, which can be expensive and restrict how we do business.

Our research and development work involves the controlled storage and use of hazardous materials, including chemical and biological materials. Our operations also produce hazardous waste products. We are subject to federal, state and local laws and regulations (i)

governing how we use, manufacture, store, handle and dispose of these materials (ii) imposing liability for costs of cleaning up, and damages to natural resources from past spills, waste disposals on and off-site, or other releases of hazardous materials or regulated substances, and (iii) regulating workplace safety. Moreover, the risk of accidental contamination or injury from hazardous materials cannot be completely eliminated, and in the event of an accident, we could be held liable for any damages that may result, and any liability could fall outside the coverage or exceed the limits of our insurance. Currently, our general liability policy provides coverage up to $1.0 million per occurrence and $2.0 million in the aggregate and is supplemented by an umbrella policy that provides a further $20.0 million of coverage; however, our insurance policy excludes pollution liability coverage and we do not carry a separate hazardous materials policy. In addition, we could be required to incur significant costs to comply with environmental laws and regulations in the future. Finally, current or future environmental laws and regulations may impair our research, development or production efforts or have an adverse impact on our business, results of operations and financial condition.

When we purchased our facility in Connecticut in 2001, a soil and groundwater investigation and remediation was being conducted by a former site operator (a "responsible party") under the oversight of the Connecticut Department of Energy & Environmental Protection (formerly the Connecticut Department of Environmental Protection), which investigation and remediation is ongoing. The former site operator and responsible party will make further filings necessary to achieve closure for the environmental investigation and remediation it has conducted at the site, and has agreed to indemnify us for any future costs and expenses we may incur that are directly related to its prior operations at the facility. If we are unable to collect these future costs and expenses, if any, from the responsible party, our business, financial condition and results of operations may be harmed. When we sold a portion of the property upon which our facility is located to the entity that is now our landlord, we became an additional responsible party for any environmental investigation and remediation on that portion of the property, including with respect to investigation or remediation that may be required as a result of our activities since 2001. To date, we have not identified any material environmental investigation or remediation activities that we are required to perform.

Changes in funding or staffing for the FDA, the SEC and other government agencies could hinder their ability to hire and retain key leadership and other personnel, prevent new products and services from being developed or commercialized in a timely manner or otherwise prevent those agencies from performing normal functions on which the operation of our business may rely, which could negatively impact our business.*

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept payment of user fees, and statutory, regulatory, and policy changes. Average review times at the agency have fluctuated in recent years as a result. In addition, government funding of the SEC and other government agencies on which our operations may rely, including those that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable.

Disruptions or significant changes in staffing levels at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last decade, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA and the SEC, have had to furlough critical government employees and stop critical activities. If a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business. Further, future government shutdowns could impact our ability to access the public markets and obtain necessary capital in order to properly capitalize and continue our operations.

We maintain our cash at financial institutions, often in balances that exceed federally insured limits.

We maintain the majority of our cash and cash equivalents in accounts at banking institutions in the United States that we believe are of high quality. Cash held in these accounts often exceed the Federal Deposit Insurance Corporation ("FDIC") insurance limits. If such banking institutions were to fail, we could lose all or a portion of amounts held in excess of such insurance limitations. In the event of failure of any of the financial institutions where we maintain our cash and cash equivalents, there can be no assurance that we would be able to access uninsured funds in a timely manner or at all. Any inability to access or delay in accessing these funds could adversely affect our business and financial position.

RISKS RELATED TO GOVERNMENT REGULATION

Our product candidates must undergo costly and time-consuming rigorous nonclinical and clinical testing and we must obtain regulatory approval prior to the sale and marketing of any product in each jurisdiction. The results of this testing or issues that develop in the review and approval by a regulatory agency may subject us to unanticipated delays or prevent us from marketing any products.

Our research and development activities for product candidates, as well as the manufacturing and marketing of approved products, are subject to regulation, including regulation for safety, efficacy and quality, by the FDA in the United States and comparable authorities

in other countries. FDA regulations and the regulations of comparable foreign regulatory authorities are wide-ranging and govern, among other things:

- product design, development, manufacture and testing;
- product labeling;
- product storage and shipping;
- pre-market clearance or approval;
- advertising and promotion; and
- product sales and distribution.

The requirements governing the conduct of clinical studies as well as the manufacturing and marketing of drug products outside the United States vary widely from country to country. Foreign approvals may take longer to obtain than FDA approvals and can require, among other things, additional testing and different clinical study designs. Foreign regulatory approval processes include essentially all of the risks associated with the FDA approval processes. Some of those agencies also must approve prices of the products. Approval of a product by the FDA does not ensure approval of the same product by the health authorities of other countries. In addition, changes in regulatory policy in the United States or in foreign countries for product approval during the period of product development and regulatory agency review of each submitted new application may cause delays or rejections.

Clinical testing can be costly and take many years, and the outcome is uncertain and susceptible to varying interpretations. We cannot be certain if or when regulatory agencies might request additional studies, under what conditions such studies might be requested, or what the size or length of any such studies might be. The clinical studies of our product candidates may not be completed on schedule, regulatory agencies may order us to stop or modify our research, or these agencies may not ultimately approve any of our product candidates for commercial sale. The data collected from our clinical studies may not be sufficient to support regulatory approval of our product candidates. Even if we believe the data collected from our clinical studies are sufficient, regulatory agencies have substantial discretion in the approval process and may disagree with our interpretation of the data. Our failure to adequately demonstrate the safety and efficacy of any of our product candidates would delay or prevent regulatory approval of our product candidates, which could prevent us from achieving profitability.

Questions that have been raised about the safety of marketed drugs generally, including pertaining to the lack of adequate labeling, may result in increased cautiousness by regulatory agencies in reviewing new drugs based on safety, efficacy, or other regulatory considerations and may result in significant delays in obtaining regulatory approvals. Such regulatory considerations may also result in the imposition of more restrictive drug labeling or marketing requirements as conditions of approval, which may significantly affect the marketability of our drug products.

If we do not comply with regulatory requirements at any stage, whether before or after marketing approval is obtained, we may be fined or forced to remove a product from the market, subject to criminal prosecution, or experience other adverse consequences, including restrictions or delays in obtaining regulatory marketing approval.

Even if we comply with regulatory requirements, we may not be able to obtain the labeling claims necessary or desirable for product promotion. We may also be required to undertake post-marketing studies.

In addition, if we or other parties identify adverse effects after any of our products are on the market, or if manufacturing problems occur, regulatory approval may be withdrawn and a reformulation of our products, additional clinical studies, changes in labeling of, or indications of use for, our products and/or additional marketing applications may be required. If we encounter any of the foregoing problems, our business, financial condition and results of operations will be harmed and the market price of our common stock and other securities may decline.

We are subject to stringent, ongoing government regulation.

The FDA and comparable foreign regulatory authorities subject any approved therapeutic product to extensive and ongoing regulatory requirements concerning the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion, import, export and recordkeeping. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMPs and good clinical practice guidelines for any clinical trials that we conduct post-approval. Later discovery of previously unknown problems, including adverse events of unanticipated severity or

frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things:

- restrictions on the marketing or manufacturing of our product candidates, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- revisions to the approved labeling to add new safety information;
- fines, warning letters or holds on clinical trials;
- refusal by the FDA to approve pending applications or supplements to approved applications filed by us or suspension or revocation of approvals;
- product seizure or detention, or refusal to permit the import or export of our product candidates; and
- injunctions or the imposition of civil or criminal penalties.

We also are required to register our establishments and list our products with the FDA and certain state agencies. We and any third-party manufacturers or suppliers must continually adhere to federal regulations setting forth cGMP (for drugs) and QSR (for medical devices), and their foreign equivalents, which are enforced by the FDA and other national regulatory bodies through their facilities inspection programs. In complying with cGMP and foreign regulatory requirements, we and any of our third-party manufacturers or suppliers will be obligated to expend time, money and effort in production, record-keeping and quality control to ensure that our products meet applicable specifications and other requirements. QSR requirements also impose extensive testing, control and documentation requirements. State regulatory agencies and the regulatory agencies of other countries have similar requirements. In addition, we will be required to comply with regulatory requirements of the FDA, state regulatory agencies and the regulatory agencies of other countries concerning the reporting of adverse events and device malfunctions, corrections and removals (e.g., recalls), promotion and advertising and general prohibitions against the manufacture and distribution of adulterated and misbranded devices. Failure to comply with these regulatory requirements could result in significant civil fines, product seizures, injunctions and/or criminal prosecution of responsible individuals and us. Any such actions would have a material adverse effect on our business, financial condition and results of operations.

As part of the approval of Afrezza, the FDA required us to conduct certain additional clinical studies of Afrezza, including a long-term safety study that was originally intended to compare the incidence of pulmonary malignancy observed with Afrezza to that observed in a standard of care control group. We have an ongoing dialogue with the FDA regarding the agency's current interest in the long-term safety of Afrezza and an appropriate study design or registry to address any concerns. To date, we have not commenced a long-term safety study or budgeted any amount for it, but such a study in its original design would be anticipated to require substantial capital resources that we may not be able to obtain.

The FDA and other regulatory authorities impose significant restrictions on approved products through regulations on advertising, promotional and distribution activities. This oversight encompasses, but is not limited to, direct-to-consumer advertising, healthcare provider-directed advertising and promotion, sales representative communications to healthcare professionals, promotional programming and promotional activities involving the Internet. Regulatory authorities may also review industry-sponsored scientific and educational activities that make representations regarding product safety or efficacy in a promotional context. Prescription drugs may be promoted only for the approved indications in accordance with the approved label. The FDA and other regulatory authorities may take enforcement action against a company for promoting unapproved uses of a product or for other violations of its advertising and labeling laws and regulations. However, physicians may, in their independent medical judgment, prescribe legally available products for off-label uses. The FDA does not regulate the behavior of physicians in their choice of treatments, but the FDA does restrict manufacturer's communications on the subject of off-label use of their products. Enforcement action may include product seizures, injunctions, significant civil or criminal penalties or regulatory letters, which may require corrective advertising or other corrective communications to healthcare professionals. Failure to comply with such regulations also can result in adverse publicity or increased scrutiny of company activities by the U.S. Congress or other legislators. Certain states have also adopted regulations and reporting requirements surrounding the promotion of pharmaceuticals. Failure to comply with state requirements may affect our ability to promote or sell our products in certain states.

The FDA's and other regulatory authorities' policies may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates, delay the submission or review of an application or require additional expenditures by us. In addition, interested parties (such as individuals, advocacy groups and competing pharmaceutical companies) can file a citizen petition with the FDA to request policy change or some form of administrative action on the FDA's part, including with respect to a New Drug Application ("NDA"). For example, in July 2021, a third party submitted a citizen petition to the FDA requesting that the FDA refuse to approve Tyvaso DPI, and/or impose additional requirements in order to approve the product. This prompted the FDA to request additional information concerning Tyvaso DPI prior to granting approval in May 2022. If successful, a citizen petition can significantly delay, or even prevent, the approval of a drug product.

We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. We also cannot be sure that actions by foreign regulatory bodies pertaining to the safety of drugs or medical devices will not adversely affect our operations. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may be denied marketing approval or lose any marketing approval that we have already obtained. There can be no assurance that we will be able to obtain necessary regulatory clearances or approvals on a timely basis, if at all, for any of our product candidates under development, and delays in receipt or failure to receive such clearances or approvals, the loss of previously received clearances or approvals, or failure to comply with existing or future regulatory requirements could have a material adverse effect on our business and results of operations.

Healthcare legislation may make it more difficult to receive revenues.*

In both the United States and certain foreign jurisdictions, there has been a number of legislative and regulatory proposals in recent years to change the healthcare system in ways that could impact our ability to sell our products profitably. For example, the Patient Protection and Affordable Care Act ("PPACA"), enacted in March 2010, substantially changed the way healthcare is financed by both governmental and private insurers and continues to significantly affect the healthcare industry. There have been executive, judicial and congressional challenges and amendments to certain provisions of the PPACA. In addition, there have been proposed and enacted health reform initiatives affecting the PPACA. For example, the IRA extends enhanced subsidies for individuals purchasing health insurance coverage in PPACA marketplaces through plan year 2025, eliminates the “donut hole” under the Medicare Part D program beginning in 2025 by significantly lowering the beneficiary maximum out-of-pocket cost and through a newly established manufacturer discount program, and capped the out-of-pocket cost of insulin (including Afrezza) at $35 per month for Medicare recipients beginning in 2023. It is possible that the PPACA will be subject to judicial or Congressional challenges in the future. It is unclear how any such challenges, other litigation, and the healthcare reform measures of the current administration will impact the PPACA.

Recently there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products. Specifically, there have been several recent U.S. Presidential executive orders, Congressional inquiries and proposed and enacted legislation designed to, among other things, bring more transparency to drug pricing, reduce the cost of prescription drugs under Medicare, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drugs. For example, on July 4, 2025, the OBBBA was signed into law which is expected to reduce Medicaid spending and enrollment by implementing work requirements for some beneficiaries, capping state-directed payments, reducing federal funding, and limiting provider taxes used to fund the program. OBBBA also narrows access to PPACA marketplace exchange enrollment and declines to extend the PPACA enhanced advanced premium tax credits, set to expire in 2025, which, among other provisions in the law, are anticipated to reduce the number of Americans with health insurance. These new laws and initiatives may result in additional reductions in Medicare and other healthcare funding, which could have a material adverse effect on our customers and accordingly, our financial operations.

Our future revenues and ability to generate positive cash flow from operations may be affected by the continuing efforts of government and other third-party payers to contain or reduce the costs of healthcare through various means. In the United States, there have been several congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products.

We expect that there will continue to be a number of federal and state proposals to implement similar and/or additional governmental controls. We cannot be certain what legislative proposals will be adopted or what actions federal, state or private third-party payers may take in response to any drug pricing and reimbursement reform proposals or legislation. Further, to the extent that such reforms have a material adverse effect on our ability to commercialize our products and product candidates under development, our business, financial condition and profitability may be adversely affected.

We expect that the IRA, as well as other healthcare reform measures that may be adopted in the future, are likely to have a significant effect on the pharmaceutical industry, may result in more rigorous coverage criteria and in additional downward pressure on the price that we receive for any approved product, and could seriously harm our future revenues. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private third-party payers. The implementation of cost containment measures or other healthcare reforms may prevent us from being able to generate revenue, attain profitability, or commercialize our products.

The current administration is pursuing policies to reduce regulations and expenditures across government including at the U.S. Department of Health and Human Services ("HHS"), the FDA, the Centers for Medicare and Medicaid Services (“CMS”) and related agencies. These actions, presently directed by executive orders or memoranda from the Office of Management and Budget, may propose policy changes that create additional uncertainty for MannKind’s business. These actions and proposals include (1) reducing

agency workforce; (2) rescinding a Biden administration executive order tasking the Center for Medicare and Medicaid Innovation ("CMMI") to consider new payment and healthcare models to limit drug spending; (3) eliminating the Biden administration's executive order that directed HHS to establish an AI task force and developing a strategic plan; (4) directing HHS and other agencies to lower prescription drug costs for Medicare through a variety of initiatives, including by improving upon the Medicare Drug Price Negotiation Program and establishing Most-Favored-Nation pricing for pharmaceutical products; (5) imposing tariffs on imported pharmaceutical products; (6) directing certain federal agencies to enforce existing law regarding hospital and plan price transparency and by standardizing prices across hospitals and health plans; and (7) as part of the Make America Healthy Again (MAHA) Commission's recent Strategy Report, working across government agencies to increase enforcement on direct-to-consumer pharmaceutical advertising. These actions and policies may significantly reduce U.S. drug prices, potentially impacting manufacturers' global pricing strategies and profitability, while increasing their operational costs and compliance risks. If Most-Favored-Nation pricing for pharmaceutical products is implemented and applicable to Afrezza, our revenue opportunities for Afrezza may be adversely affected, as our U.S. pricing for Afrezza would have to be reduced to the lowest price paid for Afrezza outside of the United States. In such event and subject to the terms of our agreements with our ex-U.S. partners, we may choose to forgo the ex-U.S. market. Likewise, our royalty revenue from Tyvaso DPI could suffer for the same reason. Additionally, in its June 2024 decision in Loper Bright Enterprises v. Raimondo ("Loper Bright"), the U.S. Supreme Court overturned the longstanding Chevron doctrine, under which courts were required to give deference to regulatory agencies' reasonable interpretations of ambiguous federal statutes. The Loper Bright decision could result in additional legal challenges to current regulations and guidance issued by federal agencies applicable to our operations, including those issued by the FDA. Finally, Congress may introduce and ultimately pass health care related legislation that could impact the drug approval process and make changes to the Medicare Drug Price Negotiation Program created under the IRA. We cannot predict which additional measures may be adopted or the impact of current and additional measures on the marketing, pricing and demand for our products, which could have a material adverse effect on our business, financial condition and results of operations.

If we or any partner fails to comply with federal and state healthcare laws, including fraud and abuse and health information laws, we could face substantial penalties and our business, results of operations, financial condition and prospects could be adversely affected.

As a biopharmaceutical company, even though we do not and will not control referrals of healthcare services or bill directly to Medicare, Medicaid or other third-party payers, certain federal and state healthcare laws and regulations, including those pertaining to fraud and abuse and patients' rights, are and will be applicable to our business. The number and scope of these laws, regulations and industry standards are changing, subject to differing applications and interpretations, and may be inconsistent between jurisdictions or in conflict with each other, making compliance difficult. The key laws that may affect our ability to operate include, among others:

- The federal Anti-Kickback Statute (as amended by PPACA, which modified the intent requirement of the federal Anti-Kickback Statute so that a person or entity no longer needs to have actual knowledge of the Statute or specific intent to violate it to have committed a violation), which constrains our business activities, including our marketing practices, educational programs, pricing policies, and relationships with healthcare providers or other entities by prohibiting, among other things, knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, to induce, or in return for, either the referral of an individual or the purchase or recommendation of an item or service reimbursable under a federal healthcare program, such as the Medicare and Medicaid programs;
- Federal civil and criminal false claims laws, including without limitation the False Claims Act, and civil monetary penalties laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid, or other federal healthcare programs that are false or fraudulent, and knowingly making, or causing to be made, a false record or statement material to a false or fraudulent claim to avoid, decrease or conceal an obligation to pay money to the federal government, and under PPACA, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal false claims laws;
- The federal Physician Payments Sunshine Act under PPACA, which requires certain manufacturers of drugs, devices, biologics, and medical supplies to report annually to the CMS information related to payments and other transfers of value to physicians (defined to include defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain other healthcare professionals (such as physician assistants and nurse practitioners), and teaching hospitals, and ownership and investment interests held by physicians and their immediate family members.
- The federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), which created new federal criminal statutes that prohibit, among other things, knowingly and willfully executing a scheme to defraud any healthcare benefit program or falsifying, concealing, or covering up a material fact in connection with the delivery of or payment for health care benefits.
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), and their respective implementing regulations, which impose certain requirements relating to the privacy, security and

transmission of individually identifiable health information on entities subject to the law, such as certain healthcare providers, health plans, and healthcare clearinghouses and their respective business associates that perform services for them that involve the creation, use, maintenance or disclosure of, individually identifiable health information as well as their covered subcontractors.

- Other state and foreign law equivalents of each of the above federal laws, such as anti-kickback and false claims laws which may apply to items or services reimbursed by any third-party payer, including commercial insurers, and state and foreign laws governing the privacy and security and other processing of personal data (including health information) in certain circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts; state laws that require pharmaceutical companies to comply with the industry's voluntary compliance guidelines and the applicable compliance guidance promulgated by the federal government that otherwise restricts certain payments that may be made to healthcare providers and entities; state and local laws that require the registration of pharmaceutical sales representatives; and state laws that require drug manufacturers to report information related to payments and other transfer of value to physicians and other healthcare providers and entities, marketing expenditures or drug pricing.

Because of the breadth of these laws and the narrowness of available statutory exceptions and regulatory safe harbors, it is possible that some of our business activities could be subject to challenge under one or more of such laws. We cannot ensure that all our employees, agents, contractors, vendors, licensees, partners or collaborators will comply with all applicable laws and regulations. If we or our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, or any contractual obligations related to the same, we may be subject to governmental enforcement actions, investigations, litigation (including class action lawsuits) and other penalties, including significant civil, criminal and administrative penalties, damages, fines, imprisonment, disgorgement, defense costs, exclusion from U.S. federal or state healthcare programs, additional reporting requirements and/or oversight (including if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws), bans or restrictions on our processing of personal data, indemnity obligations and the curtailment or restructuring of our operations. Any such event or consequence, including penalties, damages, fines, and curtailment or restructuring of our operations, could materially adversely affect our ability to operate our business, including our ability to run clinical trials, and our financial results and harm our reputation. Although compliance programs can help mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be eliminated. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with applicable federal and state fraud laws may prove costly.

We and the third parties with whom we work are subject to stringent and evolving U.S. and foreign laws, regulations, and rules, contractual obligations, industry standards, policies and other obligations related to data privacy and security. Our actual or perceived failure, or that of the third parties with whom we work, to comply with such obligations could lead to regulatory investigations or actions; litigation (including class claims) and mass arbitration demands; fines and penalties; disruptions of our business operations; reputational harm; loss of revenue or profits; loss of customers or sales; and other adverse business consequences.*

In the ordinary course of business, we process sensitive information (as those terms are defined above). Our data processing activities subject us to numerous data privacy and security obligations, such as various laws, regulations, guidance, industry standards, external and internal privacy and security policies, contractual requirements, and other obligations relating to data privacy and security.

In the United States, federal, state, and local governments have enacted numerous data privacy and security laws, including data breach notification laws, personal data privacy laws, consumer protection laws (e.g., Section 5 of the Federal Trade Commission Act), and other similar laws (e.g., wiretapping laws). For example, HIPAA, as amended by HITECH, imposes specific requirements relating to the privacy, security, and transmission of individually identifiable health information. Numerous U.S. states have enacted comprehensive privacy laws that impose certain obligations on covered businesses, including providing specific disclosures in privacy notices and affording residents with certain rights concerning their personal data. As applicable, such rights may include the right to access, correct, or delete certain personal data, and to opt-out of certain data processing activities, such as targeted advertising, profiling, and automated decision-making. The exercise of these rights may impact our business and ability to provide our products and services. Certain states also impose stricter requirements for processing certain personal data, including sensitive information, such as conducting data privacy impact assessments. These state laws allow for statutory fines for noncompliance. For example, the California Consumer Privacy Act of 2018 ("CCPA") applies to personal data of consumers, business representatives, and employees who are California residents, and requires businesses to provide specific disclosures in privacy notices and honor requests of such individuals to exercise certain privacy rights. The CCPA provides for fines and allows private litigants affected by certain data breaches to recover significant statutory damages. Although the CCPA (like other U.S. comprehensive privacy laws) exempts some data processed in the context of clinical trials, the CCPA may increase compliance costs and potential liability with respect to other personal data we maintain about California residents. Similar laws are being considered in several other states, as well as at the federal

and local levels, and we expect more states to pass similar laws in the future. These developments further complicate compliance efforts and increase legal risk and compliance costs for us and the third parties with whom we work.

Outside the United States, an increasing number of laws, regulations, and industry standards apply to data privacy and security. For example, the European Union's General Data Protection Regulation ("EU GDPR") and the United Kingdom's GDPR ("UK GDPR") (collectively "GDPR"), Brazil's General Data Protection Law (Lei Geral de Proteção de Dados Pessoais, or "LGPD") (Law No. 13,709/2018), and Australia's Privacy Act impose strict requirements for processing personal data. For example, under the GDPR, companies may face temporary or definitive bans on data processing and other corrective actions; fines of up to 20 million euros under the EU GDPR, 17.5 million pounds sterling under the UK GDPR or, in each case, 4% of annual global revenue, whichever is greater; or private litigation related to the processing of personal data brought by classes of data subjects or consumer protection organizations authorized at law to represent their interests. We may also be subject to new and emerging data privacy regimes in Asia, including Japan's Act on the Protection of Personal Information.

Our employees and personnel use generative AI technologies to perform their work, and the disclosure and use of personal data in generative AI technologies is subject to various privacy laws and other privacy obligations. Governments have passed and are likely to pass additional laws regulating generative AI. Our use of this technology could result in additional compliance costs, regulatory investigations and actions, and lawsuits. If we are unable to use generative AI, it could make our business less efficient and result in competitive disadvantages.

In the ordinary course of business, we may transfer personal data from Europe and other jurisdictions to the United States or other countries. Europe and other jurisdictions have enacted laws requiring data to be localized or limiting the transfer of personal data to other countries. In particular, the European Economic Area ("EEA") and the United Kingdom ("UK") have significantly restricted the transfer of personal data to the United States and other countries whose privacy laws it generally believes are inadequate. Other jurisdictions may adopt or have already adopted similarly stringent data localization and cross-border data transfer laws. Although there are currently various mechanisms that may be used to transfer personal data from the EEA and UK to the United States in compliance with law, such as the EEA standard contractual clauses, the UK's International Data Transfer Agreement / Addendum, and the EU-U.S. Data Privacy Framework and the UK extension thereto (which allows for transfers to relevant U.S.-based organizations who self-certify compliance and participate in the Framework) these mechanisms are subject to legal challenges, and there is no assurance that we can satisfy or rely on these measures to lawfully transfer personal data to the United States. If there is no lawful manner for us to transfer personal data from the EEA, the UK or other jurisdictions to the United States, or if the requirements for a legally-compliant transfer are too onerous, we could face significant adverse consequences, including the interruption or degradation of our operations, the need to relocate part of or all of our business or data processing activities to other jurisdictions (such as Europe) at significant expense, increased exposure to regulatory actions, substantial fines and penalties, the inability to transfer data and work with partners, vendors and other third parties, and injunctions against our processing or transferring of personal data necessary to operate our business. Some European regulators have prevented companies from transferring personal data out of Europe for allegedly violating the GDPR's cross-border data transfer limitations. Regulators in the United States, such as the Department of Justice, are also increasingly scrutinizing certain personal data transfers and have imposed certain data localization requirements, particularly if we transfer personal data to, or process personal data of residents of, high risk or sanctioned jurisdictions, such as the Biden Administration's executive order Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern.

We are also bound by contractual obligations related to data privacy and security, and our efforts to comply with such obligations may not be successful. We publish privacy policies, marketing materials and other statements, such as statements related to compliance with certain certifications or self-regulatory principles concerning data privacy and security. Regulators in the United States are increasingly scrutinizing these statements, and if these policies, materials or statements are found to be deficient, lacking in transparency, deceptive, unfair, misleading or misrepresentative of our practices, we may be subject to investigation, enforcement actions by regulators or other adverse consequences. In addition, privacy advocates and industry groups have proposed, and may propose, standards with which we are legally or contractually bound to comply, or may become subject to in the future.

Our obligations related to data privacy and security are quickly changing, becoming increasingly stringent and creating uncertainty. Additionally, these obligations may be subject to differing applications and interpretations, which may be inconsistent or conflict among jurisdictions. Preparing for and complying with these obligations requires us to devote significant resources and may necessitate changes to our information technologies, systems, and practices and to those of any third parties that process personal data on our behalf. Although we endeavor to comply with all applicable data privacy and security obligations, we may at times fail (or be perceived to have failed) to do so. Moreover, despite our efforts, our personnel or third parties with whom we work may fail to comply with such obligations, which could negatively impact our business operations and compliance posture. If we or the third parties with whom we work fail, or are perceived to have failed, to address or comply with data privacy and security obligations, we could face significant consequences. These consequences may include, but are not limited to, government enforcement actions (e.g., investigations, fines, penalties, audits, inspections, and similar); litigation (including class-related claims) and mass arbitration demands; additional reporting requirements and/or oversight; bans or restrictions on processing personal data; orders to destroy or not use personal data; and imprisonment of company officials. In particular, plaintiffs have become increasingly more active in bringing

privacy-related claims against companies, including class claims and mass arbitration demands. Some of these claims allow for the recovery of statutory damages on a per violation basis, and, if viable, carry the potential for monumental statutory damages, depending on the volume of data and the number of violations. Any of these events could have a material adverse effect on our reputation, business, or financial condition, including but not limited to: loss of customers; interruptions or stoppages in our business operations (including, as relevant, clinical trials); inability to process personal data or to operate in certain jurisdictions; limited ability to develop or commercialize our products; expenditure of time and resources to defend any claim or inquiry; adverse publicity; or revision or restructuring of our operations.

If we fail to comply with our reporting and payment obligations under the Medicaid Drug Rebate Program or other governmental pricing programs in the United States, we could be subject to additional reimbursement requirements, fines, sanctions and exposure under other laws which could have a material adverse effect on our business, results of operations and financial condition.

We participate in the Medicaid Drug Rebate Program, as administered by CMS, and other federal and state government pricing programs in the United States, and we may participate in additional government pricing programs in the future. These programs generally require us to pay rebates or otherwise provide discounts to government payers in connection with drugs that are dispensed to beneficiaries/recipients of these programs. In some cases, such as with the Medicaid Drug Rebate Program, the rebates are based on pricing that we report on a monthly and quarterly basis to the government agencies that administer the programs. Pricing requirements and rebate/discount calculations are complex, vary among products and programs, and are often subject to interpretation by governmental or regulatory agencies and the courts. The requirements of these programs, including, by way of example, their respective terms and scope, change frequently. Responding to current and future changes may increase our costs, and the complexity of compliance will be time consuming. Invoicing for rebates is provided in arrears, and there is frequently a time lag of up to several months between the sales to which rebate notices relate and our receipt of those notices, which further complicates our ability to accurately estimate and accrue for rebates related to the Medicaid program as implemented by individual states. Thus, there can be no assurance that we will be able to identify all factors that may cause our discount and rebate payment obligations to vary from period to period, and our actual results may differ significantly from our estimated allowances for discounts and rebates. Changes in estimates and assumptions may have a material adverse effect on our business, results of operations and financial condition.

In addition, the Office of Inspector General of the HHS and other Congressional, enforcement and administrative bodies have recently increased their focus on pricing requirements for products, including, but not limited to the methodologies used by manufacturers to calculate AMP and best price (“BP”) for compliance with reporting requirements under the Medicaid Drug Rebate Program. We are liable for errors associated with our submission of pricing data and for any overcharging of government payers. For example, failure to submit monthly/quarterly AMP and BP data on a timely basis could result in a civil monetary penalty. Failure to make necessary disclosures and/or to identify overpayments could result in allegations against us under the False Claims Act and other laws and regulations. Any required refunds to the U.S. government or responding to a government investigation or enforcement action would be expensive and time consuming and could have a material adverse effect on our business, results of operations and financial condition. In addition, in the event that the CMS were to terminate our rebate agreement, no federal payments would be available under Medicaid or Medicare for our covered outpatient drugs.

Our business could be negatively impacted by environmental, social and corporate governance ("ESG") matters or our reporting of such matters.

There is an increasing focus from certain investors, employees, partners, and other stakeholders concerning ESG matters. We may be, or be perceived to be, not acting responsibly in connection with these matters, which could negatively impact us. For example, we have not previously reported our environmental emissions. The SEC recently finalized rules designed to enhance and standardize climate-related disclosures. These climate disclosure rules have been challenged in court and the SEC has issued an order staying their implementation pending the outcome of judicial review. These new climate-related disclosures, if required, may significantly increase our compliance and reporting costs and may also result in disclosures that certain investors or other stakeholders deem to impact our reputation negatively and/or that harm our stock price.

Our portfolio of investment securities may require us to register with the SEC as an “investment company” in accordance with the Investment Company Act of 1940 (“‘40 Act”).

The rules and interpretations of the SEC and the courts relating to the definition of "investment company" are very complex. Although we are a biopharmaceutical company and we do not hold ourselves out as an investment company, the value of our investment securities relative to our total assets (exclusive of government securities and cash items) has in the past exceeded safe harbor limits prescribed in the '40 Act. If our asset mix does not continue to qualify for one of the safe harbor limits prescribed in the ‘40 Act, it is possible that the SEC would take the position that we would be required to register under the ‘40 Act and comply with the ‘40 Act’s registration and reporting requirements, capital structure requirements, affiliate transaction restrictions, conflict of interest rules, requirements for disinterested directors, and other substantive provisions. If we were required to register as an “investment company”

and be subject to the restrictions of the '40 Act, those restrictions likely would require significant changes in the way we do business and add significant administrative costs and burdens to our operations.

RISKS RELATED TO INTELLECTUAL PROPERTY

If we are unable to protect our proprietary rights, we may not be able to compete effectively, or operate profitably.

Our commercial success depends, in large part, on our ability to obtain and maintain intellectual property protection for our technology. Our ability to do so will depend on, among other things, complex legal and factual questions, and it should be noted that the standards regarding intellectual property rights in our fields are still evolving. We attempt to protect our proprietary technology through a combination of patents, trade secrets and confidentiality agreements. We own a number of domestic and international patents, have a number of domestic and international patent applications pending and have licenses to additional patents. We cannot assure you that our patents and licenses will successfully preclude others from using our technologies, and we could incur substantial costs in seeking enforcement of our proprietary rights against infringement. Even if issued, the patents may not give us an advantage over competitors with alternative technologies.

For example, the coverage claimed in a patent application can be significantly reduced before a patent is issued, either in the United States or abroad. Statutory differences in patentable subject matter may limit the protection we can obtain on some of our inventions outside of the United States. For example, methods of treating patients are not patentable in many countries outside of the United States. These and other issues may limit the patent protection we are able to secure internationally. Consequently, we do not know whether any of our pending or future patent applications will result in the issuance of patents or, to the extent patents have been issued or will be issued, whether these patents will be subjected to further proceedings limiting their scope, will provide significant proprietary protection or competitive advantage, or will be circumvented or invalidated.

Furthermore, patents already issued to us or our pending applications may become subject to disputes that could be resolved against us. In the United States and certain other countries, applications are generally published 18 months after the application's priority date. Because publication of discoveries in scientific or patent literature often trails behind actual discoveries, we cannot be certain that we were the first inventor of the subject matter covered by our pending patent applications or that we were the first to file patent applications on such inventions. Assuming the other requirements for patentability are met, in the United States prior to March 15, 2013, the first to make the claimed invention is entitled to the patent, while outside the United States, the first to file a patent application is entitled to the patent. After March 15, 2013, under the Leahy-Smith America Invents Act ("AIA"), the United States moved to a first inventor to file system. In general, the AIA and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition.

Moreover, the term of a patent is limited and, as a result, the patents protecting our products expire at various dates. As and when these different patents expire, our products could become subject to increased competition. As a consequence, we may not be able to recover our development costs.

An issued patent is presumed valid unless it is declared otherwise by a court of competent jurisdiction. However, the issuance of a patent is not conclusive as to its validity or enforceability and it is uncertain how much protection, if any, will be afforded by our patents. A third party may challenge the validity or enforceability of a patent after its issuance by various proceedings such as oppositions in foreign jurisdictions, or post grant proceedings, including, oppositions, re-examinations or other review in the United States. In some instances, we may seek re-examination or reissuance of our own patents. If we attempt to enforce our patents, they may be challenged in court where they could be held invalid, unenforceable, or have their breadth narrowed to an extent that would destroy their value.

We also rely on unpatented technology, trade secrets, know-how and confidentiality agreements. We require our officers, employees, consultants and advisors to execute proprietary information and invention and assignment agreements upon commencement of their relationships with us. These agreements provide that all inventions developed by the individual on behalf of us must be assigned to us and that the individual will cooperate with us in connection with securing patent protection on the invention if we wish to pursue such protection. We also execute confidentiality agreements with outside collaborators. However, disputes may arise as to the ownership of proprietary rights to the extent that outside collaborators apply technological information to our projects that are developed independently by them or others, or apply our technology to outside projects, and there can be no assurance that any such disputes would be resolved in our favor. In addition, any of these parties may breach the agreements and disclose our confidential information or our competitors might learn of the information in some other way. Thus, there can be no assurance, however, that our inventions and assignment agreements and our confidentiality agreements will provide meaningful protection for our inventions, trade secrets, know-how or other proprietary information in the event of unauthorized use or disclosure of such information. If any trade secret, know-how or other technology not protected by a patent were to be disclosed to or independently developed by a competitor, our business, results of operations and financial condition could be adversely affected.

If we become involved in lawsuits to protect or enforce our patents or the patents of our collaborators or licensors, we would be required to devote substantial time and resources to prosecute or defend such proceedings.

Competitors may infringe our patents or the patents of our collaborators or licensors. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover its technology. A court may also decide to award us a royalty from an infringing party instead of issuing an injunction against the infringing activity. An adverse determination of any litigation or defense proceedings could put one or more of our patents at risk of being invalidated or interpreted narrowly and could put our patent applications at risk of not issuing.

Interference proceedings brought by the United States Patent and Trademark Office ("USPTO"), may be necessary to determine the priority of inventions with respect to our pre-AIA patent applications or those of our collaborators or licensors. Additionally, the AIA has greatly expanded the options for post-grant review of patents that can be brought by third parties. In particular, Inter Partes Review ("IPR"), available against any issued United States patent (pre-and post-AIA), has resulted in a higher rate of claim invalidation, due in part to the much reduced opportunity to repair claims by amendment as compared to re-examination, as well as the lower standard of proof used at the USPTO as compared to the federal courts. With the passage of time an increasing number of patents related to successful pharmaceutical products are being subjected to IPR. Moreover, the filing of IPR petitions has been used by short-sellers as a tool to help drive down stock prices. We may not prevail in any litigation, post-grant review, or interference proceedings in which we are involved and, even if we are successful, these proceedings may result in substantial costs and be a distraction to our management. Further, we may not be able, alone or with our collaborators and licensors, to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the United States.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, during the course of this kind of litigation, there could be public announcements of the results of hearings, motions or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, the market price of our common stock and other securities may decline.

If our technologies conflict with the proprietary rights of others, we may incur substantial costs as a result of litigation or other proceedings and we could face substantial monetary damages and be precluded from commercializing our products, which would materially harm our business and financial condition.

Biotechnology patents are numerous and may, at times, conflict with one another. As a result, it is not always clear to industry participants, including us, which patents cover the multitude of biotechnology product types. Ultimately, the courts must determine the scope of coverage afforded by a patent and the courts do not always arrive at uniform conclusions.

A patent owner may claim that we are making, using, selling or offering for sale an invention covered by the owner's patents and may go to court to stop us from engaging in such activities. Such litigation is not uncommon in our industry.

Patent lawsuits can be expensive and would consume time and other resources. There is a risk that a court would decide that we are infringing a third party's patents and would order us to stop the activities covered by the patents, including the commercialization of our products. In addition, there is a risk that we would have to pay the other party damages for having violated the other party's patents (which damages may be increased, as well as attorneys' fees ordered paid, if infringement is found to be willful), or that we will be required to obtain a license from the other party in order to continue to commercialize the affected products, or to design our products in a manner that does not infringe a valid patent. We may not prevail in any legal action, and a required license under the patent may not be available on acceptable terms or at all, requiring cessation of activities that were found to infringe a valid patent. We also may not be able to develop a non-infringing product design on commercially reasonable terms, or at all.

Moreover, certain components of our products may be manufactured outside the United States and imported into the United States. As such, third parties could file complaints under 19 U.S.C. Section 337(a)(1)(B) (a "337 action") with the International Trade Commission (the "ITC"). A 337 action can be expensive and would consume time and other resources. There is a risk that the ITC would decide that we are infringing a third party's patents and either enjoin us from importing the infringing products or parts thereof into the United States or set a bond in an amount that the ITC considers would offset our competitive advantage from the continued importation during the statutory review period. The bond could be up to 100% of the value of the patented products. We may not prevail in any legal action, and a required license under the patent may not be available on acceptable terms, or at all, resulting in a permanent injunction preventing any further importation of the infringing products or parts thereof into the United States. We also may not be able to develop a non-infringing product design on commercially reasonable terms, or at all.

Although we do not believe that our products or product candidates infringe any third-party patents, if a plaintiff was to allege infringement of their patent rights, we would have to establish with the court that their patents are invalid or unenforceable in order to

avoid legal liability for infringement of these patents. However, proving patent invalidity or unenforceability can be difficult because issued patents are presumed valid. Therefore, in the event that we are unable to prevail in a non-infringement or invalidity action we will have to either acquire the third-party patents outright or seek a royalty-bearing license. Royalty-bearing licenses effectively increase production costs and therefore may materially affect product profitability. Furthermore, should the patent holder refuse to either assign or license us the infringed patents, it may be necessary to cease manufacturing the product entirely and/or design around the patents, if possible. In either event, our business, financial condition and results of operations would be harmed and our profitability could be materially and adversely impacted.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, during the course of this kind of litigation, there could be public announcements of the results of hearings, motions or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, the market price of our common stock and other securities may decline.

In addition, patent litigation may divert the attention of key personnel and we may not have sufficient resources to bring these actions to a successful conclusion. At the same time, some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. An adverse determination in a judicial or administrative proceeding or failure to obtain necessary licenses could prevent us from manufacturing and selling our products or result in substantial monetary damages, which would adversely affect our business, financial condition and results of operations and cause the market price of our common stock and other securities to decline.

We may not obtain trademark registrations for our potential trade names.

We have not selected trade names for some of our product candidates in our pipeline; therefore, we have not filed trademark registrations for such potential trade names for our product candidates, nor can we assure that we will be granted registration of any potential trade names for which we do file. No assurance can be given that any of our trademarks will be registered in the United States or elsewhere, or once registered that, prior to our being able to enter a particular market, they will not be cancelled for non-use. Nor can we give assurances, that the use of any of our trademarks will confer a competitive advantage in the marketplace.

Furthermore, even if we are successful in our trademark registrations, the FDA has its own process for drug nomenclature and its own views concerning appropriate proprietary names. It also has the power, even after granting market approval, to request a company to reconsider the name for a product because of evidence of confusion in the marketplace. We cannot assure you that the FDA or any other regulatory authority will approve of any of our trademarks or will not request reconsideration of one of our trademarks at some time in the future.

RISKS RELATED TO OUR COMMON STOCK

Our stock price is volatile.*

The trading price of our common stock has been and is likely to continue to be volatile. The volatility of pharmaceutical and biotechnology stocks often does not relate to the operating performance of the companies represented by the stock. Our business and the market price of our common stock may be influenced by a large variety of factors, including:

- our ability to obtain marketing approval for our products outside of the United States and to find collaboration partners for the commercialization of our products in foreign jurisdictions;
- future estimates of product sales, royalties, prescriptions or other operating metrics;
- our ability to successfully commercialize other products;
- the progress and results of preclinical and clinical studies of our product candidates and of post-approval studies of approved products that are required by the FDA;
- general economic, political or stock market conditions, such as inflation, tariffs, and other fiscal and trade policy changes, especially for emerging growth and pharmaceutical market sectors;
- geopolitical events;
- legislative developments;
- disruptions caused by man-made or natural disasters or public health pandemics or epidemics or other business interruptions;

- changes in the structure of the healthcare payment systems;
- announcements by us, our collaborators, or our competitors concerning clinical study results, acquisitions, strategic alliances, technological innovations, newly approved commercial products, product discontinuations, or other developments;
- the availability of critical materials used in developing and manufacturing our products and product candidates;
- developments or disputes concerning our relationship with any of our current or future collaborators or third party manufacturers;
- developments or disputes concerning our patents or proprietary rights;
- the expense and time associated with, and the extent of our ultimate success in, securing regulatory approvals;
- announcements by us concerning our financial condition or operating performance;
- changes in securities analysts' estimates of our financial condition or operating performance;
- sales of large blocks of our common stock, including sales by our executive officers, directors and significant stockholders;
- the trades of short sellers;
- our ability, or the perception of investors of our ability, to continue to meet all applicable requirements for continued listing of our common stock on The Nasdaq Global Market, and the possible delisting of our common stock if we are unable to do so;
- the status of any legal proceedings or regulatory matters against or involving us or any of our executive officers and directors; and
- discussion of our products, competitors' products, or our stock price by the financial and scientific press, the healthcare community and online investor communities such as chat rooms. In particular, it may be difficult to verify statements about us that appear on interactive websites that permit users to generate content anonymously or under a pseudonym. Statements attributed to company officials may, in fact, have originated elsewhere.

Any of these risks, as well as other factors, could cause the market value of our common stock and other securities to decline.

If we fail to continue to meet all applicable listing requirements, our common stock may be delisted from the Nasdaq Global Market, which could have an adverse impact on the liquidity and market price of our common stock.

Our common stock is currently listed on The Nasdaq Global Market, which has qualitative and quantitative listing criteria. If we are unable to meet any of the Nasdaq listing requirements in the future, such as the corporate governance requirements, the minimum closing bid price requirement, or the minimum market value of listed securities requirement, Nasdaq could determine to delist our common stock. A delisting of our common stock could adversely affect the market liquidity of our common stock, decrease the market price of our common stock, adversely affect our ability to obtain financing for the continuation of our operations and result in the loss of confidence in our company.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.

We are incorporated in Delaware. Certain anti-takeover provisions under Delaware law and in our certificate of incorporation and amended and restated bylaws, as currently in effect, may make a change of control of our company more difficult, even if a change in control would be beneficial to our stockholders or the holders of our other securities. Our anti-takeover provisions include provisions such as a prohibition on stockholder actions by written consent, the authority of our board of directors to issue preferred stock without stockholder approval, and supermajority voting requirements for specified actions. In addition, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally prohibits stockholders owning 15% or more of our outstanding voting stock from merging or combining with us in certain circumstances. These provisions may delay or prevent an acquisition of us, even if the acquisition may be considered beneficial by some of our stockholders. In addition, they may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management.

Our amended and restated bylaws provide that the Court of Chancery of the State of Delaware and the federal district courts of the United States of America are the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, or employees.

Our amended and restated bylaws provide that, to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants, the Court of Chancery of the State of Delaware is the exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action or proceeding asserting a breach of fiduciary duty owed by any of our current or former directors, officers or other employees to us or our stockholders;
- any action or proceeding asserting a claim against us or any of our current or former directors, officers or other employees arising out of or pursuant to any provision of the Delaware General Corporation Law, our amended and certificate of incorporation or amended and restated bylaws;
- any action or proceeding to interpret, apply, enforce or determine the validity of our amended and restated certificate of incorporation or our amended and restated bylaws;
- any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware; and
- any action asserting a claim against us or any of our directors, officers or other employees that is governed by the internal affairs doctrine.

This provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act. Furthermore, Section 22 of the Securities Act of 1933, as amended (the "Securities Act"), creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated bylaws further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our amended and restated bylaws. This may require significant additional costs associated with resolving such action in other jurisdictions and there can be no assurance that the provisions will be enforced by a court in those other jurisdictions.

These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find either exclusive forum provision in our amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur further significant additional costs associated with resolving the dispute in other jurisdictions, all of which could seriously harm our business.

Because we do not expect to pay dividends in the foreseeable future, you must rely on stock appreciation for any return on any investment in our common stock.*

We have paid no cash dividends on any of our capital stock to date, and we currently intend to retain our future earnings, if any, to fund the development and growth of our business. In addition, we are restricted from paying dividends on our capital stock pursuant to the terms of the Blackstone Credit Facility. As a result, we do not expect to pay any cash dividends in the foreseeable future, and payment of cash dividends, if any, will also depend on our financial condition, results of operations, capital requirements and other factors and will be at the discretion of our board of directors. There is no guarantee that our common stock will appreciate or maintain its current price. You could lose the entire value of any investment in our common stock.

Future sales of shares of our common stock in the public market, or the perception that such sales may occur, may depress our stock price and adversely impact the market price of our common stock and other securities.

We may need to raise substantial additional capital in the future to fund our operations. If we raise additional funds by issuing equity securities or additional convertible debt, the market price of our common stock and other securities may decline. Similarly, if our existing stockholders sell substantial amounts of our common stock in the public market, the market price of our common stock and other securities could decrease. The perception in the public market that we or our existing stockholders might sell shares of common stock could also depress the market price of our common stock and the market price of our other securities.

Likewise, the issuance of additional shares of our common stock upon the exchange or conversion of the senior convertible notes could adversely affect the market price of our common stock and other securities. Moreover, the existence of these notes may encourage short selling of our common stock by market participants, which could adversely affect the market price of our common stock and other securities.

In addition, a substantial number of shares of our common stock is reserved for issuance upon the exercise of stock options, the vesting of restricted stock unit awards and purchases under our ESPP. The issuance or sale of substantial amounts of common stock, or the perception that such issuances or sales may occur, could adversely affect the market price of our common stock and other securities.

If other biotechnology and biopharmaceutical companies or the securities markets in general encounter problems, the market price of our common stock and other securities could be adversely affected.

Public companies in general, including companies listed on The Nasdaq Stock Market, have experienced price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. There has been particular volatility in the market prices of securities of biotechnology and other life sciences companies, and the market prices of these companies have often fluctuated because of problems or successes in a given market segment or because investor interest has shifted to other segments. These broad market and industry factors may cause the market price of our common stock and other securities to decline, regardless of our operating performance. We have no control over this volatility and can only focus our efforts on our own operations, and even these may be affected due to the state of the capital markets.

In the past, following periods of large price declines in the public market price of a company's securities, securities class action litigation has often been initiated against that company. Litigation of this type could result in substantial costs and diversion of management's attention and resources, which would hurt our business. Any adverse determination in litigation could also subject us to significant liabilities.

GENERAL RISK FACTORS

Unstable market, economic and geopolitical conditions may have serious adverse consequences on our business, financial condition and stock price.*

The global credit and financial markets have recently experienced extreme volatility and disruptions. These disruptions can result in severely diminished liquidity and credit availability, increase in inflation, declines in consumer confidence, declines in economic growth, increases in unemployment rates and uncertainty about economic stability. There can be no assurance that deterioration in credit and financial markets and confidence in economic conditions will not occur. Our general business strategy may be adversely

affected by any such economic downturn, volatile business environment, currency fluctuations, actual or anticipated bank failures, tariffs and trade wars, higher inflation, or continued unpredictable and unstable market conditions. If the current equity and credit markets deteriorate, it may make any necessary debt or equity financing more difficult, more costly and more dilutive. Our portfolio of corporate and government bonds could also be adversely impacted. Failure to secure any necessary financing in a timely manner and on favorable terms could have a material adverse effect on our operations, growth strategy, financial performance and stock price and could require us to delay or abandon clinical development plans. In addition, there is a risk that one or more of our current service providers, manufacturers and other partners may not survive an economic downturn or rising inflation, which could directly affect our ability to attain our operating goals on schedule and on budget.

Other international and geopolitical events could also have a serious adverse impact on our business. For instance, in February 2022, Russia initiated military action against Ukraine and the two countries are now at war. In response, the United States and certain other countries imposed significant sanctions and trade actions against Russia and could impose further sanctions, trade restrictions, and other retaliatory actions. Additionally, in October 2023, Hamas initiated an attack against Israel, provoking a state of war and subsequently a larger regional conflict. Furthermore, following Hamas' attack on Israel, the Houthi movement, which controls parts of Yemen, launched a number of attacks on commercial marine vessels in the Red Sea. The Red Sea is an important maritime route for international trade and as such disruptions to these trade routes can have an impact on global supply chains. Additionally, in 2025, Israel and Iran traded a number of attacks on each other and the U.S. has taken a military action against Iran. As a result of such disruptions, we may experience in the future extended lead times, delays in supplier deliveries, and increased freight costs. While we cannot predict the broader consequences, these conflicts and retaliatory and counter-retaliatory actions could materially adversely affect global trade, currency exchange rates, inflation, regional economies, and the global economy, which in turn may increase our costs, disrupt our supply chain, impair our ability to raise or access additional capital when needed on acceptable terms, if at all, or otherwise adversely affect our business, financial condition, and results of operations.

Our operations might be interrupted by the occurrence of a natural disaster or other catastrophic event.

Currently, our manufacturing facility in Connecticut is the sole location for the manufacturing of Afrezza and Tyvaso DPI. Similarly, our contract manufacturer in Southern China is the only location for the assembly of V-Go. Additional contract manufacturers in China perform release testing, sterilization, inspection and packaging functions. These facilities and the specialized manufacturing equipment we use at them would be costly to replace and could require substantial lead-time to repair or replace. We depend on our facilities and on collaborators, contractors and vendors for the continued operation of our business. Natural disasters, such as interruptions in the supply of natural resources, public health pandemics or epidemics, earthquakes and extreme weather conditions, including, but not limited to, hurricanes, floods, tornados, wildfires, and winter storms, or other catastrophic events, including political and governmental changes, conflicts, explosions, actions of animal rights activists, terrorist attacks and wars, could disrupt our operations or those of our collaborators, contractors and vendors. Such conditions may be further exacerbated by the effects of climate change. We might suffer losses as a result of business interruptions that exceed the coverage available under our and our contractors' insurance policies or for which we or our contractors do not have coverage. For example, we are not insured against a terrorist attack. Any natural disaster or catastrophic event could have a significant negative impact on our operations and financial results. Moreover, any such event could delay our research and development programs or cause interruptions in our commercialization of our products.

Adverse developments affecting the financial services industry could adversely affect our current and projected business operations and our financial condition and results of operations.

Adverse developments that affect financial institutions, such as events involving liquidity that are rumored or actual, have in the past and may in the future lead to bank failures and market-wide liquidity problems. For example, in March 2023, Silicon Valley Bank ("SVB") was closed by the California Department of Financial Protection and Innovation, which appointed the FDIC as receiver. Similarly, days later, Signature Bank and Silvergate Capital Corp. were each swept into receivership. In addition, in May 2023, the FDIC seized First Republic Bank and sold its assets to JPMorgan Chase & Co. While the U.S. Department of Treasury, FDIC and Federal Reserve Board have implemented a program to provide up to $25 billion of loans to financial institutions secured by certain of such government securities held by financial institutions to mitigate the risk of potential losses on the sale of such instruments, widespread demands for customer withdrawals or other liquidity needs of financial institutions for immediate liquidity may exceed the capacity of such program, there is no guarantee that such programs will be sufficient. Additionally, it is uncertain whether the U.S. Department of Treasury, FDIC and Federal Reserve Board will provide access to uninsured funds in the future in the event of the closure of other banks or financial institutions, or that they would do so in a timely fashion.

Although we assess our banking relationships as we believe necessary or appropriate, our access to cash in amounts adequate to finance or capitalize our current and projected future business operations could be significantly impaired by factors that affect the financial institutions with which we have banking relationships. These factors could include, among others, events such as liquidity constraints or failures, the ability to perform obligations under various types of financial, credit or liquidity agreements or arrangements, disruptions or instability in the financial services industry or financial markets, or concerns or negative expectations about the prospects for companies in the financial services industry. These factors could also include factors involving financial markets or the financial services industry generally. The results of events or concerns that involve one or more of these factors could

include a variety of material and adverse impacts on our current and projected business operations and our financial condition and results of operations. These could include, but may not be limited to, delayed access to deposits or other financial assets or the uninsured loss of deposits or other financial assets; or termination of cash management arrangements and/or delays in accessing or actual loss of funds subject to cash management arrangements.

In addition, widespread investor concerns regarding the U.S. or international financial systems could result in less favorable commercial financing terms, including higher interest rates or costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it more difficult for us to acquire financing on acceptable terms or at all. Any decline in available funding or access to our cash and liquidity resources could, among other risks, adversely impact our ability to meet our operating expenses, financial obligations or fulfill our other obligations, result in breaches of our financial and/or contractual obligations or result in violations of federal or state wage and hour laws. Any of these impacts, or any other impacts resulting from the factors described above or other related or similar factors not described above, could have material adverse impacts on our liquidity and our current and/or projected business operations and financial condition and results of operations.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Rule 10b5-1 Trading Arrangement Disclosure

During the three months ended September 30, 2025, three of our officers (as defined in Rule 16a-1(f) under the Exchange Act) and directors adopted a written trading plan for the orderly disposition of the Company's securities as set forth in the table below:

			Type of Trading Arrangement				
Name and Position	**Action**	**Adoption Date**	**Rule 10b5-1[(1)]**	**Non-Rule 10b5-1[(2)]**	**Total Shares of Common Stock to be Sold [(3)]**	**Total Shares of Common Stock to be Purchased**	**Expiration Date**
Michael Castagna *Chief Executive Officer*	Adoption	August 8, 2025	X	—	692,665	—	August 10, 2026
David Thomson *EVP, General Counsel*	Adoption	August 27, 2025	X	—	324,014	—	August 20, 2026
Steven B. Binder *Director*	Adoption	September 18, 2025	X	—	151,965	—	September 17, 2026

(1) Contract, instruction or written plan intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) under the Exchange Act.

(2) "Non-Rule 10b5-1 trading arrangement" as defined in Item 408(c) of Regulation S-K under the Exchange Act.

(3) These trading plans include the potential exercise and sale by Michael Castagna and David Thomson of short-dated options and performance options exercisable for up to 692,665 and 280,355 shares of common stock, respectively. The remainder of the plan for David Thomson, as well as the plan for Steven B, Binder, is designed to sell a specified percentage of the net shares delivered after tax withholding upon the vesting of restricted stock unit awards held by each individual. The actual number of shares to be sold will depend on state and federal tax rates applicable on the relevant vesting dates (currently assumed to be a combined 34%) as well as the payout, if any, of performance RSU awards (currently assumed to be at 100%). Based on these assumptions, the number of shares of common stock underlying restricted stock unit awards to be sold by David Thomson and Steven B. Binder after tax withholdings are approximately 43,659 and 151,965, respectively.

ITEM 6. EXHIBITS

Exhibit Number	Description of Document
2.1	Agreement and Plan of Merger, dated August 24, 2025, by and among MannKind Corporation, Seacoast Merger Sub, Inc. and scPharmaceuticals Inc. (incorporated by reference to Exhibit 2.1 to MannKind Corporation's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on August 25, 2025.)
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to MannKind's Quarterly Report on Form 10-Q (File No. 000-50865), filed with the SEC on August 9, 2016).
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on March 2, 2017).
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on December 13, 2017).
3.4	Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on May 27, 2020).
3.5	Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on May 30, 2023).
3.6	Amended and Restated Bylaws (incorporated by reference to Exhibit 3.2 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on May 27, 2020).
4.1	Reference is made to Exhibits 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6.
4.2	Form of common stock certificate (incorporated by reference to Exhibit 4.2 to MannKind's Annual Report on Form 10-K (File No. 000-50865), filed with the SEC on March 16, 2017).
4.3	Milestone Rights Purchase Agreement, dated as of July 1, 2013, by and among MannKind, Deerfield Private Design Fund II, L.P. and Horizon Santé FLML SÁRL (incorporated by reference to Exhibit 99.3 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on July 1, 2013).
4.4	Form of Warrant to Purchase Stock issued to MidCap Financial Trust on August 6, 2019 (incorporated by reference to Exhibit 4.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on August 7, 2019).
4.5	Indenture, dated as of March 4, 2021, by and between MannKind Corporation and U.S. Bank National Association, as Trustee (incorporated by reference to Exhibit 4.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on March 5, 2021).
4.6	Form of Global Note, representing MannKind Corporation's 2.50% Convertible Senior Notes due 2026 (included as Exhibit A to the Indenture filed as Exhibit 4.15) (incorporated by reference to Exhibit 4.2 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on March 5, 2021).
10.1	Loan Agreement, dated August 6, 2025, among MannKind Corporation, certain subsidiaries of MannKind Corporation, Wilmington Trust, National Association, Blackstone Alternative Credit Advisors LP and the lenders from time to time party thereto (incorporated by reference to Exhibit 10.2 to MannKind's Quarterly Report on Form 10-Q (File No. 000-50865), filed with the SEC on August 6, 2025).
10.2	Amendment No. 1 to the Loan Agreement, dated August 24, 2025, among MannKind Corporation, certain subsidiaries of MannKind Corporation, Wilmington Trust, National Association, Blackstone Alternative Credit Advisors LP and the lenders from time to time party thereto (incorporated by reference to Exhibit 10.2 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on August 25, 2025).
10.3	First Amendment to License and Collaboration Agreement dated August 24, 2025 between MannKind Corporation and United Therapeutics Corporation (incorporated by reference to Exhibit 10.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on August 27, 2025).
10.4	Contingent Value Rights Agreement, dated as of October 7, 2025, by and between MannKind Corporation and Broadridge Corporate Issuer Solutions, LLC (incorporated by reference to Exhibit 10.1 to MannKind's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on October 9, 2025).

Exhibit Number	Description of Document
31.1	Certification of the Chief Executive Officer pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended.
31.2	Certification of the Chief Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended.
32.1	Certification of the Chief Executive Officer pursuant to Rules 13a-14(b) and 15d-14(b) of the Securities Exchange Act of 1934, as amended and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350).
32.2	Certification of the Chief Financial Officer pursuant to Rules 13a-14(b) and 15d-14(b) of the Securities Exchange Act of 1934, as amended and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350).
101	Inline Interactive Data Files pursuant to Rule 405 of Regulation S-T.
104	The cover page has been formatted in Inline XBRL.

SIGNATURES

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

Dated: November 5, 2025

MANNKIND CORPORATION

By: /s/ MICHAEL E. CASTAGNA
Michael E. Castagna
Chief Executive Officer
(on behalf of the registrant and as the registrant's Principal Executive Officer)

By: /s/ CHRISTOPHER B. PRENTISS
Christopher B. Prentiss
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 10.1

May 14, 2025

Re: Transition and Separation Agreement

Dear Burkhard Blank:

This letter sets forth the terms of the transition and separation agreement (the "**Agreement**") that MannKind Corporation (the "**Company**") is offering to you.

1. Separation Date. As we have discussed, due to our corporate transition your employment termination date (the "**Separation Date**") will be August 1, 2025, or such earlier date as your employment may be terminated by either you or the Company pursuant to Section 2 below.

2. Transition Period.

a. Transition Period Duties. During the period (the "**Transition Period**") between now and your Separation Date, you will remain an employee of the Company and continue to perform your present duties as Executive Vice President, Special Advisor, reporting to Michael Castagna, unless directed by the Company to change your job duties or reporting relationship. You are expected to comply with all Company policies and procedures and with all of your contractual obligations to the Company (including, without limitation, your obligations under your Employee Proprietary Information and Inventions Agreement and this Agreement). During the Transition Period, you will continue to perform your customary duties and responsibilities as directed. In the event a long-term replacement for your position is hired during the Transition Period, your duties will include providing training and transition assistance for your replacement.

b. Transition Period Work Location. During the period between the Effective Date of this Agreement and the Separation Date, you will continue to perform your services remotely.

c. Standard Compensation/Benefits. During the Transition Period, you will continue to receive your current base salary, subject to standard withholdings and deductions and you will be eligible for the Company's standard benefits, subject to the terms of such plans and programs and applicable law.

d. Health Insurance. To the extent provided by the federal COBRA law, or if applicable, state insurance laws (collectively, "**COBRA**"), and by the Company's group health insurance policies, you will be eligible to continue your group health insurance benefits, provided that you timely elect continued coverage under COBRA upon a qualifying event. Upon the occurrence of a COBRA qualifying event either on or before the Separation Date, and provided that you timely elect continued health insurance coverage under COBRA, the Company will pay your COBRA premiums sufficient to continue group health insurance coverage at your current level, through the earliest of: (i) two months after the date of the qualifying event; (ii) the date

you become eligible for group health insurance coverage through a new employer; or (iii) the date you cease to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event you become covered under another employer's group health plan or otherwise cease to be eligible for COBRA during the COBRA premium period, you must immediately provide written notice to the Company.

e. Stock Options and Restricted Stock Units. To the extent that you may have been previously granted equity awards, including but not limited to restricted stock units and performance stock units (the "**Stock Units**") in, or options (the "**Options**") to purchase, shares of the Company's common stock, pursuant to the Company's applicable equity incentive plan documents (collectively, the "**Plan**") and your Option and Stock Units grant documents, your Options and Stock Units will continue to vest during the Transition Period pursuant to the Plan; they continue to be governed by the Plan and applicable grant documents; and they will cease vesting as of the Separation Date. For clarity, 52,500 shares from your 2023 time-based restricted stock unit are expected to vest on May 24, 2025 and 32,250 shares from your 2024 time-based restricted stock unit are expected to vest on July 15, 2025. Any vested Option shares will be exercisable pursuant to the terms of the Plan and applicable grant documents. You will not be eligible to receive additional equity awards during the Transition Period. In addition, you acknowledge and agree that all Stock Units, even those subject to ongoing performance measurement periods, will be forfeited upon execution and effectiveness of the Separation Date Release. For clarification purposes, by signing such release, you agree that your 2024 performance stock unit grant is forfeited and that you will not be eligible for a pro-rata delivery of the underlying shares in July 2027. The Company's 10b5-1 trading plan policy will no longer apply to you after the Separation Date and you will be eligible to place open-market trades in shares of Company common stock as permitted by applicable law.

f. Termination. During the Transition Period, you are entitled to resign your employment at any time for any reason. Similarly, during the Transition Period, the Company is entitled to terminate your employment with Cause (as defined below). If the Company terminates your employment *with Cause* during the Transition Period, your employment ends due to your death or disability, or you resign for any reason, your employment will end immediately and you will not receive any further compensation or benefits from the Company (including the Severance in Section 3 below), except for any unpaid salary and PTO accrued through your Separation Date and any vested benefit under a written ERISA-qualified benefit program.

g. "Cause" Definition. For purposes of this Agreement, **"Cause"** for termination of your employment will mean any of the following: (i) your commission of any act of fraud, embezzlement, dishonesty or any other willful misconduct that has caused or is reasonably likely to cause injury to the Company; (ii) your unauthorized use or disclosure of any proprietary information or trade secrets of the Company or any other party in breach of a contractual commitment; (iii) your willful breach of any of your obligations under any written agreement with the Company or any Company policy; or (iv) your engaging in employment or performing any work activities competitive with the Company.

3. Severance, Outplacement, and Separation Date Release. If you remain a Company employee through the Separation Date, you remain in compliance with this Agreement and all Company policies, and you sign the Separation Date Release (attached hereto

as ***Exhibit A***) on the Separation Date or within twenty-one (21) days thereafter and allow it to become effective, then the Company will pay you the following payments, subject to standard employment and income tax deductions and withholdings:

a. an amount equal to 13 weeks of your base salary at the time of your Separation Date (the "**Severance**"). The Severance will be paid to you in the form of salary continuation payable at normal payroll intervals during the severance period on the dates when you would have received your payments of salary if you were still employed.

b. A one-time payment of $386,000 to be paid on the second payroll period of 2026, approximately on January 16, 2026, and after the Release Effective Date, as defined in the Separation Date Release.

4. Accrued Salary. On the Separation Date, or as soon as feasible thereafter, you will receive a final paycheck for all wages earned through the Separation Date (subject to standard withholdings and deductions), and, as required by law.

5. Other Compensation or Benefits. You acknowledge that, except as expressly provided in this Agreement, you will not receive any additional compensation, severance, equity, or benefits after the Separation Date.

6. Expense Reimbursements. You agree that, within thirty (30) days after the Separation Date, you will submit your final documented expense reimbursement statement reflecting all business expenses you incurred through the Separation Date, if any, for which you seek reimbursement.

7. Return of Company Property. By the Separation Date, you shall return to the Company all Company documents (and all copies or reproductions thereof) and other Company property within your possession or control, including, but not limited to, Company hardcopy and electronic files, email, correspondence, notes, drawings, records, reports, studies, compilations of data, business plans and forecasts, proposals, agreements, personnel information, financial and operational information, sales and marketing information, research and development information, product and prototype information, specifications, computer-recorded information, tangible property and equipment including, but not limited to, credit cards, entry cards, identification badges, keys, computing and communication devices; and any materials of any kind that contain or embody any proprietary or confidential information of the Company (and all reproductions or embodiments thereof, in whole or in part and in any medium). Your timely return of all such Company documents and other property is a condition precedent to your receipt of Severance under this Agreement; provided, however, that you are permitted to retain copies of any agreement that you signed with the Company (after leaving with the Company the original or another copy, if you do not possess the original). Your return of property and information shall include return of a copy of any Company information stored on any personal computing device, and deletion of all such information from your personal devices without retention of any copy or embodiment; and you agree to permit the Company to inspect any such device to ensure that such return and deletion of information has taken place.

8. Proprietary Information Protection and Assignment of Rights to Work Product. You acknowledge and agree to abide by your continuing obligations under your Employee Proprietary Information and Inventions Agreement, attached hereto as ***Exhibit B***. By way of example, you agree that, both during and after your employment, you will make no use or disclosure of any Company proprietary or confidential information unless specifically authorized in writing by a Company officer.

9. Confidentiality. The provisions of this Agreement will be held in strictest confidence by you and the Company and will not be publicized or disclosed in any manner whatsoever; *provided, however,* that: (a) you may disclose this Agreement in confidence to your immediate family; (b) the parties may disclose this Agreement in confidence to their respective attorneys, accountants, auditors, tax preparers, and financial advisors; (c) the Company may disclose this Agreement as necessary to fulfill standard or legally required corporate reporting or disclosure requirements; and (d) the parties may disclose this Agreement insofar as such disclosure may be necessary to enforce its terms or as otherwise required by law.

10.Nondisparagement. The parties agree that no party will at any time disparage the other party and the other party's officers, directors, employees, shareholders and agents, in any manner likely to be harmful to them or their business, business reputations or personal reputations, provided that you may respond accurately and fully to any inquiry to the extent required by legal process.

11.No Admissions. You understand and agree that the promises and payments in consideration of this Agreement shall not be construed to be an admission of any liability or obligation by the Company to you or to any other person, and that the Company makes no such admission.

1. Release of Claims. In exchange for the consideration under this Agreement to which you would not otherwise be entitled, you hereby generally and completely release the Company and its directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns from any and all claims, liabilities and obligations, both known and unknown, arising from or in any way related to events, acts, conduct, or omissions occurring at any time prior to and including the time you sign this Agreement. This general release includes, but is not limited to: (a) all claims arising from or in any way related to your employment with the Company or the termination of that employment; (b) all claims related to your compensation or benefits from the Company, including salary, bonuses, commissions, fees, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Age Discrimination in Employment in Employment Act ("**ADEA**"), 29 U.S.C. §§621, et seq., (as amended by the Older Workers' Benefit Protection Act, 29 U.S.C. §626(f)), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000, et seq., the Equal Pay Act, the Americans with Disabilities Act (42 U.S.C. §§12101, et seq.), the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§1001, et seq., the Family Medical Leave Act (29 USC §2601,

et seq.), and any claims under federal, state or local law for discrimination harassment, or retaliation or any other federal, state or local laws or regulations relating to terms and conditions of employment, including as applicable: the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. §§ 31-51m; 31-51kk et seq.; 38a-538, 546; 38a-543; 46a-51; 46a-58; 46a-60; 46a-81c. Notwithstanding the foregoing, you are not releasing the Company hereby from any breach of its performance of this Agreement. Also, excluded from this Agreement are any claims that cannot be waived by law. You are not waiving your right to bring proceedings before administrative agencies such as the Equal Employment Opportunity Commission, Department of Labor, or the California Department of Fair Employment and Housing, provided that you are waiving any monetary recovery from such proceedings. You represent that you have no lawsuits, claims or actions pending in your name, or on behalf of any other person or entity, against the Company or any other person or entity subject to the release granted in this paragraph.

2. ADEA Release. You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you have under the ADEA, and that the consideration given for the waiver and releases you have given in this Agreement is in addition to anything of value to which you were already entitled. You further acknowledge that you have been advised, as required by the ADEA, that: (a) your waiver and release does not apply to any rights or claims that arise after the date you sign this Agreement; (b) you should consult with an attorney prior to signing this Agreement (although you may choose voluntarily not to do so); (c) you have twenty-one (21) days to consider this Agreement (although you may choose voluntarily to sign it sooner); (d) you have seven (7) days following the date you sign this Agreement to revoke this Agreement (in a written revocation sent to me); and (e) this Agreement will not be effective until the date (the "**Effective Date**") upon which the revocation period has expired, which will be the eighth day after you sign this Agreement provided that you do not revoke it. Any negotiations or revisions to this Agreement, whether material or immaterial, will not restart the consideration period.

12.Section 1542 Waiver. In granting the release herein, which includes claims that may be unknown to you at present, you acknowledge that you have read and understand Section 1542 of the California Civil Code:

> **"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."**

You hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to the releases granted herein, including but not limited to the release of unknown and unsuspected claims granted in this Agreement.

13.Dispute Resolution. To aid in the rapid and economical resolution of any disputes which may arise under this Agreement, you and the Company agree that any and all claims, disputes or controversies of any nature whatsoever arising from or regarding the interpretation, performance, negotiation, execution, enforcement or breach of this Agreement, your employment, or the termination of your employment, shall be resolved by confidential, final and binding arbitration conducted before a single arbitrator with JAMS, Inc. ("**JAMS**") in the Los

Angeles, California area, in accordance with JAMS' then-applicable arbitration rules, which appear at the following link: http://www.jamsadr.com/rules-comprehensive-arbitration/. **The parties acknowledge that by agreeing to this arbitration procedure, they waive the right to resolve any such dispute through a trial by jury, judge or administrative proceeding**. You will have the right to be represented by legal counsel at any arbitration proceeding. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be available under applicable law in a court proceeding; and (b) issue a written statement signed by the arbitrator regarding the disposition of each claim and the relief, if any, awarded as to each claim, the reasons for the award, and the arbitrator's essential findings and conclusions on which the award is based. The Company shall bear JAMS' arbitration fees and administrative costs. Nothing in this Agreement shall prevent either you or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction.

14. Representations. You hereby represent that you have been paid all compensation owed and for all hours worked, have received all the leave and leave benefits and protections for which you are eligible pursuant to the Family and Medical Leave Act, the California Family Rights Act, or otherwise, and have not suffered any on-the-job injury for which you have not already filed a workers' compensation claim.

15. Miscellaneous. This Agreement, including all exhibits, constitutes the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to its subject matter. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein. Except as expressly provided in this Agreement, it supersedes any other such promises, warranties or representations, including, but not limited to, your employment offer letter and MannKind Corporation's Severance Benefit Plan. This Agreement may not be modified or amended except in a written agreement signed by both you and a duly authorized officer of the Company. If any provision of this Agreement (including, but not limited to, the Employee Proprietary Information and Inventions Agreement, incorporated by reference herein) becomes or is declared illegal, unenforceable or void, this Agreement shall continue in full force and effect, and said provision shall be deemed modified and enforceable consistent with the intent of the parties insofar as possible under applicable law. This Agreement will be construed and enforced in accordance with the laws of the state in which you primarily work without respect to conflicts of law principles. Any ambiguity in this Agreement shall not be construed against either party as the drafter. Any waiver of a breach of this Agreement must be in writing and shall not be deemed a waiver of any successive breach. This Agreement may be executed in counterparts and facsimile signatures will suffice as original signatures.

If this Agreement is acceptable to you, please sign below and return the original to me. You have twenty-one (21) calendar days from today's date to decide whether to accept this Agreement, and the Company's offer contained herein will automatically expire if you do not sign and return it within this timeframe.

Sincerely,

By: /s/ David Thomson
Name: David Thomson
Title: General Counsel

I HAVE READ, UNDERSTAND AND ACCEPT THE FOREGOING AGREEMENT:

/s/ Burkhard Blank	May 23, 2025
Burkhard Blank	Date

EXHIBIT A

SEPARATION DATE RELEASE

(To be signed on or within 21 days after the Separation Date.)

In consideration for the various benefits provided to me by MannKind Corporation (the "**Company**") pursuant to my letter Transition and Separation Agreement with the Company dated May 14, 2025 (the "**Agreement**"), I agree to the terms below.

I hereby confirm that: I have been paid all compensation owed for all hours worked by me for the Company; I have received all leave and leave benefits and protections for which I was eligible (pursuant to the Family and Medical Leave Act, the California Family Rights Act or otherwise) in connection with my work with the Company; and I have not suffered any injury or illness in connection with my work with the Company for which I have not already filed a claim.

I hereby generally and completely release the Company and its current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns from any and all claims, liabilities and obligations, both known and unknown, arising from or in any way related to events, acts, conduct, or omissions occurring prior to and including the time I sign this Separation Date Release (the "**Release**"). This general release includes, but is not limited to: (1) all claims arising from or in any way related to my employment with the Company, or the termination of that employment; (2) all claims related to compensation or benefits from the Company, including salary, bonuses, commissions, vacation pay, paid time off, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (3) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Age Discrimination in Employment in Employment Act ("**ADEA**"), 29 U.S.C. §§621, et seq., (as amended by the Older Workers' Benefit Protection Act, 29 U.S.C. §626(f)), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000, et seq., the Equal Pay Act, the Americans with Disabilities Act (42 U.S.C. §§12101, et seq.), the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§1001, et seq., the Family Medical Leave Act (29 USC §2601, et seq.), and any claims under federal, state or local law for discrimination harassment, or retaliation or any other federal, state or local laws or regulations relating to terms and conditions of employment, including as applicable: the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. §§ 31-51m; 31-51kk et seq.; 38a-538, 546; 38a-543; 46a-51; 46a-58; 46a-60; 46a-81c.

I am not releasing: (i) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company to which I am a party or under applicable law; (ii) any rights which cannot be waived as a matter of law; (iii) any rights I have to file or pursue a claim for workers' compensation or unemployment insurance; and (iv) any claims for breach of this Release. In addition, nothing in this Agreement prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, or any other analogous federal or state government agency, except that I acknowledge and agree that I hereby waive my right to any monetary benefits in connection with any such claim, charge or proceeding.

I also acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA ("**Release ADEA Waiver**"), and that the consideration given for the Release ADEA Waiver is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) my release and waiver herein does not apply to any rights or claims that arise after the date I sign this Release; (b) I should consult with an attorney prior to signing this Release (although I may choose voluntarily not to do so); (c) I have twenty-one (21) days to consider this Release (although I may choose to voluntarily sign it sooner); (d) I have seven (7) days following the date I sign this Release to revoke it (by sending written revocation directly to the Company's Chief Executive Officer); and (e) the Release will not be effective until the date upon which the revocation period has expired unexercised, which will be the eighth day after I sign this Release (the "**Release Effective Date**").

I UNDERSTAND THAT THIS RELEASE INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. I acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: **"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."** I hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to my release of claims herein, including but not limited to the release of unknown and unsuspected claims.

This Release, together with the Agreement (including all exhibits thereto), constitutes the complete, final and exclusive embodiment of the entire agreement between me and the Company with regard to the subject matter hereof. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained in the Release or the Agreement, and it entirely supersedes any other such promises, warranties or representations, whether oral or written.

By:_

Burkhard Blank

Date:____

EXHIBIT B

EMPLOYEE PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

Exhibit 10.2

LOAN AGREEMENT

Dated as of August 6, 2025

between

MANNKIND CORPORATION,
(*as Borrower*),

CERTAIN SUBSIDIARIES OF BORROWER FROM TIME TO TIME PARTY HERETO,
(*as other Credit Parties*),

WILMINGTON TRUST, NATIONAL ASSOCIATION,
(*as Agent*),

BLACKSTONE ALTERNATIVE CREDIT ADVISORS LP,
(*as Blackstone Representative and Lead Arranger*),

and

THE LENDERS FROM TIME TO TIME PARTY HERETO

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Attachments to Loan Agreement

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7. Exhibit F – Form of Security Agreement
8. Exhibit G – Form of Assignment and Assumption
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LOAN AGREEMENT

THIS LOAN AGREEMENT (this "**Agreement**"), dated as of August 6, 2025 (the "**Closing Date**"), is by and among MANNKIND CORPORATION, a Delaware corporation (as "**Borrower**"), each other Person from time to time party hereto that is designated as a "**Credit Party**" (as defined below), WILMINGTON TRUST, NATIONAL ASSOCIATION (as "**Agent**"), Blackstone Alternative Credit Advisors LP (the "**Blackstone Representative**") and each lender from time to time party hereto (each individually a "**Lender**" and collectively, the "**Lenders**").

W I T N E S S E T H:

WHEREAS, the Lenders have agreed, subject to the terms and conditions set forth herein, to extend certain credit facilities to Borrower consisting of (i) Initial Term Loans in an aggregate principal amount equal to $75,000,000 and (ii) Delayed Draw Term Loans in an aggregate principal amount equal to $125,000,000;

WHEREAS, the proceeds of the Term Loans shall be used (i) to pay fees, costs, and expenses in connection with the funding of the Term Loans, and (ii) for general corporate purposes of Borrower and its Subsidiaries;

WHEREAS, Borrower desires to secure the Obligations by granting to Agent, for the benefit of the Secured Parties, a security interest in and Lien upon the Collateral granted by it pursuant to the Collateral Documents; and

WHEREAS, subject to the terms hereof, each Guarantor is willing to guarantee all of the Obligations and to grant to Agent, for the benefit of the Secured Parties, a security interest in and Lien upon the Collateral granted by it pursuant to the Collateral Documents.

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

1. ACCOUNTING AND OTHER TERMS

Except as otherwise expressly provided herein, all accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in conformity with GAAP. All accounting calculations and determinations must be made following GAAP. Unless otherwise expressly provided, all financial covenants and financial terms shall be computed on a consolidated basis for Borrower and its Subsidiaries, in each case without duplication. If at any time any change in GAAP would affect the computation of any financial requirement set forth in any Loan Document, and either Borrower or the Blackstone Representative shall so request, the Blackstone Representative and Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP; provided, that, until so amended, (i) such requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Borrower shall provide to the Lenders a written reconciliation in form and substance reasonably satisfactory to the Lenders, between calculations of any baskets and other requirements hereunder, before and after giving effect to such change or issuance.

Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 14. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein. All references to "Dollars" or "$" are United States Dollars, unless otherwise noted, and all payments made by the Credit Parties to Agent or the Lenders with respect to the Obligations shall be in Dollars.

For purposes of determining compliance with Section 6 with respect to the amount of any Indebtedness in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness is incurred, made or acquired (so long as such Indebtedness, at the time incurred, made or acquired, was permitted hereunder).

Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Base Rate, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to Borrower. Agent may select information sources or services in its reasonable discretion to ascertain the Base Rate, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws), including a statutory division pursuant to Section 18-217 of the Delaware Limited Liability Company Act: (a) if any asset or property of any Person becomes the asset or property of one or more different Persons, then such asset or property shall be deemed to have been disposed of from the original Person to the subsequent Person(s) on the date such division becomes effective, (b) if any obligation or liability of any Person becomes the obligation or liability of one or more different Person(s), then the original Person shall be deemed to have been automatically released from such obligation or liability and such obligation or liability shall be deemed to have been assumed by the subsequent Person(s), in each case, on the date such division becomes effective and (c) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests on the date such division becomes effective.

2. LOANS AND TERMS OF PAYMENT

2.1 Promise to Pay.

Borrower hereby unconditionally promises to pay to the Lenders the outstanding principal amount of the Term Loans advanced to Borrower by the Lenders, and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

2.2 Commitments.

(a)

(a) Availability; Borrowing. Subject to the terms and conditions of this Agreement (including, as applicable, Sections 3.1, 3.2, 3.3 and 3.4):

(i) Each Lender with an Initial Term Loan Commitment severally and not jointly agrees to make to Borrower on the Closing Date initial term loans denominated in Dollars equal to such Lender's Initial Term Loan Commitment (collectively, the "**Initial Term Loan**"). After repayment or prepayment, the Initial Term Loan may not be re-borrowed.

(ii) At any time and from time to time during the Delayed Draw Commitment Period, each Lender with a Delayed Draw Commitment severally and not jointly agrees to make to Borrower on the applicable Funding Date delayed draw term loans denominated in Dollars in an aggregate amount not to exceed the Delayed Draw Commitment of such Lender (the "**Delayed Draw Term Loans**"). After repayment or prepayment, the Delayed Draw Term Loans may not be re-borrowed.

(iii) Borrower shall give Agent irrevocable written notice in the form of the Borrowing Notice attached hereto as Exhibit C (the "**Borrowing Notice**") (which notice must be received by the Agent prior to 1:00 p.m. Eastern Time, (1) with respect to any Borrowing on the Closing Date, five (5) Business Days prior to the Closing Date, (2) with respect to any Delayed Draw Term Loan Borrowing that is a Base Rate Loan, six (6) Business Days prior to the anticipated Funding Date, and (3) with respect to any Delayed Draw Term Loan Borrowing that is a SOFR Loan, three (3) Business Days prior to the anticipated Funding Date (or, in each case, such later time as may be agreed by the Blackstone Representative and the Agent)) requesting that the Lenders make the applicable Term Loans on the applicable Funding Date and specifying (v) the amount to be borrowed, (w) the Class of Loans to be borrowed, (x) the Type of Loans to be borrowed (and if a SOFR Loan, the Interest Period applicable thereto), (y) the Funding Date (which shall be a Business Day) and (z) the wiring information of the account of Borrower in which the proceeds of the requested Term Loans are to be disbursed. Upon receipt of such notice, Agent shall promptly notify each Lender thereof. Subject to the terms and conditions of this Agreement and the other Loan Documents, on the Funding Date set forth in the applicable Borrowing Notice, each such Lender shall fund (x) in the case of the Borrowing being made on the Closing Date, as directed by Borrower pursuant to the Payment / Advance Form and the Funding Direction Letter an amount in immediately available funds equal to the Initial Term Loans to be made by such Lender in accordance with the terms

hereof and (y) in the case of any Borrowing being made after the Closing Date, the amount of such Lender's pro rata share (based on the Delayed Draw Commitments) of such Borrowing to Agent, to the account of Agent specified for such purpose, prior to 1:00 p.m. Eastern Time, on the applicable Funding Date and the proceeds of such Borrowing received by Agent will then be made available to the Borrower by Agent by wire transferring such proceeds to the account of Borrower designated in the applicable Borrowing Notice on the requested Funding Date. The Borrower may not request more than five (5) Borrowings of Delayed Draw Term Loans during the Delayed Draw Commitment Period. Each Borrowing of Delayed Draw Term Loans shall be in a minimum principal amount of $25,000,000 and integral multiples of $500,000 in excess thereof (or, in each case, if less, the remaining amount of Delayed Draw Commitments or such lesser amount if Borrower and Agent (acting at the direction of the Blackstone Representative) otherwise agree).

(iv) The Initial Term Loan Commitment of each Lender shall be automatically and permanently reduced to zero on the Closing Date immediately following the funding of the Initial Term Loans. The Delayed Draw Commitment of each Lender shall be automatically and permanently reduced on a dollar-for-dollar basis upon each Funding Date by the principal amount of Delayed Draw Term Loans funded on such Funding Date, and any remaining Delayed Draw Commitments shall automatically and permanently be reduced to zero upon the expiration of the Delayed Draw Commitment Period.

(v) Unless Agent shall have been notified by any Lender prior to the date of any Borrowing that such Lender does not intend to make available to Agent its portion of the borrowing to be made on such date, Agent may assume that such Lender has made such amount available to Agent on such date of borrowing, and Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to Borrower a corresponding amount. If such corresponding amount is not in fact made available to Agent by such Lender and Agent has made available the same to Borrower, Agent shall be entitled to recover such corresponding amount from such Lender together with interest at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation. If such Lender does not pay such corresponding amount forthwith upon Agent's demand therefor, Agent shall promptly notify Borrower and Borrower shall promptly pay such corresponding amount to Agent. Agent shall also be entitled to recover from Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by Agent to Borrower, to the date such corresponding amount is recovered by Agent, at a rate per annum equal to the rate of interest then applicable to the applicable Term Loans pursuant to Section 2.3(a).

(b) Repayment. Borrower shall, on the Term Loan Maturity Date, repay the outstanding principal amount of the Term Loans to Agent, for the ratable account of the Lenders, together with all accrued and unpaid interest and fees, and all other outstanding Obligations.

(c) Prepayment of Term Loans.

(i) Borrower shall have the option, at any time after the applicable Funding Date, to prepay, in whole or in part, the Term Loans advanced by the Lenders under this

Agreement; provided that (A) Borrower shall provide written notice to Agent of its election under this Section 2.2(c)(i) (which may be conditioned on the consummation of other transactions but shall otherwise be irrevocable unless Agent (acting at the direction of the Blackstone Representative) otherwise consents in writing, and upon receipt of any such written notice, Agent shall promptly notify each or, as the case may be, any relevant Lender thereof) to prepay all or only part of the Term Loan at least five (5) Business Days prior to such prepayment (unless otherwise agreed by the Blackstone Representative and Agent), and (B) such prepayment shall be accompanied by any and all accrued and unpaid interest on the principal amount to be prepaid to the date of prepayment, the Prepayment Premium (if applicable), and all other amounts payable or accrued and not yet paid under this Agreement and the other Loan Documents. Partial prepayments of the Term Loans shall be in an aggregate principal amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof or, if less, the entire amount thereof. Each notice of prepayment provided to Agent under this Section 2.2(c)(i) shall specify the date (which shall be a Business Day) of such prepayments, the Class of Loans being prepaid, the amount of such prepayment and the amount of Prepayment Premium (if applicable) payable as a result of such prepayment.

(ii) Upon the occurrence of a Change in Control, Borrower shall immediately prepay all of the Term Loans in full in an amount equal to the sum of (A) all unpaid principal and any and all accrued and unpaid interest with respect to the Term Loans, and (B) the Prepayment Premium (if applicable), and all other amounts payable or accrued and not yet paid under this Agreement and the other Loan Documents.

(iii) If at any time any Credit Party or any Subsidiary of a Credit Party shall incur Indebtedness not constituting Permitted Indebtedness, then (A) Borrower shall promptly notify Agent in writing of such incurrence of Indebtedness (including the amount of the Net Issuance Proceeds received by a Credit Party or such Subsidiary in respect thereof) (and upon receipt of any such written notice Agent shall promptly notify each relevant Lender thereof) and (B) promptly (and in any event, within five (5) Business Days (or such later date as agreed by the Blackstone Representative)) upon receipt by a Credit Party or such Subsidiary of the Net Issuance Proceeds of incurrence of such Indebtedness, Borrower shall deliver, or cause to be delivered, one hundred percent (100%) of such Net Issuance Proceeds to Agent for distribution to the Lenders as a prepayment of the Term Loans, together with any and all accrued and unpaid interest with respect to the Term Loans so prepaid, and the Prepayment Premium (if applicable). Any prepayment required pursuant to this clause (iii) shall not be deemed to be the exclusive right or remedy of the Lenders with respect to such incurrence of Indebtedness not constituting Permitted Indebtedness, and such incurrence shall constitute an Event of Default (and Agent and Lenders shall have all rights and remedies in respect thereof).

(iv) Upon receipt by any Credit Party or any Subsidiary of Net Proceeds from the occurrence of any Asset Sale not made in the ordinary course of business or any Event of Loss, to the extent the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Asset Sale or Event of Loss and all other such Asset Sales and Events of Loss received during the same fiscal year exceeds $10,000,000 then (A) Borrower shall promptly notify Agent in writing of such Asset Sale or Event of Loss (including the amount of the Net Proceeds received by a Credit Party or

such Subsidiary in respect thereof) (and upon receipt of any such written notice Agent shall promptly notify each relevant Lender thereof), and (B) promptly (and in any event, within three (3) Business Days (or such later date as agreed by the Blackstone Representative and Agent)) upon receipt by a Credit Party or such Subsidiary of the Net Proceeds of such Asset Sale or Event of Loss, Borrower shall deliver, or cause to be delivered, one hundred percent (100%) of such Net Proceeds (in excess of the threshold set forth above) to Agent for distribution to the Lenders as a prepayment of the Term Loans, together with any and all accrued and unpaid interest with respect to the Term Loans so prepaid, and, to the extent such prepayment constitutes a Prepayment Premium Trigger Event, the Prepayment Premium (if applicable).

(v) Notwithstanding clause (iv) above, and provided that no Default or Event of Default has occurred and is continuing, no prepayment of all (or a portion) of such Net Proceeds pursuant to clause (iv) above shall be required to the extent (i) a Credit Party or such Subsidiary reinvests the Net Proceeds (or applicable portion thereof) of any such Asset Sale or Event of Loss with respect to Collateral in assets or property of any Credit Party constituting Collateral of a kind then used or usable in the business of such Credit Party, or (ii) a Credit Party or such Subsidiary reinvests the Net Proceeds (or applicable portion thereof) of any such Asset Sale or Event of Loss with respect to assets that are not Collateral in assets or property of any Credit Party or Subsidiary of a kind then used or usable in the business of such Credit Party or Subsidiary, in each case within three hundred sixty-five (365) days after the date of receipt of such Net Proceeds or enters into a binding commitment thereof within said three hundred sixty-five (365) day period and subsequently makes such reinvestment within one hundred eighty (180) days after the final day of such three hundred sixty-five (365) day period. Pending such reinvestment, the Net Proceeds shall be deposited, and shall remain on deposit, in a deposit account subject to a Control Agreement.

(d) Allocation of Prepayments. Each prepayment or repayment by Borrower on account of principal of and interest on each Class of Loan shall be applied by Agent on a *pro rata* basis according to the respective outstanding principal amounts of the Term Loans then held by the Lenders making up that Class. Each prepayment or repayment required to be made with respect to the Term Loans shall be applied by Agent on a *pro rata* basis to the Initial Term Loans and Delayed Draw Term Loans according to the respective outstanding principal amounts of the Term Loans of each such Class.

(e) Declined Amounts. In the event of any mandatory prepayment of the Term Loans pursuant to Sections 2.2(c)(ii), (iii) or (iv) (an "**Applicable Mandatory Prepayment**"), (i) Borrower shall provide written notice to Agent no later than 12:00 p.m. Eastern Time, three (3) Business Days prior to the Applicable Mandatory Prepayment, which notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment and the Prepayment Premium (if any) applicable thereto and (ii) each Lender may reject all or a portion of its share of such Applicable Mandatory Prepayment by written notice (each, a "**Rejection Notice**") (each such Lender, a "**Rejecting Lender**") to Agent no later than 2:00 p.m. Eastern Time, two (2) Business Days prior to the date of prepayment (the "**Rejection Deadline**"). If a Lender fails to deliver a Rejection Notice to Agent at or prior to the Rejection Deadline, such Lender shall be deemed to have accepted its ratable share of the Applicable

Mandatory Prepayment. The aggregate portion of such Applicable Mandatory Prepayment that is rejected by Lenders pursuant to Rejection Notices shall be referred to as the "**Rejected Amount**". Such Rejected Amount shall be offered to each Lender holding the same Class of Loans as such Rejecting Lender that is not a Rejecting Lender *pro rata*, and such Lender may reject all or a portion of its share of the Rejected Amount by no later than 2:00 pm Eastern Time, one (1) Business Day prior to the date of prepayment pursuant to the procedures set forth in the immediately preceding sentence and the aggregate portion of such Rejected Amount that is rejected by the Lenders shall be returned by Agent to Borrower and may be used by Borrower in any manner not prohibited by the Loan Documents.

(f) Prepayment Premium. Upon the occurrence of a Prepayment Premium Trigger Event, Borrower shall pay to Agent, for the account of the Lenders, the Prepayment Premium, plus any and all accrued but unpaid interest on the amount of principal being so prepaid through and including the date of prepayment. Any such Prepayment Premium shall be fully earned on the date due and payable and shall not be refundable or subject to proration for any reason. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, it is understood and agreed that if a Prepayment Premium Trigger Event occurs under clauses (a)(ii), (b), (c) or (d) of the definition thereof, the Prepayment Premium, determined as of the date of such acceleration or event, shall be automatically due and payable and shall be treated and deemed as though the entire principal amount of the Term Loans were voluntarily prepaid as of such date and shall constitute part of the Obligations for all purposes herein. Any Prepayment Premium payable in accordance with this Section 2.2(f) shall be presumed to be equal to the liquidated damages sustained by the Lenders as the result of the occurrence of the Prepayment Premium Trigger Event, and Borrower and Guarantors agree that it is reasonable under the circumstances currently existing. The Prepayment Premium, if any, shall also be due and payable in the event the Obligations (or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means or if the Obligations are reinstated pursuant to Section 1124 of the Bankruptcy Code (with the Prepayment Premium being determined as of the date of such foreclosure, deed in lieu of foreclosure, reinstatement or other event). If the Prepayment Premium becomes due and payable pursuant to this Agreement, such Prepayment Premium shall be deemed to be principal of the Term Loans, and interest shall accrue on the full principal amount of the Term Loans (including the Prepayment Premium) from and after the applicable Prepayment Premium Trigger Event. In the event the Prepayment Premium is determined not to be due or payable by order of any court of competent jurisdiction, including by operation of the Bankruptcy Code, despite such a triggering event having occurred, the Prepayment Premium shall nonetheless constitute Obligations under this Agreement for all purposes hereunder. BORROWER AND THE GUARANTORS EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO AND THE SAME IS NOT OUTSIDE THEIR LEGAL CAPACITY (WHETHER AS A RESULT OF FINANCIAL ASSISTANCE, CORPORATE BENEFIT, THIN CAPITALIZATION, CAPITAL MAINTENANCE OR LIQUIDITY MAINTENANCE RULES OR OTHER LEGAL PRINCIPLES)) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH PREPAYMENT, INCLUDING ANY VOLUNTARY OR INVOLUNTARY ACCELERATION OF THE OBLIGATIONS PURSUANT TO AN INSOLVENCY PROCEEDING OR OTHER PROCEEDING PURSUANT TO ANY INSOLVENCY LAWS OR PURSUANT TO A PLAN OF REORGANIZATION. THE CREDIT

PARTIES, AGENT AND THE LENDERS ACKNOWLEDGE AND AGREE THAT ANY PREPAYMENT PREMIUM DUE AND PAYABLE IN ACCORDANCE WITH THIS AGREEMENT SHALL NOT CONSTITUTE UNMATURED INTEREST, WHETHER UNDER SECTION 5.02(B)(3) OF THE BANKRUPTCY CODE OR OTHERWISE. EACH CREDIT PARTY FURTHER ACKNOWLEDGES AND AGREES, AND WAIVES ANY ARGUMENT TO THE CONTRARY, THAT PAYMENT OF SUCH AMOUNT DOES NOT CONSTITUTE A PENALTY OR AN OTHERWISE UNENFORCEABLE OR INVALID OBLIGATION. Borrower and Guarantors expressly agree that (i) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (ii) the Prepayment Premium shall be payable notwithstanding the then-prevailing market rates at the time payment is made, (iii) there has been a course of conduct between the Lenders and the Credit Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium, (iv) the Credit Parties shall be estopped hereafter from claiming differently than as agreed to in this Section 2.2(f), (v) their agreement to pay the Prepayment Premium is a material inducement to the Lenders to provide the Commitments and make the Term Loans, and (vi) the Prepayment Premium represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Lenders, and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such Prepayment Premium Trigger Event.

2.3 Payment of Interest on the Credit Extensions.

(a) Interest Rate.

(i) Subject to Section 2.3(b) and Section 2.3(e), the principal amount outstanding under the Term Loans shall accrue interest at a per annum rate equal to Adjusted Term SOFR or the Base Rate, as the case may be, plus the Applicable Margin, which interest shall be payable quarterly in arrears in accordance with this Section 2.3.

(ii) Interest shall accrue on the Term Loans commencing on, and including, the day on which the Term Loans are made, and shall not accrue on the Term Loans, or any portion thereof, for the day on which such Term Loans or such portion is paid.

(iii) Each Borrowing of Term Loans initially shall be of the Type specified in the applicable Borrowing Notice. Thereafter, Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing. Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Term Loans comprising such Borrowing, and the Term Loans comprising each such portion shall be considered a separate Borrowing. To make an election pursuant to this clause (iii), Borrower shall deliver a duly completed and executed irrevocable written notice in the form of the Interest Election Required attached hereto as Exhibit J (the "**Interest Election Request**") to Agent not later than 12:00 p.m., Eastern Time, (x) three (3) Business Days prior to the requested date of any continuation of SOFR Loans or any conversion of Base Rate Loans to SOFR Loans, and (y) one (1) Business Day prior to the requested date of any conversion of SOFR Loans to Base Rate Loans. Each Interest Election Request shall specify (x) the Borrowing to which such Interest Election Request applies, (y) the effective

date of the election made pursuant to such Interest Election Request, which shall be a Business Day and (z) whether the resulting Borrowing is to be a Base Rate Borrowing or a Term SOFR Borrowing. If an Interest Election Request with respect to a SOFR Loan is not timely delivered prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid or prepaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Term SOFR Borrowing with an interest period of one month.

(b) Default Rate. Following the occurrence and during the continuance of an Event of Default, all Obligations shall bear interest, after as well as before judgment, at a per annum rate equal to 2.00%, plus the rate otherwise applicable to the Term Loans or other Obligations as provided in Sections 2.3(a) (the "**Default Rate**"), and such interest shall be payable entirely in cash on demand of the Blackstone Representative (notice of which shall be provided to the Agent); provided, that the Blackstone Representative may waive the Default Rate in its sole discretion. Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Agent, the Blackstone Representative or the Lenders.

(c) 360-Day Year. Interest shall be computed on the basis of a year of a 360 days and the actual number of days elapsed.

(d) Payments.

(i) Except as otherwise expressly provided herein, all loan payments (and any other payments hereunder) by Borrower hereunder shall be made on the date specified herein to such bank account of Agent as specified in writing by Agent from time to time to Borrower and the Lenders. Interest is payable on each Interest Date, beginning (in the case of Base Rate Loan) on September 30, 2025, on the date of any payment or prepayment or acceleration, in whole or in part, of principal outstanding on the Term Loans, on the principal amount so paid or prepaid or accelerated, and on the Term Loan Maturity Date. Payments of principal or interest received after 2:00 p.m. Eastern Time on such date are considered received at the opening of business on the next Business Day. Except as otherwise expressly provided herein, when a payment is due on a day that is not a Business Day, the payment is due the next Business Day and additional fees or interest, as applicable, shall continue to accrue until paid. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest made hereunder and pursuant to any other Loan Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds. Agent shall distribute such payments on a pro rata basis to each relevant Lender promptly upon receipt in like funds as received, net of any amounts owing by such Lender pursuant to Section 12.14.

(ii) If, other than as expressly provided elsewhere herein or required by court order, any Lender shall obtain payment in respect of any principal or interest on account of the Term Loans made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated

hereunder) thereof, such Lender shall (A) immediately notify Agent of such fact, and (B) hold such amounts in trust for the benefit of Agent and the other Lenders and promptly pay or deliver to Agent, for application to the Term Loans made by the other Lenders pursuant to this Agreement, such excess amounts in the form received. For the avoidance of doubt, the provisions of this paragraph shall not be construed to apply to (x) any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (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 Term Loans to any assignee or participant permitted hereunder.

(iii) [Reserved].

(iv) The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 12.13 are several and not joint. The failure of any Lender to make any Loan or to make any payment under Section 12.13 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 or to make its payment under Section 12.13. If any Lender shall fail to make any payment required to be made by it pursuant to Section 12.13, then Agent may, in its discretion and notwithstanding any contrary provision hereof, apply any amounts thereafter received by Agent for the account of such Lender under any Loan Document to satisfy such Lender's obligation to Agent.

(v) Unless Agent shall have received notice from Borrower prior to the date on which any payment is due to Agent for the account of the Lenders hereunder that Borrower will not make such payment, Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption and in its sole discretion, distribute to the Lenders the amount due. In such event, if Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to Agent forthwith on demand the amount so distributed to such 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 Agent, at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation.

(e) Inability to Determine Rates. Subject to Section 2.9, if, on or prior to the first day of any Interest Period for any SOFR Loan:

(i) Agent determines (which determination shall be conclusive and binding absent manifest error) that "Adjusted Term SOFR" cannot be determined pursuant to the definition thereof, or

(ii) the Required Lenders determine that for any reason in connection with any request for a SOFR Loan or a conversion thereto or a continuation thereof that Adjusted Term SOFR for any requested Interest Period with respect to a proposed SOFR Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, and the Required Lenders have provided notice of such determination to the Agent, Agent shall

promptly so notify Borrower and each Lender. Upon notice thereof by Agent to Borrower, any obligation of the Lenders to make SOFR Loans, and any right of Borrower to continue SOFR Loans or to convert Base Rate Loans to SOFR Loans, shall be suspended (to the extent of the affected SOFR Loans or affected Interest Periods) until Agent (with respect to clause (ii), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans or affected Interest Periods) or, failing that, Borrower shall be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) any outstanding affected SOFR Loans shall be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such conversion, Borrower shall also pay accrued interest on the amount so converted, together with any additional amounts required pursuant to Section 2.5. Subject to Section 2.9, if Agent determines (which determination shall be conclusive and binding absent manifest error) that "Adjusted Term SOFR" cannot be determined pursuant to the definition thereof on any given day, the interest rate on Base Rate Loans shall be determined by Agent without reference to clause (c) of the definition of "Base Rate" until Agent revokes such determination.

(f) Term SOFR Conforming Changes. In connection with the use or administration of Term SOFR, the Agent (in consultation with Borrower and at the direction of the Blackstone Representative) shall endeavor in good faith to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes shall become effective without any further action or consent of any other party to this Agreement or any other Loan Document. Agent shall promptly notify the Lenders and Borrower of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

(g) Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or to determine or charge interest rates based upon SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, then, upon notice thereof by such Lender to Borrower (through Agent), (a) any obligation of the Lenders to make SOFR Loans, and any right of Borrower to continue SOFR Loans or to convert Base Rate Loans to SOFR Loans, shall be suspended, and (b) the interest rate on which Loans shall, if necessary to avoid such illegality, be determined by Agent without reference to clause (c) of the definition of "Base Rate", in each case until such Lender notifies Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to Agent), prepay or, if applicable, convert all SOFR Loans to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by Agent without reference to clause (c) of the definition of "Base Rate"), on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such SOFR Loans to such day, or immediately, if any Lender may not lawfully continue to maintain such SOFR Loans to such day, and (ii) if necessary to avoid such illegality, Agent shall during the period of such suspension compute the Base Rate without reference to clause (c) of the

definition of "Base Rate," in each case until Agent is advised in writing by each affected Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR. Upon any such prepayment or conversion, Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.5.

2.4 [Reserved].

2.5 Requirements of Law; Increased Costs. In the event that any applicable Change in Law:

(a) Does or shall subject Agent or any Lender to any Tax of any kind whatsoever with respect to this Agreement or the Term Loans made hereunder (except, in each case, Indemnified Taxes, Taxes described in clause (b) through (d) of the definition of Excluded Taxes, and Connection Income Taxes);

(b) Does or shall impose, modify or hold applicable any reserve, capital requirement, special deposit, compulsory loan, insurance charge or similar requirements against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, Agent or any Lender; or

(c) Does or shall impose on Agent or any Lender any other condition (other than Taxes); and the result of any of the foregoing is to increase the cost to Agent or any Lender (as determined by such Person in good faith using calculation methods customary in the industry) of making, renewing or maintaining the Term Loan, or to reduce any amount receivable in respect thereof, or to reduce the rate of return on the capital of Agent or any Lender or any Person controlling Agent or any Lender,

then, in any such case, Borrower shall promptly pay to Agent or such Lender, as applicable, within thirty (30) days of its receipt of the certificate described below, any additional amounts necessary to compensate Agent or such Lender for such additional cost or reduced amounts receivable, or rate of return as reasonably determined by Agent or such Lender with respect to this Agreement, or the Term Loans made hereunder. If Agent or any Lender becomes entitled to claim any additional amounts pursuant to this Section 2.5, it shall promptly notify Borrower (and such Lender shall promptly notify Agent) in writing of the event by reason of which it has become so entitled, and a certificate as to any additional amounts payable pursuant to the foregoing sentence containing the calculation thereof in reasonable detail submitted by Agent or such Lender to Borrower shall be conclusive in the absence of manifest error. The provisions hereof shall survive the termination of this Agreement and the payment of the outstanding Term Loan and all other Obligations. Failure or delay on the part of Agent or any Lender to demand compensation for any increased costs or reduction in amounts received or receivable, or reduction in return on capital under this Section 2.5, shall not constitute a waiver of Agent's or any Lender's right to demand such compensation; provided that Borrower shall not be under any obligation to compensate Agent or any Lender under this Section 2.5 with respect to increased costs or reductions with respect to any period prior to the date that is one hundred eighty (180) days prior to the date of the delivery of the notice required pursuant to the foregoing provisions of this paragraph; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the

180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.6 Taxes; Withholding, Etc.

(a) All sums payable by or on account of any obligation of any Credit Party hereunder and under the other Loan Documents shall (except to the extent required by Requirements of Law (as determined in the good faith discretion of an applicable Credit Party or Agent)) be paid free and clear of, and without any deduction or withholding on account of, any Tax imposed, levied, collected, withheld or assessed by any Governmental Authority. In addition, Borrower shall timely pay to the relevant Governmental Authority in accordance with Requirements of Law, or at the option of Agent timely reimburse it for the payment of, and indemnify and hold Agent and each Lender harmless from, Other Taxes, and as soon as reasonably practicable after the date of paying such sum, Borrower shall furnish to Agent or such Lender, if reasonably available, the original or a certified copy of a receipt evidencing payment thereof, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(b) If any Credit Party or Agent is required by Requirements of Law to make any deduction or withholding on account of any Tax (as determined in the good faith discretion of an applicable Credit Party or Agent, as applicable) from any sum paid or payable by any Credit Party to Agent or any Lender under any of the Loan Documents: (i)such Person shall notify Agent or such Lender, as applicable, in writing of any such requirement or any change in any such requirement promptly after a Credit Party becomes aware of it; (ii) such Person shall be entitled to make any such withholding or deduction; (iii) such Person shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Requirements of Law; (iv) if the Tax is an Indemnified Tax, the sum payable by the applicable Credit Party in respect of which the relevant deduction, withholding or payment of Indemnified Tax is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment (including any deductions for Indemnified Taxes applicable to additional sums payable under this Section 2.6(b)), Agent or such Lender, as applicable, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment of Indemnified Tax been required or made; and (v) as soon as practicable after paying any sum from which it is required by Requirements of Law to make any deduction or withholding, Borrower shall deliver to Agent and each Lender evidence reasonably satisfactory to Agent and Lender of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other Governmental Authority, including, if reasonably available, the original or certified copy of a receipt issued by such Governmental Authority evidencing such payment or a copy of the return reporting such payment.

(c) Borrower shall indemnify each Lender or, as applicable (and without double counting), Agent for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.6) payable or paid by such Lender or Agent, or required to be withheld or deducted from a payment to such Lender or Agent, 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, and any indemnification payment pursuant to this Section 2.6(c) shall be made to Agent or any Lender within thirty (30) days from written demand therefor, except that no

payment shall be due from Borrower under this Section 2.6(c) to the extent that the relevant Lender has been compensated by an increased payment under Section 2.6(b)(iv) above with respect to the same Indemnified Taxes. In the case of the first and the second sentence of this Section 2.6(c), a certificate as to the amount of such payment or liability delivered to Borrower by Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of Lender, shall be conclusive absent manifest error.

(d) Status of Lenders and Agent.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to Borrower and Agent, at the time or times reasonably requested by Borrower or Agent, such properly completed and executed documentation reasonably requested by Borrower or Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by Borrower or Agent as will enable Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.6(d)(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.

(ii) Without limiting the generality of the foregoing, in the event that Borrower is a U.S. Borrower,

(A) any Lender that is a U.S. Person shall deliver to Borrower and Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Agent), whichever of the following is applicable:

(a) 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 Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as

applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(b) executed copies of IRS Form W-8ECI;

(c) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the IRC, (x) a certificate in a form reasonably acceptable to Borrower and Agent to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the IRC, a "10 percent shareholder" of Borrower within the meaning of Section 881(c)(3)(B) of the IRC, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the IRC (a "**U.S. Tax Compliance Certificate**") and (y) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(d) 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, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate in a form reasonably acceptable to Borrower and Agent, 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 in a form reasonably acceptable to Borrower and Agent on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or 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 Borrower or Agent to determine the withholding or deduction required to be made; and

(D) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to Borrower and Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by Borrower or Agent as may be necessary for Borrower and 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.

To the extent legally permissible, Agent, on or prior to the date Agent becomes a party to this Agreement, shall (i) deliver a duly executed IRS Form W-9 to the Borrower in the event that Agent is a U.S. Person or (ii) if Agent is not a U.S. Person, deliver a duly executed applicable IRS Form W-8 certifying its exemption from U.S. withholding Taxes with respect to amounts receivable for its own account.

Each Lender and Agent 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 Borrower and Agent in writing of its legal inability to do so.

(e) Borrower and each Lender acknowledge and agree that, for U.S. federal and other applicable income tax purposes, the Term Loans have original issue discount ("OID") within the meaning of Section 1272 of the Code. Information regarding the amount of any OID, the issue price, the issue date and the yield to maturity of the Term Loans may be obtained by writing to the Borrower at the following address: 30930 Russell Ranch Road Suite 300, Westlake Village, CA 91362, Attention: Chief Financial Officer, Email: cprentiss@mannkindcorp.com. Neither Borrower nor any Lender shall take any tax position inconsistent with this Section 2.6(e) unless otherwise required by applicable law or the final determination of a tax authority following a tax audit or examination.

(f) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.6 (including by the payment of additional amounts pursuant to this Section 2.6), 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 (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event shall the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph (f) 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.

(g) Each party's obligations under this Section 2.6 shall survive the resignation or replacement of 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 the Obligations.

2.7 Fees.

(a) Borrower shall pay the amounts required to be paid in the Lender Fee Letter and the Agent Fee Letter, in the manner and at the times required by each such letter.

(b) Borrower shall pay to Agent a fee (the "**DDTL Ticking Fee**") for the account of each Delayed Draw Term Lender holding Delayed Draw Commitments for the period from the first anniversary of the Closing Date until the expiration of the Delayed Draw Commitment Period (or such earlier date as the Delayed Draw Commitment shall terminate as provided in this Agreement) computed at a rate of 1.0% per annum multiplied by the daily unused portion of the Delayed Draw Commitment of such Delayed Draw Term Lender during such period, in each case, payable quarterly in arrears on the last Business Day of each calendar quarter, commencing with September 30, 2026, and on the expiration of the Delayed Draw Commitment Period, or such earlier date as the Delayed Draw Commitment shall terminate as provided in this Agreement, and shall be calculated based upon the actual number of days elapsed over a 360-day year. The DDTL Ticking Fee shall accrue at all times from and after the first anniversary of the Closing Date through the expiration of the Delayed Draw Commitment Period (or such earlier date as the Delayed Draw Commitment shall terminate as provided in this Agreement).

2.8 Register; Term Loan Note.

(a) Register. Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain a copy of each Assignment and Assumption and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related stated interest amounts) of the Term Loans and the amounts due 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 Borrower, Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower, Agent and any Lender (solely with respect to itself), at any reasonable time and from time to time upon reasonable prior notice. Any assignment of any interest in the Term Loans or other obligation hereunder shall be effective only upon appropriate entries with respect thereto being made in the Register. This Section 2.8 and Section 11.1 shall be construed so that the Term Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the IRC and any related Treasury Regulations (or any other relevant or successor provisions of the IRC or of such Treasury Regulations).

(b) Term Loan Note. Borrower shall execute and deliver to each Lender, upon written request, to evidence such Lender's Term Loans, a Term Loan Note.

2.9 Benchmark Replacement Setting.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event, Agent (acting at the direction of the Blackstone Representative), the Blackstone Representative and Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event shall become effective at 5:00 p.m. Eastern Time on the fifth (5th) Business Day after Agent has posted such proposed amendment to all affected Lenders and Borrower so long as Agent has not received, by

such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 2.9(a) shall occur prior to the applicable Benchmark Transition Start Date.

(b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, Agent (in consultation with Borrower and the Blackstone Representative) shall have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes shall become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(c) Notices; Standards for Decisions and Determinations. Agent shall promptly notify Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. Agent shall promptly notify Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.9(d). Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.9, including any determination with respect to a tenor, rate or adjustment, or of the occurrence or non-occurrence of an event, circumstance or date, and any decision to take or refrain from taking any action or any selection, shall be conclusive and binding absent manifest error, and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.9.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Agent (acting at the direction of the Blackstone Representative) in its reasonable discretion or (B) the administrator of such Benchmark or the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then Agent (acting at the direction of the Blackstone Representative) may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative, then Agent (acting at the direction of the Blackstone Representative) may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) Borrower may revoke any pending request for a SOFR Borrowing of, conversion to or continuation of SOFR Loans to be made,

converted or continued during any Benchmark Unavailability Period and, failing that, Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans and (ii) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans at the end of the applicable Interest Period. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

2.10 Incremental Delayed Draw Term Loans.

(a) Subject to the terms and conditions of this Agreement, Borrower may at any time and from time to time after the Closing Date, subject to the prior written consent of the Blackstone Representative and the Required Lenders (to be granted or withheld in their sole and absolute discretion), by notice to Agent, the Blackstone Representative and the Lenders, request one or more additional Classes of Delayed Draw Term Loans or additional Delayed Draw Term Loans of the same Class of any existing Class of Delayed Draw Term Loans (the "**Incremental Delayed Draw Term Loans**" or the "**Incremental Delayed Draw Term Facilities**"). Notwithstanding anything to the contrary herein, the aggregate principal amount of Incremental Delayed Draw Term Facilities incurred hereunder shall not exceed $300,000,000 (the "**Maximum Incremental Delayed Draw Term Amount**").

(b) Unless otherwise specified in the applicable Incremental Term Supplement (as defined below), each Incremental Delayed Draw Term Loan shall be on the same terms as, and shall be treated for all purposes as, the Delayed Draw Term Loans, respectively; provided that the Prepayment Premium (if any) applicable to such Incremental Delayed Draw Term Loans shall be determined by Borrower, the Blackstone Representative and the Required Lenders by mutual agreement at the time of incurrence of such Incremental Delayed Draw Term Loans and set forth in the applicable Incremental Term Supplement. Each Incremental Delayed Draw Term Loan shall be in a minimum principal amount of $1,000,000 and integral multiples of $500,000 in excess thereof (unless Borrower and the Blackstone Representative otherwise agree); provided that such amount may be less than $1,000,000, if such amount represents all the remaining availability under the Maximum Incremental Term Amount set forth above.

(c) Each notice from Borrower pursuant to this Section 2.10 shall set forth the requested amount and type of the relevant Incremental Delayed Draw Term Facilities.

(d) Commitments in respect of Incremental Delayed Draw Term Facilities shall become commitments under this Agreement pursuant to a supplement (an "Incremental Term Supplement") to this Agreement and, as appropriate, the other Loan Documents, executed by Borrower, each Lender agreeing to provide such commitment (provided that no Lender shall be obligated to provide any loans or commitments under any Incremental Delayed Draw Term Facility unless it so agrees), the Blackstone Representative, the Required Lenders and Agent. Incremental Delayed Draw Term Loans shall be a "Term Loan" for all purposes of this Agreement and the other Loan Documents. The effectiveness of any Incremental Term Supplement and the occurrence of any credit event (including the making of a Term Loan) pursuant to such Incremental Term Supplement may be subject to the satisfaction of such additional conditions as the parties

thereto shall agree. Borrower shall use the proceeds of the Incremental Delayed Draw Term Facilities to fund business development activities.

2.11 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 2.5, or requires a Credit Party to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.6, 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 sole judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.5 or 2.6, 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 2.5, or if a Credit Party 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 2.6 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.11(a), or if any Lender is a Defaulting Lender and failed to cure the circumstances as a result of which it has become a Defaulting Lender within five (5) Business Days after the Borrower's request that it cure such circumstances , then the Borrower may, at its sole expense and effort, upon notice to such Lender and Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, this Agreement), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.5 or Section 2.6) and obligations under this Agreement and the related Loan Documents to an eligible assignee under Section 11.1 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 Agent the assignment fee (if any) specified in Section 11.1;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Credit Parties (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 2.5 or payments required to be made pursuant to Section 2.6, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable law; and

(v) 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.

Each party hereto agrees that an assignment required pursuant to this Section 2.11(b) may be effected pursuant to an Assignment and Assumption executed by the Borrower, Agent and the assignee; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided, further that any such documents shall be without recourse to or warranty by the parties thereto.

3. CONDITIONS OF TERM LOAN

3.1 Conditions Precedent to Closing Date. Subject to Section 5.14, the effectiveness of this Agreement and the occurrence of the Closing Date is subject to the satisfaction (or waiver in accordance with Section 11.5 hereof) of the following conditions:

(a) Agent's and the Lenders' receipt of (i) the Loan Documents (including, to the extent requested by a Lender at least two (2) Business Days prior to the Closing Date, a Term Loan Note, executed by Borrower) executed and delivered by each applicable Credit Party and Lender, which Loan Documents shall be in form and substance reasonably satisfactory to the Blackstone Representative, the Disclosure Letter, and each other schedule to such Loan Documents (the Disclosure Letter and such other schedules to be in form and substance reasonably satisfactory to the Blackstone Representative) and (ii) the Collateral Documents dated as of the Closing Date, executed in escrow by each of the applicable Credit Parties and Agent, to the extent applicable, and circulated but not released, which Collateral Documents shall be in form and substance reasonably satisfactory to Agent and the Blackstone Representative;

(b) Agent's and the Lenders' receipt of (i) true, correct and complete copies of the Operating Documents of each of the Credit Parties, and (ii) a Secretary's Certificate with respect to each Credit Party dated the Closing Date, certifying (x) that the foregoing copies are true, correct and complete (such Secretary's Certificate to be in form and substance reasonably satisfactory to the Blackstone Representative), (y) that the Borrowing Resolutions with respect to the Loan Documents are in full force and effect, true, correct, complete and have not been altered as of the Closing Date (such Borrowing Resolutions to be in form and substance reasonably satisfactory to the Blackstone Representative) , and (z) the specimen signatures of the officers of the Credit Parties authorized to execute and deliver the Loan Documents which specimens are to be attached to the Secretary's Certificate;

(c) Agent's and the Lenders' receipt of the Perfection Certificate for Borrower and the other Credit Parties, in form and substance reasonably satisfactory to the Blackstone Representative;

(d) copies of the appropriate UCC financing statement forms and U.S. intellectual property filing documents, as applicable, with respect to the Collateral of the Credit Parties, in each case, for filing with the appropriate entity on or promptly after the Closing Date;

(e) Agent's and the Lenders' receipt of a good standing certificate for each Credit Party, certified by the Secretary of State (or the equivalent thereof) of the jurisdiction of incorporation or formation of such Credit Party as of a date no earlier than thirty (30) days prior to the Closing Date;

(f) the Lenders shall be satisfied with lien searches regarding the Credit Parties made as of a date reasonably close to the Closing Date;

(g) Agent's receipt of all certificates (in the case of Equity Interests that are certificated securities (as defined in the UCC)) evidencing the issued and outstanding capital securities owned by each Credit Party that are required to be pledged and so delivered under the Security Agreement, together with stock powers or assignments, as applicable, properly endorsed for transfer to Agent or duly executed in blank, in each case in form reasonably satisfactory to Agent, or, in the case of Equity Interests that are uncertificated securities (as defined in the UCC), an executed uncertificated stock control agreement among the issuer, the registered owner and Agent substantially in the form attached as an Annex to the Security Agreement;

(h) each Credit Party shall have obtained all Governmental Approvals and all consents of other Persons, if any, in each case that are necessary in connection with the transactions contemplated by the Loan Documents and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to the Blackstone Representative;

(i) Agent's and the Lenders' receipt of a legal opinion of Cooley LLP, in form and substance reasonably satisfactory to the Blackstone Representative;

(j) Agent's and the Lenders' receipt of (i) evidence that the products liability and general liability insurance policies maintained regarding any Collateral are in full force and effect, and (ii) appropriate evidence showing loss payable or additional insured clauses or endorsements in favor of Agent in accordance with Section 5.4;

(k) Agent's and the Lenders' receipt of all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the U.S.A. Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**"), to the extent requested, at least five (5) Business Days before the Closing Date;

(l) Agent's and the Lenders' receipt of the Agent Fee Letter and Blackstone Representative's receipt of the Lender Fee Letter, and payment of Lender and Agent Expenses (to the extent invoiced at least one (1) Business Day prior to the Closing Date) and other fees then due as specified in Sections 2.4, 2.7 and 11.2 hereof;

(m) Agent's and the Lenders' receipt of a certificate, dated the Closing Date and signed by a Responsible Officer of Borrower, confirming (i) there is no Adverse Proceeding pending or, to the Knowledge of the Credit Parties, threatened, that (x) contests the transactions contemplated by the Loan Documents or (y) individually or in the aggregate could reasonably be expected to result in a Material Adverse Change, except as set forth on Schedule 4.7 of the Disclosure Letter (such certificate to be in form and substance reasonably satisfactory to the Blackstone Representative), and (ii) that Borrower and its Subsidiaries, on a consolidated basis, are Solvent;

(n) the Blackstone Representative's receipt on or prior to the Closing Date of copies of each Material Contract identified as such in the Perfection Certificate;

(o) [Reserved];

(p) [Reserved];

(q) the Blackstone Representative's receipt on or prior to the Closing Date of the Intercompany Subordination Agreement; and

(r) Agent's and the Lender's receipt on or prior to the Closing Date of the (x) Payment / Advance Form and (y) Funding Direction Letter, in each case in form and substance satisfactory to the Blackstone Representative.

For purposes of determining compliance with the conditions specified in Section 3.1 on the Closing Date, 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 Agent shall have received written notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

3.2 **Conditions to Each Credit Extension.** The obligation of each Lender to make any Credit Extension requested to be made by it hereunder on any date is subject to the satisfaction or waiver in accordance with Section 11.5 of the following conditions precedent:

(a) the representations and warranties made by the Credit Parties in Section 4 of this Agreement and in the other Loan Documents are true and correct in all material respects, unless any such representation or warranty is stated to relate to a specific earlier date, in which case such representation or warranty shall be true and correct in all material respects as of such earlier date (it being understood that any representation or warranty that is qualified as to "materiality," "Material Adverse Change," or similar language shall be true and correct in all respects, in each case, on the date on which the Term Loan is made (both with and without giving effect to the Term Loan) or as of such earlier date, as applicable);

(b) as of such Funding Date, there shall not have occurred and be continuing (i) any Material Adverse Change or (ii) any Default or Event of Default;

(c) in the case of a borrowing of Delayed Draw Term Loans, such borrowing shall occur during the Delayed Draw Commitment Period; and

(d) Agent shall have received a fully executed Borrowing Notice in accordance with Section 2.2(a)(iii).

Each delivery of a Borrowing Notice or notice requesting the issuance, amendment, extension and the acceptance by Borrower of the proceeds of such Credit Extension shall constitute a representation and warranty by Borrower that on the date of such Credit Extension (both immediately before and after giving effect to such Credit Extension and the application of the proceeds thereof) the conditions contained in this Section 3.2 have been satisfied. Borrower shall

provide such information as Agent may reasonably request to confirm that the conditions in this Section 3.2 have been satisfied.

3.3 Covenant to Deliver. The Credit Parties agree to deliver to Agent and the Lenders, if applicable, each item required to be delivered to Agent and the Lenders, if applicable, under this Agreement as a condition precedent to any Credit Extension; provided, however, that any such items set forth on Schedule 5.14 of the Disclosure Letter shall be delivered to Agent within the time period prescribed therefore on such schedule. The Credit Parties expressly agree that a Credit Extension made prior to the receipt by Agent and the Lenders, if applicable, of any such item shall not constitute a waiver by Agent, the Blackstone Representative or any Lender of the Credit Parties' obligation to deliver such item, and the making of any Credit Extension in the absence of any such item required to have been delivered by the date of such Credit Extension shall be in Agent's (acting at the direction of the Blackstone Representative) sole discretion.

3.4 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of any Term Loan set forth in this Agreement, to obtain such Term Loan, Borrower shall deliver to Agent by electronic mail or facsimile a completed Payment/Advance Form in the form of Exhibit A hereto executed by a Responsible Officer of Borrower.

4. REPRESENTATIONS AND WARRANTIES

In order to induce Agent, the Blackstone Representative and the Lenders to enter into this Agreement and make the Credit Extensions from time to time, each Credit Party, jointly and severally, represents and warrants on behalf of itself and its Subsidiaries, to Agent, the Blackstone Representative and each Lender that the following statements are true and correct as of the Closing Date and on each Funding Date (both with and without giving effect to such Loan) and as of any other date on which the representations and warranties are required to be made:

4.1 Due Organization, Power and Authority. Each of Borrower and each of its Subsidiaries (a) is duly incorporated, organized or formed, and validly existing and, where applicable, in good standing under the laws of its jurisdiction of incorporation, organization or formation identified on Schedule 4.15 of the Disclosure Letter, (b) has all requisite power and authority to (i) own, lease, license and operate its assets and properties and to carry on its business as currently conducted, and (ii) execute and deliver the Loan Documents to which it is a party and to perform its obligations thereunder and otherwise carry out the transactions contemplated thereby, (c) is duly qualified and, where applicable, in good standing under the laws of each jurisdiction where its ownership, lease, license or operation of assets or properties or the conduct of its business requires such qualification, and (d) has all requisite Governmental Approvals to operate its business as currently conducted, except, in each case referred to in clauses (a) (other than with respect to Borrower and any other Credit Party), (b)(i), (c) or (d) above, to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.2 Equity Interests. All of the outstanding Equity Interests in each Subsidiary of Borrower, the Equity Interests of which are required to be pledged pursuant to the Collateral Documents, have been duly authorized and validly issued, are fully paid and, in the case of Equity Interests representing corporate interests, are non-assessable, and, on the Closing Date, all such

Equity Interests owned directly by Borrower or any other Credit Party are owned free and clear of all Liens except for Permitted Liens. Schedule 4.2 of the Disclosure Letter identifies each Person, the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

4.3 Authorization; No Conflict. Except as set forth on Schedule 4.3 of the Disclosure Letter, the execution, delivery and performance by each Credit Party of the Loan Documents to which it is a party, and the consummation of the transactions contemplated thereby, (a) have been duly authorized by all necessary corporate or other organizational action and (b) do not and shall not (i) contravene the terms of any of such Credit Party's Operating Documents, (ii) conflict with or result in any breach or contravention of, or require any payment to be made under (A) any provision of any security issued by such Credit Party or of any agreement, instrument or other undertaking to which such Credit Party is a party or affecting such Credit Party or the assets or properties of such Credit Party or any of its Subsidiaries or (B) any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which such Credit Party or any of its properties or assets are subject, (iii) result in the creation of any Lien (other than under the Loan Documents) or (iv) violate any Requirements of Law, except, in the cases of clauses (b)(ii) and (b)(iv) above, to the extent that such conflict, breach, contravention, payment or violation could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.4 Government Consents; Third Party Consents. Except as set forth on Schedule 4.4 of the Disclosure Letter, no Governmental Approval or other approval, consent, exemption or authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person (including any counterparty to any Material Contract) is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Credit Party of this Agreement or any other Loan Document, or for the consummation of the transactions contemplated hereby or thereby, (b) the grant by any Credit Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof) or (d) the exercise by Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Credit Parties to Agent in favor and for the benefit of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect, (iii) filings under state or federal securities laws and (iv) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.5 Binding Obligation. Each Loan Document has been duly executed and delivered by each Credit Party that is a party thereto and constitutes a legal, valid and binding obligation of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally,.

4.6 Collateral and Intellectual Property.

(a) (i) its exact legal name is that indicated on the completed perfection certificate signed by such Credit Party and delivered to the Agent and the Lenders in connection with this Agreement (with respect to all Credit Parties, collectively, the "**Perfection Certificate**") and on the signature page hereof; (ii) it is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (iii) the Perfection Certificate accurately sets forth its organizational identification number or accurately states that it has none; (iv) the Perfection Certificate accurately sets forth as of the Closing Date its place of business, or, if more than one, its chief executive office as well as its mailing address (if different than its chief executive office); (v) it (and each of its predecessors) has not, in the five (5) years prior to the Closing Date, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (vi) all other information set forth on the Perfection Certificate pertaining to it and each of its Subsidiaries is accurate and complete in all material respects as of the Closing Date.

(b) (i) it has good title to, has rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien under any Collateral Document, free and clear of any and all Liens except Permitted Liens, except as could not materially interfere with the Credit Parties' ability to conduct their business as currently conducted, including any material loss of rights, and (ii) it has no Deposit Accounts maintained at a bank or other depository or financial institution other than the deposit or current accounts described in the Perfection Certificate delivered to Agent and the Lenders in connection herewith.

(c) A true, correct and complete list of each item of Registered Product IP that is owned or co-owned by, or exclusively licensed to, any Credit Party or any of its Subsidiaries, including its name/title, current owner, registration, patent or application number, and registration or application date, is set forth on Schedule 4.6(c) of the Disclosure Letter. Each such item of owned or co-owned Registered Product IP is subsisting and no such item of Registered Product IP has lapsed, expired, been cancelled or invalidated or become abandoned (other than as permitted under clause (i) of the definition of "Permitted Transfers"). To the Knowledge of the Credit Parties, each such item of Registered Product IP that is licensed from another Person is subsisting, valid and enforceable (or will be enforceable upon issuance) and without material defects, and no such item of Registered Product IP has lapsed, expired, been cancelled or invalidated, or become abandoned (other than through the lapse, expiration or abandonment of such Registered Product IP in the exercise of ordinary course prosecution practices and reasonable business judgment). To the Knowledge of the Credit Parties, each item of Registered Product IP owned by any Credit Party or any of its Subsidiaries is valid, enforceable (or will be enforceable upon issuance) and without material defects. Each Person who has or has had any rights in or to Product IP owned by any Credit Party or any of its Subsidiaries, including each inventor named on the Patents within such owned Product IP filed by any Credit Party or any of its Subsidiaries, has executed an agreement assigning his, her or its entire right, title and interest in and to such owned Product IP, to the Credit Party or its Subsidiaries, as applicable, and to the Knowledge of the Credit Parties, no such Person has any contractual or other obligation that would preclude or conflict with such assignment.

(d) (i) Except as set forth on Schedule 4.6(c), all material Registered Product IP is exclusively owned by the Credit Party or their Subsidiaries; (ii) to the Knowledge of the Credit Parties, no circumstances or grounds exist that would give rise to a claim of a third party to any rights in any Registered Product IP owned or purported to be owned by any Credit Party or its

Subsidiaries (other than any co-owner of any patent or patent application constituting Product IP who is listed on the records of the USPTO or foreign equivalent); (iii) each Credit Party possesses valid title to all Product IP for which it is listed as the owner or co-owner, as applicable, on Schedule 4.6(c) of the Disclosure Letter; (iv) there are no Liens on any of the Credit Parties' or their Subsidiaries' interest in the Product IP, other than Permitted Liens that do not secure Indebtedness for borrowed money; (v) no Subsidiary that is not a Credit Party holds any Product IP; and (vi) the Credit Parties have not received any notice of any Person disputing the inventorship or ownership of any material Registered Product IP. Nothing in this Section 4.6(d) shall be construed as a representation or warranty with respect to infringement, misappropriation or other violation of Intellectual Property.

(e) There are no maintenance, annuity or renewal fees that are currently overdue beyond their allotted grace period for any Registered Product IP that is owned by or licensed to (and for which such Credit Party or any of its Subsidiaries controls the prosecution and maintenance thereof) any Credit Party or any of its Subsidiaries, nor have any applications or registrations therefor lapsed or become abandoned, been cancelled or expired that would result in a material loss of rights relating to such Product.

(f) There are no unpaid fees or royalties, and at any time after the Closing Date, there are no material unpaid fees or royalties, in each case, under any Material Contract that have become due, or are expected to become overdue, except to the extent disputed in good faith and for which appropriate reserves have been taken under GAAP.

(g) Except for any fees, royalties, milestone or other similar payments that are due pursuant to any Material Contract that is listed on Schedule 4.6(g) of the Disclosure Letter, no material payments by any Credit Party or any of its Subsidiaries are due to any other Person in respect of any Product IP pursuant to any Material Contract.

(h) No Credit Party or any of its Subsidiaries has undertaken any acts, and, to the Knowledge of the Credit Parties, no circumstance or grounds exist that would invalidate or reduce, in whole or in part, the enforceability or scope of (or failed to engage in any act to preserve the validity, enforceability or scope of) (i) Registered Product IP in any manner that could reasonably be expected to materially adversely affect the patent protection for any Product, including any material loss of rights, or (ii) in the case of Registered Product IP owned or co-owned or exclusively or non-exclusively licensed by any Credit Party or any of its Subsidiaries, such Credit Party's or Subsidiary's entitlement to own or license and exploit (other than any restrictions on licensing or exploitation pursuant to the terms of any Permitted Transfer) such Registered Product IP. To the Knowledge of the Credit Parties, no person having a duty of candor to a Patent Office, including to the U.S. Patent and Trademark Office, has withheld, misrepresented, or concealed a material fact or prior art reference from the Patent Office that would affect the validity, scope or enforceability of any Registered Product IP owned by the Credit Parties and their Subsidiaries for which such Credit Parties and their Subsidiaries control the prosecution and maintenance thereof.

(i) Except as set forth on Schedule 4.7 of the Disclosure Letter or advised pursuant to Section 5.2(f), there is no pending, decided or settled opposition, interference proceeding, reissue proceeding, reexamination proceeding, *inter-partes* review proceeding, post-grant review proceeding, derivation proceeding, cancellation proceeding, injunction, lawsuit, hearing,

investigation, complaint, arbitration, mediation, demand, International Trade Commission investigation, decree, or any other dispute, disagreement, or claim, in each case alleged in writing to Borrower or any of its Subsidiaries (collectively referred to hereinafter as "**Specified Disputes**"), nor has any such Specified Dispute been threatened in writing, in each case challenging the legality, validity, scope, enforceability, inventorship or ownership of any Product IP of the Credit Parties and their Subsidiaries that is owned by any Credit Party or any of its Subsidiaries or for which any Credit Party or its Subsidiaries controls the prosecution and maintenance thereof.

(j) No Credit Party is a party to, nor is it bound by, any Restricted License.

(k) In each case where Registered Product IP is a Patent or Trademark and is owned or co-owned by any Credit Party or its Subsidiaries by assignment, the assignment for such item of Registered Product IP has been duly recorded with the U.S. Patent and Trademark Office.

(l) Except as set forth on Schedule 4.6(l) of the Disclosure Letter or advised pursuant to Section 5.2 or otherwise disclosed, there are no pending or, to the Knowledge of the Credit Parties, threatened (in writing) claims against Borrower or any of its Subsidiaries alleging (i) that any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory infringes or violates (or in the past infringed or violated) the rights of any third parties in or to any Intellectual Property ("**Third Party IP**") or constitutes a misappropriation of (or in the past constituted a misappropriation of) any Third Party IP, or (ii) that any Registered Product IP owned by or exclusively licensed to any of the Credit Parties or their Subsidiaries is invalid or unenforceable.

(m) To the Knowledge of the Credit Parties, the manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory (i) does not (A) infringe or violate (or in the past infringed or violated) any issued patent or other registered Third Party IP or (B) constitute a misappropriation of (or in the past constituted a misappropriation of) any Third Party IP, and (ii) will not infringe a valid claim of a published patent application when such application issues as patent.

(n) There are no settlements to which any of the Credit Parties or any of their Subsidiaries is a party, covenants not to sue granted by any of the Credit Parties or any of their Subsidiaries (other than as described in clauses (j), (k) or (l) of the definition of "Permitted Transfers"), or consents, judgments, orders or similar actions by any Governmental Authority applicable to any the Credit Parties or any of their Subsidiaries that: (i) restrict the rights of any Credit Party or any of its Subsidiaries to use any Intellectual Property relating to the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory (in order to accommodate any Third Party IP or otherwise), or (ii) permit any third parties to use any Product IP.

(o) To the Knowledge of the Credit Parties, (i) there is no, nor has there been any, infringement or violation by any Person of any of any Product IP of the Credit Parties and their Subsidiaries or the rights therein, and (ii) there is no, nor has there been any, misappropriation by

any Person of any of any Product IP of the Credit Parties and their Subsidiaries or the subject matter thereof, in each case ((i) and (ii)) which, individually or in the aggregate, has resulted in, or would reasonably be expected to result in, a Material Adverse Change.

(p) To the Knowledge of the Credit Parties, each Credit Party and each of its Subsidiaries has taken commercially reasonable measures customary in the pharmaceutical industry designed to protect the confidentiality and value of all trade secrets owned by such Credit Party or any of its Subsidiaries or used or held for use by such Credit Party or any of its Subsidiaries, in each case relating to the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory.

(q) Each Credit Party and each of its Subsidiaries has taken commercially reasonable measures to obtain, maintain, and renew any and all material regulatory exclusivities for any Product, such as new chemical entity (NCE) and orphan drug exclusivity in the U.S., and corresponding exclusivities in counterpart foreign jurisdictions in the Territory.

(r) At the time of any shipment of Afrezza, Tyvaso DPI, and V-Go occurring prior to the Closing Date, all units of Afrezza, Tyvaso DPI, and V-Go so shipped complied with their relevant specifications and were manufactured in accordance with current FDA Good Manufacturing Practices to the extent required under Requirements of Law.

4.7 Adverse Proceedings, Compliance with Laws. Except as set forth on Schedule 4.7 of the Disclosure Letter or advised pursuant to Section 5.2(f), there are no Adverse Proceedings pending or, to the Knowledge of the Credit Parties or their Subsidiaries, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against Borrower or any of its Subsidiaries or against any of their respective assets or properties or revenues (including involving allegations of sexual harassment or misconduct by any officer of Borrower or any of its Subsidiaries) that (a) either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change or (b) involve this Agreement or any Loan Document (other than any Adverse Proceeding brought or threatened by any Secured Party). Neither Borrower nor any of its Subsidiaries (a) is in violation of any Requirements of Law (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, or (b) is subject to or in default with respect to any final judgments, orders, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change.

4.8 Exchange Act Documents; Financial Statements; Financial Condition; No Material Adverse Change; Books and Records.

(a) The documents filed by Borrower with the SEC pursuant to the Exchange Act since January 1, 2025 (the "**Exchange Act Documents**"), when they were filed with the SEC, conformed in all material respects to the requirements of the Exchange Act, and as of the time they were filed with the SEC, none of such documents contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein (excluding any

projections and forward looking statements, estimates, budgets and general economic or industry data of a general nature), in the light of the circumstances under which they were made, not misleading. With respect to projected financial information included in the Exchange Act Documents, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections are not a guarantee of financial performance and are subject to uncertainties and contingencies, many of which are beyond the control of Borrower or any Subsidiary, and neither Borrower nor any Subsidiary can give any assurance that such projections will be attained, that actual results may differ in a material manner from such projections and any failure to meet such projections shall not be deemed to be a breach of any representation or covenant herein);

(b) The financial statements (including the related notes thereto) of Borrower and its Subsidiaries included in the Exchange Act Documents present fairly in all material respects the consolidated financial condition of Borrower and such Subsidiaries and their consolidated results of operations as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified. Such financial statements have been prepared in all material respects in conformity with GAAP applied on a consistent basis throughout the periods covered thereby, except as otherwise disclosed therein and, in the case of unaudited, interim financial statements, subject to normal year-end audit adjustments and the exclusion of certain footnotes, and any supporting schedules included in the Exchange Act Documents present fairly in all material respects the information required to be stated therein;

(c) Since December 31, 2024, there has not occurred or failed to occur any change or event that has had or could reasonably be expected to have, either alone or in conjunction with any other change(s), event(s) or failure(s), a Material Adverse Change, except as has been disclosed in the Exchange Act Documents; and

(d) The Books of Borrower and each of its Subsidiaries in existence immediately prior to the Closing Date contain full, true and correct entries of all dealings and transactions in relation to its business and activities in all material respects in conformity with GAAP, and in conformity with all Requirements of Law.

4.9 Solvency. Borrower and its Subsidiaries, on a consolidated basis, are Solvent. Without limiting the generality of the foregoing, there has been no proposal made or resolution adopted by any competent corporate body for the dissolution or liquidation of any Credit Party, nor do any circumstances exist which may result in the dissolution or liquidation of any Credit Party.

4.10 Payment of Taxes. All foreign, federal and state income and other Tax returns and reports (or extensions thereof) of each Credit Party and each of its Subsidiaries required to be filed by any of them have been timely filed and are correct, and all Taxes which are due and payable by any Credit Party or any of its Subsidiaries have been paid when due and payable, except, in each case, (a) where the validity or amount thereof is being contested in good faith by appropriate proceedings; provided that the applicable Credit Party has set aside on its books adequate reserves therefor in conformity with GAAP or (b) to the extent the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Change.

4.11 Environmental Matters. Neither Borrower nor any of its Subject Subsidiaries nor any of their respective Facilities or operations is subject to any outstanding written order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity that, individually or in the aggregate, could be expected to result in a Material Adverse Change, and Borrower and each of its Subject Subsidiaries have complied at all times in all material respects with applicable Environmental Laws. Neither Borrower nor any of its Subject Subsidiaries have received any notice of any Environmental Claim, including any letter or written request for information under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604) or any comparable state law. There are and, to the Knowledge of the Credit Parties, have been, no conditions, occurrences, or Hazardous Materials Activities that could reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subject Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. To the Knowledge of the Credit Parties, no predecessor of Borrower or any of its Subject Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility, which could reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subject Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change (but, for the avoidance of doubt, Borrower has not undertaken any investigation of or made any inquiries to, or relating to, any of its or its Subject Subsidiaries' predecessors), and neither Borrower's nor any of its Subject Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260 270 or any state equivalent, which would reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subject Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. No event or condition has occurred or is occurring with respect to any Credit Party relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity which, individually or in the aggregate, has resulted in, or could reasonably be expected to result in, a Material Adverse Change. Neither Borrower nor any of its Subject Subsidiaries have undertaken or assumed (by operation of law or otherwise) any liability arising under Environmental Law, or provided an indemnity with respect to any Environmental Law, for any other Person that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change.

4.12 Material Contracts. After giving effect to the consummation of the transactions contemplated by this Agreement, each Material Contract is a legal, valid, binding, and enforceable obligation in accordance with its respective terms (except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability) of the applicable Credit Party and, to the Knowledge of the Credit Parties, each other party thereto, and is in full force and effect, and neither the applicable Credit Party nor, to the Knowledge of the Credit Parties, any other party thereto is in material breach thereof or default thereunder, except where such breach or default (which default has not been cured or waived) could not reasonably be expected to give rise to any cancellation, termination or acceleration right of the applicable counterparty thereto. No Credit Party or any of its Subsidiaries has received any written notice from any party thereto asserting, or, to the Knowledge of the Credit Parties, threatening to assert, circumstances that could reasonably be expected to result in the cancellation, termination or invalidation of any Material Contract.

4.13 Regulatory Compliance. No Credit Party is or is required to be an "investment company", and no Credit Party is a company "controlled" by an "investment company", under the Investment Company Act of 1940, as amended. No Credit Party is engaged as one of its important activities in extending credit for Margin Stock (under Regulations X, T and U of the Federal Reserve Board). Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, each Credit Party is in compliance with all applicable laws and regulations respecting labor, employment, fair employment practices, work place safety and health, terms and conditions of employment, wages and hours (including the Federal Fair Labor Standards Act). No Credit Party is delinquent in any payments to any Employee for any wages, salaries, commissions, bonuses, fees or other direct compensation due with respect to any services performed for it to the date hereof or amounts required to be reimbursed to such Employees; there are no grievances, complaints or charges with respect to employment or labor matters (including, without limitation, charges of employment discrimination, retaliation or unfair labor practices) pending or, to the knowledge of any Credit Party, threatened in any judicial, regulatory or administrative forum, or under any private dispute resolution procedure; and none of the employment policies or practices of Credit Party are currently being audited, or to the knowledge of any Credit Party, being investigated by any Governmental Authority, except in each case as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, each Employee Benefit Plan, and with respect to each Employee Benefit Plan, each Credit Party and Subsidiary, is in compliance with all applicable provisions of ERISA, the IRC and other U.S. federal or state Requirements of Law, respectively. (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) neither any Credit Party nor any ERISA Affiliate has incurred, or would reasonably be expected to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 *et seq*. or 4243 of ERISA with respect to a Multiemployer Plan; (iii) neither any Credit Party nor any ERISA Affiliate has engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA; and (iv) other than claims for benefits in the ordinary course, there are no pending or threatened claims, actions or lawsuits related to any Employee Benefit Plan, except, with respect to each of clauses (i), (ii),(iii) and (iv) above, as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. Each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the IRC has received a favorable determination, opinion or advisory letter from the Internal Revenue Service to the effect that the form of such Employee Benefit Plan is qualified under Section 401(a) of the IRC and that the trust related thereto is exempt from federal income tax under Section 501(a) of the IRC. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, no Credit Party or Subsidiary has any obligation to provide health or welfare benefits to any individual after termination of employment, other than coverage in connection with bona fide severance or unsubsidized coverage that is required by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**") or similar state law. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, each arrangement pursuant to which a Credit Party or Subsidiary has an obligation to pay or accrue nonqualified deferred compensation (within the meaning of Section 409A of the IRC) has been administered in accordance with plan documents that satisfy the requirements of Section 409A of the IRC.

4.14 Margin Stock. No Credit Party is engaged, nor shall it engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" as such terms are defined in Regulation U of the Federal Reserve Board as now and from time to time hereafter in effect (such securities being referred to herein as "**Margin Stock**"). No Credit Party owns any Margin Stock, and none of the proceeds of the Credit Extensions or other extensions of credit under this Agreement shall be used, directly or indirectly, for the purpose of purchasing or carrying any Margin Stock, for the purpose of reducing or retiring any Indebtedness that was originally incurred to purchase or carry any Margin Stock, or for any other purpose that might cause the Term Loan or other extensions of credit under this Agreement to be considered a "purpose credit" within the meaning of Regulation T, U or X of the Federal Reserve Board. No Credit Party or any of its Subsidiaries has taken or permitted to be taken any action that might cause any Loan Document to violate Regulation T, U or X of the Federal Reserve Board.

4.15 Subsidiaries. Schedule 4.15 of the Disclosure Letter sets forth (a) the name and jurisdiction of incorporation, organization or formation of Borrower and each of its Subsidiaries and (b) the ownership interest of Borrower and any other Credit Party in each of their respective Subsidiaries, including the percentage of such ownership.

4.16 Employee Matters. Neither Borrower nor any of its Subsidiaries is engaged in any unfair labor practice that could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change. There are no collective bargaining agreements or other contracts, agreements, or leases (whether written or oral and whether express or implied) with any Union or work rules or practices agreed to with any Union, binding on any Credit Party with respect to any employee. There is (a) no unfair labor practice complaint pending against Borrower or any of its Subject Subsidiaries or, to the Knowledge of the Credit Parties, threatened in writing against any of them before the National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is pending against Borrower or any of its Subject Subsidiaries or, to the Knowledge of the Credit Parties, threatened in writing against any of them, (b) no strike or work stoppage in existence or, to the Knowledge of the Credit Parties, threatened in writing involving Borrower or any of its Subject Subsidiaries, and (c) to the Knowledge of the Credit Parties, there is no union representation question existing with respect to the employees of Borrower or any of its Subject Subsidiaries and, to the Knowledge of the Credit Parties, no union organization activity that is taking place that in each case specified in any of clauses (a), (b) and (c), individually or together with any other matter specified in clause (a), (b) or (c), could reasonably be expected to result in a Material Adverse Change.

4.17 Full Disclosure . None of the documents, certificates or written statements (excluding any projections and forward-looking statements, estimates, budgets and general economic or industry data of a general nature) furnished or otherwise made available to Agent and the Lenders by or on behalf of any Credit Party for use in connection with the transactions contemplated hereby (in each case, taken as a whole and as modified or supplemented by other information so furnished promptly after the same becomes available) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, as of the time when made or delivered, not misleading in light of the circumstances in which the same were made; provided, that, with respect to projected financial information, Borrower represents only that such information was prepared in good faith

based upon assumptions believed to be reasonable at the time (it being understood that such projections are not a guarantee of financial performance and are subject to uncertainties and contingencies, many of which are beyond the control of Borrower or any Subsidiary, and neither Borrower nor any Subsidiary can give any assurance that such projections shall be attained, that actual results may differ in a material manner from such projections, and any failure to meet such projections shall not be deemed to be a breach of any representation or covenant herein). To the Knowledge of the Credit Parties, there are no facts (other than matters of a general economic or industry nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change and that have not been disclosed herein or in such other documents, certificates and written statements furnished or made available to and the Lenders for use in connection with the transactions contemplated hereby.

4.18 FCPA; Patriot Act; OFAC.

(a) None of Borrower, its Subsidiaries or any director, officer, employee, or, to the Knowledge of the Credit Parties, agent or other Person acting, directly or indirectly, on behalf of Borrower or any Subsidiary of Borrower has (i) used any corporate funds of Borrower or any of its Subsidiaries for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (ii) made any direct or indirect unlawful payment to any Public Official from corporate funds of Borrower or any of its Subsidiaries, (iii) violated or is in violation of any Anti-Corruption Laws of each jurisdiction (foreign or domestic) in which Borrower or any of its Subsidiaries is subject to such jurisdiction's Requirements of Laws, or (iv) made any bribe, improper rebate, payoff, influence payment, kickback or other unlawful payment, and no part of the proceeds of any Credit Extension shall be used, directly or indirectly, for any payments to any Public Official, in order to obtain, retain or direct business or obtain any improper advantage in violation of any Anti-Corruption Laws in which Borrower or any of its Subsidiaries is subject to such jurisdiction's Requirements of Laws;

(b) Borrower and its Subsidiaries have implemented policies and procedures reasonably designed to ensure compliance with Anti-Corruption Laws.

(c) As of the Closing Date, in the past five years, Borrower and its Subsidiaries have not conducted or initiated any internal investigation or made a voluntary, directed, or involuntary disclosure to any Governmental Authority (including but not limited to the U.S. Department of Justice, U.S. Securities Exchange Commission, or U.K. Securities Fraud Office) with respect to any alleged act or omission arising under or relating to any non-compliance with Anti-Corruption Laws. Neither Borrower, its Subsidiaries, nor, to the Knowledge of the Credit Parties, any Person acting directly or indirectly on their behalf has received any notice, request, or citation from any Governmental Authority for any actual or potential non-compliance with any of the foregoing of this Section.

(d) (i) The operations of Borrower and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the Bank Secrecy Act of 1970, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, and the anti-money laundering laws, rules and regulations of each jurisdiction (foreign or domestic) in

which Borrower or any of its Subsidiaries is subject to such jurisdiction's Requirements of Law (collectively, the "**Anti-Money Laundering Laws**") and (ii) no action, suit or proceeding by or before any Governmental Authority or any arbitrator involving Borrower or any of its Subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of Borrower, threatened in writing.

(e) None of Borrower, its Subsidiaries or, any director, officer, or, to the Knowledge of the Credit Parties, agent or employee of Borrower or any Subsidiary of Borrower is a Sanctioned Person. Borrower, its Subsidiaries and their respective directors, officers, employees, and, to the Knowledge of the Credit Parties, agents that act in any capacity in connection with the Credit Facilities established hereby, are in compliance with applicable Sanctions. Borrower will maintain in effect and enforce policies and procedures reasonably designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Sanctions. Borrower will not, directly or, to the Knowledge of the Credit Parties, indirectly, use the proceeds of the Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(f) As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct.

4.19 Health Care Matters.

(a) Compliance with Health Care Laws. Each Credit Party and, to the Knowledge of the Credit Parties, each of its Subsidiaries and each officer, Affiliate, and employee acting on behalf of such Credit Party or any of its Subsidiaries, is, and for the three (3) years prior to the Closing Date, has been, in compliance in all material respects with all Health Care Laws, including Requirements of Law applicable to the development, testing, manufacture, distribution, storage, import, export, advertising, labeling, promotion and commercialization of any Product in the Territory. No Credit Party has had any Product development or manufacturing site (whether Credit Party-owned or that of a contract manufacturer for the Products) subject to a Governmental Authority (including the FDA) shutdown or import or export prohibition, nor received any warning letters, untitled letters, requests or requirements to make changes to the Products or any processes or operations with respect to the Products, or other correspondence or written notice from the FDA or other Governmental Authority alleging or asserting material noncompliance with any applicable Health Care Laws. To the Knowledge of the Credit Parties, neither the FDA nor any other Governmental Authority has threatened such action.

(b) Regulatory Approvals. Each Credit Party and each Subsidiary involved in any development, testing, manufacture, distribution, storage, import, export, advertising, labeling, promotion and commercialization of any Product in the Territory has all Regulatory Approvals material to its business and operations as currently conducted. As of the Closing Date, except as would not reasonably be expected to result in a Material Adverse Change, each Credit Party and its Subsidiaries has filed or maintained with the applicable Governmental Authorities all notices, documents, listings, supplemental applications or notifications, reports, submissions, and other

filings required under the Health Care Laws and Regulatory Approvals, including annual reports, adverse event reports, advertising and promotional material submissions, and clinicaltrials.gov registrations and reports, and, except as would not reasonably be expected to result in a Material Adverse Change, each such filing was true, complete and correct as of the date of submission, and each Credit Party and its Subsidiaries has submitted any necessary or required updates, changes, corrections, amendments, supplements or modifications to such filings.

(c) Preclinical and Clinical Development. All preclinical and clinical studies of any Products conducted by or on behalf of any Credit Party or Subsidiary thereof or sponsored by such Credit Party or Subsidiary were, and if still pending, are being conducted in material compliance with all applicable Health Care Laws, including without limitation, 21 C.F.R. Parts 11, 50, 54, 56, 58, and 312, except as would not reasonably be expected to have a Material Adverse Change. No Credit Party nor any Subsidiary has received any written notices from the FDA or other Governmental Authority or from any institutional review board or comparable authority requiring the termination, suspension, material modification, or clinical hold of, or alleging material noncompliance with, any Health Care Laws related to, any clinical studies with respect to any Products.

(d) Regulatory Action Obligations. No Credit Party or any Subsidiary is subject to any material obligation arising under a Regulatory Action, and no such obligation has been threatened in writing. There is no material Regulatory Action or other proceeding or request for information pending against any Credit Party or any Subsidiary or, to the Knowledge of each Credit Party, an officer, director, or employee of any Credit Party or any Subsidiary, and no Credit Party or any Subsidiary has any material liability (whether actual or contingent) for failure to comply with any Health Care Laws.

(e) Safety Notices. Except as set forth on Schedule 4.19 of the Disclosure Letter, within the three (3) years prior to the Closing Date, there have been no recalls, withdrawals, removals, field alerts, "dear doctor" letters, investigator notices, or safety alerts relating to an alleged lack of safety, efficacy, or regulatory compliance of any Products (collectively, "**Safety Notices**") except for any such Safety Notice that has not and would not, whether individually or in the aggregate, reasonably be expected to have a Material Adverse Change. To the Knowledge of each Credit Party, there are no facts that would be reasonably likely to result in (A) a Safety Notice with respect to any Product, (B) a change in the labeling of any Product; or (C) a termination or suspension of marketing of any Product due to safety or efficacy reasons, which, in each case of (A), (B), or (C), would reasonably be expected to have a Material Adverse Change.

(f) [Reserved].

(g) Material Statements. Within the three (3) prior to the Closing Date, neither any Credit Party, nor, to the Knowledge of the Credit Parties, any Subsidiary or any officer, Affiliate or employee of any Credit Party or Subsidiary in its capacity as a Subsidiary or as an officer, Affiliate or employee of a Credit Party or Subsidiary (as applicable), nor, to the Knowledge of the Credit Parties, any agent of any Credit Party or Subsidiary, (i) has made an untrue statement of a material fact or a fraudulent statement to any Governmental Authority, (ii) has failed to disclose a material fact to any Governmental Authority, or (iii) has otherwise committed an act, made a statement or failed to make a statement that, at the time such statement or disclosure was made (or,

in the case of such failure, should have been made) or such act was committed, would reasonably be expected to constitute a material violation of any Health Care Law.

(h) Proceedings; Audits. There is no, and for the three (3) years prior to the Closing Date, has not been any, material investigation, suit, claim, audit, action (legal or regulatory) or proceeding (legal or regulatory) by a Governmental Authority pending or, to the Knowledge of the Credit Parties, threatened in writing against any Credit Party or any of its Subsidiaries relating to any of the Health Care Laws. To the Knowledge of the Credit Parties, there are no facts, circumstances or conditions which would reasonably be expected to form the basis for any such material investigation, suit, claim, audit, action or proceeding, except as has been disclosed in the Exchange Act Documents.

(i) Prohibited Transactions. Within the three (3) years prior to the Closing Date, neither any Credit Party, any Subsidiary or, to the Knowledge of the Credit Parties, any officer, Affiliate or employee of a Credit Party or Subsidiary, nor any other Person acting on behalf of any Credit Party or any Subsidiary, directly or indirectly: (i) has offered or paid any remuneration, in cash or in kind, to, or made any financial arrangements with, any past, present or potential patient, supplier, physician, or contractor, in order to illegally obtain business or payments from such Person in material violation of any Health Care Law; (ii) has given or made, or is party to any illegal agreement to give or make, any illegal gift or gratuitous payment of any kind, nature or description (whether in money, property or services) to any past, present or potential patient, supplier, physician, contractor, or any other Person in material violation of any Health Care Law; (iii) has given or made, or is party to any agreement to give or make on behalf of any Credit Party or any of its Subsidiaries, any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was a material violation of any Health Care Law; (iv) has established or maintained any unrecorded fund or asset for any purpose or made any materially misleading, false or artificial entries on any of its books or records for any reason in material violation of any Health Care Law; or (v) has made, or is party to any agreement to make, any payment to any Person with the intention or understanding that any part of such payment would be in material violation of any Health Care Law. To the Knowledge of the Credit Parties, there are no actions, and for the previous three (3) years have not been any, pending or threatened (in writing) against any Credit Party or any of its Subsidiaries or any of their respective Affiliates under any foreign, federal or state whistleblower statute, including under the False Claims Act of 1863 (31 U.S.C. § 3729 et seq.) or under any state or foreign equivalent.

(j) Exclusion. Neither any Credit Party nor any Subsidiary, nor any of their respective officers, directors, employees or, to the Knowledge of the Credit Parties, any agents or Affiliates having authority to act on behalf of any Credit Party or any Subsidiary, is or has been or, to the Knowledge of the Credit Parties, has been threatened in writing to be: (i) "suspended" or "debarred" from selling any products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation relating to debarment and suspension applicable to federal government agencies generally (42 C.F.R. Subpart 9.4), or other U.S. Requirements of Law; (ii) debarred, disqualified, suspended or excluded from or otherwise ineligible for participation in Medicare, Medicaid or any other Government Payor Program or health care program or under 21 U.S.C. § 335a; (iii) listed on the General Services Administration list of excluded parties; or (iv) a party to any other action or proceeding by any Governmental Authority that would prohibit the applicable

Credit Party or Subsidiary from distributing or selling any Product in the Territory or providing any services to any governmental or other purchaser pursuant to any Health Care Laws.

(k) HIPAA. Each Credit Party and each of its Subsidiaries, to the extent applicable, is in material compliance with HIPAA, and each Credit Party and, to the Knowledge of the Credit Parties, each of its Subsidiaries, to the extent applicable, has implemented policies, procedures and training customary in the pharmaceutical industry or otherwise adequate to assure continued compliance and to detect non-compliance.

(l) Corporate Integrity Agreement. Neither any Credit Party or Subsidiary, nor any of their respective Affiliates, nor any officer, director, managing employee or, to the Knowledge of the Credit Parties, agent (as those terms are defined in 42 C.F.R. § 1001.1001) of any Credit Party or Subsidiary, is a party to or has any ongoing reporting, disclosure or compliance obligations pursuant to or under or is otherwise subject to any order, individual integrity agreement, deferred prosecution agreement, monitoring agreement, consent decree, settlement agreement, corporate integrity agreement or any other order or similar agreement with or imposed by any U.S. Governmental Authority.

4.20 IT Assets and Data Privacy.

(a) The IT Assets owned or controlled and used by Credit Parties or any Subsidiary in the operation of the business as currently conducted (the "**Business IT Assets**") are reasonably sufficient for the current needs of the business of the Credit Parties and any Subsidiary in all material respects.

(b) In the past three (3) years, there has been no unauthorized access to or unauthorized use of any (i) Business IT Assets, or (ii) any Personal Data or confidential information that is in the Credit Parties' or any Subsidiary's possession or control or to the Knowledge of the Credit Parties processed on behalf of such Credit Party, in each case of (i) and (ii), in a manner that, individually or in the aggregate, has resulted in or is reasonably likely to result in a Material Adverse Change.

(c) (i) Except as could not reasonably be likely to result in a Material Adverse Change, the Credit Parties and any Subsidiary have, and have required third parties processing Personal Data for and on behalf of any Credit Party ("***Data Partners***") to have, taken commercially reasonable measures, as applicable, to (A) protect the confidentiality, integrity, and security of the Business IT Assets (and all material information stored or contained therein, including Personal Data) from any accidental or unauthorized intrusion, loss, breach, use, access, disclosure, interruption, destruction or modification by any Person, (B) maintain the functionality and operation of all Business IT Assets, and (C) prevent the introduction of any Malicious Code into such Business IT Assets, and (ii) to the Knowledge of the Credit Parties, the Business IT Assets do not contain any Malicious Code.

(d) Except as would not be material to the Credit Parties, the Credit Parties and any Subsidiary (i) have commercially reasonable policies and measures in place that are in compliance in all material respects with all (A) applicable Information Privacy or Security Laws and (B) applicable Credit Parties' published policies, published notices, written statements and contractual

commitments, in each case ((A) and (B)) governing the Credit Parties and any Subsidiary's protection, collection, use, access, storage, maintenance, processing, transmission, distribution, transfer (including cross-border transfer) or disclosure of Personal Data, (ii) and to the Knowledge of the Credit Parties their Data Partners, are and have been for the past three (3) years in compliance with applicable Information Privacy or Security Laws, and (iii) have not received any written notice, inquiry, investigation or proceeding, and are not and have not for the past three (3) years been subject to any written claim, and, to the Knowledge of the Credit Parties, no such notice inquiry, investigation or proceeding or claim is or has been threatened, regarding the Credit Parties and any Subsidiary's protection, collection, use, access, storage, maintenance, processing, transmission, distribution, transfer (including cross-border transfer) or disclosure of Personal Data.

4.21 Additional Representations and Warranties.

(a) As of the Closing Date, there is no Indebtedness other than Permitted Indebtedness described in clauses (a), (b), (e), (h), (m), (o), (p) and (q) of the definition of "Permitted Indebtedness".

(b) There are no Hedging Agreements as of the Closing Date.

5. AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that, until payment in full of all Obligations in cash in immediately available funds (other than inchoate indemnity obligations in respect of which no claim has been asserted), each Credit Party shall, and shall cause each of its Subsidiaries to:

5.1 Maintenance of Existence. (a) Preserve, renew and maintain in full force and effect its and all its Subsidiaries' legal existence under the Requirements of Law in their respective jurisdictions of organization, incorporation or formation; (b) maintain all rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable for it and all of its Subsidiaries in the ordinary course of its business, except in the case of clause (a) (other than with respect to Borrower) and clause (b) above, (i) to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Change or (ii) pursuant to a transaction permitted by this Agreement; (c) comply with all Requirements of Law of any Governmental Authority to which it is subject, including, obtaining any and all licenses, permits, franchise and other governmental and regulatory authorizations necessary to the ownership of its properties or the conduct of its business; and (d) perform and observe all the material terms and provisions of each Material Contract to be performed or observed by it, except in the case of clause (c) and clause (d), where the failure to do so could not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change.

5.2 Financial Statements, Notices. Deliver to the Blackstone Representative and Agent, for distribution to the Lenders:

(a) Financial Statements.

(i) Annual Financial Statements. As soon as available, but in any event within ninety (90) days after the end of each fiscal year of Borrower, beginning with the fiscal year ending December 31, 2025, a consolidated balance sheet of Borrower and its

Subsidiaries as of the end of such fiscal year, and the related consolidated statements of income, cash flows and stockholders' equity for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all prepared in all material respects in accordance with GAAP with such consolidated financial statements to be audited and accompanied by (x) a report and opinion of Borrower's independent certified public accounting firm of recognized national standing reasonably acceptable to the Blackstone Representative (provided that, Deloitte & Touche LLP and any of the other "big four" accounting firms are acceptable and acknowledged as being acceptable by the Blackstone Representative) (which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any qualification as to "going concern" or scope of audit, except for any "going concern" qualification resulting from the upcoming maturity of the Term Loans occurring with eighteen months from the date of such opinion or anticipated breach of a financial covenant under this Agreement), stating that such financial statements fairly present, in all material respects, the consolidated financial condition, results of operations and cash flows of Borrower and its Subsidiaries as of the dates and for the periods specified in accordance with GAAP, and (y) if and only if Borrower is required to comply with the internal control provisions pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 requiring an attestation report of such independent certified public accounting firm, an attestation report of such independent certified public accounting firm as to Borrower's internal controls pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 attesting to management's assessment that such internal controls meet the requirements of the Sarbanes-Oxley Act of 2002; provided, however, that Borrower shall be deemed to have made such delivery of such consolidated financial statements if such consolidated financial statements shall have been made available within the time period specified above on the SEC's EDGAR system (or any successor system adopted by the SEC);

(ii) Quarterly Financial Statements. As soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of Borrower, beginning with the first fiscal quarter ending after the Closing Date, a consolidated balance sheet of Borrower and its Subsidiaries as of the end of such fiscal quarter, and the related consolidated statements of income and cash flows and for such fiscal quarter and (in respect of the second and third fiscal quarters of such fiscal year) for the then-elapsed portion of Borrower's fiscal year, setting forth in each case in comparative form the figures for the comparable period or periods in the previous fiscal year, all prepared in all material respects in accordance with GAAP, subject to normal year-end audit adjustments and the absence of disclosures normally made in footnotes; provided, however, that Borrower shall be deemed to have made such delivery of such consolidated financial statements if such consolidated financial statements shall have been made available within the time period specified above on the SEC's EDGAR system (or any successor system adopted by the SEC). Such consolidated financial statements shall be certified by a Responsible Officer of Borrower as, to his or her knowledge, fairly presenting, in all material respects, the consolidated financial condition, results of operations and cash flows of Borrower and its Subsidiaries as of the dates and for the periods specified in accordance with GAAP consistently applied, and on a basis consistent with the audited consolidated financial statements referred to under Section 5.2(a)(i), subject to normal year-end audit adjustments and the absence of footnotes; and

(iii) Other Information. As promptly as practicable (and in any event within fifteen (15) days of the request therefor), such additional information regarding the business or financial affairs of Borrower or any of its Subsidiaries, or compliance with the terms of this Agreement or any other Loan Documents, as Agent (at the direction of the Blackstone Representative), Blackstone Representative or any Lender may from time to time reasonably request (subject to redactions or omissions to account for conflicts of interest, confidentiality, and privilege, including requirements imposed by Requirements of Law or contract, not entered into in contemplation of this Agreement); provided that Borrower shall not be obligated to disclose any information that is reasonably subject to the assertion of attorney-client privilege or attorney work-product; provided, further, that in the event Borrower or any of its Subsidiaries does not provide information in reliance on the foregoing proviso or on the basis of confidentiality requirements, such Persons shall, to the extent practicable to do so, promptly provide notice to Agent and the Blackstone Representative and use commercially reasonable efforts to communicate the applicable information in a way that would not result in the loss of such privilege or comply with the applicable confidentiality requirements, as applicable.

(b) Budget. As soon as available, and in any event within ninety (90) days after the end of each fiscal year of Borrower, commencing with the fiscal year ending December 31, 2025, a consolidated budget for the then-current fiscal year in form reasonably satisfactory to Agent and the Lenders (collectively, the "**Budget**"), which Budget shall be accompanied by a certificate of a Responsible Officer stating that such Budget has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such Budget, it being understood that actual results may vary from such Budget and that such variations may be material.

(c) Compliance Certificates. Commencing with the first fiscal quarter ending after the Closing Date, concurrently with the delivery of any financial statements pursuant to Sections 5.2(a)(i) and (ii), a certification (the "**Compliance Certificate**") substantially in the form of Exhibit D hereto as to (w) the absence of a Default or an Event of Default (or to the extent a Default or Event of Default has occurred and is continuing, a description and actions taken or proposed taken with respect thereto), (x) to the extent not previously disclosed to Agent, (1) a description of any change in the jurisdiction of organization of any Credit Party, (2) a list of any registered Intellectual Property acquired or developed by any Credit Party during the applicable period, (3) a description of any Person that has become a Subsidiary, in each case since the date of the most recent Compliance Certificate delivered pursuant to this clause (i) (or, in the case of the first such report so delivered, since the Closing Date), (4) a description of any material updates to material Permits from the FDA or other Governmental Authority for the Products, (5) the entry into (A) any new Material Contract by any Credit Party (together with a copy thereof) or (B) any new Material Contract or material amendment to an existing Material Contract that would be adverse in any material respect to the Lenders (together a copy thereof) (in both cases ((A) and (B)), the provision of copies thereof being subject to any applicable requirements of confidentiality imposed by Requirements of Law), and (6) any change to the Credit Parties' list of Collateral Accounts since the Closing Date or the previously delivered Compliance Certificate, as applicable, (y) compliance or noncompliance with the Credit Party Minimum Coverage Requirement and (z) the calculation of Liquidity and confirmation as to whether the Credit Parties are in compliance with Section 6.17.

(d) Registered Organization. If any Credit Party is not now a Registered Organization but later becomes one, it shall promptly notify Agent of such occurrence and provide Agent with such Credit Party's organizational identification number.

(e) Notice of Defaults or Events of Default, ERISA Events, Material Adverse Changes; Breach of Material Contract; Junior Indebtedness. Written notice as promptly as practicable (and in any event within five (5) Business Days) after a Responsible Officer of Borrower or any Credit Party shall have obtained knowledge thereof, of the occurrence of any:

(i) Default or Event of Default;

(ii) ERISA Event, material commitment by a Credit Party or ERISA Affiliate to maintain or contribute to a Plan or a Multiemployer Plan, or establishment by a Credit Party or a Subsidiary thereof of an Employee Benefit Plan that provides material subsidized post-termination medical or welfare benefits (other than in connection with bona fide severance or to comply with COBRA or similar state law);

(iii) [Reserved];

(iv) material breach or non-performance of, or any default under, or any termination outside of the ordinary course of, any Material Contract or the receipt by Borrower or any of its Subsidiaries of any written notice asserting any of the foregoing;

(v) (x) default or event of default under or in respect of any Junior Indebtedness, specifying the nature and extent thereof and the action (if any) which is proposed to be taken with respect thereto, and (y) material amendments, waivers, consents, supplements and forbearance agreements under or in respect of any Junior Indebtedness, and upon execution thereof, copies of such amendments, waivers, consents, supplements and forbearance agreements;

(vi) product recalls, withdrawals, marketing suspensions, removals or the like conducted, to be undertaken or issued by a Credit Party, any Subsidiary thereof or their respective suppliers whether or not at the request, demand or order of any Governmental Authority or otherwise with respect to any Product, or any basis for undertaking or issuing any such action or item;

(vii) written claim by any Person directed to a Credit Party that the conduct of such Credit Party's or a Subsidiary's business (including the development, manufacture, use, sale or other commercialization of any Product) infringes, misappropriates or otherwise violates the Intellectual Property of such Person; and

(viii) infringement, misappropriation or other violation by any Person on the Intellectual Property of a Credit Party or Subsidiary thereof, which could reasonably be expected to result in material and adverse consequences to Borrower and its Subsidiaries, taken as a whole;

(ix) any settlement agreement or similar agreement, including any agreement setting forth any license, covenant not to sue or coexistence agreement, entered into by a

Credit Party or any of its Subsidiaries in connection with any claim of actual or alleged infringement, misappropriation or other violation of any Intellectual Property by or against such Credit Party or its Subsidiaries, which could reasonably be expected to result in material and adverse consequences to Borrower and its Subsidiaries, taken as a whole;

(x) (i) any written notice received by Borrower from any Governmental Authority alleging any potential or actual violations of any Health Care Law by Borrower, (ii) any written notice that the FDA or other Governmental Authority is limiting, suspending or revoking any approvals or market authorizations for any Product, (iii) any written notice that Borrower has become subject to any administrative or regulatory enforcement action, proceeding or investigation issued by the FDA or other Governmental Authority, (iv) notice of the exclusion or debarment from any governmental healthcare program or debarment or disqualification by FDA of Borrower, (v) any written notice that FDA or other Governmental Authority is changing the market classification or labeling under any such approvals or market authorizations for any Product, or (vi) the receipt of notice, or occurrence of any decision, to conduct a voluntary or mandatory recall, withdrawal, removal, suspension of manufacturing or marketing, or discontinuation of any Product, in each case of clauses (i) through (vi), to the extent such notice could reasonably be expected to result in material and adverse consequences to Borrower and its Subsidiaries, taken as a whole;

(xi) the occurrence of any event or series of related events with respect to the property or assets of Borrower or any of its Subsidiaries resulting in losses, damages or expenses aggregating $10,000,000 or more;

(xii) any material change in accounting policies or financial reporting practices by Borrower or any of its Subsidiaries (other than as required or permitted under GAAP); and

(xiii) any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other material labor disruption against or involving a Credit Party that, either individually or in the aggregate, would reasonably be expected to result in a Material Adverse Change.

(f) Legal Action Notice. Prompt written notice (which shall be deemed given to the extent reported in Borrower's periodic reporting under the Exchange Act and available on the SEC's EDGAR system (or any successor system adopted by the SEC)) of any legal action, litigation, suit, claim, audit, investigation or proceeding pending or threatened in writing against any Credit Party or any Subsidiary (i) that could reasonably be expected to result in uninsured damages or costs to such Credit Party or such Subsidiary in an amount in excess of $5,000,000 or (ii) which alleges potential violations of the Health Care Laws or any applicable statutes, rules, regulations, standards, guidelines, policies and order administered or issued by any foreign Governmental Authority, which, in the case of this clause (ii), individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change; and in each case, provide such additional information as the Blackstone Representative may reasonably request in relation thereto; provided that the Credit Parties shall not be obligated to disclose any information that is

reasonably subject to the assertion of attorney-client privilege, conflict of interest or attorney work-product.

Agent and the Lenders hereby agree that the Perfection Certificate and schedules to the Disclosure Letter shall be updated or deemed to be updated after the Closing Date to reflect information provided in any written notice delivered by any Credit Party to Lender pursuant to this Section 5.2 (including in any Compliance Certificate; provided that Borrower may at its option deliver additional Compliance Certificates from time to time for purposes of updating the Perfection Certificate and schedules to the Disclosure Letter) or any inquiry under Section 5.1(b) of the Security Agreement; provided that any update to the Perfection Certificate or schedules to the Disclosure Letter by any Credit Party pursuant to this paragraph shall not relieve any Credit Party of any other Obligation under this Agreement. For the avoidance of doubt, Borrower may not update Schedules 6.1, 12.1, 12.2 or 12.3 pursuant to this paragraph.

5.3 Taxes.

Timely file all foreign, federal and state income and other material required Tax returns and reports or extensions therefor and timely pay all material foreign, federal, state and local Taxes, assessments, deposits and contributions imposed upon it or any of its properties or assets, or in respect of any of its income, businesses or franchises before any penalty or fine accrue thereon; provided, however, that no such Tax or any claim for Taxes that have become due and payable and have or may become a Lien on any Collateral shall be required to be paid if (a) it is being contested in good faith by appropriate proceedings instituted within applicable time limits and diligently conducted, so long as adequate reserves with respect thereto have been maintained in accordance with GAAP and (b) solely in the case of a Tax or claim that has or may become a Lien against any Collateral, such contest proceedings conclusively operate to stay the sale of any portion of any Collateral to satisfy such Tax or claim. No Credit Party shall, nor shall it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income Tax return with any Person (other than Borrower or any of its Subsidiaries).

5.4 Insurance. Maintain, with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons of comparable size engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons of comparable size engaged in the same or similar businesses as Borrower and its Subsidiaries) as are customarily carried under similar circumstances by such other Persons. Any products liability or general liability insurance regarding Collateral shall (i) name Agent as additional insured or lenders' loss payable, as applicable, and (ii) provide that no cancellation of the policies shall be made without at least thirty (30) days prior written notice to Agent (ten (10) days in the case of cancellation for nonpayment). Borrower shall deliver to Agent insurance certificates certified by the Borrower's insurance brokers, and appropriate endorsements showing Agent as the lenders' loss payable and additional insured as required above, as to the existence and effectiveness of each such policy of insurance, in each case to be in form and substance reasonable satisfactory to the Blackstone Representative.

5.5 Operating Accounts.

(a) In the case of any Credit Party, for each Collateral Account that such Credit Party at any time maintains, and contemporaneously with the establishment of any new Collateral Account by such Credit Party, subject such account to a Control Agreement (or take equivalent actions to establish and perfect (if applicable) Agent's Lien) that is reasonably acceptable to the Agent and the Blackstone Representative, in order to perfect Agent's Lien in favor and for the benefit of Agent and the other Secured Parties.

(b) Notwithstanding the foregoing, the Credit Parties shall have until the date that is forty-five (45) days (or such longer period as the Blackstone Representative may agree in its sole discretion) after the closing date of any Acquisition or other Investment to comply with the provisions of this Section 5.5 with regard to Collateral Accounts of the Credit Parties acquired in connection with such Acquisition or other Investment.

5.6 Compliance with Laws. Comply with the Requirements of Law and all orders, writs, injunctions, decrees and judgments applicable to it or to its business or its assets or properties (including Environmental Laws, ERISA, the IRC (including requirements for intended tax treatment), Health Care Laws and the Federal Fair Labor Standards Act), except if the failure to comply therewith could not, individually or together with any other such failures, reasonably be expected to result in a Material Adverse Change; provided, that with respect to Requirements of Laws and all orders, writs, injunctions, decrees and judgments with respect to Anti-Terrorism Laws, Anti-Money Laundering Laws, OFAC, FCPA, and similar Laws, the Credit Parties and each of their Subsidiaries shall comply in all material respects.

5.7 Protection of Intellectual Property Rights.

(a) Except where the failure to do so could not reasonably be expected to materially interfere with the Credit Parties' ability to conduct their business as conducted on the Closing Date or result in any material loss of rights relating to any Product (including Patent exclusivity therefor), (i) file, prosecute, protect, defend and maintain the validity and enforceability of all Registered Product IP; (ii) maintain the confidential nature of any material trade secrets and trade secret rights used in any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory; and (iii) not allow any Product IP to be abandoned, forfeited or dedicated to the public (other than through the abandonment of Product IP in the exercise of the Credit Parties' ordinary course prosecution practices and reasonable business judgment, e.g., the abandonment of a continuation application that is no longer needed to maintain the pendency of another patent application) or any Material Contract to be terminated by Borrower or any of its Subsidiaries, as applicable, without the Blackstone Representative's prior written consent (such consent not to be unreasonably withheld or delayed); provided, however, that with respect to any such Product IP that is not owned by Borrower or any of its Subsidiaries, the obligations in clauses (i) and (iii) above shall apply only to the extent Borrower or any of its Subsidiaries have the right to take such actions or to cause any licensee or other third party to take such actions pursuant to applicable agreements or contractual rights.

(b) (i) Except as Borrower may otherwise determine in its reasonable business judgment, and where the failure to do so could not reasonably be expected to materially interfere with the Credit Parties' ability to conduct their business as conducted on the Closing Date or result

in any material loss of rights relating to any Product (including Patent exclusivity therefor), at its (or its Subsidiaries', as applicable) sole expense, either directly or indirectly, with respect to any licensee or licensor under the terms of any Credit Party's (or any of its Subsidiary's) agreement with the respective licensee or licensor, as applicable, to take any actions (including taking legal action to specifically enforce the applicable terms of any license agreement) and prepare, execute, deliver and file agreements, documents or instruments which are necessary or desirable to (A) prosecute and maintain any Registered Product IP and (B) diligently defend or assert any Product IP against material infringement, misappropriation, violation or interference by any other Persons and, in the case of Registered Product IP, against any claims of invalidity or unenforceability (including by bringing any legal action for infringement, dilution, violation or defending any counterclaim of invalidity or action of a non-Affiliate third party for declaratory judgment of non-infringement or non-interference); provided, however, that with respect to any such Registered Product IP that is not owned by Borrower or any of its Subsidiaries, the obligations in clauses (A) and (B) above shall apply only to the extent Borrower or any of its Subsidiaries have the right to take such actions or to cause any licensee or other third party to take such actions pursuant to applicable agreements or contractual rights and (ii) use commercially reasonable efforts to cause any licensee or licensor of any Registered Product IP not to, and such Credit Party shall not, disclaim or abandon, or fail to take any action necessary or desirable to prevent the disclaimer or abandonment of Registered Product IP (other than through the abandonment of Registered Product IP in the exercise of the Credit Parties' or its licensee's or its licensor's ordinary course prosecution practices and reasonable business judgment, e.g., the abandonment of a continuation application that is no longer needed to maintain the pendency of another patent application).

(c) Borrower shall provide quarterly updates (together with the Compliance Certificate) to Schedule 4.6(c) of the Disclosure Letter, as applicable, including updates on material developments with respect to any items listed on such Schedule or updated Schedule, and upon reasonable request of the Blackstone Representative, conduct quarterly meetings (which may be via videoconference) with the Blackstone Representative and Lenders to discuss such updates. Blackstone Representative and the Lenders shall use commercially reasonable efforts to conduct any meeting requested under this Section 5.7(c) with those meetings requested under Section 5.9(b).

5.8 Books and Records. Maintain proper Books, in which entries that are full, true and correct in all material respects and are in all material respects in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets, properties and business of such Credit Party (or such Subsidiary), as the case may be.

5.9 Access to Collateral; Audits; Lender Calls.

(a) Allow the Blackstone Representative, or its respective agents or representatives, (i) not more than one (1) time in any fiscal year absent the occurrence and continuance of an Event of Default and (ii) at any time during the occurrence and continuance of an Event of Default, in each case, during normal business hours and upon reasonable advance notice, to visit and inspect the Collateral and inspect, copy and audit any Credit Party's Books. The foregoing inspections and audits shall be at the relevant Credit Party's expense.

(b) Upon the reasonable request of the Blackstone Representative at a time to be mutually agreed that is after delivery of the financial statements delivered pursuant to Sections 5.2(a)(i) and 5.2(a)(ii), conduct a meeting (which may be telephonic) of the Blackstone Representative and the Lenders to discuss the most recently reported financial results and the financial condition of Credit Parties, at which there shall be present a Responsible Officer and such other officers of the Credit Parties as may be reasonably requested to attend by the Blackstone Representative or Required Lenders, such request, or requests to be made at a reasonable time prior to the scheduled date of such meeting. Blackstone Representative and the Lenders shall use commercially reasonable efforts to conduct any meeting requested under this Section 5.9(b) with those meetings requested under Section 5.7(c).

5.10 Use of Proceeds. Use the proceeds of the Term Loans solely (i) to pay fees, premiums, costs, and expenses in connection with the funding of the Initial Term Loans, and (ii) for general corporate purposes of Borrower and its Subsidiaries (including business development activities and sale leaseback transactions permitted hereunder). No proceeds of any Term Loan shall be used to purchase or carry, or to reduce or retire or refinance any credit incurred to purchase or carry, any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock. If requested by the Blackstone Representative, Borrower shall complete and sign Part I of a copy of Federal Reserve Form G-3 referred to in Regulation U and deliver such copy to Agent.

5.11 Further Assurances. Promptly upon the reasonable written request of the Blackstone Representative, execute, acknowledge and deliver such further documents and do such other acts and things in order to effectuate or carry out more effectively the purposes of this Agreement and the other Loan Documents at its expense, including after the Closing Date taking such steps as are reasonably deemed necessary or desirable by the Blackstone Representative to maintain, protect and enforce Agent's Lien in favor and for the benefit of Agent and the other Secured Parties on Collateral securing the Obligations created under the Security Agreement and the other Loan Documents in accordance with the terms of the Security Agreement and the other Loan Documents, subject to Permitted Liens.

5.12 Additional Collateral; Guarantors.

(a) From and after the Closing Date, except as otherwise approved in writing by the Blackstone Representative, each Credit Party shall cause each of its Subsidiaries (other than Excluded Subsidiaries) to guarantee the Obligations by executing and delivering a joinder in the form of Exhibit H hereto and to cause each such Subsidiary to grant to Agent in favor and for the benefit of Agent and the other Secured Parties a first priority (subject to Permitted Priority Liens) security interest in and Lien upon, and pledge to Agent in favor and for the benefit of Agent and the other Secured Parties, subject to Permitted Liens, all of such Subsidiary's properties and assets constituting Collateral, whether now existing or hereafter acquired or existing, to secure such guaranty; provided, that such Credit Party's obligations to cause any Subsidiary formed or acquired after the Closing Date to take the foregoing actions shall be subject to the timing requirements of Section 5.13. Furthermore, except as otherwise approved in writing by the Blackstone Representative, each Credit Party, from and after the Closing Date, shall grant Agent in favor and for the benefit of Agent and the other Secured Parties a first priority security interest in and Lien upon, and pledge to Agent in favor and for the benefit of Agent and the other Secured

Parties, subject to Permitted Liens, the limitations set forth herein and the limitations set forth in the other Loan Documents, all of the Equity Interests of each first-tier Subsidiary owned by a Credit Party. In connection with each pledge of certificated Equity Interests required under the Loan Documents, the Credit Parties shall deliver, or cause to be delivered, to Agent, such certificate(s) together with stock powers or assignments, as applicable, properly endorsed for transfer to Agent or duly executed in blank, in each case in form reasonably satisfactory to the Blackstone Representative. In connection with each pledge of uncertificated Equity Interests required under the Loan Documents, the Credit Parties shall deliver, or cause to be delivered, to Agent an executed uncertificated stock control agreement among the issuer, the registered owner and Agent substantially in the form attached as an Annex to the Security Agreement. Notwithstanding the foregoing, each Credit Party's obligations to take the foregoing actions shall be subject to the timing requirements of Section 5.13 with respect to Subsidiaries formed or acquired after the Closing Date.

(b) In the event any Credit Party acquires any fee title to real estate in the U.S., other than Excluded Property and unless otherwise agreed by the Blackstone Representative, such Person shall execute or deliver, or cause to be executed or delivered, to Agent, (i) within sixty (60) days after such acquisition, an appraisal complying with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, (ii) within forty-five (45) days after receipt of notice from Agent (at the direction of the Blackstone Representative) that such real estate is located in a Special Flood Hazard Area, Federal Flood Insurance, (iii) within sixty (60) days after such acquisition, a fully executed Mortgage, in form and substance reasonably satisfactory to the Blackstone Representative, together with an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to the Blackstone Representative, in form and substance (including any endorsements), and in an amount reasonably satisfactory to the Blackstone Representative, insuring that the Mortgage is a valid and enforceable first priority (subject to Permitted Priority Liens) Lien on the respective property, free and clear of all defects, encumbrances and Liens (other than Permitted Liens), (iv) simultaneously with such acquisition, then-current A.L.T.A. surveys, certified to Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception, and (v) simultaneously with such acquisition, a then-current environmental site assessment prepared pursuant to ASTM E1527-21, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*, by a qualified firm reasonably acceptable to the Blackstone Representative, in form and substance satisfactory to the Blackstone Representative.

5.13 Formation or Acquisition of Subsidiaries.

(a) If Borrower or any of its Subsidiaries at any time after the Closing Date forms or acquires a Subsidiary, Borrower shall cause such Subsidiary to execute and deliver to Agent a joinder to the Intercompany Subordination Agreement.

(b) If Borrower or any of its Subsidiaries at any time after the Closing Date forms or acquires a Subsidiary (including by division) or any Person otherwise becomes a Subsidiary (other than an Excluded Subsidiary) (including by division), or in the event of an Excluded Subsidiary Conversion, as promptly as practicable but in no event later than thirty (30) days (or such longer period as the Blackstone Representative may agree in its sole discretion) after such formation or acquisition or such Person becomes a Subsidiary, or in the case of an Excluded Subsidiary, after

the date on which the most recent Compliance Certificate has been delivered which sets forth the failure to comply with the Credit Party Minimum Coverage Requirement pursuant to Section 5.18: (i) without limiting the generality of clause (iii) of this Section 5.13(b), Borrower shall cause such Subsidiary to execute and deliver to Agent a joinder to this Agreement as Guarantor in the form of Exhibit H hereto and a joinder to the Intercompany Subordination Agreement, and the applicable Collateral Documents, Operating Documents and related company information, and legal opinions and any Collateral required to be delivered pursuant to the terms of the Loan Documents; (ii) Borrower shall deliver to Agent a Perfection Certificate, updated to reflect the formation or acquisition of such Subsidiary; and (iii) Borrower shall cause such Subsidiary to satisfy all requirements contained in this Agreement (including Section 5.12) and each other Loan Document if and to the extent applicable to such Subsidiary. Borrower and Agent hereby agree that any such Subsidiary shall constitute a Credit Party for all purposes hereunder as of the date of the execution and delivery of the joinder contemplated by clause (i) of this Section 5.13(b). Any document, agreement or instrument executed or issued pursuant to this Section 5.13 shall be a Loan Document.

(c) Notwithstanding anything else to the contrary in this Agreement or any other Loan Document (including pursuant to Sections 5.11, 5.12, this Section 5.13 or any of the constituent defined terms in this Agreement), in the event that any Subsidiary is required to become a Credit Party that is organized in a jurisdiction for which guarantees and security interests have not yet been provided to Agent and the Secured Parties for an existing Credit Party, the Blackstone Representative and Borrower shall determine and mutually agree on the reasonable and customary actions to be satisfied or delivered in such jurisdiction of organization with respect to the guarantee and creation, perfection and priority of Liens to secure the Obligations to satisfy the obligations in Section 5.11, 5.12 and this Section 5.13, and the failure to take a specific action or provide a specific deliverable enumerated in such provisions shall not constitute a breach of such provisions if such action or deliverable is not reasonable or customary to provide in such foreign jurisdiction.

5.14 Post-Closing Requirements. Borrower shall, and shall cause each of its Subsidiaries to, take each of the actions set forth on Schedule 5.14 of the Disclosure Letter within the time period prescribed therefor on such schedule (or such longer period as the Blackstone Representative may agree in its sole discretion). All representations and warranties and covenants contained in this Agreement and the other Loan Documents shall be deemed modified to the extent necessary to take the actions set forth on Schedule 5.14 of the Disclosure Letter within the time periods set forth therein, rather than elsewhere provided in the Loan Documents, such that to the extent any such action set forth in Schedule 5.14 of the Disclosure Letter is not overdue, the applicable Credit Party shall not be in breach of any representation or warranty or covenant contained in this Agreement or any other Loan Document applicable to such action for the period from the Closing Date, as applicable, until the date on which such action is required to be fulfilled as set forth on Schedule 5.14 of the Disclosure Letter.

5.15 Environmental.

(a) Deliver to Agent (for distribution to the Lenders) and the Blackstone Representative:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, site assessments, investigations, analyses and reports of any kind or character, whether prepared by personnel of Borrower or any of its Subsidiaries or by independent consultants, Governmental Authorities or any other Persons, with respect to any Environmental Claims, any violation of Environmental Laws, or any discovery of a Release or threatened Release that, in each case, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change;

(ii) promptly upon a Responsible Officer of any Credit Party or any of its Subsidiaries obtaining knowledge of the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported to any federal, state or local governmental or Regulatory Agency under any applicable Environmental Laws, and (B) any removal or remedial action taken by any Credit Party or any other Person in response to (x) any Hazardous Materials Activities, the existence of which, individually or in the aggregate, could reasonably be expected to result in one or more Environmental Claims resulting in a Material Adverse Change, or (y) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change;

(iii) as soon as practicable following the sending or receipt thereof by any Credit Party, a copy of any and all written communications with respect to (A) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, (B) any Release required to be reported to any federal, state or local governmental or Regulatory Agency, or (C) any request for information from any Governmental Authority that suggests such Governmental Authority is investigating whether any Credit Party or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change;

(iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to (x) expose Borrower or any of its Subsidiaries to, or result in, Environmental Claims that could reasonably be expected to result in a Material Adverse Change or (y) affect the ability of Borrower or any of its Subsidiaries to maintain in full force and effect all material Governmental Approvals required under any Environmental Laws for their respective operations, and (B) any proposed action to be taken by Borrower or any of its Subsidiaries to modify current operations in a manner that, individually or together with any other such proposed actions, could reasonably be expected to subject Borrower or any of its Subsidiaries to any additional material obligations or requirements under any Environmental Laws; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by the Blackstone Representative in relation to any matters disclosed pursuant to this Section 5.15(a).

(b) Each Credit Party shall, and shall cause each of its Subsidiaries to, promptly take any and all actions reasonably necessary to (i) cure any violation of applicable Environmental Laws by Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably

be expected to result in a Material Adverse Change, and (ii) make an appropriate response to any Environmental Claim against Borrower or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder where failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change.

5.16 [Reserved].

5.17 [Reserved].

5.18 Credit Party Minimum Coverage. In the event that Excluded Subsidiaries in the aggregate, (a) possess total assets as of the end of any fiscal quarter or fiscal year, as applicable (commencing with the fiscal quarter ending on September 30, 2025), for which a Compliance Certificate has been delivered to Agent greater than 10.0% of the total assets of Borrower and its Subsidiaries or (b) contribute to the Consolidated Revenue for such fiscal quarter in an amount greater than 10.0% of the Consolidated Revenue of Borrower and its Subsidiaries for such period, in each case, determined in accordance with GAAP; then Borrower shall, within five (5) Business Days of the delivery of such Compliance Certificate (i) in consultation with the Blackstone Representative, designate in writing to Agent one or more of such Excluded Subsidiary(ies) which shall no longer be deemed to be Excluded Subsidiary(ies) such that the foregoing condition under each of clause (a) and clause (b) ceases to be true (an "**Excluded Subsidiary Conversion**") and (ii) comply with the provisions of Section 5.12 and Section 5.13, applicable to any such designated Subsidiary (in each case, in the time periods applicable as if such Subsidiary(ies) had been formed or acquired at the time of such Excluded Subsidiary Conversion); provided, however, that no Subsidiary shall be required to be added as a Guarantor or grant collateral security if doing so would be expected to result in a material adverse tax consequence to Borrower or its Subsidiaries, as reasonably and mutually determined by Borrower and the Blackstone Representative and/or would result in, or would reasonably be expected to result in, a risk of personal or criminal liability for any officer, director, employee, manager, member of management or consultant of the relevant Guarantor to be added (in each case, whether as a result of financial assistance, corporate benefit, thin capitalization, capital maintenance or liquidity maintenance rules or other legal principles).

6. NEGATIVE COVENANTS

Each Credit Party covenants and agrees that, until payment in full of all Obligations in cash in immediately available funds (other than inchoate indemnity obligations in respect of which no claims has been asserted), such Credit Party shall not, and shall cause each of its Subsidiaries not to:

6.1 Dispositions . Convey, sell, lease, transfer, assign, contribute, covenant not to sue in relation to, enter into a coexistence agreement in relation to, grant any option, warrant or other right in relation to, exclusively or non-exclusively license out, or otherwise dispose of (including without limitation (a) any sale-leaseback, (b) by way of merger or (c) pursuant to a plan of division), directly or indirectly and whether in one or a series of transactions (collectively, **"Transfer**"), all or any part of the property or assets of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired (including accounts receivables and Equity Interests of Subsidiaries) of Borrower or any of its Subsidiaries; except, in each case of this Section 6.1, for Permitted Transfers; provided, that in no event shall any Credit

Party or any Subsidiary, directly or indirectly, Transfer any Intellectual Property to any Person, other than as expressly permitted pursuant to clauses (i), (j), (k) and/or (l) of the definition of "Permitted Transfer". Notwithstanding anything else to the contrary in this Agreement, no Credit Party shall Transfer to any Subsidiary that is not a Credit Party, nor permit any Subsidiary that is not a Credit Party at any time to own, hold or have any rights to any Material IP (and, for the avoidance of doubt, if after the Closing Date such non-Credit Party Subsidiary develops any Material IP, then such Subsidiary shall either transfer such Material IP to a Credit Party or become a Credit Party pursuant to, and within the time periods specified in, Section 5.13); provided, that this shall not prohibit any Transfers that are otherwise permitted pursuant to clause (k) of the definition of "Permitted Transfers."

6.2 Fundamental Changes.

(a) Without at least five (5) Business Days (or such later date as may be agreed to by Blackstone Representative in its sole discretion) prior written notice to Agent, solely in the case of a Credit Party: (i) change its jurisdiction of organization, incorporation or formation, (ii) change its organizational structure or type, (iii) change its legal name, or (iv) change any organizational number (if any) assigned by its jurisdiction of organization, incorporation or formation; provided, that in no event shall Borrower change its jurisdiction of organization, incorporation or formation, or change its organizational structure or type, without the prior written consent of the Blackstone Representative.

(b) Permit a Credit Party to be a direct or indirect Wholly-Owned Subsidiary of a Subsidiary of Borrower that is not also a Credit Party.

(c) Permit any Subsidiary of Borrower to issue any Equity Interests (whether for value or otherwise) to any Person other than (i) with respect to any Subsidiary of Borrower that is a Credit Party, the issuance of Equity Interests of such Credit Party to a Credit Party and (ii), with respect to any Subsidiary of Borrower that is not a Credit Party, to any other Subsidiary of Borrower, provided that no such issuance shall cause a Subsidiary that is (A) a Wholly-Owned Subsidiary of a Credit Party to cease to be wholly-owned by such Credit Party, or (B) majority-owned by a Credit Party to cease to be majority-owned by a Credit Party, other than pursuant to any Permitted Transfer; provided, further, that notwithstanding the foregoing and anything else to the contrary herein, any Subsidiary may issue qualifying directors' shares and similar interests pursuant to the Requirement of Law.

(d) Permit a Wholly-Owned Subsidiary of a Credit Party to cease to be a Wholly-Owned Subsidiary of such Credit Party, other than in connection with any Permitted Transfer of all of the Equity Interests of such Wholly-Owned Subsidiary to a Person that is not a Credit Party or Subsidiary thereof.

6.3 Mergers, Acquisitions, Liquidations or Dissolutions.

(a) Merge, divide itself into two (2) or more entities, consolidate, liquidate or dissolve, or permit any of its Subsidiaries to merge, divide itself into two (2) or more entities, consolidate, liquidate or dissolve with or into any other Person, except that:

(i) any Subsidiary of Borrower may merge or consolidate with or into Borrower, provided that Borrower is the surviving entity,

(ii) any Subsidiary of Borrower may merge or consolidate with any other Subsidiary of Borrower, provided that if any party to such merger or consolidation is a Credit Party, then either (x) such Credit Party is the surviving entity, or (y) the surviving or resulting entity executes and delivers to Agent a joinder to the Security Agreement in the form attached thereto and any other Collateral Documents, as applicable, and otherwise satisfies the requirements of Section 5.13 substantially contemporaneously with completion of such merger or consolidation to;

(iii) any Subsidiary of Borrower may liquidate or dissolve, provided that the properties and assets of any such Subsidiary that is a Credit Party are distributed or otherwise transferred to Borrower or any other Credit Party;

(iv) any Subsidiary of Borrower may divide itself into two (2) or more entities or be dissolved or liquidated, provided that if such Subsidiary is a Credit Party, the properties and assets of such Subsidiary are allocated or distributed to an existing or newly-formed Credit Party or such resulting entity executes and delivers to Agent a joinder to the Security Agreement in the form attached thereto and any other Collateral Documents, as applicable, and otherwise satisfies the requirements of Section 5.13 substantially contemporaneously therewith; and

(v) in connection with any Permitted Investment, Borrower or any of its Subsidiaries may merge or consolidate with any other Person; provided that (i) the Person surviving such merger with any Subsidiary shall be a direct or indirect Wholly-Owned Subsidiary of Borrower, (ii) in the case of any such merger or consolidation to which Borrower is a party, Borrower is the surviving entity, and (iii) in the case of any such merger or consolidation to which a Guarantor is a party, (x) such Guarantor is the surviving entity, or (y) the surviving or resulting entity executes and delivers to Agent a joinder to the Security Agreement in the form attached thereto and any other Collateral Documents, as applicable, and otherwise satisfies the requirements of Section 5.13 substantially contemporaneously with completion of such merger or consolidation; or

(b) make, or permit any of its Subsidiaries to make, Acquisitions, other than Permitted Acquisitions or Permitted Investments.

6.4 Indebtedness. Directly or indirectly, create, incur, assume, permit to exist or guaranty, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness (including any Indebtedness consisting of obligations evidenced by a bond, debenture, note or other similar instrument) that is not Permitted Indebtedness; provided, however, that the accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 6.4.

6.5 Encumbrances. Except for Permitted Liens, (i) create, incur, allow, or suffer to exist any Lien on any property or asset of Borrower or any of its Subsidiaries; provided, that in no

event shall any Credit Party or Subsidiary permit any Product, or Product IP to be subject to a Lien incurred in connection with Indebtedness for borrowed money (other than the Obligations) or (ii) permit (other than pursuant to the terms of the Loan Documents) any property and assets of the Credit Parties (other than Excluded Property) to not be subject to the first priority (subject to Permitted Priority Liens) security interest granted in the Loan Documents or otherwise pursuant to the Collateral Documents.

6.6 No Further Negative Pledges. Enter into any agreement, document or instrument directly or indirectly prohibiting (or having the effect of prohibiting), restricting, imposing any condition upon or otherwise limiting the ability of such Credit Party or Subsidiary to create, incur, assume or suffer to exist any Lien upon any Collateral, whether now owned or hereafter acquired, in favor and for the benefit of Agent and the other Secured Parties with respect to the Obligations or under the Loan Documents, in each case of this Section 6.6(a), other than Permitted Negative Pledges.

6.7 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 5.5 hereof.

6.8 Distributions; Investments.

(a) Directly or indirectly declare or pay any dividends or make any distribution or payment on or redeem, retire, defease, acquire, cancel, terminate or purchase (or set apart assets for a sinking or other analogous fund for the redemption, retirement, defeasance, acquisition, cancellation, termination or purchase of) any Equity Interests (or warrants, options or other right or obligation to purchase of acquire any such Equity Interests), whether in cash, property or obligations (each, a "**Restricted Distribution**"), except, in each case of this Section 6.8, for Permitted Distributions.

(b) Directly or indirectly make any Investment other than Permitted Investments.

(c) Notwithstanding the generality of the foregoing clauses (a) and (b), in no event shall (x) a Credit Party, directly or indirectly, make a Restricted Distribution or Investment with any Material IP to any Person other than pursuant to any Permitted Transfers permitted pursuant to clause (j), (k) or (l) of the definition of "Permitted Transfers" and (y) a Credit Party, directly or indirectly, make any Restricted Distribution to a Subsidiary that is not a Credit Party.

6.9 No Restrictions on Subsidiary Distributions. Enter into any agreement, document or instrument directly or indirectly prohibiting (or having the effect of prohibiting), restricting, imposing any condition upon or otherwise limiting the ability of any Subsidiary of Borrower to (a) pay dividends or make any other distributions on any of such Subsidiary's Equity Interests owned by Borrower or any other Subsidiary of Borrower, (b) repay or prepay any Indebtedness owed by such Subsidiary to Borrower or any other Subsidiary of Borrower, (c) make loans or advances to Borrower or any other Subsidiary of Borrower, or (d) transfer, lease or license any Collateral to Borrower or any other Subsidiary of Borrower, except, in each case of this Section 6.9, for Permitted Subsidiary Distribution Restrictions.

6.10 Junior Indebtedness. Make or permit any voluntary or optional prepayment, or otherwise repay, redeem, purchase, defease, acquire or satisfy prior to its regularly scheduled due

date, any (a) Indebtedness which is secured by a Lien on any Collateral, (b) Subordinated Debt, (c) Permitted Convertible Bond Indebtedness or (d) unsecured Indebtedness for borrowed money (clauses (a) through (d), collectively, "**Junior Indebtedness**"), except: (i) to the extent permitted under the terms of any subordination, intercreditor, or other similar agreement to which any Junior Indebtedness constituting Permitted Indebtedness is subject; (ii) Permitted Refinancing of any Junior Indebtedness with any Indebtedness permitted to be incurred under Section 6.4; (iii) any prepayment, exchange or conversion of any Permitted Convertible Bond Indebtedness that is made or settled solely in Qualified Equity Interests of Borrower (and cash (x) in lieu of fractional shares and (y) in respect of accrued and unpaid interest); (iv) Permitted Distributions (solely pursuant to clause (p) of such definition); and (v) subject to satisfaction of the Redemption Conditions, the repurchase, exchange or repayment of Permitted Convertible Bond Indebtedness. For the avoidance of doubt, this Section 6.10 shall prohibit (i) any cash repurchase of Permitted Convertible Bond Indebtedness (whether upon a "fundamental change," redemption upon satisfaction of a stock price condition, or otherwise) and (ii) the settlement of any conversion of Permitted Convertible Bond Indebtedness in cash in any amount (other than cash in lieu of fractional shares), in each case ((i) and (ii)), unless the Redemption Conditions are satisfied.

6.11 Amendments or Waivers of Organizational Documents or Junior Indebtedness.

(a) Amend, restate, supplement or otherwise modify, or waive, any provision of its Operating Documents or equivalent, which amendment, restatement, supplement, modification or waiver would be materially adverse to the interests of the Secured Parties.

(b) Amend, restate, supplement or otherwise modify, or waive, the terms of any (i) Subordinated Debt, except to the extent permitted by the subordination agreement executed by Agent (at the direction of the Blackstone Representative) or (ii) Junior Indebtedness not constituting Subordinated Debt if the effect of such amendment, restatement, supplement, modification or waiver would: (A) increase the interest rate on such Indebtedness by more than two percent (2.0%); (B) shorten the dates upon which payments of principal or interest are due on such Indebtedness (unless such shortened date is more than one hundred eighty (180) days after the Term Loan Maturity Date); (C) add or change in a manner adverse to the Credit Parties any event of default or add or make more restrictive any covenant with respect to such Indebtedness; (D) change in a manner adverse to the Credit Parties the prepayment provisions of such Indebtedness; (E) change the subordination provisions thereof (or the subordination terms of any guaranty thereof); (F) change or amend any other term if such change or amendment would confer additional material rights on the holders of such Indebtedness in a manner adverse to the Credit Parties, Agent or the Lenders (in their respective capacities as such); (G) materially increase the amount of such Indebtedness; or (H) otherwise be materially adverse to the interests of the Secured Parties.

6.12 Compliance.

(a) Become an "investment company" under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry Margin Stock, or use the proceeds of any Credit Extension for that purpose;

(b) Cause or suffer to exist, and no ERISA Affiliate shall cause or suffer to exist, (i) any event that would result in the imposition of a Lien on any assets or properties of any Credit Party or a Subsidiary of a Credit Party with respect to any Plan or Multiemployer Plan or (ii) any other ERISA Event that, in the case of clauses (i) and (ii), could reasonably be expected to, individually or in the aggregate, result in a Material Adverse Change; or

(c) Permit the occurrence of any violation of applicable law with respect to any Employee Benefit Plan, or any other plan or arrangement to provide pension, profit sharing, severance or deferred compensation which could reasonably be expected to, individually or in the aggregate, result in a Material Adverse Change.

6.13 Compliance with Anti-Terrorism Laws. Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of Anti-Terrorism Laws, and such Person's policies and practices, Agent and each Lender is required to obtain, verify and record certain information and documentation that identifies each Credit Party and its principals, which information includes the name and address of each Credit Party and its principals and such other information that will allow Agent and each Lender to identify such party in accordance with Anti-Terrorism Laws. No Credit Party shall, nor shall any Credit Party permit any of its Subsidiaries or Affiliates to, directly or indirectly, knowingly enter into any documents or contracts with any Person listed on the OFAC Lists. Each Credit Party shall promptly (but in any event within three (3) Business Days) notify Agent and the Blackstone Representative in writing upon any Responsible Officer of Borrower or any other Credit Party or Subsidiary having knowledge that any Credit Party or any Subsidiary or Affiliate of any Credit Party is listed on the OFAC Lists or (a) is convicted on, (b) pleads *nolo contendere* to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. No Credit Party shall, nor shall any Credit Party permit any of its Subsidiaries or Affiliates to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids or violates, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law.

6.14 Amendments or Waivers of Material Contracts. (a) Waive, amend, cancel or terminate, or fail to exercise, any material rights constituting or relating to any Material Contract, (b) breach, default under, or take any action or fail to take any action that, with the passage of time or the giving of notice or both, would constitute a default or event of default under any Material Contract, in each case of this Section 6.14, (i) which could reasonably be expected to, individually or together with any other such waivers, amendments, agreements, cancellations, terminations, exercises or failures, result in a Material Adverse Change, or (ii) would be materially adverse to the interests of Agent and the Lenders.

6.15 Transactions with Affiliates. Enter into or permit to exist any arrangement, contract or transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate that

is not a Credit Party or a Wholly-Owned Subsidiary of a Credit Party, in each case with an aggregate value in excess of $2,500,000, except for (a) transactions in the ordinary course of business and pursuant to reasonable terms no less favorable, taken as a whole, to such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of Borrower or such Subsidiary, (b) transactions among the Credit Parties that are not otherwise prohibited by this Agreement, (c) transactions constituting Permitted Indebtedness, Permitted Investments or Permitted Transfers, (d) the issuance of Qualified Equity Interests in exchange for cash so long as such issuance does not result in a Change in Control, and (e) reasonable and customary director, officer and employee compensation (including bonuses) and other benefits (including retirement, health, stock option and other benefit plans and indemnification arrangements approved by the relevant board of directors, board managers or equivalent corporate body in the ordinary course of business).

6.16 [Reserved].

6.17 Minimum Liquidity. Permit Liquidity of Borrower and its Subsidiaries to be less than $40,000,000 on the last Business Day of any fiscal quarter ending after the Closing Date (commencing with the first fiscal quarter ending after the Closing Date).

6.18 No Liability Management Transactions.

(a) Make any Investment in or dispose of any assets to a Person that is not a Credit Party to facilitate a new financing incurred by a Subsidiary of Borrower (including a debtor in possession financing) or to guarantee an existing financing, in connection with a liability management transaction.

(b) Permit any Subsidiary of Borrower to cease to be Wholly-Owned Subsidiary at all times unless any such Subsidiary no longer exists pursuant to a transaction permitted by Section 6.3.

6.19 Fiscal Year. Change its fiscal year or any of its fiscal quarters without the consent of the Blackstone Representative and the Lenders.

6.20 Royalty Transaction. Enter into any Royalty Transaction.

7. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

7.1 Payment Default. Any Credit Party fails to (a) make any payment of any principal of the Term Loans when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment (whether voluntary or mandatory) thereof or by acceleration thereof or otherwise, or (b) within five (5) Business Days after the same becomes due, any payment of interest or premium pursuant to Section 2.2, including any applicable fees, the Prepayment Premium, or any other Obligations (which five (5) Business Day cure period shall not apply to any payments due on the Term Loan Maturity Date or the date of acceleration pursuant to Section 8.1(a) or Section 2.2(c)(ii) hereof). A failure to pay any such interest, premium or

Obligations pursuant to the foregoing clause (b) prior to the end of such five (5) Business Day-period shall not constitute an Event of Default (unless such payment is due on the Term Loan Maturity Date or the date of acceleration pursuant to Section 8.1(a) or Section 2.2(c)(ii) hereof).

7.2 Covenant Default.

(a) The Credit Parties or their Subsidiaries: (i) fail or neglect to perform, keep or observe any term, provision, condition, covenant or agreement in Sections 5.2, 5.4, 5.5, 5.10, 5.12, 5.13 or 5.14 or Section 6; or

(b) The Credit Parties or their Subsidiaries fail or neglect to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents on its part to be performed, kept or observed, and such failure continues for ten (10) days after the earlier of the date on which (i) a Responsible Officer of any Credit Party becomes aware of such failure and (ii) written notice thereof shall have been given to Borrower by Agent (at the direction of the Blackstone Representative); provided that if the Default cannot by its nature be cured within the 10 day period or cannot after diligent attempts by the Credit Parties be cured within such 10 day period, and such Default is likely to be cured within a reasonable time, then the Credit Parties shall have an additional period (which shall not in any case exceed 30 days) to attempt to cure such Default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default. The cure period provided under this Section 7.2(b) shall not apply, among other things, to any of the covenants referenced in clause (a) above.

7.3 Material Adverse Change. A Material Adverse Change occurs.

7.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of any Credit Party in excess of $10,000,000 on deposit or otherwise maintained with Agent, or (ii) a notice of lien or levy is filed against any of material portion of the Collateral by any Governmental Authority, and the same under sub-clauses (i) and (ii) hereof are not, within thirty (30) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, that no Credit Extensions shall be made during any thirty (30) day cure period; or

(b) (i) Any material portion of the Collateral is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower and its Subsidiaries from conducting any material part of their business, taken as a whole.

7.5 Insolvency.

(a) An involuntary proceeding shall be commenced, or an involuntary petition shall be filed in a court of competent jurisdiction seeking: (i) relief in respect of any Credit Party, or of a substantial part of the property of any Credit Party, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, court protection, receivership or similar law; (ii) the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for any Credit Party or

for a substantial part of the property or assets of any Credit Party; or (iii) the winding-up or liquidation of any Credit Party, and such proceeding or petition shall continue undismissed or unstayed for sixty (60) days, or an order or decree approving or ordering any of the foregoing shall be entered;

(b) Any Credit Party shall: (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, court protection, receivership or similar law; (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (a) above; (iii) apply for or consent to the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for any Credit Party or for a substantial part of the property or assets of any Credit Party; (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding; (v) make a general assignment for the benefit of creditors; (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due; (vii) take any action for the purpose of effecting any of the foregoing; or (viii) wind up or liquidate (except as otherwise expressly permitted hereunder); or

(c) Any corporate action, legal proceedings or other procedure or step is taken in relation to: (i) the suspension of payments, a moratorium of any indebtedness, winding-up, court protection, dissolution, administration or reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Credit Party; (ii) a composition, compromise, assignment or arrangement with any creditor of any Credit Party; (iii) the appointment of a liquidator, receiver, administrative receiver, examiner, administrator, compulsory manager or other similar officer in respect of any Credit Party or any of its assets; or (iv) enforcement of any Collateral over any assets of any Credit Party, or any analogous procedure or step is taken in any jurisdiction. The foregoing shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within forty five (45) days of commencement.

7.6 Other Agreements.

(a) Any Credit Party or any Subsidiary shall (a) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness (other than the Obligations), when and as the same shall become due and payable beyond any applicable grace period, or (b) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness, if the effect of any failure referred to in this clause (b) is to cause, or to permit the holder or holders of such Indebtedness or a trustee or other representative on its or their behalf to cause (with or without the giving of notice, and taking into account any applicable grace periods or waivers), such Indebtedness to become due prior to its stated maturity or become subject to a mandatory offer to purchase by the obligor; provided that this clause (b) shall not apply to secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement and such Indebtedness is repaid in accordance with its terms); provided further that, it shall not constitute an Event of Default pursuant to this Section 7.6 unless the aggregate principal amount of all such Indebtedness referred to in clauses (a) and (b) exceeds the $10,000,000 at any one time.

(b) There occurs under any Permitted Bond Hedge Transaction or Permitted Warrant Transaction an "early termination date" (or similar event) resulting from any event of default or termination event thereunder as to which Borrower or any Subsidiary is the "defaulting party" (or similar term) or the "affected party" (or similar term) and the termination value owed by Borrower or such Subsidiary as a result thereof, taken together, is greater than $10,000,000, and such termination value is required to be paid in cash and may not be settled by the delivery of shares of Borrower.

7.7 Judgments. One or more final, non-appealable judgments, orders, or decrees for the payment of money in an amount in excess of $10,000,000 (but excluding any final judgments, orders, or decrees for the payment of money that are covered by independent third-party insurance as to which liability has not been denied by such insurance carrier or by an indemnification claim against a solvent and unaffiliated Person that is not a Credit Party as to which such Person has not denied liability for such claim), shall be rendered against one or more Credit Parties or any Subsidiary and the same are not, within thirty (30) days after the entry thereof, discharged or execution thereof stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay.

7.8 Misrepresentations. Any Credit Party or any Subsidiary or any Person acting for any Credit Party or any Subsidiary makes or is deemed to make any representation, warranty, or other statement now or later in this Agreement, any other Loan Document or in any writing delivered to Agent or the Lenders or to induce Agent or any Lender to enter this Agreement or any other Loan Document, and such representation, warranty, or other statement is incorrect in any material respect (or, to the extent any such representation, warranty or other statement is qualified by materiality or Material Adverse Change, in any respect) when made or deemed to be made.

7.9 Loan Documents; Collateral. Any material provision of any Loan Document shall for any reason cease to be valid and binding on or enforceable against any Credit Party, or any Credit Party shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Documents shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in a material portion of the Collateral, or such security interest shall for any reason (other than pursuant to the terms of the Loan Documents) cease to be a perfected and first priority (subject to Permitted Priority Liens) security interest in a material portion of the Collateral, in each case, other than as a direct result of any action by Agent or any Lender or the failure of Agent or any Lender to perform an obligation under the Loan Documents.

7.10 Subordinated Debt. Any document, instrument, or agreement evidencing the subordination of any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect (other than as a direct result of any action or in action by Agent or any Lender); any Credit Party or any Subsidiary shall contest the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement, other than with respect to Permitted Liens.

7.11 ERISA Event. An ERISA Event occurs that, individually or together with any other ERISA Events, results or could reasonably be expected to result in a Material Adverse Change or the imposition of a Lien on any Collateral.

7.12 Regulatory Matters. If any of the following occurs: (A) any Credit Party or any Subsidiary of a Credit Party receives written notification from FDA, EMA or any other Governmental Authority equivalent to the FDA or EMA and recognized as the health authority with primary responsibility for granting marketing approval in a foreign country which written notification is reasonably likely to result in the Product being withdrawn from the market and/or the Product approval and/or marketing authorization to be withdrawn, if the revenue attributable to the affected Product in the affected market constitutes more than 25% of Consolidated Revenue of the Borrower and its Subsidiaries, calculated as of the four fiscal quarter period most recently ended prior to the receipt of the written notification for which financial statements have been delivered pursuant to Section 5.2(a); (B) FDA, CMS, EMA or any other Governmental Authority initiates enforcement action, including without limitations, a Warning Letter, seizure, an injunction, or administrative procedure, against any Credit Party or any Subsidiary of a Credit Party with respect to the Products or the manufacturing facilities therefor, that causes the Credit Party or Subsidiary of a Credit Party to discontinue or suspend the sale of, or withdraw, any of its Products or causes a delay in the approval or offering of any Product, which discontinuation, withdrawal or delay would reasonably be expected to last for more than 90 days (or, if a resolution to such discontinuation, suspension of sale, withdrawal or delay is being pursued in good faith through appropriate proceedings diligently conducted, and solely if the applicable event or circumstance has not actually resulted in a Material Adverse Change at the time, an additional 30 days thereafter), in each case if the impact on revenue resulting from such discontinuation, suspension, withdrawal or delay, would be more than 25% of Consolidated Revenue calculated as of the four fiscal quarter period most recently ended prior to the initiation of the enforcement action for which financial statements have been delivered pursuant to Section 5.2(a); (C) any Credit Party recalls any of its Products which would reasonably be expected to result in a Material Adverse Change; or (D) any Credit Party enters into a settlement agreement with the FDA, CMS, EMA or any other Governmental Authority that would reasonably be expected to result in a Material Adverse Change.

7.13 Change in Control. A Change in Control occurs.

8. RIGHTS AND REMEDIES UPON AN EVENT OF DEFAULT

8.1 Rights and Remedies. If any Event of Default occurs, Agent shall, at the direction of the Required Lenders, take any or all of the following actions:

(a) declare all Obligations (including, for the avoidance of doubt, the Prepayment Premium, as applicable) immediately due and payable and terminate all Commitments thereunder (but if an Event of Default described in Section 7.5 occurs all Obligations, including the Prepayment Premium, as applicable, are automatically and immediately due and payable, all Commitments shall automatically and immediately terminate and the Lenders shall have no obligations to make any Loans to Borrower hereunder, in each case, without any action by Agent or the Required Lenders), whereupon all Obligations for principal, interest, premium or otherwise (including, for the avoidance of doubt, the Prepayment Premium, as applicable) shall become due

and payable by Borrower without presentment, demand, protest or other notice of any kind, which are all expressly waived by the Credit Parties hereby;

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement;

(c) settle or adjust disputes and claims directly with account debtors for amounts on terms and in any order that Agent (at the direction of the Blackstone Representative) considers advisable, notify any Person owing the Credit Parties money of Agent's security interest in such funds, and verify the amount of all Accounts;

(d) make any payments and do any acts it considers necessary or reasonable to protect the Collateral or Agent's security interest in favor and for the benefit of Agent and the other Secured Parties in the Collateral. The Credit Parties shall assemble the Collateral if Agent (at the direction of the Blackstone Representative) requests and make it available as Agent (at the direction of the Blackstone Representative) designates. Agent (at the direction of the Blackstone Representative) or its agents or representatives may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest in favor and for the benefit of Agent and the other Secured Parties and pay all expenses incurred. The Credit Parties grant Agent a license to enter and occupy (and for its agents or representatives to enter and occupy) any of its premises, without charge, to exercise any of Agent's rights or remedies;

(e) apply to the Obligations (i) any balances and deposits of the Credit Parties it holds, or (ii) any amount held by Agent or the Lenders owing to or for the credit or the account of any Credit Party;

(f) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. With respect to any and all Intellectual Property owned by any Credit Party and included in Collateral, each Credit Party hereby grants to Agent, for the benefit of all Secured Parties, as of the Closing Date, a non-exclusive, irrevocable, worldwide, freely sublicensable (through multiple tiers), royalty-free license or other right to use, without charge, such Intellectual Property for any purposes in connection with Agent's exercise of its rights and remedies under this Agreement or any other Loan Document, including in advertising for sale and selling any Collateral, in connection with Agent's exercise of its rights under this Section 8.1, and the Credit Parties' rights under all licenses and ensuring all franchise contracts inure to the benefit of all Secured Parties;

(g) place a "hold" on any account maintained with Agent or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(h) demand and receive possession of the Books of the Credit Parties regarding Collateral; and

(i) exercise all rights and remedies available to Agent and each Lender under the Collateral Documents or any other Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

8.2 Power of Attorney. Each Credit Party hereby irrevocably appoints Agent and any Related Party thereof as its lawful attorney-in-fact, exercisable solely upon the occurrence and during the continuance of an Event of Default, to: (a) endorse such Credit Party's name on any checks or other forms of payment or security; (b) sign such Credit Party's name on any invoice or bill of lading for any Account or drafts against account debtors; (c) settle and adjust disputes and claims about the Collateral Accounts directly with depository banks where the Collateral Accounts are maintained, for amounts and on terms Agent (at the direction of the Blackstone Representative) determines reasonable; (d) make, settle, and adjust all claims under such Credit Party's products liability or general liability insurance policies maintained in the United States regarding Collateral; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Agent or a third party as the Code permits. Each Credit Party hereby appoints Agent, any Related Party thereof and their designees as its lawful attorney-in-fact to file or record any documents necessary to perfect or continue the perfection of Agent's security interest in favor and for the benefit of Agent and the other Secured Parties in the Collateral, regardless of whether an Event of Default has occurred, until all Obligations (other than inchoate indemnity obligations in respect of which no claim has been asserted) have been satisfied in full in cash in immediately available funds, any Lender is not under any further obligation to make Credit Extensions hereunder. The foregoing appointment of Agent and any Related Party thereof as each Credit Party's attorney in fact, and all of Agent's (or such Related Party's) rights and powers, coupled with an interest, are irrevocable until all Obligations (other than inchoate indemnity obligations in respect of which no claim has been asserted) have been fully repaid in cash in immediately available funds and Agent's and each Lenders' obligation to provide Credit Extensions terminates.

8.3 Application of Payments and Proceeds Upon Default. During the continuance of an Event of Default, Agent shall upon the direction of Required Lenders, apply any and all payments received by Agent in respect of any Obligation in accordance with clauses first through sixth below. All payments received by Agent in respect of the Obligations after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded), including proceeds of Collateral, shall be applied as follows:

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and all other amounts (other than principal and interest, but including Lender and Agent Expenses) payable to Agent in its capacity as such;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest, Prepayment Premium and breakage and termination Obligations, but including Lender and Agent Expenses) payable to the Lenders, ratably among them in proportion to the amounts described in this clause Second payable to them;

(iii) *Third*, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Term Loans and any fees or premiums (including the Prepayment Premium), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

(iv) *Fourth*, to payment of that portion of the Obligations constituting unpaid principal of the Term Loans and any breakage, termination or other payment Obligations, ratably among the Lender in proportion to the respective amounts described in this clause Fourth payable to them;

(v) *Fifth*, to the payment of all other Obligations (other than to a Defaulting Lender) that are due and payable to Secured Parties (other than Agent) on such date, in each case, ratably based upon the respective aggregate amounts of all such Obligations owing to the Secured Parties on such date;

(vi) *Sixth*, to payment of any Obligations owed to Defaulting Lenders; and

(vii) *Last*, the balance, if any, after all of the Obligations have been paid in full, in cash in immediately available funds, to Borrower or as otherwise required by Law.

8.4 Agent's Liability for Collateral. Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as Agent deals with its own property consisting of similar instruments or interests. Neither Agent nor any Lender shall be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; or (c) any act or default of any other Person. In no event shall Agent or any Lender have any liability for any diminution in the value of the Collateral for any reason. The Credit Parties bear all risk of loss, damage or destruction of the Collateral.

8.5 No Waiver; Remedies Cumulative. Agent's or the Lenders' failure, at any time or times, to require strict performance by any Credit Party of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Agent or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Agent's and the Lenders' rights and remedies under this Agreement and the other Loan Documents are cumulative. Agent and the Lenders have all rights and remedies provided under the Code, by law, or in equity. The exercise by Agent or any Lender of one right or remedy is not an election and shall not preclude Agent or any Lender from exercising any other remedy under this Agreement or other remedy available at law or in equity, and the waiver by Agent (at the direction of the Blackstone Representative) or the Lenders of any Event of Default is not a continuing waiver. Agent's or the Lenders' delay in exercising any remedy is not a waiver, election, or acquiescence.

8.6 Demand Waiver. Each Credit Party waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Agent on which any Credit Party is liable.

9. NOTICES.

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business

Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address (if any) indicated on Schedule 9 of the Disclosure Letter. Any party to this Agreement may change its mailing or electronic mail address or facsimile number by giving all other parties hereto written notice thereof in accordance with the terms of this Section 9.

The Borrower agrees that Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Lenders by posting the Communications on the Platform. 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 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 Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender, or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's or 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 Borrower or any other Credit Party pursuant to any Loan Document or the transactions contemplated therein that is distributed to Agent or any Lender by means of electronic communications pursuant to this Section, including through the Platform.

The Borrower hereby acknowledges that certain of the Lenders (each, a "**Public Lender**") may have personnel who do not wish to receive material non-public information with respect to Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that it shall use commercially reasonable efforts to identify that portion of the materials and information provided by or on behalf of Borrower hereunder and under the other Loan Documents (collectively, "**Borrower Materials**") that may be distributed to the Public Lenders and that (i) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC," which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (ii) by marking Borrower Materials "PUBLIC," Borrower shall be deemed to have authorized Agent and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Borrower or any other Credit Party or their securities for purposes of U.S. federal and state securities laws; (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (iv) Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information". Each Public Lender shall designate one or more representatives that shall be permitted to receive information that is not designated as being available for Public Lenders.

10. CHOICE OF LAW, VENUE, AND JURY TRIAL WAIVER

THE LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY PRINCIPLES OF CONFLICTS OF LAW THAT COULD REQUIRE THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. Each party hereto submits to the exclusive jurisdiction of 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 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 Requirements of Law, in such Federal court; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Agent or any Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Agent or any Lender. Each Credit Party expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and each Credit Party hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or *forum non conveniens* and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Each Credit Party hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to such party at the address set forth in (or otherwise provided in accordance with the terms of) Section 9 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of such party's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR ALL PARTIES HERETO TO ENTER INTO THIS AGREEMENT. EACH PARTY HERETO HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

11. GENERAL PROVISIONS

11.1 Successors and Assigns.

(a) This Agreement binds and is for the benefit of the parties hereto and their respective successors and permitted assigns.

(b) No Credit Party may, directly or indirectly, sell, transfer or assign this Agreement or any other Loan Document or any rights or obligations hereunder or thereunder without the prior written consent of Agent and the Blackstone Representative. Any Lender may sell, transfer or assign this Agreement or any other Loan Document or any of its rights or obligations hereunder or thereunder (including all or a portion of its Commitments and the Term Loans at the time owing

to it), in full or in part, to any third party without Borrower's prior written consent (any such sale, transfer or assignment, a "**Lender Transfer**"); provided, however, (i) unless an Event of Default has occurred and is continuing, no Lender may make a Lender Transfer to (w) a Competitor of Borrower without Borrower's prior written consent, (x) a natural person, (y) any Credit Party or Affiliate thereof or (z) a Disqualified Institution without Borrower's prior written consent, (ii) except in the case of a Lender Transfer to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Term Loans or Commitments of any Class, the amount of the Term Loans or Commitment of the assigning Lender subject to each such assignment shall not be less than $1,000,000 (unless otherwise consented to in writing by Borrower and Agent), provided that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any, (iii) the parties to each Lender Transfer shall execute and deliver to Agent an Assignment and Assumption, and, except in the case of a Lender Transfer by a Lender that is a Blackstone Entity to another Blackstone Entity, together with a processing and recordation fee of $3,500 (unless waived or reduced by Agent in its sole discretion), and (iv) the assignee, if it shall not be a Lender, shall deliver to Agent (x) an Administrative Questionnaire, (y) its applicable tax form under Section 2.6(d) and (z) all documentation and other information required under applicable "know your customer" and anti-money laundering rules and regulations, including the USA Patriot Act. Subject to acceptance and recording thereof by Agent in the Register, from and after the effective date specified in each Assignment and Assumption by Agent, (1) 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 (2) 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 2.5, 2.6, and 11.2 with respect to facts and circumstances occurring prior to the effective date of such assignment and shall continue to be liable with respect to obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 12). Upon request, and the surrender by the assigning Lender of its Note, Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (b) 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 clause (c) below.

(c) In the case of a participation granted by a Lender to any third party, (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 its obligations hereunder, (iii) Agent and Borrower shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, (iv) Borrower shall not have any rights to consent to such participation, and (v) any agreement or instrument pursuant to which such Lender sells such participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification, or other modification hereto, in each case subject to the terms and conditions of this Agreement. Borrower agrees that each participant shall be entitled to the benefits of Sections 2.5 and 2.6 (subject to the requirements and limitations therein, including the requirements under Section 2.6(d) (it being understood that the documentation required under Section 2.6(d) shall be delivered to the participating Lender)) to the

same extent as if it were a Lender that had acquired its interest by assignment pursuant to clause (b) above; provided that, with respect to any participation, such participant shall (A) not be entitled to receive any greater payment under Sections 2.5 or 2.6 than the Lender (the party that participated the interest) would have been entitled to receive, except to the extent of any entitlement to receive a greater payment resulting from a Change in Law that occurs after such participant acquired the applicable participation and (B) agrees to be subject to the provisions of Section 2.11 to the same extent as if it were a Lender that had acquired its interest by assignment pursuant to clause (b) above. 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 2.11(b) with respect to any participant.

(d) Agent shall record any Lender Transfer in the Register. Any Lender may grant a participation in all or any part of, or any interest in, Lender's obligations, rights or benefits under this Agreement and the other Loan Documents, including with respect to the Term Loans; 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) Borrower, Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. 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. For the avoidance of doubt, if a Lender sells a participation it shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each participant and principal amounts (and stated interest) of each participant's interest in the Term Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided, however, that the Lender shall have no 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 or its other obligations under any Loan 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) and proposed Section 163-5(b) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the 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, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) Any Lender may, without the consent of, or notice to, Agent or any Credit Party, at any time pledge or assign a security interest in all or any portion of its rights under the Loan Documents to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, subscription-line credit facilities, NAV credit facilities or other financings; 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.

(f) Any attempted transfer, pledge or assignment of this Agreement or any other Loan Document or any rights or obligations hereunder or thereunder in violation of this Section 11.1 shall be null and void.

11.2 Indemnification; Lender and Agent Expenses.

(a) Each Credit Party agrees to indemnify and hold harmless each of Agent, the Lead Arranger, each Lender and their respective Affiliates and Approved Funds (and its or their respective successors and assigns) and each manager, member, partner, controlling Person, director, officer, employee, agent or sub-agent, advisor and affiliate thereof (each such Person, an "**Indemnified Person**") from and against any and all Indemnified Liabilities; provided, however, that (i) no Credit Party shall have an obligation to any Indemnified Person hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the bad faith (other than with respect to Agent and its Related Parties), gross negligence or willful misconduct of that Indemnified Person (or its Affiliates, Approved Funds or controlling Persons or their respective directors, officers, managers, partners, members, agents, sub-agents or advisors), in each case, as determined by a final, non-appealable judgment of a court of competent jurisdiction, (ii) Borrower shall have no obligation to any Indemnified Person hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from a material breach of any funding obligation of such Indemnified Person hereunder (other than against the Lead Arranger or Agent in their respective capacities as such), (iii) no Credit Party shall have an obligation to any Indemnified Person hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from any claim by one Indemnified Person against another Indemnified Person (other than against the Lead Arranger or Agent in their respective capacities as such) that does not relate to any act or omission of any Credit Party, and (iv) no Credit Party shall be liable for any settlement of any claim or proceeding effected by any Indemnified Person without the prior written consent of such Credit Party (which consent shall not be unreasonably withheld or delayed), but if settled with such consent, or if there shall be a final judgment against an Indemnified Person, each of the Credit Parties shall, jointly and severally, indemnify and hold harmless such Indemnified Person from and against any loss or liability by reason of such settlement or judgment in the manner set forth in this Agreement. This Section 11.2(a) shall not apply with respect to Taxes other than any Taxes that represent liabilities, obligations, losses, damages, penalties, claims, costs, expenses and disbursements arising from any non-Tax claim.

(b) To the extent permitted by Requirements of Law, the Borrower and each Credit Party shall not assert, and hereby waives, any claim against Agent (and any sub-agent thereof), the Lead Arranger, any Lender and any Related Party of any of the foregoing Persons (each such Person being called a "**Protected Person**"), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof.

(c) Borrower shall pay, promptly following written demand therefor (including documentation to reasonably support such request) (but, in no event later than thirty (30) days following demand), all Lender and Agent Expenses of the Lead Arranger, Agent and each Lender incurred through and after the Closing Date.

11.3 Severability of Provisions. In case any provision in or obligation hereunder or under any other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the

validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

11.4 Royalty Transaction Right of Offer. In the event that, at any time prior to payment in full of all Obligations in cash in immediately available funds (other than inchoate indemnity obligations in respect of which no claims has been asserted), Borrower or any of its Subsidiaries makes a determination to engage with third parties regarding potential entry into a Royalty Transaction, such Person shall notify Blackstone Representative and give Blackstone Representative and each Blackstone Entity an opportunity to bid on or make an offer with respect to such contemplated Royalty Transaction, and shall engage with Blackstone Representative or such Blackstone Entity in good faith with respect to any such bid or offer.

11.5 Amendments in Writing; Integration. (a) No amendment or modification of any provision of this Agreement or any other Loan Document (other than (i) the Agent Fee Letter, which may be amended in writing by Agent and the applicable Credit Party, (ii) the Lender Fee Letter, which may be amended in writing by the Blackstone Representative and the applicable Credit Party and (iii) any Control Agreement), or waiver, discharge or termination of any obligation hereunder or thereunder, no approval or consent hereunder or thereunder (including any consent to any departure by Borrower or any other Credit Party herefrom or therefrom), shall in any event be effective unless the same shall be in writing and signed by Borrower (on its own behalf and on behalf of each other Credit Party), the Required Lenders and Agent (acting at the direction of the Required Lenders); provided, however, that no such amendment, modification, waiver, discharge or termination contemplated in clauses (i) through (vi) shall, unless in writing and signed by all the Lenders expressly set forth therein, in addition to the Required Lenders, Agent (or by Agent acting at the direction of the Required Lenders) and Borrower, do any of the following:

(i) extend or increase the Commitments or Term Loans of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Section 3 or of any Default, Event of Default, mandatory prepayment or mandatory reduction of any Term Loan or Commitment shall not constitute an extension or increase of the Term Loan or Commitment of any Lender;

(ii) postpone any date scheduled for, or reduce the amount of, any payment of principal, interest, fees, premiums (including the Prepayment Premium), or other amounts payable hereunder or under any other Loan Documents, without the written consent of each Lender directly and adversely affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of any Term Loan shall not constitute a postponement of any date scheduled for the payment of principal or interest;

(iii) reduce or forgive the principal of, or the rate of interest specified herein on, any Term Loan, or any fees, premiums (including the Prepayment Premium) or other amounts payable hereunder or under any other Loan Document (or extend the timing of payments of such fees or other amounts) without the written consent of each Lender directly and adversely affected thereby; provided that, for the avoidance of doubt, only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of Borrower to pay interest at the Default Rate;

(iv) amend, modify or eliminate (w) this Section 11.5, (x) the definition of "Required Lenders", "Required Initial Term Loan Lenders", "Required Delayed Draw Term Loan Lender" or any other provision specifying the number of Lenders or portion of a Term Loan required to take any action under the Loan Documents, (y) any provision set forth in any Loan Document that alters the pro rata sharing provisions amongst the Lenders or (z) Section 8.3, in each case, without the written consent of each Lender;

(v) unless otherwise permitted under the Agreement, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each applicable Lender; or

(vi) unless otherwise permitted under the Agreement, release all or substantially all of the Guarantors (or all or substantially all of the aggregate value of the Guarantees), without the written consent of each applicable Lender;

and provided, further, that no amendment, waiver or consent shall, unless in writing and signed by Agent in addition to the Lenders required above, affect the rights, obligations, immunities, indemnities or duties of, or any fees or other amounts payable to, Agent under this Agreement or any other Loan Document, or otherwise amend, modify or eliminate any provisions of Section 12.

(b) Notwithstanding anything to the contrary contained in this Section 11.5, if Agent, the Blackstone Representative and Borrower shall have jointly identified an obvious error (including an incorrect cross-reference) or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then Agent (at the direction of the Blackstone Representative) and Borrower or any other relevant Credit Party shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document.

(c) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations among the parties hereto about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

(d) Only the Required Initial Term Loan Lenders shall be required to waive, amend, restate, supplement or modify any conditions precedent in Section 3 herein with respect to a Borrowing of Initial Term Loans. Only the Required Delayed Draw Term Loan Lenders shall be required to waive, amend, restate, supplement or modify any conditions precedent in Section 3 herein with respect to a Borrowing of Delayed Draw Term Loans.

11.6 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

11.7 Survival. All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations

(other than inchoate indemnity obligations in respect of which no claim has been asserted and any other obligations which, by their terms, are to survive the termination of this Agreement) have been paid in full in cash in immediately available funds. The obligation of Borrower or any other the Credit Parties in Section 11.2 to indemnify Indemnified Persons shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

11.8 Confidentiality.

(a) Any information regarding the Credit Parties and their Subsidiaries and their businesses provided to Agent or any Lender by or on behalf of any Credit Party pursuant to the Loan Documents shall be deemed "Confidential Information"; provided, however, that Confidential Information does not include information that is either: (i) in the public domain or in the possession of Agent, any Lender or any of their respective Affiliates or Approved Funds or when disclosed to Agent, a Lender or any of their respective Affiliates or Approved Funds, or becomes part of the public domain after disclosure to the Agent, a Lender or any of their respective Affiliates or Approved Funds, in each case, other than as a result of a breach by Agent, a Lender or any of their respective Affiliates or Approved Funds of the obligations under this Section 11.8; or (ii) disclosed to Agent, any Lender or any of their Affiliates or Approved Funds by a third party if Agent, any Lender or any of their Affiliates and Approved Funds do not know that the third party is prohibited from disclosing the information. Each of Agent and the Lenders shall not disclose any Confidential Information to a third party or use Confidential Information for any purpose other than the exercise of its rights and the performance of its duties or obligations under the Loan Documents. The foregoing in this Section 11.8 notwithstanding, each of Agent and the Lenders may disclose Confidential Information: (a) to its and its Affiliates' and Approved Funds' directors, officers, members, managers, partners, current and prospective leverage providers and financing sources and current and prospective limited partners or investors, employees and agents, including accountants, legal counsel and other advisors on a need to know basis (it being understood that the Persons to whom such disclosure is made shall be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to proposed assignees and/or participants and prospective lenders, transferees or purchasers of any interest in the Credit Extensions (including, for the avoidance of doubt, in connection with any proposed Lender Transfer); (c) as required by law, regulation, subpoena, or other order, provided, that (x) prior to any disclosure under this clause (c), Agent or Lender making such disclosure agrees to endeavor to provide Borrower with prior written notice thereof and with respect to any law, regulation, subpoena or other order, to the extent that Agent or such Lender is permitted to provide such prior notice to Borrower pursuant to the terms hereof, and (y) any disclosure under this clause (c) shall be limited solely to that portion of the Confidential Information required to be so disclosed (as reasonably determined by Agent or such Lender, as applicable) by such law, regulation, subpoena or other order; (d) to the extent requested by regulators having jurisdiction over Agent or any Lender or as otherwise required in connection with Agent's or any Lender's examination or audit by such regulators; (e) as Agent or any Lender considers reasonably necessary in exercising remedies under the Loan Documents; (f) to third-party service providers of Agent or any Lender; (g) with the consent of Borrower; (h) in connection with public filings required to be made by Agent or any Lender; (i) to any of Lender's Related Parties or to any party to this Agreement, (j) to any rating agency in connection with rating Borrower or the facilities hereunder (including shadow ratings) and the CUSIP Service Bureau, Clearpar or Loanserv or any similar agency in connection with the issuance and monitoring of CUSIP numbers, Private Placement

Numbers (PPNs) or any other similar numbers with respect to the Loans (it being understood and agreed that any Lender may apply for the issuance of one or more CUSIP numbers with respect to any of the Loans without the consent of Borrower or the other Credit Parties), and (k) pursuant to periodic regulatory filings, including to any self-regulatory body such as the National Association of Insurance Commissioners; provided, however, that the third parties to which Confidential Information is disclosed pursuant to clauses (a), (b), (f) and (j) are bound by obligations of confidentiality and non-use that are no less restrictive than those contained herein.

(b) The Blackstone Representative may place customary advertisements in financial and other newspapers and periodicals or on a home page or similar place for dissemination of customary information on the Internet or worldwide web as the Blackstone Representative may choose, and circulate similar promotional materials, after the final closing of the Credit Facilities in the form of a "tombstone" or otherwise describing the names of Borrower and its Subsidiaries (or any of them), and the amount, type and closing date of such Credit Facilities, all at the expense of the Blackstone Representative; provided that the Blackstone Representative hereby agrees not to include the name of any other Lender in such advertisements or other materials without the prior consent of such other Lender.

The provisions of this Section 11.8 shall survive for a period of two (2) years following the date on which this Agreement terminates in accordance with the terms hereof.

11.9 Release of Collateral or Guarantors.

(a) Upon the payment in full of all Obligations, in cash in immediately available funds (other than inchoate indemnity obligations in respect of which no claim has been asserted) and the termination of all Commitments, and subject to the reinstatement provisions set forth in Section 8.1 of the Security Agreement, (i) the Collateral shall be automatically released from the security interests and Liens created by the Collateral Documents in favor of Agent, for the benefit of itself and the Secured Parties, and (ii) each Guarantor shall be automatically released from its obligations to guaranty the Obligations pursuant to Section 8.2 of the Security Agreement.

(b) At the time any Collateral is sold or to be sold in a sale expressly permitted (other than a lease or license, and other than to a Person that is a Credit Party) hereunder and under the other Loan Documents, such Collateral shall be automatically released from the security interests and Liens created by the Collateral Documents in favor of Agent, for the benefit of itself and the Secured Parties.

(c) No Guarantor shall be released from its guaranty of any Obligation prior to the payment in full of all Obligations, in cash in immediately available funds (other than inchoate indemnity obligations in respect of which no claim has been asserted) and the termination of all Commitments unless all of the Equity Interests of such Guarantor owned by any Credit Party are sold or transferred (in a transaction or series of transactions) to a Person that is not a Credit Party in any sale or transaction expressly permitted hereunder and under the other Loan Documents (at which point such Guarantor shall be released from its guaranty of the Obligations).

11.10 Right of Set-Off. In addition to any rights now or hereafter granted under Requirements of Law and not by way of limitation of any such rights, upon the occurrence of an

Event of Default and at any time thereafter during the continuance of any Event of Default, Agent is hereby authorized by each Credit Party at any time or from time to time, without prior notice to any Credit Party, any such notice being hereby expressly waived by Borrower (on its own behalf and on behalf of each other Credit Party), to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by Agent or any Lender to or for the credit or the account of any Credit Party against and on account of the obligations and liabilities of any Credit Party to Agent or any Lender hereunder and under the other Loan Documents, including all claims of any nature or description arising out of or connected hereto or with any other Loan Document, irrespective of whether or not (a) Agent or any Lender shall have made any demand hereunder or (b) the principal of or the interest on any Term Loan or any other amounts due hereunder shall have become due and payable pursuant to Section 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured. Agent agrees promptly to notify Borrower after any such set off and application made by Agent; provided that the failure to give such notice shall not affect the validity of such set off and application.

11.11 Marshalling; Payments Set Aside. Neither Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to Agent or any Lender, or Agent or any Lender enforces any Liens or exercises its rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred. Each Lender severally agrees to pay to Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect, and Agent's Liens securing such obligation shall be effective, revived, and remain in full force and effect, in each case, as fully as if such recovered payment had not been made. The provisions of this Section 11.11 shall survive the payment in full of the Obligations and the termination of this Agreement.

11.12 Electronic Execution of Documents. Any signature to Agreement or any other Loan Document may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. The words "execution," "signed," "signature" and words of like import in any Loan Document 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 and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any Requirements of Law, including any state law based on the Uniform Electronic Transactions Act.

11.13 Captions. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

11.14 Construction of Agreement. The parties hereto mutually acknowledge that they and their respective attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty, this Agreement shall be construed without regard to which of the parties hereto caused the uncertainty to exist.

11.15 Third Parties. Nothing in this Agreement, whether express or implied, is intended to: (a) except as expressly provided in Section 11.2(a), confer any benefits, rights or remedies under or by reason of this Agreement on any Persons other than the express parties to it and their respective successors and permitted assigns; (b) relieve or discharge the obligation or liability of any Person not an express party to this Agreement; or (c) give any Person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

11.16 No Advisory or Fiduciary Duty. Agent, the Lead Arranger, and each Lender may have economic interests that conflict with those of the Credit Parties. Each Credit Party agrees that nothing in the Loan Documents or otherwise shall be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between Agent, the Lead Arranger, and the Lenders, on the one hand, and such Credit Party, its Subsidiaries, and any of their respective stockholders or affiliates, on the other hand. Each Credit Party acknowledges and agrees that (i) the transactions contemplated by the Loan Documents are arm's-length commercial transactions between Agent, the Lead Arranger, and the Lenders, on the one hand, and such Credit Party, its Subsidiaries and their respective affiliates, on the other hand, (ii) in connection therewith and with the process leading to such transaction, each of Agent, the Lead Arranger, and the Lenders are acting solely as a principal and not the advisor, agent or fiduciary of such Credit Party, its Subsidiaries or their respective affiliates, management, stockholders, creditors or any other Person, (iii) neither Agent, the Lead Arranger, nor any Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its Subsidiaries or their respective affiliates with respect to the transactions contemplated hereby or the process leading thereto (irrespective of whether Agent, any Lender or any of their respective affiliates has advised or is currently advising such Credit Party, its Subsidiaries or their respective affiliates on other matters) or any other obligation to such Credit Party, its Subsidiaries or their respective affiliates except the obligations expressly set forth in the Loan Documents and (iv) each Credit Party, its Subsidiaries and their respective affiliates have consulted their own legal and financial advisors to the extent each deemed appropriate. Each Credit Party further acknowledges and agrees that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it shall not claim that Agent, the Lead Arranger, or any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, its Subsidiaries or their respective affiliates in connection with such transaction or the process leading thereto.

11.17 Contractual recognition of Bail-In. Notwithstanding any other term of any Loan Document or any other agreement, arrangement or understanding between the parties, each party acknowledges and accepts that any liability of any party to any other party under or in connection with the Loan Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) any Bail-In Action in relation to any such liability, including (without limitation):

(i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;

(ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and

(iii) a cancellation of any such liability; and

(b) a variation of any term of any Loan Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

11.18 Currency Equivalents Generally.

(a) For purposes of determining compliance with the provisions of this Agreement generally, any amount in a currency other than Dollars shall be converted to Dollars in a manner consistent with that used in calculating net income in Borrower's annual financial statements delivered pursuant to Section 5.2(a) at the time of determination; provided that no Default or Event of Default shall be deemed to have occurred thereafter solely as a result of such changes in rates of exchange thereafter.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Blackstone Representative may from time to time specify with Borrower's consent to appropriately reflect a change in currency of any country and any relevant market convention or practice relating to such change in currency.

11.19 Reinstatement. Each Credit Party agrees that, if any payment made by any Credit Party or other Person and applied to the Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the proceeds of any Collateral are required to be returned by any Secured Party to such Credit Party, its estate, trustee, receiver or any other party, including any Credit Party, under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made. If, prior to any of the foregoing, (a) any Lien or other Collateral granted pursuant to the Collateral Documents securing such Credit Party's liability hereunder shall have been released or terminated by virtue of the foregoing or (b) any provision of the Guaranty hereunder shall have been terminated, cancelled or surrendered, such Lien, other Collateral or provision shall be reinstated in full force and effect and such prior release, termination, cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect the obligations of such Credit Party in respect of any Lien or other Collateral securing such obligation or the amount of such payment.

11.20 Restricted Licenses.

Each Credit Party hereby agrees that, following the Closing Date, it shall not enter into, and shall not permit its Subsidiaries to enter into, as licensor any license agreement with any other Credit Party or a Subsidiary of a Credit Party as licensee, which prohibits or otherwise restricts the

licensee from granting a security interest to Agent in such licensee's interest in such license agreement in a manner enforceable under Requirements of Law, except to the extent the licensor of such license is otherwise prohibited from permitting such security interest.

12. AGENT

12.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Wilmington Trust, National Association to act on its behalf as Agent hereunder and under the other Loan Documents and authorizes Agent, through its agents or employees, to take such actions on its behalf and to exercise such powers as are delegated to Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Section 12.6 (solely with respect to the consent rights of Borrower set forth therein) and Section 12.10 (solely with respect to the requirement for execution, filing and other actions with respect to the Collateral Documents and other collateral documentation set forth therein)) are solely for the benefit of Agent and the Lenders, and no Credit Party shall have rights as a third party beneficiary of any of such provisions.

(b) Agent shall also act as the secured party and "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes Agent to act as the agent of such Lender for purposes of acquiring, administering, holding and enforcing any and all Liens on Collateral granted by any of the Credit Parties to secure any of the Obligations for itself and the Lenders, together with such powers and discretion as are reasonably incidental thereto. In this connection, Agent, as secured party and "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by Agent pursuant to Section 12.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of Agent, shall be entitled to the benefits of all provisions of Section 2.4, Section 11 (including Section 11.2), and this Section 12, as though such co-agents, sub-agents and attorneys-in-fact were the secured party and "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize Agent, including in its capacity as collateral agent for itself and the Lenders to (i) execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including any intercreditor agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by Agent, including in its capacity as collateral agent for itself and the Lenders shall bind the Lenders and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement shall be binding upon each Lender.

(c) Any corporation or association into which Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which Agent is a party, shall be and become the successor Agent under this Agreement and the other Loan Documents and shall have and succeed to the rights, powers, duties, immunities and

privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

12.2 Arranger Has No Liability. It is understood and agreed that the Lead Arranger (and its respective Affiliates), in its capacity as such, shall not have any duties, responsibilities or liabilities under or in respect of this Agreement whatsoever.

12.3 Exculpatory Provisions. Neither Agent nor any Agent-Related Person shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. The permissive rights of Agent and each Agent-Related Person to do things enumerated in this Agreement shall not be construed as a duty and, with respect to such permissive rights, Agent and each Agent-Related Person shall not be liable for any action taken or not taken other than its gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, Agent and each Agent-Related Person:

(a) shall not be subject to any fiduciary or other implied duties or obligations, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in other Loan Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) duties or obligations arising under any agency doctrine of any applicable law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) 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 Loan Documents that Agent is required to exercise as directed in writing by the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders or Required Delayed Draw Term Loan Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), and in all cases Agent shall be fully justified in failing or refusing to act hereunder or under any other Loan Documents, unless it shall receive written instructions from the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders or Required Delayed Draw Term Loan Lenders, as applicable (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), specifying the action to be taken; provided that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be a violation of automatic stay under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, reorganization, receivership, conservatorship, liquidation, assignment for the benefit of creditors, moratorium, rearrangement, or similar law, or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any federal, state or foreign bankruptcy, insolvency, reorganization, receivership, conservatorship, liquidation, assignment for the benefit of creditors, moratorium, rearrangement, or similar law; the instructions as aforesaid and any action taken or failure to act pursuant thereto by Agent shall be binding on all of the Lenders;

(c) shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders or Required Delayed Draw Term Loan Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Agent shall believe in good faith shall be necessary, under the circumstances as provided herein or any other applicable Loan Document), (ii) in the absence of its own gross negligence or willful misconduct as determined by the final and non-appealable judgment of a court of competent jurisdiction (iii) in good faith or (iv) in accordance with an order of a court, or any order, judgment or decree made or entered by any court order;

(e) shall be deemed not to have knowledge of any Default unless and until written notice stating it is "notice of default" and referring to this Agreement and describing such Default is given to Agent by Borrower or a Lender;

(f) 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 Loan Document, (ii) the contents of any certificate, opinion, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance, nonperformance 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 Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, (vi) the calculation of the Prepayment Premium, or (vii) the satisfaction of any condition set forth in Section 3 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Agent;

(g) shall not be responsible for nor have any duty to monitor the performance or any action of the Credit Parties, Lenders, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party; provided, that Agent and the Agent-Related Person may assume performance by all such Persons of their respective obligations and shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person;

(h) shall not be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than the Loan Documents to which it is a party, whether or not an original or a copy of such agreement has been provided to Agent or any Agent-Related Person;

(i) shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or Governmental Authority; acts of God; earthquakes; fires; floods; wars; terrorism;

civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility;

(j) shall not be responsible for the negligence or misconduct of any sub-agent that it selects as provided in Section 12.5 absent gross negligence or willful misconduct by Agent (as determined in a final non-appealable judgment by a court of competent jurisdictions) in the selection of such sub-agents;

(k) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Competitors. Without limiting the generality of the foregoing, Agent shall not (i) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Competitor or (ii) have any liability with respect to or arising out of any assignment or participation of loans, or disclosure of confidential information, to any Competitors; and

(l) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for failure to disclose, any information relating to Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as Agent or any of its branches or Affiliates in any capacity.

Agent shall be entitled to request and receive written instructions from the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders or Required Delayed Draw Term Loan Lenders (or such other number or percentage of Lenders as shall be expressly provided herein or in the other Loan Documents), and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by Agent in accordance with the written direction of the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders or Required Delayed Draw Term Loan Lenders (or such other number or percentage of Lenders as shall be expressly provided herein or in the other Loan Documents) and, if it so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates or Approved Funds, participants or assignees, may rely on Agent to carry out such Lender's, Affiliate's, Approved Funds' participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to any Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with the Credit Parties or their respective Subsidiaries, any of their respective Affiliates, Approved Funds or agents, the Loan Documents or the transactions hereunder: (i) any identity verification procedures, (ii) any record keeping, (iii) any comparisons with government lists, (iv) any customer notices or (v) any other procedures required under any Anti-Terrorism Law. No Agent-Related Person shall have any liability to any Lender or any of their respective Affiliates or Approved Funds if any request for a Term Loan or other extension of credit was not authorized by Borrower.

Agent shall have no obligation to give, execute deliver, file, record, authorize or obtain any financing statements, notices, instruments, documents, agreements, consents or other papers as shall be necessary to (i) create, preserve, perfect or validate the security interest granted to Agent pursuant to the Loan Documents or (ii) enable Agent to exercise and enforce its rights under the Loan Documents with respect to such pledge and security interest. In addition, Agent shall have no responsibility or liability (i) in connection with the acts or omissions of the Credit Parties in respect of the foregoing or (ii) for or with respect to the legality, validity and enforceability of any security interest created in the Collateral or the perfection and priority of such security interest. Each party to this Agreement acknowledges and agrees that the Blackstone Representative may from time to time use one or more outside service providers for the tracking of all UCC-1 financing statements (or other collateral related filings and registrations from time to time) required to be filed or recorded pursuant to the Collateral Documents and the notification to the Blackstone Representative, of, among other things, the upcoming lapse or expiration thereof, and that each of such service providers shall be deemed to be acting at the request and on behalf of Borrower and the other Credit Parties. Agent shall not be liable for any action taken or not taken by any such service provider. Neither Agent nor any of its officers, partners, directors, employees or agents shall be liable to the Lenders for any action taken or omitted by Agent under or in connection with any of the Loan Documents.

12.4 Reliance by Agent. Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, opinion, request, certificate, consent, statement, instrument, order, 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. 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 Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, Agent may presume that such condition is satisfactory to such Lender unless Agent shall have received notice to the contrary from such Lender prior to the making of such Term Loan. Agent may consult with legal counsel (who may be counsel for 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.

12.5 Delegation of Duties. Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by Agent. 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 Section 12 shall apply to any such sub-agent and to the Related Parties of 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 Agent.

12.6 Resignation of Agent. Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Blackstone Representative shall appoint a successor. If no such successor shall have been so appointed by the Blackstone Representative and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Blackstone Representative) (the "**Resignation Effective Date**"), then the retiring Agent may (but

shall not be obligated to), on behalf of the Lenders, appoint a successor Agent; provided that in no event shall any such successor 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.

The Required Lenders may remove Agent as agent upon ten (10) days prior notice in writing to the Borrower and Agent. Upon such removal, the Blackstone Representative shall appoint a successor. If no such successor shall have been so appointed by the Blackstone Representative and shall have accepted such appointment within ten (10) days (or such earlier day as shall be agreed by the Blackstone Representative) (the "**Removal Effective Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by Agent on behalf of the Lenders under any of the Loan Documents, the retired or removed Agent shall continue to hold such security until such time as a successor Agent is appointed) and (ii) except for any indemnity and expense reimbursement payments owed to the retiring or removed Agent, all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time, if any, as the Blackstone Representative appoints a successor Agent as provided for above. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Agent (other than any rights to indemnity or expense reimbursement payments owed to the retiring or removed Agent). The fees payable by the Borrower to a successor 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 Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Section 12, Section 2.4 and Section 11.2 shall continue in effect for the benefit of such retiring or removed 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 Agent was acting as Agent.

12.7 Non-Reliance on Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon 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 further represents and warrants that it has reviewed each document made available to it in connection with this Agreement and has acknowledged and accepted the terms and conditions applicable to the recipients thereof. Each Lender represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and certain other facilities set forth herein and (ii) it is engaged in making, acquiring or holding commercial loans or providing other similar facilities in the ordinary course and is entering into this Agreement as a Lender for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender agrees not to assert a claim in contravention of the foregoing. Each Lender represents and warrants that it is sophisticated with respect to decisions to

make, acquire or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender, and either it, or the Person exercising discretion in making its decision to make, acquire or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

12.8 No Other Duties, Etc.. Anything herein to the contrary notwithstanding, Agent shall have no powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as Agent or a Lender hereunder.

12.9 Agent May File Proofs of Claim. In case of the pendency of any proceeding under any federal, state or foreign bankruptcy, insolvency, reorganization, receivership, conservatorship, liquidation, assignment for the benefit of creditors, moratorium, rearrangement, or similar law or any other judicial proceeding relative to any Credit Party, Agent (irrespective of whether the principal of any Term Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Agent shall have made any demand on Borrower) shall be entitled and empowered (if directed by the Required Lenders), 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 Term Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and Agent and their respective agents and counsel and all other amounts due the Lenders and Agent under Sections 2.4 and 11.2) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to Agent and, if Agent shall consent to the making of such payments directly to the Lenders, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, and any other amounts due Agent under Sections 2.4 and 11.2.

Nothing contained herein shall be deemed to authorize Agent to authorize or consent to or accept or adopt on behalf of any Lender any reorganization plan, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize Agent to vote in respect of the claim of any Lender or in any such proceeding.

12.10 Collateral and Guaranty Matters. The Lenders irrevocably authorize Agent:

(a) to enter into and sign for and on behalf of the Lenders as Secured Parties the Collateral Documents for the benefit of the Lenders and the other Secured Parties;

(b) to automatically release any Lien on any property granted to or held by Agent under any Loan Document (i) upon termination of the Commitments and payment in full of all Obligations, in cash in immediately available funds, (ii) at the time the property subject to such

Lien is disposed or to be disposed as part of or in connection with any disposition or sale permitted (other than a lease and other than to a Person that is a Credit Party) hereunder or under any other Loan Document, (iii) subject to Section 11.5, if the release of such Lien is approved, authorized or ratified in writing by the applicable Lenders required pursuant to Section 11.5, or (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under the Security Agreement, to the extent permitted hereunder; and

(c) to release or subordinate any Lien on any property granted to or held by Agent under any Loan Document to the holder of any Lien on such property that is securing Indebtedness of the type contemplated by clause (d) of the definition of "Permitted Indebtedness" to the extent required by the holder of, or pursuant to the terms of any agreement governing, the obligations secured by such Liens.

Upon request by Agent at any time, the Required Lenders shall confirm in writing Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Security Agreement pursuant to this Section 12.10. In each case as specified in this Section 12.10, Agent shall at the direction of the Blackstone Representative (and each Lender irrevocably authorizes Agent to), at Borrower's expense, execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to evidence the release of such Guarantor from its obligations under the Security Agreement, in each case in accordance with the terms of the Loan Documents and this Section 12.10; provided that if requested by Agent, Borrower shall deliver to Agent a certificate executed by a Responsible Officer of the Borrower certifying that the transaction giving rise to such release or subordination, as applicable, is permitted by the Loan Documents (and Agent may, at the direction of the Blackstone Representative, rely on such certificate in performing its obligations under this sentence).

Agent shall have no obligation whatsoever to any of the Lenders or other Secured Parties (i) to verify or assure that the Collateral exists or is owned by a Credit Party or any of its Subsidiaries or is cared for, protected, or insured or has been encumbered, (ii) to verify or assure that Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, or enforced or are entitled to any particular priority, (iii) to verify or assure that any particular items of Collateral meet the eligibility criteria applicable in respect thereof, (iv) to impose, maintain, increase, reduce, implement, or eliminate any particular reserve hereunder or to determine whether the amount of any reserve is appropriate or not, or (v) to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent pursuant to any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, subject to the terms and conditions contained herein, Agent may act in any manner.

The Credit Parties and the Lenders hereby irrevocably authorize Agent, based upon the instruction of the Required Lenders, to (a) consent to the sale of, credit bid, or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code, (b) credit bid or purchase (either directly or indirectly through one or more

entities) all or any portion of the Collateral at any sale or other disposition thereof conducted under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, or (c) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any other sale or foreclosure conducted or consented to by Agent (at the direction of the Required Lenders) in accordance with applicable law in any judicial action or proceeding or by the exercise of any legal or equitable remedy. In connection with any such credit bid or purchase, (i) the Obligations owed to the Lenders and the other Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not impair or unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the Collateral and, if such contingent or unliquidated claims cannot be estimated without impairing or unduly delaying the ability of Agent to credit bid at such sale or other disposition, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the Collateral that is the subject of such credit bid or purchase) and the Lenders and the other Secured Parties whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the Collateral that is the subject of such credit bid or purchase (or in the Equity Interests of any of the entities that are used to consummate such credit bid or purchase), and (ii) Agent, based upon the instruction of the Required Lenders, may accept non-cash consideration, including debt and equity securities issued by any entities used to consummate such credit bid or purchase and in connection therewith Agent may reduce the Obligations owed to the Lenders and the other Secured Parties (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) based upon the value of such non-cash consideration.

12.11 Indemnification by Lenders. To the extent required by any applicable Laws, Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 2.6, to the extent not otherwise indemnified by the Credit Parties pursuant to the terms of this Agreement, each Lender shall severally indemnify and hold harmless Agent against, and shall make payable in respect thereof within ten (10) days after demand therefor, (i) any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Agent) incurred by or asserted against Agent by the IRS or any other Governmental Authority as a result of the failure of Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective), (ii) any Indemnified Taxes attributable to such Lender (but only to the extent that Borrower has not already indemnified Agent for such Indemnified Taxes and without limiting the obligation of Borrower to do so), (iii) any Taxes attributable to such Lender's failure to comply with the provision of Section 11.1 relating to the maintenance of a Participant Register and (iv) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Agent in connection with any Loan 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to set off and apply any and all amounts at any time owing to such Lender under

this Agreement or any other Loan Document or otherwise payable by Agent to such Lender from any other source against any amount due Agent under this Section 12.11.

12.12 Patriot Act. Each Lender or assignee or participant of a Lender that is not organized under the laws of the United States or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the Patriot Act and the applicable regulations because it is both (a) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (b) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the Patriot Act and the applicable regulations: (i) within ten (10) days after the Closing Date, and (ii) at such other times as are required under the Patriot Act.

12.13 Costs and Expenses; Indemnification. Agent may incur and pay Lender and Agent Expenses in connection with the performance and fulfillment of Agent's functions, powers, and obligations pursuant to the Loan Documents, including court costs, attorney's fees and expenses and, to the extent Agent, in consultation with the Blackstone Representative, reasonably deems necessary or appropriate for the performance and fulfillment of Agent's functions, powers, and obligations pursuant to the Loan Documents, fees and expenses of financial accountants, advisors, consultants, and appraisers, costs of collection by outside collection agencies, auctioneer fees and expenses, and costs of security guards or insurance premiums paid to maintain the Collateral, whether or not Borrower is obligated to reimburse Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent is authorized and directed to deduct and retain sufficient amounts from payments or proceeds of the Collateral received by Agent to reimburse Agent for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders. In the event Agent is not reimbursed for such costs and expenses by the Credit Parties and their Subsidiaries, each Lender hereby agrees that it is and shall be obligated to pay to Agent such Lender's pro rata share (determined as of the time that the applicable payment is sought (or if such payment is sought after the date on which the Loans have been paid in full and the Commitments have been terminated, determined as of the day immediately prior to the date on which the Loans were paid in full and the Commitments were terminated)) thereof. Each of the Lenders, in accordance with their respective pro rata shares (determined as of the time that the applicable payment is sought (or if such indemnity payment is sought after the date on which the Loans have been paid in full and the Commitments have been terminated, determined as of the day immediately prior to the date on which the Loans were paid in full and the Commitments were terminated)), shall indemnify and defend the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrower and without limiting the obligation of Borrower to do so) from and against any and all Indemnified Liabilities; provided that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction; provided, further that no action taken in accordance with the directions of the Blackstone Representative or the Required Lenders, Lenders, Required Initial Term Loan Lenders, or Required Delayed Draw Term Loan Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.13). Without limitation of the foregoing, each Lender shall reimburse Agent upon

demand for such Lender's pro rata share (determined as of the time that the applicable payment is sought (or if such payment is sought after the date on which the Loans have been paid in full and the Commitments have been terminated, determined as of the day immediately prior to the date on which the Loans were paid in full and the Commitments were terminated)) of any costs or out of pocket expenses (including attorneys, accountants, advisors, and consultants' fees and expenses) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any other Loan Document to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrower. For purposes hereof, "pro rata share" shall mean with respect to any Lender at any time, the percentage obtained by dividing (x) the sum of the aggregate outstanding principal amount of the Loans of such Lender at such time and its unused Commitments at such time by (y) the sum of the aggregate outstanding principal amount of the Loans of all Lenders at such time and the aggregate unused Commitments of all Lenders at such time. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of Agent.

12.14 Survival. This Section 12 shall survive the termination of this Agreement, the repayment, satisfaction or discharge of all Obligations and the resignation or replacement of Agent.

12.15 Erroneous Payments.

(a) If Agent (x) notifies a Lender or any Person who has received funds on behalf of a Lender, (any such Lender or other recipient (and each of their respective successors and assigns), a "**Payment Recipient**") that Agent has determined in its reasonable discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from Agent) received by such Payment Recipient from Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and (y) demands in writing the return of such Erroneous Payment (or a portion thereof) (provided, that, without limiting any other rights or remedies (whether at law or in equity), Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within twenty (20) Business Days of the date of receipt of such Erroneous Payment by the applicable Payment Recipient), such Erroneous Payment shall at all times remain the property of Agent pending its return or repayment as contemplated below in this Section 12.15 and shall be segregated by the Payment Recipient and held in trust for the benefit of Agent, and such Lender shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than five (5) Business Days thereafter (or such later date as Agent may, in its reasonable discretion, specify in writing), return to Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by Agent, in its sole discretion) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to Agent in same day funds

at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting the immediately preceding clause (a), each Lender or any Person who has received funds on behalf of a Lender (and each of their respective successors and assigns), hereby further agrees that if it (or a Payment Recipient on its behalf) receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by Agent (or any of its Affiliates), or (z) that such Lender, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

(i) such Lender acknowledges and agrees that (A) in the case of the immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from Agent to the contrary) or (B) an error and mistake has been made (in the case of the immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one (1) Business Day of the date of its knowledge of the occurrence of such error) notify Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying Agent pursuant to this Section 12.15(b). For the avoidance of doubt, the failure to deliver a notice to Agent pursuant to this Section 12.15(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 10.15(a) or on whether or not an Erroneous Payment has been made.

(c) Each Lender hereby authorizes Agent to set off, net and apply any and all amounts at any time owing to such Lender under any Loan Document, or otherwise payable or distributable by Agent to such Lender or Secured Party from any source, against any amount due to Agent under the immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by Agent for any reason, after demand therefor by Agent in accordance with the immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "**Erroneous Payment Return Deficiency**"), irrespective of whether Agent may be equitably subrogated, Agent shall be contractually subrogated to all of the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender, to the rights and interests of such Lender as the case may be) under the Loan Documents with respect to such Erroneous Payment Return Deficiency (the "**Erroneous Payment Subrogation Rights**"). Notwithstanding anything to the contrary contained herein, and for the avoidance of doubt, in no

event shall the occurrence of an Erroneous Payment (or any Erroneous Payment Subrogation Rights or other rights of Agent in respect of an Erroneous Payment) result in Agent becoming, or being deemed to be, a Lender hereunder or the holder of any Term Loans hereunder.

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by Agent from the Borrower or any other Credit Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 12.15 shall survive the resignation or replacement of Agent, any transfer of rights or obligations by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

12.16 Enforcement. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Agent in accordance with Section 8.1 for the benefit of all the Lenders; provided that the foregoing shall not prohibit (i) Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) [reserved], (iii) any Lender from exercising setoff rights in accordance with Section 11.10 or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Credit Parties under any debtor relief law; provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (x) the Required Lenders shall have the rights otherwise provided to Agent pursuant to Section 8.1 and (y) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

13. GUARANTY

13.1 Guaranty. To induce the Lenders to make one or more Term Loans to Borrower from time to time, each Guarantor, jointly and severally with each other Guarantor, absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, the full and punctual payment when due, whether at stated maturity or earlier, by reason of acceleration, mandatory prepayment or otherwise in accordance with any Loan Document, of all the Obligations of Borrower existing on the date hereof or hereinafter incurred or created (the "**Guaranteed Obligations**"). This Guaranty by each Guarantor hereunder constitutes a guaranty of payment and not of collection. Each Guarantor hereby acknowledges and agrees that the Guaranteed

Obligations, at any time and from time to time, may exceed the Maximum Guaranteed Amount of such Guarantor and may exceed the aggregate of the Maximum Guaranteed Amounts of all Guarantors, in each case without discharging, limiting or otherwise affecting the obligations of any Guarantor hereunder or the rights, powers and remedies of any Secured Party hereunder or under any other Loan Document.

13.2 Limitation of Guaranty. Any term or provision of this Guaranty or any other Loan Document to the contrary notwithstanding, the maximum aggregate amount for which any Guarantor shall be liable hereunder (the "**Maximum Guaranteed Amount**") shall not exceed the maximum amount for which such Guarantor can be liable without rendering this Guaranty or any other Loan Document, as it relates to such Guarantor, subject to avoidance under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer (including the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act and Section 548 of title 11 of the United States Code or any applicable provisions of comparable Requirements of Law) (collectively, "**Fraudulent Transfer Laws**"). Any analysis of the provisions of this Guaranty for purposes of Fraudulent Transfer Laws shall take into account the right of contribution established in Section 13.7 and, for purposes of such analysis, give effect to any discharge of intercompany debt as a result of any payment made under the Guaranty.

13.3 Authorization; Other Agreements. Agent on behalf of itself and the other Secured Parties is hereby authorized, without notice, to or demand upon any Guarantor and without discharging or otherwise affecting the obligations of any Guarantor hereunder and without incurring any liability hereunder, from time to time, to do each of the following but subject in all cases to the terms and conditions of the other Loan Documents:

(a) subject to compliance with Section 11.5, (i) modify, amend, supplement or otherwise change, (ii) accelerate or otherwise change the time of payment or (iii) waive or otherwise consent to noncompliance with, any Guaranteed Obligation or any Loan Document;

(b) apply to the Guaranteed Obligations any sums by whomever paid or however realized to any Guaranteed Obligation in such order as provided in the Loan Documents;

(c) refund at any time any payment received by any Secured Party in respect of any Guaranteed Obligation;

(d) (i) sell, exchange, enforce, waive, substitute, liquidate, terminate, release, abandon, fail to perfect, subordinate, accept, substitute, surrender, exchange, affect, impair or otherwise alter or release any Collateral for any Guaranteed Obligation or any other guaranty therefor in any manner, (ii) receive, take and hold additional Collateral to secure any Guaranteed Obligation, (iii) add, release or substitute any one or more other Guarantors, makers or endorsers of any Guaranteed Obligation or any part thereof and (iv) otherwise deal in any manner with Borrower or any other Guarantor, maker or endorser of any Guaranteed Obligation or any part thereof; and

(e) settle, release, compromise, collect or otherwise liquidate the Guaranteed Obligations.

13.4 Guaranty Absolute and Unconditional. Each Guarantor hereby waives and agrees not to assert any defense (other than the indefeasible payment in full, in cash in immediately

available funds, of the Guaranteed Obligations as specified in clause (f) below), whether arising in connection with or in respect of any of the following clauses (a) through (f) or otherwise, and hereby agrees that its obligations under this Guaranty are irrevocable, absolute and unconditional and shall not be discharged as a result of or otherwise affected by any of the following clauses (a) through (f) (which may not be pleaded and evidence of which may not be introduced in any proceeding with respect to this Guaranty, in each case except as otherwise agreed in writing by the Blackstone Representative):

(a) the invalidity or unenforceability of any obligation of Borrower or any other Guarantor under any Loan Document or any other agreement or instrument relating thereto (including any amendment, consent or waiver thereto), or any security for, or other guaranty of, any Guaranteed Obligation or any part thereof, or the lack of perfection or continuing perfection or failure of priority of any security for the Guaranteed Obligations or any part thereof;

(b) the absence of (i) any attempt to collect any Guaranteed Obligation or any part thereof from Borrower or any other Guarantor or other action to enforce the same or (ii) any action to enforce any Loan Document or any Lien thereunder;

(c) the failure by any Person to take any steps to perfect and maintain any Lien on, or to preserve any rights with respect to, any Collateral;

(d) any workout, insolvency, bankruptcy proceeding, reorganization, arrangement, liquidation or dissolution by or against Borrower, any other Guarantor or any of Borrower's other Subsidiaries or any procedure, agreement, order, stipulation, election, action or omission thereunder, including any discharge or disallowance of, or bar or stay against collecting, any Guaranteed Obligation (or any interest thereon) in or as a result of any such proceeding;

(e) any foreclosure, whether or not through judicial sale, and any other sale or other disposition of any Collateral or any election following the occurrence of an Event of Default and during the continuance thereof by Agent on behalf of itself and any other Secured Party to proceed separately against any Collateral in accordance with Agent's and any other Secured Party's rights under any applicable Requirements of Law; or

(f) any other defense, setoff, counterclaim or any other circumstance that might otherwise constitute a legal or equitable discharge of Borrower, any Guarantor or any other Subsidiary of Borrower, in each case other than the indefeasible payment in full in cash in immediately available funds of the Guaranteed Obligations (other than inchoate indemnity obligations).

13.5 Waivers. To the fullest extent permitted by Requirements of Law, each Guarantor hereby unconditionally and irrevocably waives and agrees not to assert any claim, defense, setoff or counterclaim based on diligence, promptness, presentment, requirements for any demand or notice hereunder, including any of the following: (a) any demand for payment or performance and protest and notice of protest; (b) any notice of acceptance; (c) any presentment, demand, protest or further notice or other requirements of any kind with respect to any Guaranteed Obligation (including any accrued but unpaid interest thereon) becoming immediately due and payable; and (d) any other notice in respect of any Guaranteed Obligation or any part thereof, and any defense

arising by reason of any disability or other defense of Borrower or any Guarantor. Until the indefeasible payment in full, in cash in immediately available funds, of the Guaranteed Obligations (other than inchoate indemnity obligations), each Guarantor further unconditionally and irrevocably agrees not to (x) enforce or otherwise exercise any right of subrogation or any right of reimbursement or contribution or similar right against Borrower or any Guarantor by reason of any Loan Document or any payment made thereunder, or (y) assert any claim, defense, setoff or counterclaim it may have against any other Credit Party or set off any of its obligations to such other Credit Party against obligations of such Credit Party to such Guarantor; provided, that such claims, rights and remedies shall remain waived and released at any time Agent or any of the other Secured Parties (with or through their designees) have acquired all or any portion of the Collateral by credit bid, strict foreclosure or through any other exercise of remedies available to Agent or the other Secured Parties pursuant to this Agreement or the other Loan Documents. No obligation of any Guarantor hereunder shall be discharged other than by complete performance. Each Guarantor further waives any right such Guarantor may have under any applicable Requirements of Law to require any Secured Party to seek recourse first against Borrower or any other Person, or to realize upon any Collateral for any of the Obligations, as a condition precedent to enforcing such Guarantor's liability and obligations under this Guaranty.

13.6 Reliance. Each Guarantor hereby assumes responsibility for keeping itself informed of the financial condition of Borrower, each Guarantor and any other guarantor, maker or endorser of any Guaranteed Obligation or any part thereof, and of all other circumstances bearing upon the risk of nonpayment of any Guaranteed Obligation or any part thereof that reasonable and diligent inquiry would reveal, and each Guarantor hereby agrees that neither Agent nor any other Secured Party shall have any duty to advise any Guarantor of information known to it regarding such condition or any such circumstances. In the event Agent, or any other Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any Guarantor, such Person shall be under no obligation to (a) undertake any investigation not a part of its regular business routine, (b) disclose any information that Agent or any other Secured Party, pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (c) make any future disclosures of such information or any other information to any Guarantor.

13.7 Contribution. To the extent that any Guarantor shall be required hereunder to pay any portion of any Guaranteed Obligation exceeding the greater of (a) the amount of the value actually received by such Guarantor and its Subsidiaries from the Obligations and (b) the amount such Guarantor would otherwise have paid if such Guarantor had paid the aggregate amount of the Guaranteed Obligations (excluding the amount thereof repaid by Borrower) in the same proportion as such Guarantor's net worth on the date enforcement is sought hereunder bears to the aggregate net worth of all Guarantors on such date, then such Guarantor shall be reimbursed by such other Guarantors for the amount of such excess, pro rata, based on the respective net worth of such other Guarantors on such date.

14. DEFINITIONS

14.1 Definitions. For the purposes of and as used in the Loan Documents: (a) references to any Person include its successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities; (b) except as the context otherwise requires

(including to the extent otherwise expressly provided in any Loan Document), (i) references to any law, statute, treaty, order, policy, rule or regulation include any amendments, supplements and successors thereto and (ii) references to any contract, agreement, instrument or other document include any amendments, restatements, supplements or modifications thereto or thereof from time to time to the extent permitted by the provisions thereof; (c) the word "shall" is mandatory; (d) the word "may" is permissive; (e) the word "or" has the inclusive meaning represented by the phrase "and/or"; (f) the words "include", "includes" and "including" are not limiting; (g) the singular includes the plural and the plural includes the singular; (h) numbers denoting amounts that are set off in parentheses are negative unless the context dictates otherwise; (i) each authorization herein shall be deemed irrevocable and coupled with an interest; (j) all accounting terms shall be interpreted, and all determinations relating thereto shall be made, in accordance with GAAP; (k) references to any time of day shall be to Eastern Time; (l) the words "herein", "hereof", "hereby", "hereto" and "hereunder" refer to this Agreement as a whole; (m) where any provision in this Agreement or any other Loan Document refers to an action to be taken by any Person, or an action which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or, to the knowledge of such Person, indirectly; and (n) unless otherwise expressly provided, references to specific sections, articles, clauses, sub-clauses, annexes and exhibits are to this Agreement and references to specific schedules are to the Disclosure Letter. As used in this Agreement, the following capitalized terms have the following meanings:

" **2026 Convertible Notes**" means Borrower's 2.50% Convertible Senior Notes Due 2026, issued under the Indenture dated March 4, 2021 by and between Borrower, as issuer, and U.S. Bank Trust Company, National Association, as trustee.

"**Account**" means any "Account" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made.

"**Acquisition**" means (a) any Stock Acquisition, or (b) any Asset Acquisition.

"**Acquisition Consideration**" is defined in the definition of "Permitted Acquisition".

"**Acquisition Deferred Payments**" means, with respect to an Acquisition, any "earnouts," holdbacks, performance based-milestones, royalties, purchase price adjustments, profit sharing arrangements, deferred purchase money amounts, indemnifications, non-competition agreements, incentive payments, and other similar payment obligations, and other contingent obligations and agreements consisting of the adjustment of purchase price or similar adjustments.

"**Adjusted EBITDA**" means, for any four fiscal quarter period, for Borrower and its Subsidiaries on a consolidated basis, an amount equal to net income for such period, *plus*

(a) the following to the extent deducted in calculating net income for such period: (i) all interest expense including, without limitation, (A) interest expense (excluding any royalty payments) with respect to the Purchase and Sale Agreement, dated as of December 27, 2023, between the Borrower and Sagard Healthcare Partners Funding Borrower SPE 2, LP., (B) interest expense with respect to the Borrower's Danbury, CT sale/leaseback transaction solely to the extent

of any cash payments actually made during such period with respect to such interest, and (C) interest expense recognized in respect of milestone payments under the Milestone Rights Purchase Agreement, dated as of July 1, 2013, by and among the Borrower, Deerfield Private Design Fund II, L.P. and Horizon Sante FLML SARL, (ii) foreign exchange losses arising out of Borrower's Insulin Supply Agreement with Amphastar Pharmaceuticals, Inc., (iii) the provision for federal, state, local and foreign income taxes payable by a Person for such period, (iv) depreciation and amortization expense, (v) any non-cash charges, (vi) any unusual, non-recurring or one-time fees, expenses or charges, (vii) restructuring charges (including severance), (viii) the amount of net cost savings, operating expense reductions and cost synergies projected by the Credit Parties in good faith to result from Permitted Acquisitions within 12 months after the consummation of the applicable Permitted Acquisition (which net cost savings, operating expense reductions and cost synergies shall be (A) reasonably identifiable, factually supportable and subject to certification by a financial officer of the Borrower, (B) attributable to such Permitted Acquisition and (C) calculated on a pro forma basis), net of the amount of actual benefits realized during such period with respect to any such net cost savings, operating expense reductions and cost synergies from the applicable Permitted Acquisitions; provided that the aggregate amount added back to Adjusted EBITDA pursuant to this clause (viii) shall not exceed 10% of Adjusted EBITDA (after giving effect to such addback), (ix) fees, costs and expenses (including any premiums, fees or expenses of financial, accounting, legal or other advisors) paid in connection with the financing transactions contemplated by this Agreement and the other Loan Documents and any amendment, modification or refinancing thereof from time to time, and (x) one-time transaction fees, costs and expenses incurred in connection with any proposed or actual acquisitions, investments, asset sales and dispositions, issuances of Indebtedness (including any amendment, modification or refinancing thereof) and issuances of Equity Interests by Borrower or its Subsidiaries, in each case, not prohibited under this Agreement and whether or not successfully consummated; provided that the aggregate amount of any addbacks included in the calculation of Adjusted EBITDA pursuant to the preceding clauses (vi), (vii), (viii), (ix) and (x) shall not exceed 20% of Adjusted EBITDA (after giving effect to such addbacks); *minus*

(b) the following to the extent included in calculating such net income: (i) interest income, (ii) extraordinary or non-recurring non-cash income or gains, (iii) federal, state, local and foreign income tax credits of such Person for such period, (iv) foreign exchange gains arising out of Borrower's Insulin Supply Agreement with Amphastar Pharmaceuticals, Inc. and (v) all non-cash items increasing net income for such period.

"**Adjusted Term SOFR**" means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation; provided, that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

" **Administrative Questionnaire**" means an Administrative Questionnaire in a form supplied by or otherwise acceptable to the Agent.

"**Adverse Proceeding**" means any action, suit, proceeding, hearing (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of any Credit Party or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claims),

whether pending or, to the Knowledge of the Credit Parties, threatened against or adversely affecting any Credit Party or any of its Subsidiaries or any property of any Credit Party or any of its Subsidiaries.

"**Affiliate**" means, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company or limited liability partnership, that Person's managers and members. As used in this definition, "control" means the power to direct or cause the direction of the management of such Person by contract or otherwise. In no event shall any Blackstone Entity be deemed to be an Affiliate of Borrower or any of its Subsidiaries.

"**Agent**" means Wilmington Trust, National Association, solely in its capacity as administrative agent and collateral agent under this Agreement and any other Loan Document, or any successor administrative agent and collateral agent.

"**Agent Fee Letter**" means that certain fee letter, dated the date hereof, by and among Borrower and Agent.

"**Agent Parties**" is defined in Section 9.

"**Agent-Related Person**" means Agent, together with each of its respective Affiliates, officers, directors, employees, partners, agents, advisors and other representatives.

"**Agreement**" is defined in the preamble hereof.

"**Anti-Corruption Laws**" means all U.S. and non-U.S. Laws relating to the prevention of corruption, bribery or money-laundering, including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act 2010, and any Law implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Transactions.

"**Anti-Money Laundering Laws**" is defined in Section 4.18(b).

"**Anti-Terrorism Laws**" means any Anti-Money Laundering Laws or other laws relating to terrorism or money laundering, including Executive Order No. 13224 (effective September 24, 2001), the Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

"**Applicable Mandatory Prepayment**" is defined in Section 2.2(e).

"**Applicable Margin**" means with respect to the Initial Term Loans and Delayed Draw Term Loans, (i) prior to the first day of the month immediately following the month during which a Compliance Certificate pursuant to Section 5.2(c)(i) for the first full fiscal quarter of Borrower ended after the Closing Date has been delivered to Agent, a rate per annum equal to (x) 3.75%, in the case of Base Rate Loans, and (y) 4.75%, in the case of SOFR Loans and (ii) thereafter, adjustments to the Applicable Margin will be implemented quarterly, on a prospective basis, from and after the first full fiscal quarter of the Borrower ended after the Closing Date, on

the first day of the month immediately following the month during which financial statements for the then most recently ended fiscal quarter are delivered pursuant to Section 5.2(a)(i) or Section 5.2(a)(ii), as applicable, and the accompanying Compliance Certificate that evidence the need for such adjustment in accordance with the pricing grid set forth below based upon the Total Leverage Ratio as set forth in such Compliance Certificate:

Total Leverage Ratio	**Base Rate Loans**	**SOFR Loans**
Less than 5.00:1.00	3.75%	4.75%
Greater than or equal to 5.00:1.00	4.00%	5.00%

Notwithstanding the foregoing, if Borrower fails to deliver any financial statement or Compliance Certificate required to be delivered pursuant to Section 5.2(a)(i) or (ii) or Section 5.2(c)(i), in each case, within the time periods specified therein for such delivery, during the period commencing on and including the day after such financial statement or Compliance Certificate was required to be delivered, and until the first Business Day following the delivery of such financial statements or Compliance Certificate, as applicable, then the Applicable Margin shall automatically equal (x) if a Base Rate Loan, 4.00% per annum and (y) if a SOFR Loan, 5.00% per annum.

In the event that any financial statement or Compliance Certificate delivered pursuant to Section 5.2(a)(i) or (ii) or Section 5.2(c)(i) is inaccurate, and such inaccuracy, if corrected, would have led to the imposition of a higher Applicable Margin for any period than the Applicable Margin applied for that period, then (A) Borrower shall immediately deliver to Agent a corrected financial statement and a corrected Compliance Certificate for that period (the "**Corrected Financials Date**"), (B) the Applicable Margin shall be determined based on the corrected Compliance Certificate for that period, and (C) Borrower shall promptly and in any event within five (5) Business Days (or such longer period as agreed to by Agent (acting at the direction of the Blackstone Representative in its reasonable discretion)) pay to Agent (for the account of the Lenders that hold the Loans at the time such payment is received, regardless of whether those Lenders held the Loans during the relevant period) the accrued additional interest owing as a result of such increased Applicable Margin for that period; provided, for the avoidance of doubt, such deficiency shall be due and payable as at such Corrected Financials Date (or such later time as agreed to by Agent (acting at the direction of the Blackstone Representative in its reasonable discretion)) and no Default or Event of Default under Section 7.1 shall be deemed to have occurred with respect to such deficiency prior to such date. This paragraph shall not limit the rights of Agent or the Lenders with respect to Section 2.3(b) and Sections 7 and 8 hereof.

In addition, in the event that any financial statement or Compliance Certificate delivered pursuant to Section 5.2(a)(i) or (ii) or Section 5.2(c)(i) is inaccurate, and such inaccuracy, if corrected, would have led to the imposition of a lower Applicable Margin for any period than the Applicable Margin applied for that period, then Borrower may, at its option, deliver to Agent a corrected financial statement and a corrected Compliance Certificate for that period, in which case (A) the Applicable Margin shall be determined based on the corrected Compliance Certificate for that period, and (B) the Lenders that hold the Loans at the time such payment is received (and

any Lender that holds Term Loans on the next Interest Payment Date), regardless of whether those Lenders held the Loans during the relevant period, shall provide credit to Borrower for such overpayment toward the interest payment due on the next Interest Date.

"**Approved Fund**" means (x) any Blackstone Entity and (y) any other Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"**Article 55 BRRD**" means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

"**Asset Acquisition**" means, with respect to Borrower or any of its Subsidiaries, any purchase, in-license or other acquisition of any properties or assets of any other Person (including any purchase or other acquisition of any business unit, line of business or division of such Person). For the avoidance of doubt, "Asset Acquisition" shall include any co-promotion or co-marketing arrangement pursuant to which Borrower or any Subsidiary acquires rights to promote or market the products of another Person.

"**Asset Sale**" means any Transfer, other than Transfers expressly permitted under clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) or (m) of the definition "Permitted Transfers".

"**Assignment and Assumption**" means an Assignment and Assumption substantially in the form of Exhibit G hereto or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by Agent.

"**Available Tenor**" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 2.9.

"**Bail-In Action**" means the exercise of any Write-down and Conversion Powers.

"**Bail-In Legislation**" means:

(a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;

(b) in relation to the United Kingdom, the U.K. Bail-In Legislation; and

(c) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"**Base Rate**" means 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 Rate in effect on such day plus ½ of 1%, (c) Adjusted Term SOFR for a one-month's tenor in effect on such day plus 1% and (d) 3.0%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR shall be effective as of the opening of business on the day of such change in the Prime Rate, Federal Funds Rate or Adjusted Term SOFR, respectively.

"**Base Rate Loan**" means a Term Loan that bears interest based on the Base Rate.

"**Base Rate Term SOFR Determination Day**" has the meaning specified in the definition of "Term SOFR".

"**Benchmark**" means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.9.

"**Benchmark Replacement**" means with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by Agent, the Blackstone Representative and Borrower giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement shall be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

"**Benchmark Replacement Adjustment**" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Agent, the Blackstone Representative and Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities.

" **Benchmark Replacement Date**" means the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event", the first date on which all Available Tenors of such Benchmark (or the published component used in the calculation thereof) has been or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) have been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, if such Benchmark is a term rate, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Transition Event**" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof)

permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) announcing that such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, such Benchmark is a term rate, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Transition Start Date**" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"**Benchmark Unavailability Period**" means, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.9 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.9.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"**Beneficial Ownership Regulation**" means 31 C.F.R. §1010.230, as amended.

"**Blackstone Credit**" means Blackstone Alternative Credit Advisors LP (on behalf of funds, accounts and clients managed, advised or sub-advised by it or its affiliates).

"**Blackstone Entity**" means each of (i) Blackstone Finance and (ii) Blackstone Credit and any of its Affiliates, and shall include, without limitation, certain funds, accounts and clients managed, advised, sub-advised or administered by Blackstone Credit or any of their respective Affiliates, as the context may require, and any warehouse entity.

"**Blackstone Finance**" means Blackstone Holdings Finance Co. L.L.C.

"**Blackstone Representative**" means Blackstone Alternative Credit Advisors LP and, after the Closing Date, any successor or assign that is a Blackstone Entity appointed by the

previous Blackstone Entity(ies) that fulfilled the role as Blackstone Representative hereunder, effective upon written notice of such appointment to Borrower and Agent; provided, that if no Lender under this Agreement is a Blackstone Entity, then "Blackstone Representative" shall mean a Lender appointed by the Required Lenders and notified to Agent and Borrower to fulfill the role as the Blackstone Representative or, in the absence of any such appointment, shall mean the Required Lenders.

"**Blocked Person**" means (a) any Person listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person fifty percent (50%) or more owned by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which Agent or any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, or (e) a Person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC.

"**Board of Directors**" means, with respect to any Person, (i) in the case of any corporation, the board of directors of such Person, (ii) in the case of any limited liability company, the board of managers of such Person, or if there is none, the Board of Directors of the managing member of such Person, (iii) in the case of any partnership, the Board of Directors of the general partner of such Person and (iv) in any other case, the functional equivalent of the foregoing.

"**Board of Governors**" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"**Books**" means all books and records including ledgers, records regarding a Credit Party's and its Subsidiaries' assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrower**" is defined in the preamble hereof.

"**Borrower Materials**" is defined in Section 9.

"**Borrowing**" means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of SOFR Loans, having the same Interest Period made by the applicable Term Loan Lenders.

"**Borrowing Notice**" is defined in Section 2.2(a)(iii).

"**Borrowing Resolutions**" means, with respect to any Person, those resolutions adopted by such Person's Board of Directors and delivered by such Person to Agent and the Lenders pursuant to Section 3.1 approving the Loan Documents to which such Person is a party and the transactions contemplated thereby (including the Term Loans), together with a certificate executed by its Secretary on behalf of such Person certifying that (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that attached as Exhibit A to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) and

title(s) of the officers of such Person authorized to execute the Loan Documents to which such Person is a party on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Agent and the Lenders may conclusively rely on such certificate with respect to the authority of such officers unless and until such Person shall have delivered to Agent and the Lenders a further certificate canceling or amending such prior certificate.

"**Budget**" is defined in Section 5.2(b).

"**Business Day**" means any day that is not a Saturday or a Sunday or a day on which banks are authorized or required to be closed in New York, New York; provided, that when used in connection with a SOFR Loan, the term "Business Day" shall also exclude any day which is not a U.S. Government Securities Business Day.

"**Business IT Assets**" is defined in Section 4.22(a).

"**Capital Lease**" means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a finance lease on the balance sheet of that Person.

"**Cash Equivalents**" means

(a) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government or, in the case of any Subsidiary not organized in the United States, by the government of any other member country of O.E.C.D. (provided that the full faith and credit of the United States or such other member country of O.E.C.D., as applicable, is pledged in support of those securities), in each case, having maturities of not more than two (2) years from the date of acquisition;

(b) certificates of deposit, time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits and demand deposits, in each case, with any commercial bank having (i) capital and surplus in excess of $500,000,000 in the case of U.S. banks or (ii) capital and surplus in excess of $100,000,000 (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;

(c) commercial paper or marketable short-term money market or readily marketable direct obligations and similar securities having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within two (2) years after the date of acquisition;

(d) repurchase obligations with a term of not more than seven (7) days for underlying securities of the types described in clauses (a) and (c) above entered into with any financial institution meeting the qualifications specified in clause (b) above;

(e) investment funds investing ninety-five percent (95.0%) of their assets in securities of the types described in clauses (a) through (d) above and clause (f) below;

(f) investments in money market funds rated "AAA" (or the equivalent thereof) or better by S&P or "Aaa" (or the equivalent thereof) or better by Moody's (or, if at any time neither

Moody's nor S&P shall be rating such obligations, an equivalent rating from another rating agency) and that have portfolio assets of at least $1,000,000,000; and

(g) other investments in accordance with Borrower's investment policy as of the Closing Date or updated thereafter, subject to the Blackstone Representative's written consent thereof (which such consent shall be in the Blackstone Representative's sole discretion).

"**Change in Control**" means: (a) a transaction or series of transactions (including any merger or consolidation with Borrower) in which any "person" or "group" (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such Person or its Subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of greater than thirty-five percent (35%) of the shares of the then outstanding capital stock of Borrower ordinarily entitled to vote in the election of directors; (b) a sale of all or substantially all of the consolidated assets of Borrower and its Subsidiaries in one transaction or a series of transactions (whether by way of merger, stock purchase, asset purchase or otherwise); (c) a merger or consolidation involving Borrower in which Borrower is not the surviving Person; or (d) any "change of control", "fundamental change", "make-whole fundamental change" or any comparable term under and as defined in any indenture governing any other Indebtedness or Permitted Convertible Bond Indebtedness in each case in an aggregate principal amount equal to or greater than $10,000,000 has occurred.

"**Change in Law**" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking into effect of any law, treaty, order, policy, rule or regulation, (b) any change in any law, treaty, order, policy, rule or regulation or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) 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 be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"**Class**" when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans or Delayed Draw Term Loans and (ii) when used in reference to any Commitment, refers to whether such Commitment is an Initial Term Loan Commitment or a Delayed Draw Commitment.

"**Closing Date**" is defined in the preamble hereto.

"**Code**" means the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of New York; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall

govern; provided, further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Agent's Lien in favor and for the benefit of Agent and the other Secured Parties on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" means all property of the Credit Parties, now owned or hereafter acquired, upon which a Lien is created, granted or purported to be created or granted by the Collateral Documents, but in any event excluding all Excluded Property.

"**Collateral Account**" means any Deposit Account of a Credit Party, any Securities Account of a Credit Party, or any Commodity Account of a Credit Party, in each case, other than an Excluded Account.

"**Collateral Documents**" means the Security Agreement, the Control Agreements, the IP Agreements, any Mortgages, and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Loan Documents, in each case, in order to grant to Agent in favor and for the benefit of Agent and the other Secured Parties or perfect a Lien on any Collateral as security for the Obligations, and all amendments, restatements, modifications or supplements thereof or thereto.

"**Commitments**" shall mean, with respect to each Lender (to the extent applicable), such Lender's Initial Term Loan Commitment or Delayed Draw Commitment.

"**Commodity Account**" means any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Competitor**" means, at any time of determination, (i) any direct competitor of Borrower or any of its Subsidiaries primarily operating in the same line of business as Borrower or any of its Subsidiaries identified to Agent and the Blackstone Representative in writing prior to the Closing Date or from time to time after the Closing Date and (ii) any of such competitor's Affiliates that are either clearly identifiable as an Affiliate of any such competitor on the basis of such Person's name or identified by name in writing by the Borrower to Agent from time to time. Notwithstanding anything to the contrary contained in this Agreement, (a) Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Competitor, (b) the Credit Parties acknowledge and agree that Agent shall have no responsibility or obligation to determine whether any Lender or potential Lender is a Competitor and that Agent shall have no liability with respect to any assignment or participation made to a Competitor and (c) no fund or account operating as part of the credit or insurance division of Blackstone Inc. shall be considered a "Competitor" under this Agreement.

"**Compliance Certificate**" has the meaning set forth in Section 5.2(c)(i).

"**Conforming Changes**" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark

Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 2.5 and other technical, administrative or operational matters) that Agent (acting at the direction of the Blackstone Representative and in consultation with Borrower) decide may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent (acting at the direction of the Blackstone Representative and in consultation with Borrower) determines that no market practice for the administration of any such rate exists, in such other manner of administration as Agent and the Blackstone Representative (in consultation with Borrower) decide is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"**Consolidated Revenue**" means the gross revenue of Borrower and its Subsidiaries for any applicable four fiscal quarter period from the sale of any Product, determined in conformity with GAAP.

"**Consolidated Total Indebtedness**" means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and its Subsidiaries at such date in an amount that would be reflected on a balance sheet prepared as of such date, determined on a consolidated basis in accordance with GAAP, excluding (a) Indebtedness consisting of obligations under letters of credit to the extent cash collateralized, (b) obligations under that certain Purchase and Sale Agreement, dated as of December 27, 2023, between the Borrower and Sagard Healthcare Partners Funding Borrower SPE 2, LP and that certain Milestone Rights Purchase Agreement, dated as of July 1, 2013, between the Borrower and the Purchasers thereunder, (c) obligations constituting Acquisition Deferred Payments and (d) obligations in respect of Qualified Equity Interests.

"**Contingent Obligation**" means, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another Person directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligation for undrawn letters of credit for the account of that Person; or (c) any obligation of that Person to pay an earn-out, milestone payment, royalties, purchase price adjustments, profit sharing arrangements or similar contingent or deferred consideration to a counterparty incurred or created in connection with an Acquisition, Transfer, Investment or other sale or disposition, including, with respect to any purchase price holdback in respect of a portion of the purchase price of an asset sold to that Person to satisfy unperformed obligations of the seller of such asset, any obligation to pay such seller the excess of such holdback over such obligations. The amount of a Contingent

Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it reasonably determined by such Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" means, with respect to any Credit Party, any control agreement entered into among such Credit Party, Agent and, in the case of a Deposit Account, the bank or other depository or financial institution at which such Credit Party maintains such Deposit Account, or, in the case of a Securities Account or a Commodity Account, the securities intermediary or commodity intermediary at which such Credit Party maintain such Securities Account or Commodities Account, in either case, pursuant to which Agent obtains control (within the meaning of the Code) over such Collateral Account.

" **Copyrights**" means any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret (and all related IP Ancillary Rights).

"**Credit Extension**" means the Initial Term Loans, the Delayed Draw Term Loans or any other extension of credit by Lender for Borrower's benefit pursuant to this Agreement.

"**Credit Facilities**" means the Initial Term Loans, the Delayed Draw Commitments and the Incremental Delayed Draw Term Facility.

"**Credit Party**" means Borrower and each Guarantor.

"**Credit Party Minimum Coverage Requirement**" shall have the meaning set forth in Section 5.18.

"**Default**" means any breach of or default under any term, provision, condition, covenant or agreement contained in this Agreement or any other Loan Document or any other event, in each case that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"**Defaulting Lender**" means any Lender that, as reasonably determined by the Blackstone Representative (a) has refused (which refusal may be given verbally or in writing and has not been retracted) or failed to perform any of its funding obligations hereunder, including in respect of its Term Loans, which refusal or failure is not cured within one Business Day after the date of such refusal or failure, (b) has notified Borrower or Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by Agent (at the direction of the Blackstone Representative), to confirm in a manner reasonably satisfactory to the Blackstone Representative that it shall comply with its funding obligations (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Agent and Borrower), or (d) has, or has a direct or indirect parent company that has, after the date of this Agreement, (i) become the subject of a proceeding under any 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 and affecting the rights of creditors generally, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment or (iv) 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 Blackstone Representative 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 upon delivery of written notice of such determination to Borrower, Agent and each Lender.

"**Delayed Draw Commitment**" with respect to each Delayed Draw Term Lender, the commitment of each such Delayed Draw Term Lender to make the Delayed Draw Term Loans hereunder in an aggregate amount not to exceed the amount set forth opposite such Delayed Draw Term Lender's name on Annex 1. The aggregate amount of the Delayed Draw Term Lenders' Delayed Draw Commitments on the Closing Date is $125,000,000.

"**Delayed Draw Commitment Period**" means the period from the Closing Date up to and including August 6, 2027.

"**Delayed Draw Term Lender**" means the Persons holding Delayed Draw Commitments and/or Delayed Draw Term Loans and any other Person that shall have become party hereto holding Delayed Draw Commitments and/or Delayed Draw Term Loans pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto holding Delayed Draw Commitments and/or Delayed Draw Term Loans pursuant to an Assignment and Assumption.

"**Delayed Draw Term Loan**" is defined in Section 2.2(a)(ii).

"**Deposit Account**" means any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Disclosure Letter**" means the disclosure letter, dated as of the Closing Date, delivered by the Credit Parties to Agent.

"**Disqualified Equity Interest**" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests and cash in lieu of fractional shares), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control, asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change

of control, asset sale or similar event shall be subject to the prior repayment in full in cash of the Term Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than (i) solely for Qualified Equity Interests or (ii) as a result of a change of control, asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale or similar event shall be subject to the prior repayment in full in cash of the Term Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provides for scheduled payments of dividends in cash or other distributions in cash or other assets other than Qualified Equity Interests or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 181 days after the Term Loan Maturity Date at the time of issuance of such Equity Interests; provided, that if such Equity Interests are issued pursuant to a plan for the benefit of employees of Borrower or any Subsidiary or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"**Disqualified Institution**" means, on any date, (a) certain banks, financial institutions, other institutional lenders and investors and other entities that were designated in writing to Agent and the Lenders by Borrower as a Disqualified Institution on or prior to the Closing Date, (b) certain banks, financial institutions, other institutional lenders and investors and other entities that are from time to time after the Closing Date designated in writing to Agent and the Lenders by Borrower as a Disqualified Institution (with such updates to occur (i) so long as no Event of Default shall have occurred and be continuing and (ii) subject to the consent of the Blackstone Representative, not to be unreasonably withheld, conditioned or delayed) and (c) as to any Disqualified Institution referenced in clause (a) or (b) above, such Disqualified Institution's Affiliates that are either clearly identifiable as an Affiliate of any such Disqualified Institution on the basis of such Person's name or identified by name in writing by Borrower to Agent from time to time. Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of Confidential Information, to any Disqualified Institution. For the avoidance of doubt, (1) any designation of a Person as a Disqualified Institution after the Closing Date will not apply retroactively to disqualify the transfer of an interest in the Commitments or Loans, as applicable, that was effective prior to the effective date of such designation, and (2) "Disqualified Institutions" shall exclude any person that Borrower has designated as no longer being a "Disqualified Institution" by written notice delivered to Agent. Notwithstanding the foregoing, in no event shall any fund or account operating as part of the credit or insurance division of Blackstone Inc. constitute a Disqualified Institution.

"**Dollars**," "**dollars**" or use of the sign "**$**" means only lawful money of the United States and not any other currency, regardless of whether that currency uses the "$" sign to denote its currency or may be readily converted into lawful money of the United States.

"**EEA Member Country**" means any member state of the European Union, Iceland, Liechtenstein, and Norway.

"**Employee Benefit Plan**" means any employee benefit plan, as defined in Section 3(3) of ERISA, maintained for employees of Borrower or any of its Subsidiaries, or any such plan to which Borrower or any of its Subsidiaries contributes or is required to contribute, or with respect to which Borrower or any of its Subsidiaries has any liability.

" **Environmental Claim**" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"**Environmental Laws**" means any and all current or future, foreign or domestic, statutes, ordinances, orders, rules, regulations, judgments, Governmental Approvals, or any other requirements of Governmental Authorities relating to (i) pollution or protection of the environmental matters, including matters relating to any Hazardous Materials Activity; (ii) the generation, use, storage, treatment, transportation or disposal of Hazardous Materials; or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in each case, in any manner applicable to any Credit Party or any of its Subsidiaries or any Facility.

" **Equity Interests**" means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in such Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire (by purchase, conversion, dividend, distribution or otherwise) any of the foregoing (and all other rights, powers, privileges, interests, claims and other property in any manner arising therefrom or relating thereto); provided that Equity Interests shall not include any Permitted Convertible Bond Indebtedness.

" **ERISA**" means the Employee Retirement Income Security Act of 1974, as amended and regulations issued thereunder.

"**ERISA Affiliate**" means, with respect to any Person, any trade or business (whether or not incorporated) that, together with such Person, is, or within the last six (6) years was, treated as a single employer under Section 414 of the IRC or Section 4001 of ERISA.

"**ERISA Event**" means (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period is waived by regulation); (b) a Plan is in "at risk" status (as defined in Section 430 of the IRC or Section 303 of ERISA); (c) with respect to a Plan, the failure to satisfy the minimum funding standard of Section 412 of the IRC and Section 302 of ERISA, whether or not waived; (d) the failure to make by its due date a required installment under Section 430(j) of the IRC with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (e) the filing pursuant to Section 412(c) of the IRC or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan;

(f) the incurrence by Borrower or its Subsidiaries or any of their respective ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (g) the receipt by Borrower or its Subsidiaries or any of their respective ERISA Affiliates from the Pension Benefit Guaranty Corporation (referred to and defined in ERISA) or a plan administrator of any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, or the occurrence of any event or condition which would reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (h) the incurrence, or the reasonable likelihood of incurrence, by Borrower or its Subsidiaries or any of their respective ERISA Affiliates of any liability with respect to the withdrawal from any Plan or Multiemployer Plan; (i) the receipt by Borrower or its Subsidiaries or any of their respective ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, or in endangered, critical or critical and declining status, in each case, within the meaning of Title IV of ERISA; (j) the "substantial cessation of operations" within the meaning of Section 4062(e) of ERISA with respect to a Plan; (k) the imposition on account of any Plan of a lien under the IRC or ERISA on the assets of Borrower or its Subsidiaries or any of their respective ERISA Affiliates, or notification to Borrower or its Subsidiaries or any of their respective ERISA Affiliates that such a lien shall be imposed, or the posting of a bond or other security in lieu thereof; (l) the occurrence of an event, circumstance, transaction or failure which results in, or which would reasonably be expected to result in, material liability to a Credit Party or Subsidiary under Title I of ERISA or a material tax under any of Sections 4971 through 5000 of the IRC.

"**Erroneous Payment**" is defined in Section 12.15(a).

"**Erroneous Payment Return Deficiency**" is defined in Section 12.15(d).

"**Erroneous Payment Subrogation Rights**" is defined in Section 12.15(d).

"**EU Bail-In Legislation Schedule**" means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

"**Event of Default**" is defined in Section 7.

"**Event of Loss**" means, with respect to any property or asset, any of the following: (a) any loss, destruction or damage of such property or asset; or (b) any condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such property or asset, or confiscation of such property or asset or the requisition of the use of such property or asset.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Exchange Act Documents**" is defined in Section 4.8(a).

"**Excluded Accounts**" means (i) Deposit Accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of any Credit Party's employees; provided, that with respect to payroll accounts, the amounts in such accounts shall not exceed the amount necessary for the applicable Credit Party to fully fund its next two complete payroll cycles in the ordinary course and such minimum amount as may be required by any applicable Law or as customary by the applicable financial institution with respect to such

account, (ii) zero balance accounts swept no less frequently than weekly to Collateral Accounts of the Credit Parties which are subject to a Control Agreement, (iii) accounts (including trust accounts) used exclusively for escrow, customs, insurance or fiduciary purposes, (iv) accounts used exclusively for compliance with any Requirements of Law to the extent such Requirements of Law prohibit the granting of a Lien thereon, (v) accounts which constitute cash collateral in respect of a Permitted Lien (but only to the extent of the Permitted Indebtedness permitted to be secured by such Permitted Lien hereunder), and (vi) any account, the cash balance of which does not exceed $500,000 individually or $1,000,000 in the aggregate with respect to all such accounts under this clause (vi) at any time.

"**Excluded Property**" is defined in the Security Agreement.

"**Excluded Subsidiaries**" means, collectively, (i) any Subsidiary with respect to which the grant to Agent in favor and for the benefit of Agent and the other Secured Parties of a security interest in and Lien upon, and the pledge to Agent in favor and for the benefit of Agent and the other Secured Parties of, such Subsidiary's properties and assets subject or purported to be subject from time to time to a Lien under any Collateral Document to secure the Obligations (and any guaranty thereof) are validly prohibited by Requirements of Law; (ii) subject to Section 5.18, any Immaterial Subsidiary; (iii) any other Subsidiary with respect to which, Borrower and the Blackstone Representative reasonably determine by mutual agreement that the cost of granting Agent in favor and for the benefit of Agent and the other Secured Parties a security interest in and Lien upon, and pledging to Agent in favor and for the benefit of Agent and the other Secured Parties, such Subsidiary's properties and assets subject or purported to be subject from time to time to a Lien under any Collateral Document and the Equity Interests of such Subsidiary to secure the Obligations (and any guaranty thereof) are excessive relative to the value to be afforded to the Secured Parties thereby.

"**Excluded Subsidiary Conversion**" as defined in Section 5.18.

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to Agent or a Lender or required to be withheld or deducted from a payment to Agent or a Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of Agent or such Lender being organized under the laws of, or having its principal office or other permanent establishment or, in the case of any Lender, its applicable lending office located in or in which it is treated as resident for Tax purposes, 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 any Obligation pursuant to a law in effect on the date on which (i) such Lender acquires an interest in such Obligation (other than pursuant to an assignment request by the Borrower under Section 2.11(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.6, 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 Agent's or a Lender's failure to comply with Section 2.6(d), and (d) any withholding Taxes imposed under FATCA.

"**Facility**" means, with respect to any Credit Party, any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by such Credit Party or any of its Subsidiaries or any of their respective predecessors or Affiliates.

"**FATCA**" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the IRC, and any fiscal or regulatory legislation, regulations, rules or practices adopted pursuant to any intergovernmental agreement, treaty, or convention among Governmental Authorities and implementing such Sections of the IRC.

"**FCPA**" is defined in Section 4.18(a).

" **FDA**" means the United States Food and Drug Administration (and any foreign equivalent, including the European Medicines Agency).

"**Federal Funds Rate**" means for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it (and, if any such rate is below zero, then the rate determined pursuant to this definition shall be deemed to be zero).

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System.

"**Floor**" means a rate of interest equal to 2.00%.

"**Foreign Lender**" means (a Lender that is not a U.S. Person.

"**Fraudulent Transfer Laws**" is defined in Section 13.2.

"**Funding Date**" means, with respect to any Commitment, the date on which the applicable conditions precedent set forth in Section 3 have been satisfied or waived in accordance with the terms of this Agreement (or such later date as agreed to by the Blackstone Representative) and a Borrowing is made in respect of such Commitment.

"**Funding Direction Letter**" means that certain Funding Direction Letter, dated as of the date hereof, directing Agent to distribute the proceeds of the Term Loans made on the Closing Date in accordance with the funds flow memorandum attached thereto.

"**GAAP**" means generally accepted accounting principles in the United States, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions

and comparable stature and authority within the accounting profession) that are applicable to the circumstances as of the date of determination.

" **Governmental Approval**" means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued or required by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, any agency, government department, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Governmental Payor Programs**" means all federal health care programs (as defined in 42 USC § 1320a-7b(f)), including Medicare, Medicaid, TRICARE or any other federal or state health care programs.

"**Guaranteed Obligations**" is defined in Section 13.1.

"**Guarantor**" means each Subsidiary of Borrower, other than any Excluded Subsidiary.

"**Guaranty**" means the guaranty of the Guaranteed Obligations made by Guarantors as set forth in this Agreement.

"**Hazardous Materials**" means any chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority or which may or could pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

" **Hazardous Materials Activity**" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"**Health Care Laws**" means, collectively, all Requirements of Laws relating to the health care activities applicable to any Credit Party, including: (a) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq.), (b) the Public Health Service Act (42 U.S.C. §§ 262 et. seq); (c) Medicare (Title XVIII of the Social Security Act), Medicaid (Title XIX of the Social Security Act) and any and all federal, state or local laws, rules, regulations, orders, ordinances, statutes and requirements issued under or in connection with Medicare, Medicaid or any other Government Payor Program; (d) federal and state laws and regulations governing the confidentiality of patient information, including HIPAA; (e) accreditation standards and requirements of all applicable state laws or regulatory bodies; (f) any and all federal, state and local fraud and abuse, anti-kickback and false claims laws of any Governmental Authority, including the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7(b)), the civil False Claims Act

(31 U.S.C. § 3729 et seq.), the criminal False Claims Act (42 U.S.C. § 1320a-7b(a)), the exclusion law (42 U.S.C. § 1320a-7), the civil monetary penalties law (42 U.S.C. § 1320a-7a), the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3812), the Anti-Inducement Law (42 U.S.C. § 1320a-7a(a)(5)), applicable criminal laws relating to health care fraud and abuse, including, 18 U.S.C. §§ 286, 287 and 1001 and the regulations promulgated pursuant to such statutes; (g) the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173) and the regulations promulgated thereunder; (h) the Physician Payment Sunshine Act (42 U.S.C. § 1320a-7h); (i) all reporting and disclosure requirements, government contracting, and the processing of any applicable rebate, chargeback or adjustment, including under the Medicaid Drug Rebate Program (e.g., Monthly and Quarterly Average Manufacturer Price, Baseline Average Manufacturer Price, and Rebate Per Unit, as applicable), Medicare Part B (Quarterly Average Sales Price), Section 602 of the Veteran's Health Care Act (Public Health Service 340B Quarterly Ceiling Price), Section 603 of the Veteran's Health Care Act (Quarterly and Annual Non-Federal Average Manufacturer Price and Federal Ceiling Price), Best Price, Federal Supply Schedule Contract Prices and Tricare Retail Pharmacy Refunds, and Medicare Part D and state laws related to price disclosure; (j) the Inflation Reduction Act of 2022 (Public Law 117-169); (k) the Controlled Substances Act (21 U.S.C. § 801, et seq.) and, along with the requirements of the U.S. Drug Enforcement Administration in connection therewith and any similar state laws governing the prescribing or dispensing of controlled substances; (l) all other applicable health care laws, rules, codes, statutes, regulations, manuals, orders, ordinances, policies, administrative guidance and requirements having the effect of law pertaining to Medicare or Medicaid; in each case; (m) any and all federal, state or local laws, rules, regulations, ordinances, statutes and requirements relating to the billing, coding, documentation, reimbursement or payment for, any healthcare products, services and items, including the Product; and (n) any and all state and foreign health care laws, rules, codes, regulations, manuals, orders, ordinances, statutes, guidelines, requirements and policies which, in each case, are analogous to any of the foregoing and applicable to any Credit Party or any of its Subsidiaries in any manner.

"**Hedging Agreement**" means any interest rate, currency, commodity or equity swap, collar, cap, floor or forward rate agreement, or other agreement or arrangement designed to protect a Person against fluctuations in interest rates, currency exchange rates or commodity or equity prices or values (including any option with respect to any of the foregoing and any combination of the foregoing agreements or arrangements), and any confirmation execution in connection with any such agreement or arrangement.

"**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996, as amended (including by the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009)), any and all rules or regulations promulgated from time to time thereunder, and any applicable state laws with regard to the security and privacy of health information which are not preempted by the Health Insurance Portability and Accountability Act of 1996 pursuant to 45 C.F.R. Part 160, Subpart B.

"**Immaterial Subsidiary**" means, at any date of calculation, any of Borrower's Subsidiaries (a) whose total assets for the four fiscal quarter period ending on the date most recently ended for which financial statements have been delivered to Agent and the Blackstone Representative pursuant to Section 5.2(a)(i) or (ii) (whichever was most recently delivered to Agent and the Blackstone Representative) was less than 2.50% of the total assets of Borrower and

its Subsidiaries, (b) whose contribution to the Consolidated Revenue for such period was less than 2.50% of the Consolidated Revenue of Borrower and its Subsidiaries for such period, in each case, determined in accordance with GAAP and (c) that does not own or hold rights in any Material IP; provided that if, at any time and from time to time after the Closing Date, Immaterial Subsidiaries that are not Guarantors solely because they do meet the thresholds set forth in clauses (a) and (b) comprise in the aggregate more than 5.00% of total assets as of the end of the most recently ended fiscal quarter of Borrower for which financial statements have been delivered to Agent and the Blackstone Representative pursuant to Section 5.2(a)(i) or (ii) (whichever was most recently delivered to Agent and the Blackstone Representative) or more than 5.00% of the Consolidated Revenue of Borrower and its Subsidiaries for such applicable period, then Borrower shall (i) designate in writing to Agent one or more of such Immaterial Subsidiary(ies) as no longer an Immaterial Subsidiary(ies) to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 5.12 and Section 5.13 applicable to any such designated Subsidiary (in each case, in the time periods applicable as if such Immaterial Subsidiary(ies) had become Guarantors at such time).

"**Incremental Delayed Draw Term Facilities**" is defined in Section 2.10(a).

"**Incremental Delayed Draw Term Loans**" is defined in Section 2.10(a).

"**Incremental Term Supplement**" is defined in Section 2.10(d).

"**IND**" means an investigational new drug application filed with FDA.

"**Indebtedness**" means, with respect to any Person, without duplication: (a) all indebtedness for advanced or borrowed money of, or credit extended to, such Person; (b) all obligations issued, undertaken or assumed by such Person as the deferred purchase price of assets, properties, services or rights (other than accrued expenses and trade payables entered into in the ordinary course of business which are not more than one hundred eighty (180) days past due or are being contested in good faith), including any obligation or liability to pay deferred or contingent purchase price or other consideration for such assets, properties, services or rights; (c) the face amount of all letters of credit issued for the account of such Person (whether or not drawn) and all reimbursement or payment obligations with respect to letters of credit, surety bonds, performance bonds and other similar instruments issued by such Person; (d) all obligations of such Person evidenced by notes, bonds, debentures or other debt securities or similar instruments (including debt securities convertible into Equity Interests), including obligations so evidenced incurred in connection with the acquisition of properties, assets or businesses; (e) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement or incurred as financing, in either case with respect to property acquired by such Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property); (f) all Capital Lease obligations of such Person; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product by such Person; (h) all obligations of such Person, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value any of its own Equity Interest (or Equity Interests of a direct or indirect parent entity thereof); (i) all indebtedness referred to in clauses (a) through (h) above of other Persons secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon

or in assets or properties (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness of such other Persons; and (j) all Contingent Obligations of such Person. For the avoidance of doubt, "Indebtedness" shall include Permitted Convertible Bond Indebtedness, but shall not include obligations in respect of any Permitted Bond Hedge Transaction or any Permitted Warrant Transaction.

"**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims, actions, judgments, suits, costs, reasonable and documented out-of-pocket expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented fees and disbursements of one counsel for Indemnified Persons with respect to Agent and one counsel for Indemnified Persons with respect to the Lenders, plus, if required, one local legal counsel with respect to Agent and one local counsel with respect to the Lenders in each relevant jurisdiction and one specialty counsel with respect to the Lenders, and in the case of an actual or perceived conflict of interest, one additional counsel for such affected Indemnified Persons with respect to Agent and one additional counsel for such affected Indemnified Persons with respect to the Lenders, in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened in writing by any Person, whether or not any such Indemnified Person shall have commenced such proceeding or hearing or be designated as a party or a potential party thereto and regardless of whether or not any such claim, litigation, investigation or proceeding is brought by Borrower, its equity holders, its affiliates, its creditors or any other Person, and any fees or expenses incurred by Indemnified Persons in enforcing the indemnity hereunder), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations, on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnified Person, in any manner relating to or arising out of this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (including the agreement of the Lenders to make Credit Extensions or the use or intended use of the proceeds thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of any guaranty of the Obligations)).

"**Indemnified Person**" is defined in Section 11.2(a).

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

"**Information Privacy or Security Laws**" means all applicable Laws governing the privacy or security of Personal Data, including any applicable foreign Laws, state data breach notification Laws, and state health information privacy Laws.

"**Initial Term Lender**" means the Persons holding Initial Term Loan Commitments or Initial Term Loans and any other Person that shall have become party hereto holding Initial Term Loans pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto holding Initial Term Loans pursuant to an Assignment and Assumption.

"**Initial Term Loan**" is defined in Section 2.2(a)(i).

"**Initial Term Loan Commitment**" with respect to each Initial Term Lender, the commitment of each such Initial Term Lender to make Initial Term Loans hereunder in an aggregate amount not to exceed the amount set forth opposite such Initial Term Lender's name on Annex 1. The aggregate amount of the Initial Term Lenders' Initial Term Loan Commitments on the Closing Date is $75,000,000.

"**Insolvency Proceeding**" means, with respect to any Person, any proceeding by or against such Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law in the United States or other applicable jurisdiction, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, court protection or other relief.

"**Intellectual Property**" means all:

(a) Copyrights, Trademarks, and Patents;

(b) trade secrets and trade secret rights, confidential business information, know-how, data and other information, in each case, including any rights to unpatented inventions, know-how, show-how and operating manuals;

(c) (c) (i) all computer programs, including source code and object code versions, (ii) all technical data, databases and compilations of technical data, whether machine readable or otherwise, and (iii) all documentation, training materials and configurations related to any of the foregoing (collectively, "**Software**");

(d) all right, title and interest arising under any contract or Requirements of Law in or relating to Internet domain names;

(e) design rights;

(f) IP Ancillary Rights (including all IP Ancillary Rights related to any of the foregoing);

(g) any similar or equivalent rights to any of the foregoing anywhere in the world;

(h) copies and tangible embodiments of any of the foregoing (in whatever form or medium); and

(i) any and all improvements, developments, refinements, additions or subtractions to any of the foregoing.

" **Intercompany Subordination Agreement**" means an intercompany subordination agreement executed and delivered by each Credit Party, each of its applicable Subsidiaries and Agent, in form and substance reasonably satisfactory to Agent and the Blackstone Representative, as amended, restated, supplemented or otherwise modified and in effect from time to time.

"**Interest Date**" means (a) as to any Term Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Term Loan Maturity Date; provided that if any Interest Period for a Term SOFR Loan exceeds three (3) months, the respective dates that fall every three (3) months after the beginning of such Interest Period shall also be Interest Dates; and (b) as to any Base Rate Loan, the last Business Day of each December, March, June and September and the Term Loan Maturity Date .

"**Interest Election Request**" is defined in Section 2.3(a)(iii).

"**Interest Period**" means, as to each Term SOFR Loan, the period commencing on the date such Term SOFR Loan is disbursed or converted to or continued as a Term SOFR Loan and ending on the date one (1), three (3) or six (6) months thereafter (in each case, subject to availability), as selected by Borrower in its Borrowing Notice or Interest Election Request, as applicable,; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Term SOFR Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Term SOFR 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 calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

"**Inventory**" means all "inventory" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including such inventory as is temporarily out of a Credit Party's or Subsidiary's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

" **Investment**" means (a) any beneficial ownership interest in any Person (including Equity Interests), (b) any Acquisition, (c) the making of any advance, loan, extension of credit or capital contribution in or to, any Person or (d) the guarantee, endorsement or otherwise becoming contingently liable in respect of the Indebtedness of any other Person. The amount of an Investment shall be the amount actually invested (which, in the case of any Investments constituting the contribution of an asset or property, shall be based on the fair market value of such asset or property at the time such Investment is made), *less*, the amount of cash received or returned for such Investment, without adjustments for subsequent increases or decreases in the value of such Investment or write-ups, write-downs or write-offs with respect thereto; provided that in no event shall such amount be less than zero or increase any basket or amount set forth in the definition of "Permitted Investments" above the fixed amount set forth therein.

"**IP Agreements**" means, collectively, (a) those certain Intellectual Property Security Agreements entered into by and between the Credit Parties, as the case may be, and Agent, each dated as of the Closing Date, and (b) any Intellectual Property Security Agreement entered into by and between the Credit Parties, as the case may be, and Agent after the Closing Date in accordance with the Loan Documents.

"**IP Ancillary Rights**" means, with respect to any Copyright, Trademark, Patent, Software, trade secrets or trade secret rights, including any rights to unpatented inventions, know-how, show-how and operating manuals, all income, royalties, proceeds and liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect thereto, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other intellectual property right ancillary to any Copyright, Trademark, Patent, Software, trade secrets or trade secret rights.

"**IRC**" means the Internal Revenue Code of 1986, as amended.

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

" **IT Assets**" means technology devices, computers, servers, networks, workstations, routers, hubs, circuits, switches, data communications lines, and all firmware embedded therein, and all associated documentation.

" **Knowledge**" or to the "**knowledge**" and similar qualifications or phrases means the actual knowledge, after reasonable investigation, of any Responsible Officers of Borrower or such other Credit Party, as the context dictates.

"**Lead Arranger**" means Blackstone Alternative Credit Advisors LP.

"**Lender**" means each Person signatory hereto as a "Lender" and its successors and assigns.

"**Lender and Agent Expenses**" means (i) all reasonable and documented out-of-pocket fees and expenses of Agent, the Blackstone Representative, the Lead Arranger, the Lenders and their respective Related Parties for developing, preparing, amending, modifying, negotiating, executing and delivering, and administering the Loan Documents or any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein or otherwise incurred with respect to the Credit Parties in connection with the Loan Documents, including any filing or recording fees and expenses (including, without limitation, reasonable and documented outside counsel, accountants, consultants, financial advisors and other advisors fees and expenses, but limited to the reasonable and documented out-of-pocket fees and expenses of one outside legal counsel to Agent and its Related Parties (taken as a whole), and one outside legal counsel to the Blackstone Representative, the Lead Arranger, and the Lenders and each of their Related Parties (taken as a whole) (plus, if required, (x) one local outside legal counsel to Agent and its Related Parties (taken as a whole) in each relevant material jurisdiction, and one local outside legal counsel to the Blackstone Representatives, the Lead Arranger, and the Lenders and their Related Parties (taken as a whole) in each relevant material jurisdiction) and (y) one specialty outside counsel to Agent and its

Related Parties (taken as a whole) and one specialty outside counsel to the Blackstone Representative, the Lead Arranger, and the Lenders and each of their Related Parties (taken as a whole)), and (ii) all reasonable and documented out-of-pocket costs and expenses incurred by Agent, the Blackstone Representative, the Lead Arranger, the Lenders and their respective Related Parties (including, without limitation, reasonable and documented outside counsel, accountants, consultants, financial advisors and other advisors fees and expenses, but limited, in the case of legal counsel, to the reasonable and documented out-of-pocket fees and expenses of one primary outside counsel for Agent and its Related Parties (taken as whole) and one primary outside counsel for the Blackstone Representative, the Lead Arranger, and the Lenders and each of their Related Parties (taken as a whole), one local outside legal counsel to Agent and its Related Parties (taken as a whole) in each relevant material jurisdiction and one local outside legal counsel to the Blackstone Representative, the Lead Arranger, and the Lenders and each of their Related Parties (taken as a whole) in each relevant material jurisdiction, and one specialty outside counsel to Agent and its Related Parties (taken as a whole) and one specialty outside counsel to the Blackstone Representative, the Lead Arranger, and the Lenders and each of their Related Parties (taken as a whole)) (and, in the case of an actual or perceived conflict of interest where the party affected by such conflict informs Borrower of such conflict and thereafter retains its own counsel, of one additional primary firm of counsel for all such affected parties (taken as a whole) and one additional firm of local counsel for all such affected parties (taken as a whole) in each relevant material jurisdiction); in connection with (A) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (B) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or (C) the commencement, defense, conduct of, intervention in, or the taking of any other action with respect to, any proceeding (including any Insolvency Proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document or Obligation (or the response to and preparation for any subpoena or request for document production relating thereto).

"**Lender Fee Letter**" means that certain closing payments and fee letter, dated the date hereof, by and among the Borrower and the Blackstone Representative.

"**Lender Transfer**" is defined in Section 11.1(b).

"**Lien**" means (a) a claim, mortgage, lien, deed of trust, levy, charge, pledge, hypothecation, preference, priority, security interest or other encumbrance of any kind or assignment for security purposes, whether voluntarily incurred or arising by operation of law or otherwise against any property or assets and whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in, and any filing of, or agreement to, give any financing statement under the Code (or equivalent statutes) of any jurisdiction or any preferential arrangement that has the practical effect of creating a security interest and (b) in the case of Equity Interests, any purchase option, call or similar right of a third party with respect to such Equity Interests.

" **Liquidity**" means, as of any date of determination, the aggregate amount of unrestricted cash and Cash Equivalents held in Collateral Accounts of the Credit Parties which are subject to a Control Agreement.

"**Loan Documents**" means, collectively, this Agreement, the Disclosure Letter, the Term Loan Notes, the Agent Fee Letter, the Lender Fee Letter, the Funding Direction Letter, the Security Agreement, the IP Agreements, the Perfection Certificates, any Control Agreement, any other Collateral Document, any Intercompany Subordination Agreement, any guaranties executed by a Guarantor in favor of Agent for the benefit of the Secured Parties in connection with this Agreement, and any other present or future agreement between or among a Credit Party and Agent or any Lender, as the case may be, in connection with this Agreement, including in each case, for the avoidance of doubt, any annexes, exhibits or schedules thereto.

"**Make Whole Premium**" means, as of any time of determination with respect to any prepayment (or in the case of a Prepayment Premium Trigger Event occurring under clauses (a)(ii), (b), (c) or (d) of the definition thereof, deemed prepayment) of all or any portion of the outstanding principal amount of the Term Loans, an amount, determined (without duplication) by the Blackstone Representative, equal to the present value on such date of the sum of (x) 3.00% of the principal amount to be prepaid as if that amount would otherwise be prepaid on the first anniversary of the Closing Date, and (y) the amount of all interest which would otherwise have accrued hereunder for the period from the date of such prepayment to the first anniversary of the Closing Date, assuming an interest rate for such period equal to the sum of the Applicable Margin for SOFR Loans *plus* Adjusted Term SOFR as of such date of determination, computed using a discount rate equal to the Treasury Rate as of such date plus 50 basis points; provided that if Agent (at the direction of the Blackstone Representative) is at any time unable to determine Adjusted Term SOFR, Adjusted Term SOFR shall be deemed to be 2.00%.

"**Malicious Code**" means disabling codes or instructions, spyware, malware, Trojan horses, worms, viruses or other software routines that (a) facilitate or cause unauthorized access to, or disruption, impairment, disablement, or destruction of, or (b) compromise the privacy or data security of, in each case of (a) and (b), any IT Assets or Personal Data. For the avoidance of doubt, Malicious Code excludes any code intentionally included by the developer or owner of the software in the ordinary course of business to monitor and manage usage, including to disable unauthorized use.

"**Margin Stock**" is defined in Section 4.14.

"**Material Adverse Change**" means any material adverse change in or effect on: (i) the business, financial condition, properties or assets (including all or any portion of Collateral), liabilities (actual or contingent), operations, or performance of the Credit Parties, taken as a whole, since December 31, 2024; (ii) the ability of the Credit Parties, taken as a whole, to fulfill the payment or performance obligations under this Agreement or any other Loan Document; or (iii) the binding nature or validity of, or the ability of Agent or any Lender to enforce, the Loan Documents or any of its rights or remedies under the Loan Documents (other than solely as a direct result of any action or inaction by the Agent or any Lender).

"**Material Contract**" means (i) each contract which is identified as a "Material Agreement" in the Perfection Certificate and (ii) any other contract or other arrangement to which any Credit Party or any of its Subsidiaries is a party (other than the Loan Documents) or by which any of its assets or properties are bound, in each case, relating to the research, licensing, development, manufacture, production, use, commercialization, marketing, importing, storage,

transport, offer for sale, distribution or sale of any Product in the Territory, for which, individually or in the aggregate, the breach of, default or nonperformance under, cancellation or termination of or the failure to renew would reasonably be expected to result in a Material Adverse Change.

"**Material IP**" means any (i) Product IP and (ii) any other Intellectual Property that is material to the conduct of the business of Borrower or its Subsidiaries as conducted or reasonably expected to be conducted, or is otherwise of material value.

"**Maximum Guaranteed Amount**" is defined in Section 13.2.

"**Maximum Incremental Delayed Draw Term Amount**" is defined in Section 2.10(a).

"**Medicaid**" means, collectively, the health care assistance program established by Title XIX of the SSA (42 U.S.C. 1396 et seq.) and all laws, rules, regulations, manuals, orders, or requirements pertaining to such program, including (a) all federal statutes affecting such program; (b) all state statutes and plans for medical assistance enacted in connection with such program and federal rules and regulations promulgated in connection with such program; and (c) all applicable provisions of all rules, regulations, manuals, orders and administrative, reimbursement, and requirements of all Governmental Authorities promulgated in connection with such program (whether or not having the force of law).

"**Medicare**" means, collectively, the health insurance program for the aged and disabled established by Title XVIII of the SSA (42 U.S.C. 1395 et seq.) and all laws, rules, regulations, manuals, or orders pertaining to such program including (a) all federal statutes (whether set forth in Title XVIII of the SSA or elsewhere) affecting such program; and (b) all applicable provisions of all rules, regulations, manuals, orders and administrative, reimbursement and requirements of all Governmental Authorities promulgated in connection with such program (whether or not having the force of law).

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on real estate or any interest in real estate.

"**Multiemployer Plan**" means a multiemployer plan within the meaning of Section 4001(a)(3) or Section 3(37) of ERISA (a) to which Borrower or its Subsidiaries or any of their respective ERISA Affiliates is then making or accruing an obligation to make contributions; (b) to which Borrower or its Subsidiaries or any of their respective ERISA Affiliates has within the preceding five (5) plan years made contributions; or (c) with respect to which Borrower or its Subsidiaries could incur material liability.

"**Net Issuance Proceeds**" means, in respect of any issuance of Indebtedness, the excess of: (a) the gross cash proceeds received by the issuer of such Indebtedness from such incurrence or issuance, over (b) all underwriting discounts, fees, commissions and reasonable out-of-pocket costs and expenses actually paid in connection therewith in favor of any Person not an Affiliate of Borrower.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Transfer and insurance proceeds received on account of an Event of Loss, net of: (a) in the event of a Transfer (i) the transaction costs, fees and expenses relating to such Transfer excluding amounts payable to Borrower or any Affiliate of Borrower, (ii) sale, use, income, withholding or other Taxes paid or reasonably estimated to be payable as a result thereof, (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a superior Lien on the asset which is the subject of such Transfer, (iv) any reserve reasonably established by Borrower and its Subsidiaries in respect of any liabilities or other obligations associated with such asset or assets and retained by Borrower or any of its Subsidiaries after such sale or other Transfer thereof, including pension and other post-employment benefit liabilities and liabilities related to any indemnification obligations or purchase price adjustments associated with such transaction or commitments or undertakings of Borrower and its Subsidiaries pursuant to the agreement entered into in connection with such Transfer; provided, however, that upon the reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (iv), the amount of such reversal shall be included in Net Proceeds and (v) the amount of any cash escrow from the sale price for any relevant Transfer (until released from escrow), and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged asset or property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) any Taxes paid or reasonably estimated to be payable as a result thereof, and (iv) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments. For the purposes of determining the Net Proceeds received by any Credit Party or Subsidiary thereof in connection with a license arrangement which constitutes an Asset Sale, each payment from time to time received by the Credit Parties and their Subsidiaries in connection with such license arrangement shall be included in the aggregate Net Proceeds determination.

"**Obligations**" means, collectively, the Credit Parties' obligations that arise under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising, including debts, principal, interest, Lender and Agent Expenses, the Prepayment Premium and any other fees, premiums expenses, indemnities and amounts any Credit Party owes to Agent, the Lenders and the Secured Parties now or later, including interest accruing after Insolvency Proceedings begin (whether or not allowed), and to perform Borrower's duties under the Loan Documents.

"**OFAC Lists**" means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

"**Operating Documents**" means, collectively with respect to any Person such Person's formation documents as certified with the Secretary of State or other applicable Governmental Authority of such Person's jurisdiction of formation on a date that is no earlier than thirty (30) days prior to the date on which such documents are due to be delivered under this

Agreement and, (a) if such Person is a corporation, its bylaws (or similar organizational regulations) in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), in each case, with all current amendments, restatements, supplements or modifications thereto.

"**ordinary course of business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business undertaken by such Person in good faith and not for purposes of evading any covenant, prepayment obligation or restriction in any Loan Document.

"**Other Connection Taxes**" means, with respect to Lender or Agent, Taxes imposed as a result of a present or former connection between Lender or Agent and the jurisdiction imposing such Tax (other than connections arising from Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Obligation or Loan Document).

"**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made hereunder, 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 Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.11(b)).

"**Participant Register**" is defined in Section 11.1(d).

"**Patent License**" means any agreement, whether written or oral, providing for the grant by or to a Person of any right to use any Patent.

" **Patents**" means all patents and patent applications (including any improvements, continuations, continuations-in-part, divisionals, provisionals or any substitute applications), any patent issued with respect to any of the foregoing patent applications, any reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing. For the avoidance of doubt, patents and patent applications under this definition include all those filed with the U.S. Patent and Trademark Office and the European Patent Office.

"**Patriot Act**" is defined in Section 3.1(k).

"**Payment/Advance Form**" means that certain form attached hereto as Exhibit A.

"**Payment Recipient**" is defined in Section 12.15(a).

"**Perfection Certificate**" is defined in Section 4.6.

"**Periodic Term SOFR Determination Date**" has the meaning specific in the definition of "Term SOFR".

"**Permitted Acquisition**" means any Acquisition, so long as:

(a) both before and immediately after giving effect to such Acquisition, no Default or Event of Default has occurred and is continuing;

(b) the properties or assets being acquired or licensed, or the Person whose Equity Interests are being acquired, are useful in or engaged in, as applicable, (i) the same or a related line of business as that then-conducted by Borrower or its Subsidiaries, including the treatment, prevention, palliation or diagnosis of any human disease, disorder or condition, or (ii) a line of business that is ancillary or in furtherance of a line of business as that then-conducted by Borrower or its Subsidiaries;

(c) in the case of an Asset Acquisition, the subject assets are being acquired or licensed by Borrower or a Subsidiary of Borrower, and (i) if acquired or licensed by a Credit Party or any of its Subsidiaries, the applicable Person shall have executed and delivered or authorized, as applicable, any and all security agreements, financing statements, fixture filings, and other documentation reasonably requested by the Blackstone Representative in order to include the newly acquired or licensed assets within the Collateral, as applicable, to the extent required by Section 5.12, and (ii) if acquired or licensed by a Subsidiary of Borrower that is not a Credit Party, or if such subject assets do not constitute Collateral, then the total consideration paid or payable (including without limitation, all transaction costs, assumed Indebtedness and the maximum amount of all Acquisition Deferred Payments (other than royalty payments based solely on a percentage of sales or revenue attributable to the assets or Persons being acquired), but disregarding any working capital adjustments) (such amounts, collectively the "**Acquisition Consideration**") for all such assets, together with the Acquisition Consideration paid for Stock Acquisitions described in clauses (d)(ii)(B) and (C) below and Investments made pursuant to clauses (k) and (p) of the definition of "Permitted Investment", shall not exceed $5,000,000 in the aggregate;

(d) in the case of a Stock Acquisition, (i) 100% of the Equity Interests issued by the target are acquired by Borrower or a Subsidiary and (ii) either (A) the subject Equity Interests are being acquired in such Acquisition directly by a Credit Party and the relevant Credit Party shall have complied with its obligations under Sections 5.12 and 5.13 and caused the target to become a Guarantor, (B) the subject Equity Interests are being acquired in such Acquisition directly by a Credit Party, but the target of the Stock Acquisition does not become a Guarantor and otherwise complies with Sections 5.12 and 5.13 or (C) the subject Equity Interests are not acquired in such acquisition directly by a Credit Party; provided, that the aggregate Acquisition Consideration paid or payable in connection with Stock Acquisitions described in subclauses (B) and (C) above, together with the Acquisition Consideration paid or payable for Asset Acquisitions described in clause (c)(ii) above and Investments made pursuant to clauses (k) and (p) of the definition of "Permitted Investment", shall not exceed $5,000,000 in the aggregate;

(e) any Indebtedness or Liens assumed in connection with such Acquisition are otherwise permitted under Section 6.4 or 6.5, respectively;

(f) both before and immediately after giving effect to such Acquisition, the Credit Parties are in compliance, on a pro forma basis, with the financial covenant set forth in Section 6.17;

(g) in connection with any Acquisition which the Acquisition Consideration paid or payable with respect to such Acquisition is greater than $25,000,000, (1) at least five (5) Business Days prior to the date of the consummation of such Acquisition, Borrower shall have delivered to Agent and the Blackstone Representative (and Agent shall have in turn delivered to the Lenders) notice of such Acquisition, together with historical financial information and analysis with respect to the Person whose stock or assets are being acquired and copies of the acquisition agreement and related documents (including financial information and analysis, Phase I environmental assessments, opinions, certificates and lien searches), a quality of earnings report, prepared by a third party acceptable to the Blackstone Representative and information reasonably requested by Blackstone Representative and (2) Borrower shall have delivered to Agent and the Blackstone Representative (and Agent shall have in turn delivered to the Lenders) all such other materials which have been delivered or presented to the transaction committee of the Borrower (or if no such materials have been presented or delivered to any such transaction committee, those materials which have been presented or delivered to the board of directors of the Borrower); provided that the Borrower shall not be required to deliver any such materials to the extent it is expressly prohibited from doing so in accordance with the binding confidentiality provisions applicable to such Acquisition;

(h) the total Acquisition Consideration (including any Acquisition Consideration which is (A) paid in the form of Equity Interests in Borrower, or (B) funded with the proceeds of Qualified Equity Interests in Borrower issued after the date hereof) paid for all Permitted Acquisitions shall not exceed $100,000,000 in the aggregate; and

(i) such Acquisition shall not be hostile and shall have been approved by the Board of Directors (or other similar body) and/or the stockholders or other equity holders of the Person being acquired or from whom assets are being acquired.

" **Permitted Bond Hedge Transaction**" means any unsecured call, call spread or capped call option (or substantively equivalent derivative transaction) relating to Borrower's common stock (or other securities or property following a fundamental change of Borrower or other change of, or adjustment with respect to, the common stock of Borrower) purchased or otherwise entered into by Borrower in connection with the issuance of any Permitted Convertible Bond Indebtedness on terms and conditions customary for bond hedge transactions in respect of transactions related to public market convertible indebtedness (pursuant to a public offering or an offering under Rule 144A or Regulation S of the Securities Act); provided, that the purchase price for such Permitted Bond Hedge Transaction, *less* the proceeds received by Borrower from the sale of any related Permitted Warrant Transaction, does not exceed 15.0% of the gross proceeds to Borrower from such issuance of Permitted Convertible Bond Indebtedness.

"**Permitted Convertible Bond Indebtedness**" means Indebtedness of Borrower having a feature which entitles the holder thereof to convert or exchange all or a portion of such Indebtedness into Equity Interests of Borrower; provided, that (i) Permitted Convertible Bond Indebtedness shall be unsecured, (ii) no Subsidiary of Borrower or other Person shall guarantee or

otherwise be an obligor in respect of Permitted Convertible Bond Indebtedness, (iii) Permitted Convertible Bond Indebtedness shall not include covenants and defaults (other than covenants and defaults customary for public convertible bonds, as determined by Borrower in its good faith judgment) that are, taken as a whole, not more restrictive to the Credit Parties than the provisions of this Agreement (as determined by Borrower in its good faith judgment), (iv) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Permitted Convertible Bond Indebtedness or would result therefrom, (v) Permitted Convertible Bond Indebtedness shall have no scheduled amortization or principal payments, mandatory redemptions or other required payments of principal (but, for the avoidance of doubt, may have regularly scheduled cash interest payments and customary obligations to repurchase upon a "fundamental change" or "change of control" or any comparable term, or upon customary events of default, under and as defined in any indenture governing any Permitted Convertible Bond Indebtedness) prior to a date that is at least 181 days following the Term Loan Maturity Date, (vi) the terms of the Permitted Convertible Bond Indebtedness shall be consistent with customary market terms for public convertible bonds, and (vii) Borrower shall have delivered to Agent a certificate of a Responsible Officer of Borrower certifying as to the foregoing.

"**Permitted Distributions**" means, in each case subject to Section 6.8 if applicable:

(a) Dividends, distributions or other payments by any Wholly-Owned Subsidiary on its Equity Interests to, or the redemption, retirement or purchase by any Wholly-Owned Subsidiary of its Equity Interests from, Borrower or any other Wholly-Owned Subsidiary;

(b) Dividends, distributions or other payments by any non-Wholly-Owned Subsidiary on its Equity Interests to, or the redemption, retirement or purchase by any non-Wholly-Owned Subsidiary of its Equity Interests from, Borrower or any other Subsidiary or each other owner of such non-Wholly-Owned Subsidiary's Equity Interests based on their relative ownership interests of the relevant class of such Equity Interests;

(c) Non-cash redemptions by Borrower in whole or in part of any of its Qualified Equity Interests for another class of its Qualified Equity Interests or rights to acquire its Qualified Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Qualified Equity Interests;

(d) (i) any payment of premium to a counterparty under a Permitted Bond Hedge Transaction in accordance with the definition thereof, and (ii) any settlement, unwinding or other termination of a Permitted Bond Hedge Transaction and/or Permitted Warrant Transaction; provided, that with respect to settlement of any Permitted Warrant Transaction pursuant to this clause (ii), such settlement shall not be in the form of cash but instead in the form of share issuance or offsetting payments on the underlying warrant and/or bond hedge;

(e) The conversion by Borrower of any Permitted Convertible Bond Indebtedness into or in exchange for Qualified Equity Interests of Borrower (and cash in lieu of fractional shares);

(f) [Reserved];

(g) Cash payments in lieu of the issuance of fractional shares arising out of stock dividends, splits or combinations or in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests;

(h) In connection with any Acquisition or other Permitted Investment by Borrower or any of its Subsidiaries, (i) the receipt or acceptance of the return to Borrower or any of its Subsidiaries of common Equity Interests of Borrower constituting a portion of the purchase price consideration in settlement of indemnification claims, or as a result of a purchase price adjustment (including earn-outs or similar obligations) and (ii) payments or distributions to equity holders pursuant to appraisal rights required under Requirements of Law;

(i) The distribution of rights to Qualified Equity Interests pursuant to any shareholder rights plan or the redemption of such rights for nominal consideration in accordance with the terms of any shareholder rights plan;

(j) Dividends, distributions or payments on its Equity Interests by any Subsidiary to any Credit Party;

(k) Dividends, distributions or payments on its Equity Interests by any Subsidiary that is not a Credit Party to any other Subsidiary that is not a Credit Party;

(l) purchases of Equity Interests of Borrower or its Subsidiaries in connection with the exercise of stock options by way of cashless exercise, or in connection with the satisfaction of withholding tax obligations;

(m) Issuance to directors, officers, employees or contractors of Borrower of common stock of Borrower upon the vesting of restricted stock, restricted stock units, or other rights to acquire common stock of Borrower pursuant to plans or agreements approved by Borrower's Board of Directors or stockholders;

(n) the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the issuer thereof held by any future, present or former employee, consultant, officer or director (or spouse or trust for the benefit of any of the foregoing or any lineal descendants thereof) of such issuer or any of its Subsidiaries pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any stock subscription or shareholder agreement or employment agreement; provided, however, that the aggregate payments made under this clause (n) do not exceed in any calendar year the sum of (i) $1,000,000 (or such larger amount as agreed to and negotiated in good faith by the Blackstone Representative and Borrower (each in their sole discretion) upon growth in Borrower's stock price or consolidated employee base) plus (ii) the amount of any payments received in such calendar year under key-man life insurance policies;

(o) repurchases, distributions or other payment consisting of and made in Qualified Equity Interests so long as such repurchases, distributions or other payments do not results in a Change in Control;

(p) the repurchase, exchange or repayment of the 2026 Convertible Notes; provided, that except with respect to repayment at maturity, both immediately before and after giving effect

to such repurchase, exchange or repayment, no Event of Default has occurred and is continuing; and

(q) other Restricted Distributions in an aggregate amount not to exceed $5,000,000 during the term of this Agreement, so long as both immediately before and after giving effect to any such payment in respect to Equity Interests, no Default or Event of Default has occurred and is continuing.

Notwithstanding anything else to the contrary in this Agreement, no Restricted Distributions shall be made by the Credit Parties to Subsidiaries of Borrower that are not Credit Parties.

"**Permitted Indebtedness**" means:

(a) Indebtedness of the Credit Parties to the Secured Parties under this Agreement and the other Loan Documents (including the Incremental Delayed Draw Term Facility);

(b) Indebtedness existing on the Closing Date and shown on Schedule 12.1 of the Disclosure Letter;

(c) Subordinated Debt and Permitted Convertible Bond Indebtedness; provided, that in each case any such Indebtedness is unsecured; provided, further, that (i) the aggregate principal amount of Indebtedness incurred in reliance of this clause (c) does not exceed $150,000,000 at any time outstanding, and (ii) any such Indebtedness does not provide for interest payments in cash of greater than 4% of such Indebtedness per annum, at any time prior to the date that is 181 days following the Term Loan Maturity Date;

(d) Indebtedness not to exceed $5,000,000 in the aggregate at any time outstanding, consisting of (i) Indebtedness incurred to finance the purchase, construction, repair, or improvement of fixed assets and (ii) Capital Lease obligations;

(e) Indebtedness in connection with corporate credit cards, purchasing cards or bank card products in the ordinary course of business;

(f) Indebtedness in the form of an asset based loan (i) on customary terms, (ii) not to exceed $25,000,000 at any time outstanding, (iii) not subject to any Liens other than Liens permitted by clause (o) of the definition of "Permitted Liens" and (iv) subject to an intercreditor agreement in form and substance satisfactory to the Blackstone Representative in its sole discretion;

(g) Indebtedness assumed in connection with a Permitted Acquisition or other Permitted Investment (including Indebtedness of a person that becomes a Subsidiary of Borrower in connection with such Permitted Acquisition or Permitted Investment), so long as (i) such Indebtedness was not incurred in connection with, or in anticipation of, such Permitted Acquisition or other Permitted investment, (ii) both immediately before and after giving effect thereto, no Default or Event of Default shall exist and be continuing, (iii) if such Indebtedness is secured, the Lien constitutes a Permitted Lien pursuant to clause (i) of the definition thereof, (iv) such Indebtedness is not guaranteed by any Credit Party (other than a Person acquired in such Permitted

Acquisition), (v) both before and after giving effect to the incurrence of such Indebtedness, the Credit Parties are in compliance, on a pro forma basis, with the financial covenant set forth in Section 6.17 and (vi) the aggregate principal balance of such Indebtedness does not exceed $10,000,000 at any time outstanding;

(h) Indebtedness of Borrower or any of its Subsidiaries with respect to letters of credit entered into in the ordinary course of business;

(i) unsecured Indebtedness owed (i) by a Credit Party to another Credit Party, (ii) by a Subsidiary of Borrower that is not a Credit Party to another Subsidiary of Borrower that is not a Credit Party, (iii) by a Credit Party to a Subsidiary of Borrower that is not a Credit Party, or (iv) by a Subsidiary of Borrower that is not a Credit Party to a Credit Party; provided, that the advance of such Indebtedness under this clause (iv) is permitted under clause (o)(iv) of the definition of Permitted Investments; provided further, that, from and after the Closing Date, all such Indebtedness shall be subject to the Intercompany Subordination Agreement;

(j) Indebtedness consisting of Contingent Obligations (i) of a Credit Party of Permitted Indebtedness (or obligations that are not Indebtedness) of another Credit Party, (ii) of a Subsidiary of Borrower which is not a Credit Party of Permitted Indebtedness (or obligations that are not Indebtedness) of another Subsidiary of Borrower which is not a Credit Party, (iii) of a Subsidiary of Borrower which is not a Credit Party of Permitted Indebtedness (or obligations that are not Indebtedness) of a Credit Party, or (iv) (A) of a Credit Party of lease obligations of a Subsidiary of Borrower which is not a Credit Party or (B) of a Credit Party of Permitted Indebtedness (or obligations that are not Indebtedness) of a Subsidiary of Borrower which is not a Credit Party, not to exceed, with respect to subclasses (A) and (B), $5,000,000 in the aggregate at any time outstanding;

(k) obligations of Borrower to purchase, redeem, retire, defease or otherwise acquire for value its own Qualified Equity Interests;

(l) Indebtedness in the form of Acquisition Deferred Payments incurred in connection with Permitted Acquisitions;

(m) Indebtedness owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to Borrower or any of its Subsidiaries, pursuant to reimbursement or indemnification obligations to such Person, in each case, in the ordinary course of business;

(n) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations arising in the ordinary course of business;

(o) Indebtedness in respect of netting services or overdraft protection in connection with deposit or securities accounts in the ordinary course of business;

(p) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business;

(q) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(r) Indebtedness consisting of obligations under Hedging Agreements incurred in the ordinary course of business for the purpose of directly mitigating bona fide risks associated with interest rates or foreign exchange rates and not for speculative purposes;

(s) other unsecured Indebtedness in an aggregate amount outstanding at any time not to exceed $5,000,000, provided, that (i) such Indebtedness does not provide for mandatory cash payments until maturity and (ii) such Indebtedness matures at least 181 days following the Term Loan Maturity Date; and

(t) Permitted Refinancings of Indebtedness permitted in clauses (b) through (r) above; provided, that for purposes of clarity, the consummation of Permitted Refinancings referred to in this clause (t) shall not result in Permitted Indebtedness described in clauses (b) through (r) being reallocated to this clause (t) and otherwise providing additional capacity for Permitted Indebtedness under the current dollar-based baskets.

Notwithstanding the foregoing, the aggregate principal balance of Indebtedness incurred by Subsidiaries of Borrower that are not Credit Parties at any time outstanding shall not exceed $5,000,000.

"**Permitted Investments**" means:

(a) Investments (including Investments in Subsidiaries) existing on the Closing Date and shown on Schedule 12.2 of the Disclosure Letter;

(b) Investments consisting of cash and Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(d) subject to Section 5.5, Investments consisting of deposit accounts or securities accounts;

(e) to the extent constituting Investments, Investments in the form of Permitted Bond Hedge Transactions and Permitted Warrant Transactions, in each case, entered into in connection with Permitted Convertible Notes;

(f) Investments which are Permitted Transfers (other than pursuant to clause (d) of the definition thereof);

(g) Investments consisting of (i) travel advances and employee relocation loans and other employee advances in the ordinary course of business, and (ii) loans to employees, officers or directors in an aggregate principal amount not to exceed $1,000,000 at any one time outstanding relating to the purchase of equity securities of Borrower pursuant to employee stock purchase plans or agreements approved by Borrower's Board of Directors;

(h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(i) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this clause (i) shall not apply to Investments of any Credit Party in any of its Subsidiaries;

(j) joint ventures or strategic alliances consisting of the non-exclusive licensing of technology, the development of technology or the providing of technical support;

(k) Investments in a Subsidiary of Borrower which is not a Credit Party that is required in order to consummate a Permitted Acquisition (including the formation of any Subsidiary for the purpose of effectuating such Permitted Acquisition, the capitalization of such Subsidiary whether by capital contribution or intercompany loans, in each case, to the extent otherwise permitted by the terms of this Agreement, related Investments in Subsidiaries necessary to consummate such Permitted Acquisition, and the receipt of any non-cash consideration in a Permitted Acquisition), so long as (i) both before and after giving effect to such Investment, the Credit Parties are in compliance, on a pro forma basis, with the financial covenant set forth in Section 6.17 and (ii) the aggregate Investments made pursuant to this clause (k), together with the Acquisition Consideration paid or payable for Permitted Acquisitions described in clauses (c)(ii) and (d)(ii)(B) and (C) of the definition thereof, and amounts paid pursuant to clause (p) of the definition "Permitted Investment", does not exceed $5,000,000 at any time outstanding;

(l) Investments constituting the formation of any Subsidiary that is a Credit Party for the purpose of consummating a merger or acquisition transaction permitted by Section 6.3(a)(i) through (iv) hereof, which such transaction is otherwise a Permitted Investment;

(m) Investments of any Person that (i) becomes a Subsidiary of Borrower (or of any Person not previously a Subsidiary of Borrower that is merged or consolidated with or into a Subsidiary of Borrower in a transaction permitted hereunder) after the Closing Date, or (ii) are assumed after the Closing Date by any Subsidiary of Borrower in connection with an acquisition of assets from such Person by such Subsidiary, in either case, in a Permitted Acquisition; provided, that in each case, any such Investment (x) exists at the time such Person becomes a Subsidiary of Borrower (or is merged or consolidated with or into a Subsidiary of Borrower) or such assets are acquired, (y) was not made in contemplation of or in connection with such Person becoming a Subsidiary of Borrower (or merging or consolidating with or into a Subsidiary of Borrower) or such acquisition of assets, and (z) such Investment would not otherwise result in no Default or Event of Default;

(n) Investments arising as a result of the Transfer of Intellectual Property to the extent permitted pursuant to clause (j), (k) or (l) of the definition of "Permitted Transfers";

(o) Investments by (i) any Credit Party in any other Credit Party, (ii) any Subsidiary of Borrower which is not a Credit Party in another Subsidiary of Borrower which is not a Credit Party, (iii) any Subsidiary of Borrower which is not a Credit Party in any Credit Party; provided

that (x) after giving effect to such Investment, such non-Credit Party Subsidiary may not own any Equity Interests of such Credit Party and (y) such Investment shall be subordinated to the Obligations pursuant to the Intercompany Subordination Agreement, and (iv) any Credit Party in any Subsidiary of Borrower which is not a Credit Party, provided, that the aggregate consideration provided by Credit Parties for Investments after the Closing Date pursuant to this clause (iv) (net of all dividends, distributions, returns of capital and payments on Indebtedness received by the Credit Parties from non-Credit Parties) shall not exceed $500,000;

(p) without limiting the generality of clause (k) above, Investments consisting of earnest money deposits required in connection with a Permitted Acquisition or other acquisition of properties or assets not otherwise prohibited hereunder; so long as (i) both before and after giving effect to such Investment, the Credit Parties are in compliance, on a pro forma basis, with the financial covenant set forth in Section 6.17 and (ii) the aggregate Investments made pursuant to this clause (p), together with the Acquisition Consideration paid for Permitted Acquisitions described in clauses (c)(ii), and (d)(ii)(B) and (C) of the definition thereof, does not exceed $5,000,000 at any time outstanding;

(q) to the extent constituting Investments, Hedging Agreements permitted under clause (r) of the definition of "Permitted Indebtedness"; and

(r) other Investments in an aggregate amount at any time not to exceed $5,000,000, so long as both immediately before and after giving effect to such Investment, no Default or Event of Default has occurred and is continuing;

provided, however, that, none of the foregoing Investments shall be a "Permitted Investment" if any Indebtedness or Liens assumed in connection with such Investment are not otherwise permitted under Section 6.4 or 6.5, respectively.

"**Permitted Liens**" means:

(a) Liens in favor and for the benefit of Agent and the other Secured Parties pursuant to any Loan Document;

(b) Liens existing on the Closing Date and set forth on Schedule 12.3 of the Disclosure Letter;

(c) Liens for Taxes, assessments or governmental charges (i) which are not yet delinquent or (ii) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;

(d) (i) pledges, deposits or Liens arising as a matter of law in the ordinary course of business (other than Liens imposed by ERISA) in connection with workers' compensation, payroll taxes, unemployment insurance and other social security legislation, (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Borrower or any of its Subsidiaries, (iii) pledges and deposits in the ordinary course of business securing liability to

landlords (including obligations in respect of letters of credit or bank guarantees for the benefit of landlords) or other contractual obligations and (iv) pledges or deposits to secure performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) or to secure obligations on surety and appeal bonds or performance bonds, in each case, entered into in the ordinary course of business;

(e) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under either Section 7.4 or 7.7;

(f) Liens (including the right of set-off) in favor of banks or other financial institutions arising in connection with deposit or securities accounts held at such institutions in the ordinary course of business; provided that such Liens are not given in connection with the incurrence of Indebtedness and relate solely to obligations for administrative and other banking fees and expenses incurred in the ordinary course of business in connection with the establishment or maintenance of such accounts; provided, further, that such Liens are within the general parameters customary in the banking industry;

(g) Liens that are contractual rights of set-off (i) relating to pooled deposit or sweep accounts of Borrower or any of its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business or (ii) relating to purchase orders and other agreements entered into with customers of Borrower or any of its Subsidiaries in the ordinary course of business;

(h) Liens solely on any cash earnest money deposits made by Borrower or any of its Subsidiaries in connection with any Acquisition, Investment or other acquisition of assets or property not otherwise prohibited under this Agreement;

(i) Liens existing on assets or properties at the time of its acquisition or existing on the assets or properties of any Person at the time such Person becomes a Subsidiary of Borrower, in each case after the date hereof; provided that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Subsidiary of Borrower, (ii) such Lien does not extend to or cover any other assets or properties (other than the proceeds or products thereof and other than after-acquired assets or properties subjected to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that require, pursuant to their terms at such time, a pledge of after-acquired assets or properties, it being understood that such requirement shall not be permitted to apply to any assets or properties to which such requirement would not have applied but for such acquisition), and (iii) the Indebtedness secured thereby is permitted under clause (g) of the definition of Permitted Indebtedness;

(j) Liens securing Indebtedness permitted under clause (d) and (t) (solely with respect to Permitted Refinancings of Indebtedness permitted under clause (d) of the definition of "Permitted Indebtedness") of the definition of "Permitted Indebtedness", so long as such Liens do not at any time encumber property other than the property financed by such Indebtedness or the subject of the applicable Capital Lease obligations and the proceeds and products thereof and customary security deposits;

(k) rights of first refusal, voting, redemption, transfer or other restrictions (including call provisions and buy-sell provisions) with respect to the Equity Interests of any joint venture or other Persons that are not Subsidiaries;

(l) to the extent constituting a Lien, customary escrow arrangements securing indemnification obligations associated with a Permitted Acquisition or any other Permitted Investment;

(m) licenses, sublicenses, leases or subleases (other than relating to Intellectual Property) granted to others in the ordinary course of business not interfering in any material respect with the business of any Credit Party or any of its Subsidiaries;

(n) Liens on cash or other current assets pledged to secure: (i) Indebtedness in respect of corporate credit cards, purchasing cards or bank card products, (ii) letters of credit or bank guarantees or (iii) obligations under Hedging Agreements permitted under clause (r) of the definition of "Permitted Indebtedness"; provided, that no such Liens shall be granted on any Equity Interests or Intellectual Property;

(o) Liens on specific assets comprising the borrowing base of Indebtedness permitted under clause (f) of the definition of "Permitted Indebtedness";

(p) to the extent constituting a Lien, pursuant to any Transfer permitted pursuant to clause (j), (k) or (l) of the definition of "Permitted Transfers";

(q) Liens imposed by law or regulation, such as landlords', carriers', warehousemen's, mechanics', materialmen's, contractors', suppliers of materials, architects' and repairmen's Liens;

(r) covenants, conditions, easements, rights-of-way, building codes, restrictions (including zoning restrictions), encroachments, licenses, protrusions and other similar encumbrances and minor title defects or survey matters, in each case affecting real estate owned in fee by any Credit Party and that do not in the aggregate materially interfere with the ordinary conduct of the business on such real estate, taken as a whole;

(s) other Liens, provided that the aggregate outstanding amount of Indebtedness secured thereby shall not exceed $5,000,000 at any time; provided, further that no such Liens shall be granted on the Equity Interests of Borrower or Material IP; and

(t) the modification, replacement, extension or renewal of the Liens described in clauses (a) through (r) above, but any such modification, replacement, extension or renewal must be limited to the assets or properties encumbered by the existing Lien (and any additions, accessions, parts, improvements and attachments thereto and the proceeds thereof) and the principal amount of any Indebtedness secured by such modification, replacement, extension or renewal may not increase other than by any reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred in connection with the same; provided, however, that to the extent any of the foregoing Liens secure Indebtedness of a Credit Party, such Liens shall constitute Permitted Liens if and only to the extent that such Indebtedness is permitted under Section 6.4 hereof.

"**Permitted Negative Pledges**" means:

(a) prohibitions or limitations with regard to specific properties or assets encumbered by Permitted Liens, if and only to the extent each such prohibition or limitation applies only to such properties or assets;

(b) prohibitions or limitations set forth in any lease, license or other similar agreement entered into in the ordinary course of business;

(c) prohibitions or limitations relating to Permitted Indebtedness, in the case of each such agreement if and only to the extent such prohibitions or limitations, taken as a whole, are not materially more restrictive than the prohibitions and limitations set forth in this Agreement and the other Loan Documents, taken as a whole (as reasonably determined by a Responsible Officer of Borrower in good faith);

(d) customary provisions restricting assignments, subletting, sublicensing or other transfer of properties or assets subject thereto set forth in leases, subleases, licenses and other similar agreements that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such restriction applies only to the properties or assets subject to such leases, subleases, licenses or agreements, and customary provisions restricting assignment, pledges or transfer of any agreement entered into in the ordinary course of business;

(e) prohibitions or limitations imposed by Requirements of Law;

(f) prohibitions or limitations that exist as of the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 12.1 of the Disclosure Letter;

(g) customary prohibitions or limitations arising in connection with any Permitted Transfer or contained in any agreement relating to any Permitted Transfer pending the consummation of such Permitted Transfer relating solely to the property subject to such Permitted Transfer;

(h) customary provisions in shareholders' agreements, joint venture agreements, organizational documents or similar binding agreements relating to, or any agreement evidencing Indebtedness of, any joint venture entity or non-Wholly-Owned Subsidiary and applicable solely to such joint venture entity or non-Wholly-Owned Subsidiary and the Equity Interests issued thereby;

(i) customary net worth provisions set forth in real property leases entered into by Subsidiaries of Borrower, so long as such net worth provisions would not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(j) customary net worth provisions set forth in customer agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document, so long as such net worth provisions would not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(k) restrictions on cash or other deposits (including escrowed funds) imposed by agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document;

(l) prohibitions or limitations set forth in any agreement in effect at the time any Person becomes a Subsidiary (but not any amendment, modification, restatement, renewal, extension, supplement or replacement expanding the scope of any such restriction or condition); provided that such agreement was not entered into in contemplation of such Person becoming a Subsidiary and each such prohibition or limitation does not apply to Borrower or any other Subsidiary (other than such Person and any other Person that is a Subsidiary of such first Person at the time such first Person becomes a Subsidiary);

(m) prohibitions or limitations imposed by any Loan Document;

(n) customary provisions set forth in joint venture agreements or agreements governing minority investments that are not otherwise prohibited by this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to the joint venture entity or minority investment that is the subject of such agreement;

(o) any contractual restriction of the type described in clauses (a)-(n) or (p)-(q) of this definition "Permitted Negative Pledge" assumed in a Permitted Acquisition (provided such restriction was not created in contemplation of this Agreement);

(p) customary provisions restricting assignments or other transfer of properties or assets subject thereto set forth in any agreement entered into in the ordinary course of business , if and only to the extent each such restriction applies only to the properties or assets subject to such agreement;

(q) prohibitions or limitations imposed by any agreement evidencing any Permitted Indebtedness of the type described in any of clause (d) of the definition of "Permitted Indebtedness" so long as such prohibitions or limitations do not apply to any property other than the property financed by such Indebtedness; and

(r) prohibitions or limitations imposed by any amendments, modifications, restatements, renewals, extensions, supplements or replacements of any of the agreements referred to in clauses (a) through (q) above, except to the extent that any such amendment, modification, restatement, renewal, extension, supplement or replacement expands the scope of any such prohibition or limitation.

"**Permitted Priority Liens**" means Liens described in clauses (b), (c), (d), (e), (f), (g), (h), (i), (j), (n), (o) (solely to the extent expressly permitted to have priority pursuant to the applicable intercreditor agreement described in subclause (iv) of clause (f) of the definition of "Permitted Indebtedness"), and (r) of the definition of "Permitted Liens."

"**Permitted Refinancing**" means Indebtedness constituting a refinancing or extension of maturity of Permitted Indebtedness that (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount of the Indebtedness being refinanced or extended (plus interest, fees, premiums and penalties related thereto), (b) has a weighted average

life to maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced or extended, (c) is not entered into as part of a sale leaseback transaction, (d) is not secured by a Lien on any property or assets other than the collateral securing the Indebtedness being refinanced or extended (and for the avoidance of doubt, if the Indebtedness being refinanced or extended is unsecured, such refinancing or extension Indebtedness shall be unsecured), (e) Borrower of which is the same as Borrower of the Indebtedness being refinanced or extended (with no additional co-borrowers), (f) to the extent guaranteed, the guarantors of which are the same as the guarantors of the Indebtedness being refinanced or extended, (g) if such Indebtedness being modified or extended is secured by Liens that are contractually subordinated in right of security to the Liens securing the Obligations, is contractually subordinated in right of security to the Liens securing the Obligations and subject to an intercreditor agreement reasonably satisfactory to the Blackstone Representative, (h) if such Indebtedness being modified or extended is contractually subordinated in right of payment to the Obligations, is contractually subordinated in right of payment to the Obligations and subject to an intercreditor agreement or subordination agreement reasonably satisfactory to the Blackstone Representative, and (i) is otherwise on terms no less favorable to the Credit Parties and their respective Subsidiaries, taken as a whole, than those of the Indebtedness being refinanced or extended.

"**Permitted Subsidiary Distribution Restrictions**" means, in each case notwithstanding Section 6.8:

(a) prohibitions or limitations with regard to specific properties or assets encumbered by Permitted Liens, if and only to the extent each such prohibition or limitation applies only to such properties or assets;

(b) prohibitions or limitations set forth in any lease, license or other similar agreement entered into in the ordinary course of business;

(c) prohibitions or limitations relating to Permitted Indebtedness, in the case of each such agreement if and only to the extent such prohibitions or limitations, taken as a whole, are not materially more restrictive than the prohibitions and limitations set forth in this Agreement and the other Loan Documents, taken as a whole (as reasonably determined by a Responsible Officer of Borrower in good faith);

(d) customary provisions restricting assignments, subletting, sublicensing or other transfer of properties or assets subject thereto set forth in leases, subleases, licenses and other similar agreements that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such restriction applies only to the properties or assets subject to such leases, subleases, licenses or agreements, and customary provisions restricting assignment, pledges or transfer of any agreement entered into in the ordinary course of business;

(e) prohibitions or limitations on the transfer or assignment of any properties, assets or Equity Interests set forth in any agreement entered into in the ordinary course of business that is not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to such properties, assets or Equity Interests;

(f) prohibitions or limitations imposed by Requirements of Law;

(g) prohibitions or limitations that exist as of the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 12.1 of the Disclosure Letter;

(h) customary prohibitions or limitations arising in connection with any Permitted Transfer or contained in any agreement relating to any Permitted Transfer pending the consummation of such Permitted Transfer;

(i) customary provisions in shareholders' agreements, joint venture agreements, organizational documents or similar binding agreements relating to, or any agreement evidencing Indebtedness of, any joint venture entity or non-Wholly-Owned Subsidiary and applicable solely to such joint venture entity or non-Wholly-Owned Subsidiary and the Equity Interests issued thereby;

(j) customary net worth provisions set forth in real property leases entered into by Subsidiaries of Borrower, so long as such net worth provisions would not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(k) customary net worth provisions set forth in customer agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document, so long as such net worth provisions would not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(l) restrictions on cash or other deposits (including escrowed funds) imposed by agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document;

(m) prohibitions or limitations set forth in any agreement in effect at the time any Person becomes a Subsidiary (but not any amendment, modification, restatement, renewal, extension, supplement or replacement expanding the scope of any such restriction or condition); provided that such agreement was not entered into in contemplation of such Person becoming a Subsidiary and each such prohibition or limitation does not apply to Borrower or any other Subsidiary (other than such Person and any other Person that is a Subsidiary of such first Person at the time such first Person becomes a Subsidiary);

(n) prohibitions or limitations imposed by any Loan Document;

(o) customary provisions set forth in joint venture agreements or agreements governing minority investments that are not otherwise prohibited by this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to the joint venture entity or minority investment that is the subject of such agreement;

(p) customary provisions restricting assignments or other transfer of properties or assets subject thereto set forth in any agreement entered into in the ordinary course of business , if

and only to the extent each such restriction applies only to the properties or assets subject to such agreement;

(q) prohibitions or limitations imposed by any agreement evidencing any Permitted Indebtedness of the type described in any of clause (d) of the definition of "Permitted Indebtedness" relating solely to the property financed by such Indebtedness;

(r) any contractual restriction of the type described in clauses (a)-(q) of this definition "Permitted Subsidiary Distribution Restrictions" assumed in a Permitted Acquisition (provided such restriction was not created in contemplation of this Agreement); and

(s) prohibitions or limitations imposed by any amendments, modifications, restatements, renewals, extensions, supplements or replacements of any of the agreements referred to in clauses (a) through (r) above, except to the extent that any such amendment, modification, restatement, renewal, extension, supplement or replacement expands the scope of any such prohibition or limitation.

"**Permitted Transfers**" means:

(a) Transfers set forth on Schedule 6.1 of the Disclosure Letter;

(b) Transfers of Inventory in the ordinary course of business;

(c) Transfers of surplus, damaged, worn out or obsolete equipment that is, in the reasonable judgment of Borrower exercised in good faith, no longer economically practicable to maintain or useful in the ordinary course of business, and Transfers of other properties or assets in lieu of any pending or threatened institution of any proceedings for the condemnation or seizure of such properties or assets or for the exercise of any right of eminent domain;

(d) Transfers which are Permitted Liens, Permitted Investments (other than pursuant to clause (f) of the definition thereof) or Permitted Distributions;

(e) Transfers of cash and Cash Equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents;

(f) Transfers (i) between or among Credit Parties, provided that, with respect to any properties or assets constituting Collateral under the Loan Documents, any and all steps as may be required to be taken in order to create and maintain a first priority (subject to Permitted Priority Liens) security interest in and Lien upon such properties and assets in favor and for the benefit of Agent and the other Secured Parties are taken contemporaneously with the completion of any such transfer, and (ii) between or among non-Credit Parties;

(g) the sale or issuance of Equity Interests of any Subsidiary of Borrower to any Credit Party or Subsidiary, provided, that any such sale or issuance by a Credit Party (other than Borrower) shall be to another Credit Party;

(h) the sale or discount without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(i) any abandonment, cancellation, non-renewal or discontinuance of use or maintenance of Intellectual Property (other than in relation to any material Product) that Borrower reasonably determines in good faith (i) is no longer economically practicable to maintain or useful in the ordinary course of business and that (ii) would not reasonably be expected to be adverse to the rights, remedies and benefits available to, or conferred upon, the Secured Parties under any Loan Document in any material respect;

(j) Transfers by Borrower or any of its Subsidiaries pursuant to: (i) a non-exclusive license of or other non-exclusive grant of rights in relation to (or grant of a covenant not to sue with respect to) Intellectual Property in the ordinary course of business; (ii) an exclusive license of or other grant of rights in relation to (or grant of a covenant not to sue with respect to) Intellectual Property related to research, development, manufacturing, marketing, distribution, or commercialization by or on behalf of any Credit Party, to third parties, in each case, solely with respect to portions of any jurisdiction outside the United States; (iii) an exclusive license of or other non-exclusive grant of rights in relation to (or grant of a covenant not to sue with respect to) to third parties of discrete products, indications or classes of compounds in respect of any platform, in each case, other than for Afrezza; and (iv) an exclusive license or other non-exclusive grant of rights in relation to (or grant of a covenant not to sue with respect to) to third parties discrete as to a particular field of use, so long as, in each case of clauses (i) through (iv) above, such Transfers (x) do not result in a legal transfer of title to the licensed property and (y) have been granted in exchange for fair consideration;

(k) Subject to Section 11.20, intercompany licenses or other grants of rights, including distribution, co-promotion or similar commercial rights (or grant of covenant not to sue) (i) between or among the Credit Parties, or (ii) between or among the Credit Parties and Subsidiaries that are not Credit Parties entered into prior to the Closing Date and set forth in the Disclosure Letter, and renewals, replacements and extensions thereof that are on comparable terms and entered into in the ordinary course of business; provided, that with respect to any such intercompany license or other grant of rights pursuant to clause (ii), such license may only be exclusive with respect to any jurisdiction outside the United States;

(l) Transfers pursuant to the United Therapeutics License (i) as in effect on the Closing Date and (ii) otherwise, to the extent such Transfer is of the type described in any of clauses (a)-(k) or (m) of this definition of "Permitted Transfers";

(m) to the extent constituting Transfers, Permitted Investments; and

(n) other Transfers, provided that (x) the aggregate fair market value (reasonably determined in good faith by a Responsible Officer of Borrower) of the properties or assets Transferred pursuant to this clause (n) shall not exceed $10,000,000 in the aggregate; and (y) both immediately before and after giving effect to any such Transfer, no Default or Event of Default has occurred and is continuing.

Notwithstanding anything else to the contrary in this Agreement, (i) no Credit Party shall make any Transfers to Subsidiaries that are not Credit Parties except for Transfers pursuant to clause (k)(ii) above and Transfers constituting Investments pursuant to clause (o)(iv) of the definition of "Permitted Investments" and (ii) the Borrower shall not, and shall not permit any of

its Subsidiaries to, Transfer any Intellectual Property other than pursuant to clauses (j) and (k) above.

" **Permitted Warrant Transaction**" means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) relating to Borrower's common stock (or other securities or property following a merger event or other change of the common stock of Borrower) sold by Borrower substantially contemporaneously with any purchase by Borrower of a related Permitted Bond Hedge Transaction, with a strike price higher than the strike price of the Permitted Bond Hedge Transaction; provided that such call option, warrant or right to purchase shall have customary market terms (as determined by the Borrower in good faith) and are classified as equity for GAAP purposes.

"**Person**" means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

" **Personal Data**" means information, in any form, that constitutes "protected health information," "personally identifiable information," "personal information," "personal data" or similar term under applicable Information Privacy or Security Laws.

"**Plan**" means any employee pension benefit plan subject to the provisions of Title IV of ERISA or Section 412 of the IRC or Section 302 of ERISA which is maintained or contributed to by Borrower or its Subsidiaries or any of their respective ERISA Affiliates or with respect to which Borrower or its Subsidiaries are subject to liability (including under Section 4069 of ERISA).

" **Platform**" means Debt Domain, Intralinks, Syndtrak, DebtX or a substantially similar electronic transmission system.

"**Prepayment Premium**" means:

(a) during the period of time from and after the Closing Date up to (and including) the date that is the first anniversary of the Closing Date, an amount equal to the greater of (i) the Make Whole Premium and (ii) three percent (3.00%) of the principal amount of the Term Loans prepaid (or in the case of a Prepayment Premium Trigger Event occurring under clauses (a)(ii), (b), (c) or (d) of the definition thereof, deemed to be prepaid) on such date in cash to Agent for the ratable account of the Lenders;

(b) during the period of time after the date that is the first anniversary of the Closing Date up to (and including) the date that is the second anniversary of the Closing Date, an amount equal to three percent (3.00%) of the principal amount of the Term Loans prepaid (or in the case of a Prepayment Premium Trigger Event occurring under clauses (a)(ii), (b), (c) or (d) of the definition thereof, deemed to be prepaid) on such date in cash to Agent for the ratable account of the Lenders;

(c) during the period of time after the date that is the second anniversary of the Closing Date up to (and including) the date that is the third anniversary of the Closing Date, an amount

equal to one percent (1.00%) of the principal amount of the Term Loans prepaid (or in the case of a Prepayment Premium Trigger Event occurring under clauses (a)(ii), (b), (c) or (d) of the definition thereof, deemed to be prepaid) on such date in cash to Agent for the ratable account of the Lenders; and

(d) after the date that is the third anniversary of the Closing Date, zero.

"**Prepayment Premium Trigger Event**" means:

(a) any prepayment or repayment by any Credit Party of all, or any part, of the principal balance of any Term Loans for any reason (including any optional or voluntary prepayment or mandatory prepayment, and distribution in respect thereof, and any refinancing thereof), whether in whole or in part, and whether before or after (i) the occurrence and continuation of an Event of Default, or (ii) the commencement of any Insolvency Proceeding, and notwithstanding any acceleration (for any reason) of the Obligations; provided, that any payment required to be made pursuant to Section 2.2(c)(iv) (relating solely to an Event of Loss) shall not constitute a Prepayment Premium Trigger Event;

(b) the acceleration of the Obligations pursuant to Section 8.1, for any reason, including acceleration as a result of the occurrence of an Event of Default pursuant to Section 7.5 including as a result of the commencement of any Insolvency Proceeding;

(c) the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any of the Obligations in any institution of Insolvency Proceeding, foreclosure (whether by power of judicial proceeding or otherwise) or deed in lieu of foreclosure or the making of a distribution of any kind in any institution of any Insolvency Proceeding to Agent, for the account of the Secured Parties, in full or partial satisfaction of the Obligations; or

(d) the termination of this Agreement for any reason.

For purposes of the definition of the term Prepayment Premium, if a Prepayment Premium Trigger Event occurs under and only under clause (a)(ii), (b), (c) or (d) above, the entire outstanding principal amount of the Term Loans shall be deemed to have been prepaid on the date on which such Prepayment Premium Trigger Event occurs.

"**Prime Rate**" means for any day, the rate of interest in effect for such day as published in the "Money Rates" section of *The Wall Street Journal* as being the "Prime Rate" (or, if more than one rate is published as the Prime Rate, then the highest of such rates). The Prime Rate will change as of the date of publication in The *Wall Street Journal* of a Prime Rate that is different from that published on the preceding Business Day. In the event that *The Wall Street Journal* shall, for any reason, fail or cease to publish the Prime Rate, Agent (at the direction of the Blackstone Representative), with the consent of Borrower (such consent not to be unreasonably withheld), shall choose a reasonable comparable index or source to use as the basis for the Prime Rate.

"**Product**" means, individually or collectively, (a) (i) AFREZZA® (insulin human) inhalation powder ("**Afrezza**"), (ii) Tyvaso DPI® (treprostinil) inhalation powder ("**Tyvaso**

DPI"), (iii) V-Go® wearable insulin delivery system ("**V-Go**") and (iv) any other product that includes any of clauses (i) through (iii) and is developed, manufactured, packaged, labeled, commercialized, imported, exported, distributed, promoted, marketed or sold by or on behalf of any Credit Party or any of its Subsidiaries; and (b) any other current or future product that is developed, manufactured, packaged, labeled, commercialized, imported, exported, distributed, promoted, marketed or sold by or on behalf of any Credit Party or any of its Subsidiaries, including marketed products and products under development, and which product has reached (at least) the IND stage, including other pharmaceutical forms thereof, in each case, which product is material to the business of the Borrower and its Subsidiaries taken as a whole; provided, however, that products of third-parties that are (1) independent of the Credit Parties or any of their Subsidiaries and (2) do not incorporate any Intellectual Property owned or exclusively licensed by the Credit Parties or any of their Subsidiaries, whether owned or co-owned (or purported to be so), shall not constitute "Products" pursuant to the foregoing clause (b). For purpose of this definition, "has reached (at least) the IND stage" means that either an IND (or foreign equivalent) has been filed or the applicable data reasonably likely to support the filing of such an IND has been generated.

"**Product IP**" means any and all Intellectual Property of the Credit Parties or any of their Subsidiaries, whether owned or co-owned (or purported to be so) or licensed to, related in any material respect to any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory, in the United States and throughout the world, including, without limitation: (a) Intellectual Property set forth in Schedule 4.6(c) of the Disclosure Letter, (b) all improvements, applications for letters patent, continuations, continuations-in-part, divisionals, provisionals or any substitute applications with respect to any such Intellectual Property, any patent issued with respect to any such Intellectual Property, any reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent, as well as all trademark registrations, applications to register trademarks, copyright registrations, extensions and renewals with respect to any such Intellectual Property; (c) trade secrets or trade secret rights, including any rights to unpatented inventions, know-how, show-how, operating manuals, confidential or proprietary information, research in progress, algorithms, data, databases, data collections, designs, processes, procedures, methods, protocols, materials, formulae, drawings, schematics, blueprints, flow charts, models, strategies, prototypes, techniques, and the results of experimentation and testing, including samples, in each case, as specifically related to any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of any Product in the Territory; and (d) any and all IP Ancillary Rights specifically relating to any of the foregoing.

"**Public Health Law**" means all Requirements of Law relating to the procurement, development, clinical and non-clinical evaluation or investigation, product approval or clearance manufacture, production, analysis, distribution, dispensing, importation, exportation, use, handling, quality, reimbursement, sale, labeling, advertising, promotion, or postmarket requirements of any drug, medical device, food, dietary supplement, or other product (including any ingredient or component of, or accessory to, the foregoing products) subject to regulation under the Federal Food, Drug and Cosmetic Act (21 U.S.C. et seq.) and similar state or foreign laws, pharmacy laws, or consumer product safety laws.

"**Public Lender**" is defined in Section 9.

"**Public Official**" means (a) any elected or appointed government official, officer, employee or Person acting in an official or public capacity on behalf of a Governmental Authority, (b) any official or employee of a quasi-public or non-governmental international organization, (c) any employee or other Person acting for or on behalf of any entity that is wholly or partially government owned or controlled by a Governmental Authority, (d) any Person exercising legislative, administrative, judicial, executive, or regulatory functions for or pertaining to a Governmental Authority (including any independent regulator), (e) any political party official, officer, employee, or other Person acting for or on behalf of a political party and (f) any candidate for public office.

"**Qualified Equity Interests**" means any Equity Interests that that are not Disqualified Equity Interests.

" **Redemption Conditions**" means, with respect to any redemption or other cash principal payment of any Permitted Convertible Bond Indebtedness, satisfaction of each of the following events both immediately before and after giving effect to such event: (a) no Event of Default shall exist or result therefrom, and (b) both immediately before and after giving effect to such redemption, Borrower's Liquidity shall be no less than 150% of all Obligations (plus the amount of Prepayment Premium that would apply in the event of a mandatory prepayment).

"**Register**" is defined in Section 2.8(a).

"**Registered Organization**" means any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Registered Product IP**" means each application for any, pending or issued (a) Patent, (b) registered Copyright, and (c) registered Trademark; in each case ((a), (b) and (c)), that is part of the Product IP and that is owned or co-owned by, or exclusively or non-exclusively licensed to, any Credit Party or any of its Subsidiaries, including, for clarity, all issued Patents, registered Trademarks and Copyrights, and pending applications of any of the foregoing.

" **Regulatory Action**" means an administrative or regulatory action, proceeding, investigation or non-routine inspection, FDA Form 483 inspectional observation or other formal notice of serious deficiencies, warning letter, untitled letter, notice of violation letter, , seizure, Section 305 notice or other similar communication, or consent decree issued by a Regulatory Agency.

"**Regulatory Agency**" means a U.S. Governmental Authority with responsibility for the approval of the marketing and sale of pharmaceuticals or other regulation of pharmaceuticals and counterpart foreign Governmental Authorities.

" **Regulatory Approval**" means all approvals, product or establishment licenses, clearances, registrations or authorizations of any Regulatory Agency necessary for the development, testing, manufacture, distribution, storage, import, export, advertising, labeling, promotion, sale and commercialization of any Product.

"**Rejection Deadline**" is defined in Section 2.2(e).

"**Rejection Notice**" is defined in Section 2.2(e).

"**Related Parties**" means, with respect to any Person, such Person's Affiliates and the current and prospective partners, directors, officers, employees, agents, trustees, administrators, members, managers, advisors and representatives of such Person and of such Person's Affiliates.

"**Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"**Relevant Governmental Body**" means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"**Removal Effective Date**" is defined in Section 12.6.

"**Required Delayed Draw Term Loan Lenders**" means, at any date of determination, Delayed Draw Term Loan Lenders then holding more than fifty percent (50%) of the aggregate outstanding principal balance of the Delayed Draw Term Loans and unused Delayed Draw Commitments; provided, however, that if any Delayed Draw Term Loan Lender shall be a Defaulting Lender at such time then it shall be excluded from the determination of Required Delayed Draw Term Loan Lenders.

"**Required Initial Term Loan Lenders**" means, at any date of determination, Lenders then holding more than fifty percent (50%) of the aggregate outstanding principal balance of the Initial Term Loans; provided, however, that if any Initial Term Lender shall be a Defaulting Lender at such time then it shall be excluded from the determination of Required Initial Term Loan Lenders.

"**Required Lenders**" means, at any date of determination, Lenders then holding more than fifty percent (50%) of the aggregate outstanding principal balance of the Term Loans and unused Commitments; provided, that if any Lender shall be a Defaulting Lender at such time then it shall be excluded from the determination of Required Lenders.

"**Requirements of Law**" means, as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, order, policy, rule or regulation or determination of an arbitrator or a court or other Governmental Authority (including Health Care Laws and all applicable statutes, rules, regulations, standards, guidelines, policies and orders administered or issued by any foreign Governmental Authority), in each case, applicable to and binding upon such Person or any of its assets or properties or to which such Person or any of its assets or properties are subject.

"**Resignation Effective Date**" is defined in Section 12.6.

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**Responsible Officers**" means, with respect to any Person, each of the chief executive officer, chief financial officer, chief operating officer, chief commercial officer, general counsel or any senior vice president of such Person (or, in each case, if no individual holds such title, any individual performing similar functions).

"**Restricted License**" means any material license or other agreement of the kind or nature subject or purported to be subject from time to time to a Lien under any Collateral Document, with respect to which a Credit Party is the licensee, (a) that prohibits or otherwise restricts such Credit Party from granting a security interest in such Credit Party's interest in such license or agreement in a manner enforceable under Requirements of Law, or (b) for which a breach of or default under could interfere with Agent's right to sell any Collateral.

"**Royalty Transaction**" means any royalty or revenue interest financing, including any sale of royalty or revenue interests, "synthetic" royalty transactions or any other similar transactions, whether secured or unsecured.

"**Sanctioned Country**" means, at any time, a country or territory that is itself the target of comprehensive Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, the Crimea region of Ukraine, the so-called Donetsk People's Republic, and the so-called Luhansk People's Republic).

"**Sanctioned Person**" means any Person that is the target of Sanctions, including (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**") or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (b) any Person operating, organized, or resident in a Sanctioned Country; (c) the government of a Sanctioned Country or the Government of Venezuela; or (d) any Person 50% or more owned or, where relevant under applicable Sanctions, controlled by any such Person or Persons or acting for or on behalf of such Person or Persons.

"**Sanctions**" means 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, or (b) the United Nations Security Council, the European Union, any European Union Member State or the United Kingdom.

"**SEC**" shall mean the Securities and Exchange Commission and any analogous Governmental Authority.

"**Secured Parties**" means Agent, any Lender, the Lead Arranger, each other Indemnified Person and each other holder of any Obligation of a Credit Party.

"**Securities Account**" means any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Securities Act**" means the Securities Act of 1933.

"**Security Agreement**" means the Security Agreement, dated as of the Closing Date, by and among the Credit Parties and Agent, in form and substance substantially similar to Exhibit F attached hereto or in such form or substance as the Credit Parties, Agent and the Blackstone Representative may otherwise agree.

"**SOFR**" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"**SOFR Administrator**" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"**SOFR Borrowing**" means, as to any Borrowing, the SOFR Loans comprising such Borrowing.

"**SOFR Loan**" means a Term Loan that bears interest at a rate based on Adjusted Term SOFR, other than pursuant to clause (c) of the definition of "Base Rate".

"**Solvent**" means, with respect to any Person as of any date of determination, that, as of such date, (a) the value of the assets (including goodwill minus disposition costs) of such Person (both at fair value and present fair saleable value), on a going concern basis, is greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Person, (b) such Person is able to generally pay all liabilities (including trade debt) of such Person as such liabilities become absolute and mature in the ordinary course of business and (c) such Person does not have unreasonably small capital after giving due consideration to the prevailing practice in the industry in which it is engaged or will be engaged. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Specified Disputes**" is defined in Section 4.6(i).

"**SSA**" means the Social Security Act of 1935, codified at Title 42, Chapter 7, of the United States Code.

"**Stock Acquisition**" means the purchase or other acquisition by Borrower or any of its Subsidiaries of any or all of the Equity Interests (by merger, consolidation, stock or equity purchase or otherwise) of any other Person.

"**Subject Subsidiary**" means, with respect to any Credit Party, a Subsidiary of such Credit Party that is organized, incorporated or formed under the laws of the jurisdiction of any other Credit Party.

"**Subordinated Debt**" means any unsecured Indebtedness in the form of or otherwise constituting term debt incurred by any Credit Party (including any Indebtedness incurred in connection with any Permitted Acquisition or other Permitted Investment) that: (a) is subordinated in right of payment to the Obligations at all times until all of the Obligations have been paid, performed or discharged in full, in cash in immediately available funds, and Borrower has no further right to obtain any Credit Extension hereunder pursuant to a subordination or other

similar agreement that is in form and substance satisfactory to the Blackstone Representative in its sole discretion (which agreement shall include turnover provisions and other "deep" subordination terms, including with respect to payment, enforcement, and liens, that are satisfactory to the Blackstone Representative in its sole discretion); (b) except as permitted by clause (d) below or otherwise permitted by Section 6.10, is not subject to scheduled amortization, redemption (mandatory), sinking fund or similar payment and does not have a final maturity, in each case, before the date that is 181 days following the Term Loan Maturity Date; (c) does not include covenants and agreements (other than with respect to maturity, amortization, pricing and other economic terms) that, taken as a whole, are more restrictive or onerous on the Credit Parties in any material respect than the comparable covenants and agreements in the Loan Documents, taken as a whole (as reasonably determined by a Responsible Officer of Borrower in good faith); (d) is not subject to repayment or prepayment, including pursuant to a put option exercisable by the holder of any such Indebtedness, prior to the final maturity thereof except in the case of an event of default or change of control (or the equivalent thereof, however described); and (e) does not provide or otherwise include provisions having the effect of providing that a default or event of default (or the equivalent thereof, however described) under or in respect of such Indebtedness shall exist, or such Indebtedness shall otherwise become due prior to its scheduled maturity or the holder or holders thereof or any trustee or agent on its or their behalf shall be permitted (with or without the giving of notice, the lapse of time or both) to cause any such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity, in any such case upon the occurrence of a Default or Event of Default hereunder unless and until the Obligations have been declared, or have otherwise automatically become, immediately due and payable pursuant to Section 8.1(a).

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, limited liability company or other entity of which more than fifty percent (50.0%) of whose 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 similar body) of such corporation, partnership or other entity are at the time owned, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of a Credit Party.

"**Tax**" means any 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**" means the Initial Term Loans, the Delayed Draw Term Loans and any Incremental Delayed Draw Term Loans.

"**Term Loan Maturity Date**" means the fifth anniversary of the Closing Date.

"**Term Loan Note**" means a promissory note in substantially the form attached hereto as Exhibit B, as it may be amended, restated, supplemented or otherwise modified from time to time.

"**Term SOFR**" means:

(a) for any calculation with respect to a SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "**Periodic Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. Eastern Time on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR shall be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day, and

(b) for any calculation with respect to an Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "**Base Rate Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. Eastern Time on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR shall be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Base Rate SOFR Determination Day;

provided, further, that if Term SOFR determined as provided above (including pursuant to the proviso under clause (a) or clause (b) above) shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"**Term SOFR Administrator**" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by Agent (at the direction of the Blackstone Representative) in its reasonable discretion).

"**Term SOFR Reference Rate**" means the forward-looking term rate based on SOFR.

"**Territory**" means, with respect to any Product, anywhere in the world in which any Product has been approved, or which approval is being sought, by the relevant Governmental Authority, or in which any activities have been undertaken with respect to the commercialization of any Product, including (a) advertising, promoting, marketing, offering, selling, importing, exporting, transporting, and distributing any Product, (b) strategic marketing or sales force detailing, educating, and liaising with the medical community, (c) obtaining necessary licenses and authorization from applicable Governmental Authorities, (d) interacting with the FDA and other Governmental Authorities regarding any of the foregoing, (e) producing, manufacturing or supplying any Product, and (f) activities relating to prosecution and maintenance of Product IP.

"**Third Party IP**" is defined in Section 4.6(l).

"**Total Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness as of such date, to (b) Adjusted EBITDA as of the most recent Compliance Certificate required to be delivered pursuant to Section 5.2(a)(ii) or 5.2(c)(i).

"**Trademark License**" means any agreement, whether written or oral, providing for the grant by or to a Person of any right to use any Trademark.

"**Trademarks**" means (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, in the United States Patent and Trademark Office or in any similar office or agency of the United States or any state thereof or in any similar office or agency anywhere in the world in which foreign counterparts are registered or issued, and (b) all renewals thereof.

"**Transfer**" is defined in Section 6.1.

"**Treasury Rate**" means, as of the date any Term Loan is prepaid (or in the case of a Prepayment Premium Trigger Event occurring under clauses (a)(ii), (b), (c) or (d) of the definition thereof, deemed to be prepaid), the yield to maturity as of such prepayment date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days prior to such prepayment (or deemed prepayment) date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the prepayment date to the first anniversary of the Closing Date; provided, however, that, if the period from the prepayment (or deemed prepayment) date to the first anniversary of the Closing Date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"**Treasury Regulations**" means the regulations promulgated pursuant to the IRC.

"**TRICARE**" means, collectively, a program of medical benefits covering former and active members of the uniformed services and certain of their dependents, financed and administered by the United States Departments of Defense, Health and Human Services and Transportation, and all laws applicable to such programs.

"**Type**", when used in reference to any Term Loan or Borrowing, refers to whether the rate of interest on such Term Loan, or on the Term Loans comprising such Borrowing, is determined by reference to Adjusted Term SOFR or Base Rate.

"**Unadjusted Benchmark Replacement**" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"**United States**" or "**U.S.**" means the United States of America, its fifty (50) states and the District of Columbia.

"**United Therapeutics License**" means that certain License and Collaboration Agreement, dated as of September 3, 2018, between MannKind and United Therapeutics Corporation, a Delaware corporation, as amended, restated, supplemented or otherwise modified prior to the Closing Date or thereafter in accordance with the terms of this Agreement.

"**U.S. Borrower**" means any Borrower that is a U.S. Person.

"**U.S. Government Securities Business Day**" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**U.S. Person**" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the IRC.

"**Wholly-Owned Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, all of the Equity Interests of which (other than directors' qualifying shares or nominee or other similar shares required pursuant to Requirements of Law) are owned by such Person or another Wholly-Owned Subsidiary of such Person. Unless the context otherwise requires, each reference to a Wholly-Owned Subsidiary herein shall be a reference to a Wholly-Owned Subsidiary of a Credit Party.

"**Withdrawal Liability**" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"**Write-down and Conversion Powers**" means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;

(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MANNKIND CORPORATION,
as Borrower

By: /s/ Christopher Prentiss
Name: Christopher Prentiss
Title: Chief Financial Officer

QRUMPHARMA, INC.,
as a Guarantor

By: /s/ Christopher Prentiss
Name: Christopher Prentiss
Title: President and Chief Financial Officer

MANNKIND LLC,
as a Guarantor

By: /s/ Christopher Prentiss
Name: Christopher Prentiss
Title: Chief Executive Officer and Chief Financial Officer

TECHNOSPHERE INTERNATIONAL, INC.,
as a Guarantor

By: /s/ Christopher Prentiss
Name: Christopher Prentiss
Title: President and Chief Financial Officer

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Agent

By:
Name:
Title:

BLACKSTONE ALTERNATIVE CREDIT ADVISORS LP,
as the Blackstone Representative

By:
Name:
Title:

[__],
as a Lender

By:
Name:
Title:

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Michael E. Castagna, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2025 of MannKind Corporation;

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.

/s/ Michael E. Castagna
Michael E. Castagna
Chief Executive Officer and Director

Date: November 5, 2025

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Christopher B. Prentiss, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2025 of MannKind Corporation;

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.

/s/ Christopher B. Prentiss
Christopher B. Prentiss
Chief Financial Officer

Date: November 5, 2025

Exhibit 32.1

CERTIFICATION OF
CHIEF EXECUTIVE OFFICER
PURSUANT TO
RULE 13a-14(b) OR 15d-14(b) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND SECTION 1350 OF

CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE (18 U.S.C. § 1350)[1]

In connection with the filing of the quarterly report of MannKind Corporation (the "Company") on Form 10-Q for the quarterly period ended September 30, 2025, as filed with the Securities and Exchange Commission on or about the date hereof, to which this certification is attached as Exhibit 32.1 (the "Report") and pursuant to the requirement set forth in Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Michael E. Castagna, Chief Executive Officer of MannKind Corporation (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act, and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

In Witness Whereof, the undersigned has set his hand hereto as of the 5th day of November, 2025.

/s/ Michael E. Castagna
Michael E. Castagna
Chief Executive Officer

[1] This certification is being furnished solely to accompany this quarterly report on Form 10-Q pursuant to 18 U.S.C. Section 1350, and is not deemed filed for purposes of Section 18 of the Exchange Act or the Securities Act of 1933, as amended, and is not incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language contained in such filing.

Exhibit 32.2

CERTIFICATION OF
CHIEF FINANCIAL OFFICER
PURSUANT TO
RULE 13a-14(b) OR 15d-14(b) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND SECTION 1350 OF

CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE (18 U.S.C. § 1350)[1]

In connection with the filing of the quarterly report of MannKind Corporation (the "Company") on Form 10-Q for the quarterly period ended September 30, 2025, as filed with the Securities and Exchange Commission on or about the date hereof, to which this certification is attached as Exhibit 32.2 (the "Report") and pursuant to the requirement set forth in Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Christopher B. Prentiss, Chief Financial Officer of MannKind Corporation (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act, and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

In Witness Whereof, the undersigned has set his hand hereto as of the 5th day of November, 2025.

/s/ Christopher B. Prentiss
Christopher B. Prentiss
Chief Financial Officer

[1] This certification is being furnished solely to accompany this quarterly report on Form 10-Q pursuant to 18 U.S.C. Section 1350, and is not deemed filed for purposes of Section 18 of the Exchange Act or the Securities Act of 1933, as amended, and is not incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language contained in such filing.